PETROLEUM SHIPPING LIMITED (FORMERLY ESSO INTERNATIONAL SHIPPING (BAHAMAS) CO., LTD.) AND TRANS-GLOBAL MARITIME AGENCY, INC., PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSIO...

G.R. NO. 148130. June 16, 2006

Ponente: CARPIO, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-148130/

CARPIO, J.:

The Case

Before the Court is a petition for review[1] assailing the 25 January 2001 Decision[2] and 7 May 2001 Resolution[3] of the Court of Appeals in CA-G.R. SP No. 54756.

The Antecedent Facts

On 6 March 1978, Esso International Shipping (Bahamas) Co., Ltd., ("Esso") through Trans-Global Maritime Agency, Inc. ("Trans-Global") hired Florello W. Tanchico ("Tanchico") as First Assistant Engineer. In 1981, Tanchico became Chief Engineer. On 13 October 1992, Tanchico returned to the Philippines for a two-month vacation after completing his eight-month deployment.

On 8 December 1992, Tanchico underwent the required standard medical examination prior to boarding the vessel. The medical examination revealed that Tanchico was suffering from "Ischemic Heart Disease, Hypertensive Cardio-Muscular Disease and Diabetes Mellitus." Tanchico took medications for two months and a subsequent stress test showed a negative result. However, Esso no longer deployed Tanchico. Instead, Esso offered to pay him benefits under the Career Employment Incentive Plan. Tanchico accepted the offer.

On 26 April 1993, Tanchico filed a complaint against Esso, Trans-Global and Malayan Insurance Co., Inc. ("Malayan") before the Philippine Overseas Employment Administration (POEA) for illegal dismissal with claims for backwages, separation pay, disability and medical benefits and 13th month pay. In view of the enactment of Republic Act No. 8042 ("RA 8042")[4] transferring to the National Labor Relations Commission (NLRC) the jurisdiction over money claims of overseas workers, the case was indorsed to the Arbitration Branch of the National Capital Region. In a Decision[5] dated 16 October 1996, Labor Arbiter Jose G. De Vera ("Labor Arbiter De Vera") dismissed the complaint for lack of merit. Tanchico appealed to the NLRC.

The Ruling of the NLRC

In its Resolution[6] of 3 September 1998, the NLRC affirmed the Decision of Labor Arbiter De Vera. Tanchico filed a motion for reconsideration. In a Resolution[7] promulgated on 29 March 1999, the NLRC reconsidered its 3 September 1998 Resolution, as follows:

> On the claim of illegal dismissal, the same is unavailing as complainant had been declared as one with partial permanent disability. Thus, he should be entitled to disability benefit of 18 days for every year of credited

> service of fourteen (14) years less the amount he already received under the Company's Disability Plan.
>
> On the claim of 13[th] month pay, the respondent Agency not falling under the enumerated exempted employers under P.D. 851 and in the absence of any proof that respondent is already paying its employees a 13[th] month pay or more in a calendar year, perforce, respondent agency should pay complainant his monthly pay computed at [sic] the actual month [sic] worked, which is 8 months.
>
> Since complainant was forced to litigate his case, he is hereby awarded 10% of the total award as attorney's fees.
>
> SO ORDERED.[8]

Esso and Trans-Global moved for the reconsideration of the 29 March 1999 Resolution.[9] In its 27 July 1999 Resolution,[10] the NLRC denied their motion.

Esso, now using the name Petroleum Shipping Limited ("Petroleum Shipping"), and Trans-Global (collectively referred to as "petitioners") filed a petition for certiorari before the Court of Appeals assailing the 29 March 1999 and 27 July 1999 Resolutions of the NLRC.

The Ruling of the Court of Appeals

In its Decision promulgated on 25 January 2001, the Court of Appeals affirmed in toto the 29 March 1999 Resolution of the NLRC.

The Court of Appeals ruled that Tanchico was a regular employee of Petroleum Shipping. The Court of Appeals held that petitioners are not exempt from the coverage of Presidential Decree No. 851, as amended ("PD 851")[11] which mandates the payment of 13[th] month pay to all employees. The Court of Appeals further ruled that Tanchico is entitled to disability benefits based on his 14 years of tenure with petitioners. The Court of Appeals stated that the employer-employee relationship subsisted even during the period of Tanchico's vacation. The Court of Appeals noted that petitioners were aware of Tanchico's medical history yet they still deployed him for 14 years. Finally, the Court of Appeals sustained the award of attorney's fees.

Petitioners moved for the reconsideration of the Decision. In its 7 May 2001 Resolution, the Court of Appeals modified its Decision by deducting Tanchico's vacation from his length of service. Thus:

> WHEREFORE, our decision is hereby MODIFIED. The petitioners are ordered to pay to the private respondent the following: (1) disability wages equivalent to 18 days per year multiplied by 10 years less any amount already received under the company's disability plan; prorated 13[th] month pay corresponding to eight (8) months of actual work; and attorney's fee equivalent to 10% of the total award.
>
> SO ORDERED.[12]

Petitioners went to this Court for relief on the following grounds:

> - The Court of Appeals decided a question of substance not in accord with law, applicable decision of this Court and International Maritime Law when it ruled that private respondent, a seafarer, was a regular employee;
>
> - The Court of Appeals decided a question of substance not in accord with law when it held that the private respondent was entitled to greater disability benefit than he was [sic];
>
> - The Court of Appeals decided a question of substance not heretofore determined by this Court when it ruled that private respondent was entitled to 13[th] month pay although it was not provided for in the contract of employment between petitioners and private respondent; and

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

- The Court of Appeals decided a question of substance not in accord with law when it awarded private respondent attorney's fees despite the Labor Arbiter's and the public respondent's, albeit initially, dismissal of the complaint.[13]

The Issues

The issues are as follows:

- Whether Tanchico is a regular employee of petitioners; and

- Whether Tanchico is entitled to 13[th] month pay, disability benefits and attorney's fees.

The Ruling of This Court

The petition is partly meritorious.

Seafarers are Contractual Employees

The issue on whether seafarers are regular employees is already a settled matter.

In Ravago v. Esso Eastern Marine, Ltd.,[14] the Court traced its ruling in a number of cases that seafarers are contractual, not regular, employees. Thus, in Brent School, Inc. v. Zamora,[15] the Court cited overseas employment contract as an example of contracts where the concept of regular employment does not apply, whatever the nature of the engagement and despite the provisions of Article 280 of the Labor Code. In Coyoca v. NLRC,[16] the Court held that the agency is liable for payment of a seaman's medical and disability benefits in the event that the principal fails or refuses to pay the benefits or wages due the seaman although the seaman may not be a regular employee of the agency.

The Court squarely passed upon the issue in Millares v. NLRC[17] where one of the issues raised was whether seafarers are regular or contractual employees whose employment are terminated everytime their contracts of employment expire. The Court explained:

> [I]t is clear that seafarers are considered contractual employees. They can not be considered as regular employees under Article 280 of the Labor Code. Their employment is governed by the contracts they sign everytime they are rehired and their employment is terminated when the contract expires. Their employment is contractually fixed for a certain period of time. They fall under the exception of Article 280 whose employment has been fixed for a specific project or undertaking the completion or termination of which has been determined at the time of engagement of the employee or where the work or services to be performed is seasonal in nature and the employment is for the duration of the season. We need not depart from the rulings of the Court in the two aforementioned cases which indeed constitute stare decisis with respect to the employment status of seafarers.
>
> Petitioners insist that they should be considered regular employees, since they have rendered services which are usually necessary and desirable to the business of their employer, and that they have rendered more than twenty (20) years of service. While this may be true, the Brent case has, however, held that there are certain forms of employment which also require the performance of usual and desirable functions and which exceed one year but do not necessarily attain regular employment status under Article 280. Overseas workers including seafarers fall under this type of employment which are governed by the mutual agreements of the parties.
>
> In this jurisdiction and as clearly stated in the Coyoca case, Filipino seamen are governed by the Rules and Regulations of the POEA. The Standard Employment Contract governing the employment of All Filipino Seamen on Board Ocean-Going Vessels of the POEA, particularly in Part I, Sec. C specifically provides that the contract of seamen shall be for a fixed period. And in no case should the contract of seamen be longer than

> 12 months. It reads:
>
> Section C. Duration of ContractThe period of employment shall be for a fixed period but in no case to exceed 12 months and shall be stated in the Crew Contract. Any extension of the Contract period shall be subject to the mutual consent of the parties.
>
> Moreover, it is an accepted maritime industry practice that employment of seafarers are for a fixed period only. Constrained by the nature of their employment which is quite peculiar and unique in itself, it is for the mutual interest of both the seafarer and the employer why the employment status must be contractual only or for a certain period of time. Seafarers spend most of their time at sea and understandably, they can not stay for a long and an indefinite period of time at sea. Limited access to shore society during the employment will have an adverse impact on the seafarer. The national, cultural and lingual diversity among the crew during the COE is a reality that necessitates the limitation of its period.
>
> Petitioners make much of the fact that they have been continually re-hired or their contracts renewed before the contracts expired (which has admittedly been going on for twenty (20) years). By such circumstance they claim to have acquired regular status with all the rights and benefits appurtenant to it.
>
> Such contention is untenable. Undeniably, this circumstance of continuous re-hiring was dictated by practical considerations that experienced crew members are more preferred. Petitioners were only given priority or preference because of their experience and qualifications but this does not detract the fact that herein petitioners are contractual employees. They can not be considered regular employees. x x x[18]

The Court reiterated the Millares ruling in Gu-Miro v. Adorable[19] where it held that a radio officer on board a vessel cannot be considered as a regular employee notwithstanding that the work he performs is necessary and desirable in the business of the company.

Thus, in the present case, the Court of Appeals erred in ruling that Tanchico was a regular employee of Petroleum Shipping.

On 13[th]Month Pay

The Court of Appeals premised its grant of 13[th] month pay on its ruling that Tanchico was a regular employee. The Court of Appeals also ruled that petitioners are not exempt from the coverage of PD 851 which requires all employers to pay their employees a 13[th] month pay.

We do not agree with the Court of Appeals. Again, Tanchico was a contractual, not a regular, employee. Further, PD 851 does not apply to seafarers. The WHEREAS clauses of PD 851 provides:

> WHEREAS, it is necessary to further protect the level of real wages from ravages of world-wide inflation;
>
> WHEREAS, there has been no increase in the legal minimum wage rates since 1970;
>
> WHEREAS, the Christmas season is an opportune time for society to show its concern for the plight of the working masses so they may properly celebrate Christmas and New Year.

PD 851 contemplates the situation of land-based workers, and not of seafarers who generally earn more than domestic land-based workers.

Tanchico's employment is governed by his Contract of Enlistment ("Contract").[20] The Contract has been approved by the POEA in accordance with Title I, Book One of the Labor Code and the POEA Rules Governing Employment.[21] The coverage of the Contract includes Compensation, Overtime, Sundays and Holidays, Vacations, Living Allowance, Sickness, Injury and Death, Transportation and Travel Expense, Subsistence and Living Quarters. It does not provide for the payment of 13[th] month pay. The Contract of Employment,[22]

which is the standard employment contract of the POEA, likewise does not provide for the payment of 13[th] month pay.

In Coyoca v. NLRC which involves a claim for separation pay, this Court held:

> Furthermore, petitioner's contract did not provide for separation benefits. In this connection, it is important to note that neither does POEA standard employment contract for Filipino seamen provide for such benefits.
>
> As a Filipino seaman, petitioner is governed by the Rules and Regulations Governing Overseas Employment and the said Rules do not provide for separation or termination pay. x x x[23]

Hence, in the absence of any provision in his Contract governing the payment of 13[th] month pay, Tanchico is not entitled to the benefit.

On Disability Benefits

Petitioners allege that Tanchico's Contract ended on 13 October 1992 when he returned to Manila. They allege that the vacation period is not part of the period of employment.

We cannot accept petitioners' contention.

The duration of the Contract was for eight months. The Contract also provides:

> Article V
>
> VACATIONS
>
> Vacation days shall be earned at the rate of seven and one-half days (7.5) days for each thirty (30) days of continuous service, calculated from date of departure from Manila and until date of return to Manila. Vacation begins on the day following arrival in Manila.
>
> Every effort will be made to grant earned vacations promptly after eight (8) months of service; however, the COMPANY shall have the right to advance or delay vacations to coincide with vessel repairs, for operational reasons or due to personal requirements. SEAFARER shall receive vacation compensation for each thirty (30) days of continuous service in accordance with the rates listed in Addendum No. 1, Column (12), to be paid in Manila. Amounts shall be pro-rated according to the ranks/ratings and period of time in which the SEAFARER served. For period of less than thirty (30) days service, vacations and compensation shall be reduced proportionately.
>
> Time off for illness, injury, vacation, leave of absence or stand-by shall not be considered service under the provisions of this Article.
>
> It is the COMPANY's intention that each SEAFARER enjoy his full vacation period. Because of urgent fleet needs, however, it occasionally may be necessary to recall a SEAFARER early from vacation.[24]

Since Tanchico received compensation during his vacation, the Contract did not terminate on the day he returned to Manila. The Contract remained in force during Tanchico's vacation period.

However, the Court of Appeals erred when it ruled that Tanchico is entitled to disability benefits of 18 days for every year of service. The Court of Appeals ruled that Tanchico's employment was continuous and that his tenure with petitioners was for 14 years. Again, the Court of Appeals assumed that Tanchico was a regular employee. The Court of Appeals failed to consider that Tanchico's employment terminated with the end of each contract.

The Contract provides:

> Article VIII

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

SICKNESS-INJURY/DEATH

- The COMPANY shall provide, during the period of the Contract, Insurance coverage for the SEAFARER against loss of life, permanent disability, temporary disability, injury, occupational illness, hospital and medical expense in such amounts as the COMPANY shall determine but not lower than what the COMPANY would have to pay under the Philippine Overseas Employment Administration's requirements or the vessel's flag state requirements (whichever is higher).

- If SEAFARER is removed from a vessel for medical treatment he shall be entitled to receive a disability benefit equal to his monthly wage rate (or pro-rata thereof) from date of disembarkation until date of rejoining his vessel, assignment to another vessel or until date of repatriation to Manila if still disabled. Medical, surgical, hospital, or clinical treatment shall be recommended by a doctor approved by the COMPANY and SEAFARER must follow all medical advices. SEAFARER will not be entitled to disability benefit payments for disability resulting from his own misconduct, negligence, unlawful acts, altercations, vice, etc.

- After disembarkation from a vessel, the SEAFARER is entitled to one hundred percent (100%) of his wages until he is declared fit or the degree of permanent disability has been assessed by the COMPANY's physician for a maximum period of 120 days commencing on date of such disembarkation. Upon the expiration of such 120 days and if the SEAFARER is still disabled, the SEAFARER shall be paid his wages equivalent to 18 days for every year of credited service.

In special instances and at the discretion of the COMPANY, the maximum number of days of COMPANY benefits may be extended beyond 120 days for a SEAFARER with over 80 months credited COMPANY service, or in such other case as may be determined by the COMPANY.

Upon expiration of COMPANY benefits and if still disabled, the following amounts shall be paid up to maximum of 365 days, inclusive of the period of the above benefits.

All Ranks ..... US $10 per day

- If disability should occur while SEAFARER is on vacation, he must, within 3 days from date thereof, notify the COMPANY's Agent in the Philippines in order that the latter shall be able to certify as to his condition. Certification of disability required for payment of any disability benefits must be approved by a doctor appointed by the COMPANY and SEAFARER must be disabled seven (7) days or more to be eligible to benefits and sick leave status, COMPANY benefits shall be limited to a maximum of 18 days.

Benefits under the COMPANY Disability Plan shall be made only to the extent and in such amounts as are equal to the differential between any payments which may be due SEAFARER under COMPANY's obligation as set forth in the 1[st] paragraph of this Article VIII and 90 percent of SEAFARER's last wage rate.

- In case of death at sea or at a foreign port, the tradition of the sea and requirements of the laws of such foreign port will be observed. If practical, every effort will be made on the part of the COMPANY to return the remains of a deceased SEAFARER to Manila at COMPANY expense.

- The SEAFARER acknowledges that even without signed receipts, any wage payments made to him for a period during which he is entitled to benefits under any law by reason of death, temporary or permanent disability, shall be deemed an advance payment of compensation benefits due to him under such law, but only to the extent of benefits due for the period of disability during which wages are paid.

Wages, as set forth in Addendum No. 1, Column (1), shall be the basis for any calculation of benefits due SEAFARER under this Article VIII.[25] (Emphasis supplied)

Indications that Tanchico was suffering from ischemia were detected on 8 December 1992 during Tanchico's vacation period. Thus, petitioners paid him disability benefits for 18 days in accordance with the Contract.

Tanchico cannot claim that he only acquired the illness during his last deployment since the Medical Report[26] he submitted to the NLRC showed that he has been hypertensive since 1983 and diabetic since 1987.In the absence of concrete proof that Tanchico acquired his disability during his last deployment and not during his vacation, he is only entitled to disability benefits for 18 days.

Petitioners claim that they already paid Tanchico his disability benefits for 18 days but he refused to sign the receipt.[27] Tanchico alleged that he was only paid under the Career Employment Incentive Plan.[28] This is a factual matter which this Court cannot resolve. This matter has to be remanded to the Labor Arbiter for resolution.

WHEREFORE, we GRANT the petition. We REVERSE and SET ASIDE the 25 January 2001 Decision and 7 May 2001 Resolution of the Court of Appeals in CA-G.R. SP No. 54756. We REINSTATE the 16 October 1996 Decision of Labor Arbiter Jose G. De Vera dismissing the complaint for illegal dismissal and the claims for backwages, separation pay and 13[th] month pay. We REMAND the case to the Labor Arbiter to determine if Florello Tanchico has been paid his disability benefits for 18 days in accordance with his Contract of Enlistment. If no payment has been made, the Labor Arbiter is DIRECTED to determine the amount Tanchico is entitled.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Tinga, and Velasco, Jr., JJ., concur.

---

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Penned by Associate Justice Eliezer R. De los Santos, with Associate Justices Godardo A. Jacinto and Bernardo P. Abesamis, concurring. Rollo, pp. 77-82.

[3] Id. at 84-85.

[4] Migrant Workers and Overseas Filipinos Act of 1995. It took effect on 15 July 1995.

[5] Rollo, pp. 38-42.

[6] Penned by Commissioner Alberto R. Quimpo with Presiding Commissioner Rogelio I. Rayala and Commissioner Vicente S.E. Veloso, concurring. Rollo, pp. 44-47.

[7] Id. at 49-53.

[8] Id. at 51-52.

[9] The NLRC erroneously stated in its 27 July 1999 Resolution that Trans-Global and Malayan filed the motion for reconsideration.

[10] Rollo, pp. 55-56.

[11] Enacted on 16 December 1975.

[12] Rollo, p. 85.

[13] Id. at 17.

[14] G.R. No. 158324, 14 March 2005, 453 SCRA 381.

[15] G.R. No. 48494, 5 February 1990, 181 SCRA 702.

[16] 312 Phil. 1137 (1995).

[17] 434 Phil. 524 (2002).

[18] Id. at 537-539.

[19] G.R. No. 160952, 20 August 2004, 437 SCRA 162.

[20] CA rollo, pp. 111-116.

[21] The case was filed before the effectivity of RA 8042 although jurisdiction was transferred from the POEA to the NLRC in accordance with RA 8042.

[22] NLRC records, p. 6.

[23] Supra note 16 at 1142-1143.

[24] Rollo, p. 87.

[25] Id. at 88.

[26] Id. at 113.

[27] NLRC records, p. 81

[28] Id. at 152.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.