JOEL B. DE JESUS, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND PACIFIC OCEAN MANNING, INC., RESPONDENTS.

G.R. No. 151158. August 17, 2007

Ponente: NACHURA, J.

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NACHURA, J.:

Petitioner Joel B. De Jesus appeals by certiorari under Rule 45 of the Rules of Court the September 28, 2001 Decision[1] of the Court of Appeals (CA) in CA-G.R. SP. No. 58241, and the December 12, 2001 Resolution[2] denying its reconsideration.

On November 20, 1996, De Jesus applied for shipboard employment with respondent Pacific Ocean Manning, Inc. (POMI), a domestic corporation duly licensed by the Philippine Overseas Employment Administration (POEA) to operate as a manning agency. As a standard operating procedure, POMI directed De Jesus to undergo the pre-employment medical examination at the Our Lady of Fatima Medical Clinic, its accredited clinic. On the query pertaining to his medical history, specifically as to whether he was suffering from or had been told that he had any disease or ailment, including stomach pain or ulcer, De Jesus answered in the negative. After the examination, he was reported fit for work.[3]

De Jesus was then hired as 4th Engineer by POMI, for and in behalf of its principal Celtic Pacific Ship Management Ltd. (Celtic), on board the ocean-going vessel M/V Author on March 26, 1997. The employment contract[4] stipulated that he would work for a period of nine (9) months with a monthly salary of US$824.00 and a fixed overtime rate of US$459.00. De Jesus also signed the Standard Employment Contract Addendum,[5] barring alcohol, drugs, and any medication on board without written permission from the master of the vessel. The use of drugs not prescribed by a medical doctor on board or ashore was prohibited and considered a fundamental breach of the contract of employment. It was also provided that any prescribed drug should be kept at the vessel's hospital, and used only with the approval and supervision of the captain. Any seafarer taking any medication prescribed by a medical doctor was further required to inform the company master manning agent or drug and alcohol test collector of this fact.

De Jesus departed from the Philippines on March 28, 1997 and embarked on M/V Author the following day. Early in his stint on board M/V Author, De Jesus experienced stomach pains, which became unbearable during the second month of his stay, especially when his captain required him to work even during meal hours. His condition worsened and he severely lost weight. Thus, when the ship docked in Hamburg, Germany, De Jesus requested for medical treatment. The ship captain referred him to Dr. Jan-Gerd H. Hagelstein. De Jesus was diagnosed to be suffering from relapse of gastric ulcer and was advised to sign off for thorough diagnostic examination and treatment. He was declared fit for repatriation.[6]

De Jesus was repatriated to the Philippines on June 19, 1997. Upon his arrival, he went to POMI and requested financial assistance and medical treatment for his illness. POMI, however, refused. De Jesus was constrained to seek medical treatment from Bataan Doctor's Hospital at his own expense. He sought reimbursement from POMI,

but again it was refused because De Jesus allegedly concealed his previous history of ulcer. POMI, likewise, disallowed De Jesus' claim for unpaid salary, on the ground that the amount had already been applied to the cost of his repatriation.[7] Thus, De Jesus filed a complaint[8] for the recovery of unpaid wages, sickwage allowance and medical expenses.

POMI, on the other hand, had a different story. According to POMI, De Jesus committed misrepresentation when he concealed in his medical history that he suffered from ulcer two (2) years ago; that he breached his employment contract when he brought on board his medicines for ulcer without the ship captain's permission; and that De Jesus admitted having deliberately brought pieces of Cimetidine for fear that his ulcer might recur on board. POMI posited that De Jesus was validly discharged, and ultimately prayed for the denial of the claims. [9]

By Decision[10] of August 28, 1998, the Labor Arbiter declared that De Jesus' misrepresentation cannot be made basis for the denial of his claims. According to the Labor Arbiter, De Jesus underwent a thorough medical examination before his deployment and was reported fit to work by POMI's accredited clinic. POMI cannot now be heard to claim otherwise. Besides, POMI was aware that De Jesus had been discharged on November 29, 1994 due to illness while on board M/V Oriental Venus. It was, thus, expected that POMI would conduct, as it, in fact, conducted a thorough medical examination in determining De Jesus' state of health before his deployment. He concluded that De Jesus' illness was work-related or at least work-aggravated. He also ruled that POMI failed to convincingly establish that De Jesus violated his employment contract.

The Labor Arbiter, thus, disposed:

> WHEREFORE, premises considered, judgment is hereby entered in favor of complainant and against the [respondent] ordering the latter, jointly and severally, to pay the sum of US$2,735.15 as unpaid salaries and medical allowance for 59 days or its present peso equivalent in the sum of P118,705.51 plus another sum of P5,000.00 as medical benefits or reimbursement of medical expenses of complainant.
>
> SO ORDERED.[11]

POMI appealed to the National Labor Relations Commission (NLRC), claiming that there was prima facie abuse of discretion on the part of the Labor Arbiter in granting the claims of De Jesus. The NLRC granted the appeal. It found De Jesus guilty of unauthorized possession of medicines on board M/V Author, justifying his discharge. Likewise, it denied the claim for medical and sickness allowance, stating that a relapse of ulcer was not work-related, as the illness already existed when De Jesus applied with POMI, but the former intentionally concealed it so he could be hired. Such misrepresentation disqualified De Jesus from claiming employment benefits under the contract. Finally, the NLRC sustained POMI in applying De Jesus' unpaid salaries to the cost of his repatriation.[12] Hence, it reversed the decision of the Labor Arbiter, viz.

> WHEREFORE, premises considered, the appeal is hereby GRANTED. Accordingly, the Decision appealed from is totally REVERSED and SET ASIDE and a new one [is] entered DISMISSING the instant case for lack of merit.
>
> SO ORDERED.[13]

De Jesus' motion for reconsideration having been denied by the Resolution[14] of July 30, 2001, he elevated the case to the Court of Appeals on petition for certiorari.

In its Decision[15] of September 28, 2001, the Court of Appeals affirmed the NLRC. It agreed with the NLRC that De Jesus' misrepresentation disqualified him from employment, benefits and claims. The appellate court added that De Jesus did not categorically deny the charge of unauthorized possession of Cimetidine, in violation of the Standard Employment Contract Addendum. The CA concluded that POMI was justified in discharging him

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from M/V Author, and the NLRC, thus, acted well within its discretion in reversing the findings of the Labor Arbiter.

De Jesus filed a Motion for Reconsideration,[16] but the Court of Appeals denied it on December 12, 2001.[17]

Aggrieved by the Resolutions of the Court of Appeals, De Jesus comes to this Court positing these issues:

> I
>
> WHETHER OR NOT PETITIONER SHALL (sic) BE AWARDED HIS UNPAID SALARIES, MEDICAL ALLOWANCE AND REIMBURSEMENT OF HIS MEDICAL EXPENSES.
>
> II
>
> WHETHER PETITIONER SHALL (sic) BEAR THE COST OF HIS REPATRIATION.[18]

It is a settled rule that under Rule 45 of the Rules of Court, only questions of law may be raised before this Court. Judicial review by this Court does not extend to a re-evaluation of the sufficiency of the evidence upon which the proper labor tribunal has based its determination. Firm is the doctrine that this Court is not a trier of facts, and this applies with greater force in labor cases.[19] However, factual issues may be considered and resolved when the findings of facts and conclusions of law of the Labor Arbiter are inconsistent with those of the NLRC and the Court of Appeals,[20] as in this case.

De Jesus insists on reimbursement for his medical expenses and entitlement to sickness allowance and his unpaid salaries. POMI, on the other hand, counters that De Jesus committed misrepresentation and breach of contract. The Labor Arbiter lent credence to De Jesus' posture and granted his claims, but the NLRC and Court of Appeals reversed the Arbiter's findings. Thus, a review of the records of the case, with an assessment of the facts, is necessary.

The evidence shows that De Jesus previously suffered from ulcer but he ticked "NO" in his medical history. De Jesus, therefore, committed misrepresentation. Nonetheless, he passed the pre-employment medical examination, was reported fit to work, and was suffered to work on board M/V Author for more than two (2) months, until his repatriation on June 19, 1997.

The rule is that an ailment contracted even prior to his employment, does not detract from the compensability of the disease. It is not required that the employment be the sole factor in the growth, development or acceleration of the illness to entitle the claimant to the benefits incident thereto. It is enough that the employment had contributed, even in a small measure, to the development of the disease.[21]

In this case, POMI failed to rebut De Jesus' claim that he was required to work even during mealtime and that the meals served on board did not fit the dietary preference of the Filipinos. Such plight took a toll on De Jesus' health and surely contributed, even in a slight degree, to the relapse of his illness.

In OSM Shipping Philippines, Inc. v. Dela Cruz,[22] this Court, in granting similar claims, held:

> Labor contracts are impressed with public interest and the provisions of the POEA Standard Employment Contract must be construed fairly, reasonably and liberally in favor of Filipino seamen in the pursuit of their employment on board ocean-going vessels. Despite his misrepresentation, Arbit underwent and passed the required pre-medical examination, was declared fit to work, and was suffered to work by petitioner. Upon repatriation, he complied with the required post-employment medical examination.
>
> Under the beneficent provisions of the Contract, it is enough that the work has contributed, even in a small degree, to the development of the disease and in bringing about his death. Strict proof of causation is not

required.[23]

De Jesus' misrepresentation cannot, therefore, be made basis by POMI for the denial of his claims under the contract.

Apparently realizing the folly of the denial grounded solely on the employee's misrepresentation, POMI then asserted that De Jesus breached his employment contract. It alleged that De Jesus was caught in possession of several pieces of Cimetidine, without the ship captain's permission, and that therefore, he was discharged for a just cause.

Indeed, possession of medicines on board without the ship captain's permission was a violation of the Standard Employment Contract Addendum and would entitle POMI to dismiss the erring crew member but only after compliance with the procedure provided in the contract.[24] Section 17 of the Revised Standard Employment Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels supplies the disciplinary procedure against an erring seafarer:

SECTION 17. DISCIPLINARY PROCEDURES:

The Master shall furnish the seafarer with the following disciplinary procedure against an erring seafarer:

- The master shall furnish the seafarer with a written notice containing the following:

- Grounds for the charges as listed in Section 31 of this Contract.

- Date, time and place for a formal investigation of the charges against the seafarer concerned.

- The Master or his authorized representative shall conduct the investigation or hearing, giving the seafarer the opportunity to explain or defend himself against the charges. An entry on the investigation shall be entered into the ship's logbook.

- If after the investigation or hearing, the Master is convinced that imposition of a penalty is justified, the Master shall issue a written notice of penalty and the reasons for it to the seafarer, which copies shall be furnished to the Philippine Agent.

- Dismissal for just cause may be effected by the master without furnishing the seafarer with notice of dismissal if doing so will prejudice the safety of the crew or the vessel. This information shall be entered in the ship's logbook. The Master shall send a complete report to the manning agency substantiated by the witnesses, testimonies and any other documents in support thereof.

In this case, there was no showing that Celtic complied with the foregoing procedure, thus, casting a serious doubt on the validity of De Jesus' discharge.

Likewise, neither the ship's logbook nor the report sent to POMI as Celtic's manning agent was presented in the proceedings a quo to establish the breach committed by De Jesus. The pieces of evidence submitted before the Labor Arbiter in support of De Jesus' discharge zeroed in on the alleged misrepresentation, which, as mentioned, cannot be a valid basis for the denial of De Jesus' claims.

Settled is the rule that in termination cases, the burden of proof rests upon the employer to show that the dismissal is for a just and valid cause. The case of the employer must stand or fall on its own merits and not on the weakness of the employee's defense.[25] In this case, no convincing proof was offered to prove POMI's allegation. All that we have is its self-serving assertion that De Jesus violated his employment contract. There is no proof that the prescribed disciplinary procedure was followed. We, therefore, agree with the Labor Arbiter's finding that POMI utterly failed to establish its claim of valid dismissal. Accordingly, the NLRC and Court of

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Appeals erred in reversing the said finding.

It is clear from the records that De Jesus disembarked for a medical reason. Hence, the cost of De Jesus' repatriation should be borne by Celtic and POMI, pursuant to the provisions of Section 20(B)(4) of the Standard Employment Contract:

> - Upon sign-off of the seafarer from the vessel for medical treatment. The employer shall bear the full cost of repatriation in the event the seafarer is declared (1) fit for repatriation; or (2) fit to work but the employer is unable to find employment for the seafarer on board his former vessel or another vessel of the employer despite earnest efforts.

The cost of repatriation should not be deducted from De Jesus' unpaid salaries of US$911.00.

Likewise, records show that De Jesus immediately reported to POMI for post-employment medical examination and treatment, but the latter adamantly refused to extend him medical assistance. He was constrained to seek medical attention from Bataan Doctor's Hospital at his own expense. Celtic and POMI should, therefore, reimburse De Jesus for his medical expenses.

Finally, De Jesus is entitled to his sickness allowance for fifty-nine (59) days from June 19, 1998 until August 16, 1998, when he was declared fit to work. Section 20(B)(3) of the Contract governs the contractual liability of an employer to pay sickness allowance to a seafarer who suffered illness or injury during the term of his contract viz.:

> SECTION 20. COMPENSATION AND BENEFITS
>
> x x x x
>
> B. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS
>
> x x x x
>
> - Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is declared fit to work or the degree of permanent disability has been assessed by the company-designated physician but in no case shall this period exceed one hundred twenty (120) days.
>
> For this purpose, the seafarer shall submit himself to a post-employment medical examination by a company-designated physician within three working days upon his return except when he is physically incapacitated to do so, in which case a written notice to the agency within the same period is deemed as compliance. Failure of the seafarer to comply with the mandatory reporting requirement shall result in the forfeiture of his right to claim the above benefits x x x.

In fine, we affirm the Labor Arbiter's Decision granting De Jesus' claims for unpaid salary of US$911.00, sickness allowance for fifty-nine (59) days, and reimbursement of his medical expenses.

WHEREFORE, the petition is GRANTED. The Decision of the Court of Appeals in CA-G.R. SP. No. 58241, and its Resolution dated December 21, 2001, are REVERSED and SET ASIDE. The Decision dated August 28, 1998 of the Labor Arbiter is REINSTATED.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Reyes, JJ., concur.

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[1] Rollo, pp. 165-174.

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[2] Id. at 181.

[3] Id. at 101.

[4] Id. at 102.

[5] Id. at 103.

[6] Id. at 65-74.

[7] Id.

[8] Id. at 48.

[9] Id. at 65-74.

[10] Id. at 76-81.

[11] Id. at 81.

[12] Id. at 113-132.

[13] Id. at 132.

[14] Id. at 138-139.

[15] Id. at 165-174.

[16] Id. at 175-179.

[17] Id. at 181.

[18] Id. at 233.

[19] PCL Shipping Philippines, Inc. v. National Labor Relations Commission, G.R. No. 153031, December 14, 2006.

[20] Lopez Sugar Corporation v. Franco, G.R. No. 148195, May 16, 2005, 458 SCRA 515, 528.

[21] Wallem Maritime Services, Inc. v. National Labor Relations Commission, 376 Phil. 738, 747 (1999); More Maritime Agencies, Inc. v. National Labor Relations Commission, 366 Phil. 646, 654 (1999).

[22] G.R. No. 159146, January 28, 2005, 449 SCRA 525.

[23] Id. at 542.

[24] Id. at 103.

[25] PCL Shipping Philippines, Inc. v. National Labor Relations Commission, supra note 19.

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