

**ARIEL A. EBUENGA, PETITIONER, VS. SOUTHFIELD AGENCIES, INC.,
WILHEMSEN SHIP MANAGEMENT HOLDING LTD., AND CAPT. SONNY
VALENCIA, RESPONDENTS.***G.R. No. 208396. March 14, 2018*

Ponente: LEONEN, J.

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This Court is duty-bound to respect the consistent prior findings of the Labor Arbiter, of the National Labor Relations Commission, and of the Court of Appeals. It must be cautious not to substitute its own appreciation of the facts to those of the tribunals which have previously weighed the parties' claims and personally perused the evidence. It will not discard consistent prior findings and award disability benefits to a seafarer who fails to adduce even an iota of evidence, let alone substantial evidence, and fails to draw a causal connection between his or her alleged ailment and working conditions.

This resolves a Petition for Review on Certiorari[1] under Rule 45 of the 1997 Rules of Civil Procedure, praying that the April 29, 2013 Decision[2] and July 26, 2013 Resolution[3] of the Court of Appeals in CA-G.R. SP No. 126939 be reversed and set aside.

The assailed Court of Appeals April 29, 2013 Decision affirmed the June 29, 2012 Decision[4] of the National Labor Relations Commission which, in turn, affirmed Labor Arbiter Lilia S. Savari's (Labor Arbiter Savari) October 12, 2011 Decision,[5] dismissing Ariel A. Ebuenga's (Ebuenga) complaint[6] for permanent disability benefits. The assailed Court of Appeals July 26, 2013 Resolution[7] denied Ebuenga's Motion for Reconsideration.

Ebuenga was hired by Southfield Agencies, Inc. (Southfield) as a chief cook aboard respondent Wilhemsen Ship Management Holding Ltd.'s (Wilhemsen) vessel, MTV Super Adventure.[8] Ebuenga boarded the vessel on December 19, 2010.[9]

About two (2) months into his engagement, or on February 26, 2011, Ebuenga wrote a letter to Southfield, Wilhemsen, and Captain Sonny Valencia (Capt. Valencia)[10] (collectively, respondents), asking that he be repatriated as soon as possible "to attend to a family problem."[11] Respondents acted favorably on this request and Ebuenga was repatriated on March 5, 2011.[12]

Without consulting Southfield's designated physician, Ebuenga had himself checked at St. Luke's Medical Center where he underwent Magnetic Resonance Imaging. The test revealed that he was afflicted with "Multilevel Disk Dessication, from C2-C3 to C6-C7."[13] He was advised to undergo physical therapy.[14]

Ebuenga went back to his hometown in Bogtong, Legaspi City to undergo physical therapy sessions. Thereafter, he consulted Dr. Misael Jonathan A. Ticman, who issued a Disability Report, finding him to be permanently disabled and no longer fit to work as a seafarer. Consequently, Ebuenga filed a complaint for permanent disability benefits.[15]

In his Position Paper, Ebuenga disavowed voluntarily seeking repatriation on account of a family concern. He claimed instead that upon embarkation, a crew member died from overfatigue. He reported this death to the International Transport Workers' Federation, which took no action. Incensed at Ebuenga's actions, the captain of the vessel, Capt. Jonathan B. Lecias, Sr. (Capt. Lecias), coerced him to sign a letter seeking immediate repatriation. Ebuenga also claimed to have reported to Capt. Lecias that he was suffering intense back pain but the latter refused to entertain this because of the animosity between them. He added that upon repatriation, he sought medical assistance from the company-designated physician, but was refused. Thus, he was forced to seek treatment on his own.[16]

In their defense, respondents denied that there was ever an incident where Ebuenga encountered medical problems while on board the vessel. However, they noted that Ebuenga had been a delinquent crew member as he was always complaining and agitating his colleagues about the lack of a washing machine. They added that Ebuenga's claim for disability benefits could not be entertained as he failed to undergo the requisite post-employment medical examination with the company-designated physician.[17]

In her October 12, 2011 Decision,[18] Labor Arbiter Savari dismissed Ebuenga's complaint. Labor Arbiter Savari explained that Ebuenga failed to prove that he had suffered an illness or injury while on board the M/V Super Adventure. She added that Ebuenga may no longer claim disability benefits for failing to undergo a post-employment medical examination with the company-designated physician.[19]

The National Labor Relations Commission denied Ebuenga's appeal in its June 29, 2012 Decision.[20]

On April 29, 2013, the Court of Appeals found no grave abuse of discretion on the part of the National Labor Relations Commission. It also denied Ebuenga's Motion for Reconsideration in its July 26, 2013 Resolution.[21]

Hence, Ebuenga filed the present Petition.[22] He contends that he could not have forfeited his claims as respondents refused to have the company-designated physician examine him.[23] He also insists on his version of events: that he came in conflict with Capt. Lecias over the death of a co-worker, was forced to sign a letter recounting a family emergency, and was denied assistance by Capt. Lecias when he fell ill while on board the M/V Super Adventure.

For resolution is the issue of whether or not petitioner Ariel A. Ebuenga is entitled to permanent disability benefits. Subsumed under this is the issue of whether or not his failure to have himself examined by the company-designated physician bars him from pursuing his claim.

The Petition lacks merit.

I

Section 20(B) of the Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC)[24] established the procedures for assessing claims for disability benefits. It mandates seafarers to see a company-designated physician for a post-employment medical examination, which must be done within three (3) working days from their arrival. Failure to comply shall result in the forfeiture of the right to claim disability benefits:

B. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS

The liabilities of the employer when the seafarer suffers work-related injury or illness during the term of his contract are as follows:

....

- 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 his forfeiture of the right to claim the above benefits.

If a doctor appointed by the seafarer disagrees with the assessment, a third doctor may be agreed jointly between the Employer and the seafarer. The third doctor's decision shall be final and binding on both parties.[25] (Emphasis supplied)

Kestrel Shipping Co., Inc. v. Munar,[26] citing Vergara v. Hammonia Maritime Services, Inc.[27] clarified the rules and the period for reckoning a seafarer's permanent disability for purposes of entitlement to disability benefits:

In Vergara v. Hammonia Maritime Services, Inc., this Court read the POEA-SEC in harmony with the Labor Code and the AREC in interpreting in holding that: (a) the 120 days provided under Section 20-B (3) of the POEA-SEC is the period given to the employer to determine fitness to work and when the seafarer is deemed to be in a state of total and temporary disability; (b) the 120 days of total and temporary disability may be extended up to a maximum of 240 days should the seafarer require further medical treatment; and (c) a total and temporary disability becomes permanent when so declared by the company-designated physician within 120 or 240 days, as the case may be, or upon the expiration of the said periods without a declaration of either fitness to work or permanent disability and the seafarer is still unable to resume his regular seafaring duties....[28]

This Court's discussion on the same topic in Vergara[29] read:

As these provisions operate, the seafarer, upon sign-off from his vessel, must report to the company-designated physician within three (3) days from arrival for diagnosis and treatment. For the duration of the treatment but in no case to exceed 120 days, the seaman is on temporary total disability as he is totally unable to work. He receives his basic wage during this period until he is declared fit to work or his temporary disability is acknowledged by the company to be permanent, either partially or totally, as his condition is defined under the POEA Standard Employment Contract and by applicable Philippine laws. If the 120 days initial period is exceeded and no such declaration is made because the seafarer requires further medical attention, then the temporary total disability period may be extended up to a maximum of 240 days, subject to the right of the employer to declare within this period that a permanent partial or total disability already exists. The seaman may of course also be declared fit to work at any time such declaration is justified by his medical condition.

....

As we outlined above, a temporary total disability only becomes permanent when so declared by the company physician within the periods he is allowed to do so, or upon the expiration of the maximum 240-day medical treatment period without a declaration of either fitness to work or the existence of a permanent disability. In the present case, while the initial 120-day treatment or temporary total disability period was exceeded, the company-designated doctor duly made a declaration well within the extended 240-day period that the petitioner was fit to work. Viewed from this perspective, both the NLRC and CA were legally correct when they refused to recognize any disability because the petitioner had already been declared fit to resume his duties. In the absence of any disability after his temporary total disability was addressed, any further discussion of permanent partial and total disability, their existence, distinctions and consequences, becomes a surplusage that serves no useful purpose.[30] (Emphasis supplied, citations omitted)

Manota v. Avantgarde Shipping Corporation[31] explained why the requisite three (3)-day period for examination by the company-designated physician "must be strictly observed":

The 3-day mandatory reporting requirement must be strictly observed since within 3 days from repatriation, it would be fairly manageable for the physician to identify whether the disease . . . was contracted during the term of his employment or that his working conditions increased the risk of contracting the ailment.

....

Moreover, the post-employment medical examination within 3 days from . . . arrival is required in order to ascertain [the seafarer's] physical condition, since to ignore the rule would set a precedent with negative repercussions because it would open the floodgates to a limitless number of seafarers claiming disability benefits. It would certainly be unfair to the employer who would have difficulty determining the cause of a claimant's illness considering the passage of time. In such a case, the employers would have no protection against unrelated disability claims.[32]

However, this Court has clarified that the conduct of post-employment medical examination is not a unilateral burden on the part of the seafarer. Rather, it is a reciprocal obligation where the seafarer is obliged to submit to an examination within three (3) working days from his or her arrival, and the employer is correspondingly obliged "to conduct a meaningful and timely examination of the seafarer":[33]

We note on this point that the obligation imposed by the mandatory reporting requirement under Section 20 (B) (3) of the 1996 POEA-SEC is not solely on the seafarer. It requires the employer to likewise act on the report, and in this sense partakes of the nature of a reciprocal obligation. Reciprocal obligations are those which arise from the same cause, and where each party is effectively a debtor and a creditor of the other, such that the obligation of one is dependent upon the obligation of the other. While the mandatory reporting requirement obliges the seafarer to be present for the post-employment medical examination, which must be conducted within three (3) working days upon the seafarer's return, it also poses the employer the implied obligation to conduct a meaningful and timely examination of the seafarer.

The petitioners failed to perform their obligation of providing timely medical examination, thus rendering meaningless Serna's compliance with the mandatory reporting requirement. With his July 14, 1999 visit, Serna clearly lived up to his end of the agreement; it was the petitioners who defaulted on theirs. They cannot now be heard to claim that Serna should forfeit the right to claim disability benefits under the POEA-SEC and their [Collective Bargaining Agreement].[34]

In cases where the employer refuses to have the seafarer examined, the seafarer's claim for disability benefits is not hindered by his or her reliance on a physician of his or her own choosing:

The Court has in the past, under unique circumstances, sustained the award of disability benefits even if the seafarer's disability had been assessed by a personal physician. In *Philippine Transmarine Carriers, Inc. v. NLRC*, we affirmed the grant by the CA and by the NLRC of disability benefits to a claimant, based on the recommendation of a physician not designated by the employer. The "claimant consulted a physician of his choice when the company-designated physician refused to examine him." In *Cabuyoc v. Inter-Orient Navigation Shipmanagement, Inc.*, we reinstated the NLRC's decision, affirmatory of that of the labor arbiter, which awarded sickness wages to the petitioner therein even if his disability had been assessed by the Philippine General Hospital, not by a company-designated hospital. Similar to the case at bar, the seafarer in *Cabuyoc* initially sought medical assistance from the respondent employer but it refused to extend him help.[35] (Citations omitted)

II

It is petitioner's claim that respondents failed to deliver their part of the reciprocal obligation by refusing to entertain him when he asked to have himself examined. He insists that their refusal is allegedly an offshoot of his acrimony with them, which began after his report of a colleague's death to the International Transport Workers' Federation.

Petitioner weaves a curious narrative of indifference and oppression but, just as curiously, has nothing more than bare allegations to back him up. He falls far too short of the requisite quantum of proof in labor cases. He failed to discharge his burden to prove his allegations by substantial evidence.[36]

In the first place, this Court is duty-bound to respect the uniform findings of Labor Arbiter Savari, the National Labor Relations Commission, and the Court of Appeals. In the context of the present Rule 45 Petition, this Court is limited to resolving pure questions of law. It should be careful not to substitute its own appreciation of the facts to those of the tribunals which have previously weighed the parties' claims and even personally perused the evidence:

As a rule, only questions of law may be raised in a Rule 45 petition. In one case, we discussed the particular parameters of a Rule 45 appeal from the CA's Rule 65 decision on a labor case, as follows:

In a Rule 45 review, we consider the correctness of the assailed CA decision, in contrast with the review for jurisdictional error that we undertake under Rule 65. Furthermore, Rule 45 limits us to the review of questions of law raised against the assailed CA decision. In ruling for legal correctness, we have to view the CA decision in the same context that the petition for certiorari it ruled upon was presented to it; we have to examine the CA decision from the prism of whether it correctly determined the presence or absence of grave abuse of discretion in the NLRC decision before it, not on the basis of whether the NLRC decision on the merits of the case was correct. In other words, we have to be keenly aware that the CA undertook a Rule 65 review, not a review on appeal, of the NLRC decision challenged before it.

Accordingly, we do not re-examine conflicting evidence, re-evaluate the credibility of witnesses, or substitute the findings of fact of the NLRC, an administrative body that has expertise in its specialized field. Nor do we substitute our "own judgment for that of the tribunal in determining where the weight of evidence lies or what evidence is credible." The factual findings of the NLRC, when affirmed by the CA, are generally conclusive on this Court.[37]

Labor Arbiter Savari, the National Labor Relations Commission, and the Court of Appeals are consistent in finding that petitioner's claim of presenting himself for examination is direly unsupported by evidence. The Court of Appeals emphasized that "petitioner's narration of facts is bereft of details as to the alleged report." [38] Petitioner could not even state when he actually wanted to have himself examined. He could neither identify the person he approached for his request nor disclose the exact manner and circumstances of his being rebuffed.[39] Ultimately, petitioner has nothing more than a scant, one-sentence story: he went to Southfield's office, was refused, and had to go to another doctor.

Petitioner himself claims that respondents' refusal to have him medically examined was only the last episode in a prolonged conflict. If indeed it was, petitioner must logically be expected to adduce proof, not only of that terminal episode, but of his complete narrative and its many incidents. In this regard, too, petitioner was grossly deficient.

Given petitioner's slew of allegations, coupled with his burden of repudiating the uniform findings of the three (3) tribunals, it is glaring that petitioner annexed nothing to his Petition and Reply[40] except the assailed Court of Appeals Decision and Resolution. His plea for this Court to overturn the uniform antecedent findings of the three

(3) tribunals demands more than attaching a copy of the immediately preceding judgments. Attaching a copy of the assailed judgments to a Rule 45 Petition does not even manage to accomplish any evidentiary purpose. One could hazard that petitioner's scant annexes were included only out of conventional compliance with Rule 45, Section 4[41] of the 1997 Rules of Civil Procedure because his Petition would otherwise have been denied outright.[42]

It is true that there are exceptions to the rule that Petitions for Review on Certiorari may only be concerned with pure questions of law.[43] But these exceptions are not occasioned by their mere invocation. A party who files a Rule 45 Petition and asserts that his or her case warrants this Court's review of factual questions bears the burden of proving two (2) things. First is the basic exceptionality of his or her case such that this Court must go out of its way to revisit the evidence. Second is the specific factual conclusion that he or she wants this Court to adopt in place of that which was made by the lower tribunals. This dual burden requires a party to not merely plead or aver. He or she must demonstrate and prove. His or her evidentiary task persists before this Court precisely because he or she pleads this Court to sustain different factual conclusions.

Petitioner's deficiencies manifest his failure to discharge this burden.

Petitioner's allegation of a deceased colleague could have been substantiated by official records. He did not adduce these documents. Worse, he could not even name that co-worker. The truth is that there is no certainty if someone actually died on board. Likewise, while petitioner claims that respondents were so hostile to him, he claims to have still managed to lodge a complaint while on mid-voyage to the International Transport Workers' Federation. If he was so ingenious to do this mid-voyage despite the belligerence of his superiors, nothing could have prevented him from adducing proof that he made that report. A copy of any form of acknowledgment by the International Transport Workers' Federation would have bolstered his cause. He must certainly have access to an acknowledgment as he himself initiated and pursued the purported complaint. He also claims that the M/V Super Adventure was arrested specifically because of his complaint.[44] Yet, he presented no record or attestation of this occurrence.

If it is also true that Capt. Lecias was so hostile as to demand his repatriation and downright abusive as to withhold medical attention to an ill crew member, petitioner could have at least presented affidavits from colleagues to corroborate in whole or in part his account. He must realize that his allegations are not mere assertions to further his narrative; they are also grave accusations that a captain violated his most important role in protecting his crew.[45] This Court, lending its approval to claims such as petitioner's, could potentially become the basis of punitive measures against captains of vessels. As this Court's decisions set precedents, it has all the more reason to not be swayed by bare allegations.

Petitioner would have this Court hang on to nothing but his word. He would have this Court discard the consistent findings of the three (3) tribunals on nothing but faith in what he asserts. This Court cannot act with blind credulity. With the utter dearth of proof advancing petitioner's cause, this Court is constrained to sustain the consonant findings of Labor Arbiter Savari, of the National Labor Relations Commission, and of the Court of Appeals.

III

Even if this Court were to overlook petitioner's utter failure to substantiate his version of events, no award of disability benefits is availing as petitioner has failed to demonstrate that his affliction was work-related.

Tagud v. BSM Crew Service Centre Phils., Inc.[46] explained the twin requirements for compensation of disability:

For disability to be compensable under Section 20 (B) of the 2000 POEA-SEC, two elements must concur: (1) that the illness or injury must be work-related, and (2) that the work-related illness or injury must have existed during the term of the seafarer's employment contract.

The 2000 POEA-SEC defines "work-related injury" as injury resulting in disability or death arising out of and in the course of employment and "work-related illness" as any sickness resulting to disability or death as a result of an occupational disease listed under Section 32-A of the 2000 POEA-SEC. Thus, the seafarer only has to prove that his illness or injury was acquired during the term of employment to support his claim for sickness allowance and disability benefits.[47]

To be "work-related" is to say that there is a "reasonable linkage between the disease suffered by the employee and his work." [48] Section 32-A, paragraph 1 of the POEA-SEC, thus, requires the satisfaction of all of its listed general conditions "[f]or an occupational disease and the resulting disability or death to be compensable":

Section 32-A. OCCUPATIONAL DISEASES

For an occupational disease and the resulting disability or death to be compensable, all of the following conditions must be satisfied:

(1)

The seafarer's work must involve the risks described herein;

(2)

The disease was contracted as a result of the seafarer's exposure to the described risks;

(3)

The disease was contracted within a period of exposure and under such other factors necessary to contract it;

(4)

There was no notorious negligence on the part of the seafarer.[49]

Petitioner himself wrote and submitted a letter requesting repatriation "to attend to a family problem." [50] Petitioner did not deny the existence of this letter but disavowed it as having been made under duress. The preceding discussion demonstrated how petitioner's attempts at disavowal are a folly. The declaration in that letter, therefore, stands and amounts to an admission professing the true reasons for his repatriation, belying his belated claim of suffering an injury while aboard M/V Super Adventure.

Petitioner's account concerning this letter is also laden with a fatal inconsistency. According to him, his entire acrimonious relationship with respondents arose from his report of a co-worker's death to the International Transport Workers' Federation. This report allegedly made Capt. Lecias so indignant that he forced petitioner into fabricating a letter requesting to be sent home. However, while petitioner himself claims this death happened "upon embarkation," [51] his letter was made more than two (2) months after embarkation, on February 26, 2011. [52] Petitioner, too, would not be repatriated until March 5, 2011. [53]

Petitioner's own account raises curious questions. If, indeed, Capt. Lecias was so incensed at petitioner that he was made to immediately fabricate a repatriation request, why was the letter made only on February 26, 2011? Why would a captain so driven to discard a seafarer have to wait so long to effect his or her repatriation?

Medical literature underscores petitioner's affliction—disc desiccation—as a degenerative change of intervertebral discs, the incidence of which climbs with age and is a normal part of disc aging. [54] Hence, it is not a condition

peculiarly borne by petitioner's occupation. Moreover, petitioner was engaged to serve, not merely as a regular cook, but as chief cook. While his designation to this position does not absolutely negate occasions of physical exertion, it can nevertheless be reasonably inferred that his engagement did not principally entail intense physical labor, as would have been the case with other seafarers such as deckhands. In any case, contrary to Section 32-A of the POEA-SEC, petitioner failed to demonstrate how his work necessarily "involve[d] the risks described" and how he contracted his affliction specifically "as a result of [his] exposure to the described risks."

Likewise, petitioner needed to be repatriated merely two (2) months into his engagement. This is not disputed, whether on the basis of petitioner's claims of falling ill mid-voyage or on the basis of his letter request to respondents. Again, contrary to Section 32-A of the POEA-SEC, the brevity of his engagement contradicts the likelihood that his disc desiccation—a degenerative ailment requiring prolonged conditions—"was contracted within a period of exposure and under such other factors necessary to contract it." [55]

IV

Petitioner's cause is grossly deficient in several ways. First, he failed to undergo the requisite examination, thereby creating a situation resulting in the forfeiture of his claims. This alone suffices for the denial of his Petition. Second, he posited a narrative of indifference and oppression but failed to adduce even the slightest substantiation of it. He asked this Court to overturn the consistent findings of the three (3) tribunals but offered nothing other than his word as proof. Finally, he averred a medical condition from which no causal connection can be drawn to his brief engagement as chief cook. He would have this Court sustain an imputation grounded on coincidence and conjecture.

In this review, this Court is bound by basic logical parameters. First, as a court without the opportunity to personally peruse the evidence, this Court cannot cavalierly disregard the uniform anterior findings of the three (3) tribunals. Second, a factual conclusion must be borne by substantial evidence. Finally, this Court should not award disability benefits absent a causal relationship between a seafarer's work and ailment. Petitioner's case fails in all of these parameters. Hence, his Petition must be denied.

WHEREFORE, the Petition for Review on Certiorari is DENIED. The assailed April 29, 2013 Decision and July 26, 2013 Resolution of the Court of Appeals in CA-G.R. SP No. 126939 are AFFIRMED.

SO ORDERED.

Velasco, Jr. (Chairperson), Bersamin, Martires, and Gesmundo, JJ., concur.

[1] Rollo, pp. 3-43, Petition for Review on Certiorari.

[2] Id. at 45-56. The Decision was penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Amelita G. Tolentino and Danton Q. Bueser of the Fourth Division, Court of Appeals, Manila.

[3] Id. at 58-59. The Resolution was penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Amelita G. Tolentino and Danton Q. Bueser of the Fourth Division, Court of Appeals, Manila.

[4] No copy annexed to the Petition. See rollo, p. 45.

[5] No copy annexed to the Petition. See rollo, pp. 5 and 45.

[6] No copy annexed to the Petition. See rollo, p. 4.

[7] Rollo, pp. 58-59.

[8] Id. at 45-46.

[9] Id. at 10.

[10] "Capt. Sonny Valencia is the president and/or manager of the local manning agent." See rollo, p. 9.

[11] Rollo, p. 46.

[12] Id.

[13] Id.

[14] Id.

[15] Id.

[16] Id. at 46-47.

[17] Id. at 47-48.

[18] No copy annexed to the Petition. See rollo, p. 5.

[19] Rollo, p. 48.

[20] No copy annexed to the Petition. See rollo, p. 48.

[21] Rollo, pp. 58-59.

[22] Id. at 3-43.

[23] Id. at 12.

[24] POEA Memo. Circ. No. 09 (2000), Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers On Board Ocean-Going Vessels.

[25] POEA Memo. Circ. No. 09 (2000), sec. 20 (b) as amended by POEA Memo. Circ. No. 10 (2010) sec. 20 (A.3) which substantially reproduces sec. 20 (b) but adds the following:

"The seafarer shall be entitled to reimbursement of the cost of medicines prescribed by the company designated physician. In case treatment of the seafarer is on an out-patient basis as determined by the company-designated physician, the company shall approve the appropriate mode of transportation or accommodation. The reasonable cost of actual traveling expenses and/or accommodation shall be paid subject to liquidation and submission of official receipts and/or proof of expenses."

[26] 702 Phil. 717 (2013) [Per J. Reyes, First Division].

[27] 588 Phil. 895 (2008) [Per J. Brion, Second Division].

[28] 702 Phil. 732-733 (2013) [Per J. Reyes, First Division].

[29] 588 Phil. 895 (2008) [Per J. Brion, Second Division].

[30] Id. at 912-913.

[31] 715 Phil. 54 (2013) [Per J. Peralta, Third Division].

[32] Id. at 64-65 citing Crew and Ship Management International, Inc. and Salena, Inc. v. Jina T. Soria, G.R. No. 175491, December 10, 2012; Jebsens Maritime, Inc. v. Undag, G.R. No. 191491, December 14, 2011, 662 SCRA

670, 681.

[33] *Career Philippines Shipmanagement, Inc., et al. v. Serna*, 700 Phil. 1 (2012) [Per J. Brion, Second Division].

[34] *Id.* at 15 citing *Cortes v. Court of Appeals*, 527 Phil. 153, 160 (2006) [Per J. Ynares-Santiago, First Division], citing Tolentino, Arturo, *Commentaries and Jurisprudence on the Civil Code of the Phils.*, Vol. IV, 1985 edition, p. 175.

[35] *Id.* at 15-16.

[36] In *Tenazas v. R. Villegas Taxi Transport*, 731 Phil. 217, 229 (2014) [Per J. Reyes, First Division]: "It is an oft-repeated rule that in labor cases, as in other administrative and quasi-judicial proceedings, 'the quantum of proof necessary is substantial evidence, or such amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.' '[T]he burden of proof rests upon the party who asserts the affirmative of an issue.'"

[37] *Career Philippines Shipmanagement, Inc., et al. v. Serna*, 700 Phil. 9—10 (2012) [Per J. Brion, Second Division] citing *Montoya v. Trammed Manila Corporation*, 613 Phil. 616 (2009) [Per J. Brion, Second Division]; *Cabuyoc v. Inter-Orient Navigation Shipmanagement, Inc.*, 537 Phil. 897 (2006) [Per J. Garcia, Second Division]; *Sarocam v. Interorient Maritime Ent., Inc.*, 526 Phil. 448, 454 (2006) [Per J. Callejo, Sr., First Division]; *Cootauco v. MMS Phil. Maritime Services, Inc.*, 629 Phil. 506 (2010) [Per J. Perez, Second Division].

[38] *Rollo*, p. 54.

[39] *Id.*

In the words of the Court of Appeals:

"As correctly observed by the tribunals a quo, this claim was not substantiated in the records. Even petitioner's narration of facts is bereft of details as to the alleged report made at the manning agency's office. Notably, petitioner failed to specify the name of the employee to whom he reported, the time he reported and the reason why private respondent South Field allegedly refused to render him a medical examination. The absence of these details casts serious doubt on the veracity of petitioner's allegation that he indeed reported for post-employment medical examination."

[40] *Id.* at 72-83.

[41] 1997 RULES OF CIV. PROC., Rule 45, sec. 4 provides:

Section 4. Contents of petition. — The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; (c) set forth concisely a statement of the matters involved, and the reasons or arguments relied on for the allowance of the petition; (d) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court a quo and the requisite number of plain copies thereof, and such material portions of the record as would support the petition; and (e) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42.

[42] 1997 RULES OF CIV. PROC., Rule 45, sec. 5 provides:

Section 5. Dismissal or denial of petition. — The failure of the petitioner to comply with any of the foregoing requirements regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be sufficient ground for the dismissal thereof.

The Supreme Court may on its own initiative deny the petition on the ground that the appeal is without merit, or is prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration.

[43] In Pascual v. Burgos, G.R. No. 171722, January 11, 2016 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/january2016/171722.pdf>> 11 [Per J. Leonen, Second Division]:

However, these rules do admit exceptions. Over time, the exceptions to these rules have expanded. At present, there are 10 recognized exceptions that were first listed in *Medina v. Mayor Asistio, Jr.*:

(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.

These exceptions similarly apply in petitions for review filed before this court involving civil, labor, tax, or criminal cases. (Citations omitted)

[44] Rollo, p.11.

[45] In *Inter-Orient Maritime Enterprises, Inc. v. National Labor Relations Commission*, 305 Phil. 286, 297 (1994) [Per J. Feliciano, Third Division]:

"Of these roles, by far the most important is the role performed by the captain as commander of the vessel; for such role (which, to our mind, is analogous to that of "Chief Executive Officer" [CEO] of a present-day corporate enterprise) has to do with the operation and preservation of the vessel during its voyage and the protection of the passengers (if any) and crew and cargo."

[46] *Tagud v. BSM Crew Service Centre Phils., Inc.*, G.R. No. 219370, December 6, 2017 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/december2017/219370.pdf>> [Per J. Carpio, Second Division].

[47] *Id.* at 8.

[48] *Dayo v. Status Maritime Corporation*, 751 Phil. 778, 789 (2015) [Per J. Leonen, Second Division].

[49] POEA Memo. Circ. No. 09 (2000), sec. 32-A.

[50] Rollo, p. 46.

[51] *Id.* at 10.

[52] Rollo, p. 46.

[53] Id.

[54] See MCGRAW-HILL EDUCATION, HARRISON'S PRINCIPLES OF INTERNAL MEDICINE (19th ed.); and Lumbar Disc Degenerative Disease: Disc Degeneration Symptoms and Magnetic Resonance Image Findings, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3863659/>.

[55] POEA Memo. Circ. No. 09 (2000), sec. 32-A.

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