

ROBELITO MALINIS TALAROC, PETITIONER, VS. ARPAPHIL SHIPPING CORPORATION, EPIDAUROS S.A., AND/OR NATIVIDAD PAPPAS, RESPONDENTS.*G.R. No. 223731. August 30, 2017*

Ponente: PERLAS-BERNABE, J.

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Assailed in this petition for review on certiorari[1] are the Decision[2] dated October 9, 2015 and the Resolution[3] dated March 21, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 138842, which reversed and set aside the Decision[4] dated September 17, 2014 and the Resolution[5] dated November 28, 2014 of the National Labor Relations Commission (NLRC) in NLRC LAC No. OFW-M-07-000582-14, and instead, reinstated the Decision[6] dated May 30, 2014 of the Labor Arbiter (LA) in NLRC NCR OFW Case (M)-08-12057-13 dismissing the complaint for total and permanent disability benefits but ordered respondents to solidarity pay petitioner Robelito Malinis Talaroc (petitioner) his unpaid sickness allowance, with modification deleting the award of attorney's fees.

The Facts

Petitioner was employed by respondent Arpaphil Shipping Corporation (ASC) for its foreign principal Epidaurus S.A. as Third Officer on board the vessel MV Exelixis under a six (6)-month contract[7] that was signed on February 18, 2013, with a basic monthly salary of US\$1,113.00 exclusive of overtime and other benefits.[8] After undergoing the required pre-employment medical examination (PEME) where he was declared fit for sea duty[9] by the company designated physician, petitioner boarded the vessel on March 8, 2013.[10]

On March 16, 2013, the Ship Master informed respondent Epidaurus S.A. that petitioner could not perform his duties due to fever and back pain.[11] Petitioner claimed that while he was collecting the mooring rope, he felt a sudden click in his lower back accompanied with pain.[12] He was examined by a port doctor in Algeria and injected with pain reliever for his back. He was also treated for sore throat that caused his fever and given medication for his hypertension.[13] Thereafter, petitioner also complained of stomach pain and dizziness, for which the Ship Master recommended that he be confined in a hospital for further treatment and opined that he was not fit to work.[14] In a Medical Report[15] dated March 24, 2013, petitioner was found to be suffering from lumbago with stomach pains, in addition to his hypertension, and recommended that he be repatriated for further medical treatment.

Upon arrival in Manila, or on March 26, 2013, petitioner was referred to the company-designated physician of ASC, Dr. Esther G. Go (Dr. Go), and was diagnosed to have hypertension, "[t]o [c]onsider Gastrointestinal Bleeding [p]robably [secondary to Gastric Ulcers," and lumbar muscle strain.[16] After undergoing a series of laboratory tests and examinations, petitioner was found to be suffering from gastric ulcer, duodenitis, and hypertension.[17] His lumbosacral x-ray showed an "L3-L4 and L4-L5 Generalized Disc Bulge," while his MRI of the lumbar spine showed an "L5-S1, Left Paracentral Disc Protrusion." [18] He was advised by Dr. Go to

undergo rehabilitation and continue his medications.[19]

On April 29, 2013, petitioner was again admitted to the hospital due to "left facial asymmetry, loss of balance and left leg weakness" and referred to a neurologist who found him to have "Right Brainstem Infarct." [20] He underwent physical therapy on an in-patient basis until his discharge on May 2, 2013, after which he was directed to continue his prescribed medications, as well as rehabilitation as an out-patient.[21]

Thereafter, in a confidential medical report[22] dated May 14, 2013 (May 14, 2013 medical report), the company designated physician assessed petitioner's condition as follows:

This is with regards to your query regarding the case of 3[rd] Officer Robelito M. Talaroc who was initially seen here at Metropolitan Medical Center on March 27, 2013 and was diagnosed to have Gastric Ulcer; Duodenitis; Hypertension; L-3 - L-4 and L4 - L-5 Generalized Disc Bulge; L5 - S1, Left Paracentral Disc Protrusion.

Gastric Ulcer and Duodenitis are part of the spectrum of acid-related diseases listed under Section 32-a Item # 22 of the amended POEA Contract.

The etiology/cause of Hypertension is not work-related. It is multifactorial in origin which includes genetic predisposition, poor lifestyle, high salt intake, smoking, Diabetes Mellitus, age and increased sympathetic activity. This is already pre-existing.

Disc bulge and disc protrusion can be precipitated/aggravated by heavy work or lifting/pushing or pulling heavy objects. This is degenerative in nature.

Patient also had acute onset of headache and diplopia with left leg weakness on the last week of April 2013.

He was then noted with acute brainstem infarction on CT Scan. This occurred while he is currently undergoing treatment here in the Philippines for his Gastric Ulcer, Hypertension and back pain.

Risk factors for Lacunar Infarct are age, smoking, alcohol intake, Hypertension and Hypercholesterolemia. All of which are not work-related. This is not work-related.

The specialists opine that patient's prognosis for returning to sea duties is guarded and fitness to work is unlikely due to risk of another cerebrovascular event.

His estimated length of further treatment is approximately 3 more months before he reached his maximum medical improvement.

He will also undergo repeat Gastroscopy once neurologically and cardiac stable for treatment monitoring of his gastric ulcer.

x x x x

If patient is entitled to a disability, his suggested disability grading is Grade 10 - slight brain functional disturbance that requires little attendance or aid and which interferes to a slight degree with the working capacity of the patient.[23] (Emphases supplied)

Accordingly, petitioner was directed to appear in a series of follow-up check-ups by Dr. Go on May 16 and 20, 2013, June 3 and 20, 2013, July 11, 2013, and August 1 and 22, 2013.[24] In all of the follow-up sessions, petitioner persistently complained of left leg weakness, low back pain and occasional dizziness, to which Dr. Go merely advised him to continue his medications and rehabilitation program. In a medical report[25] dated August 22, 2013 (August 22, 2013 medical report), petitioner was cleared by the specialist, Dr. Chen Pen Lim, of his gastric ulcer and gastro-intestinal disorder.

Unconvinced of the true state of his condition, petitioner consulted an independent physician, Dr. Manuel Fidel M. Magtira (Dr. Magtira), who, in a Medical Report[26] dated September 20, 2013, found him unfit to return to work as a seafarer after evaluating his previous MRI and upon physical examination, pointing out that in view of his persistent back pain, he has lost his pre-injury capacity that rendered him permanently disabled.[27]

In the interim, or on August 28, 2013, petitioner filed a complaint[28] for underpayment of sick leave pay, non-payment of salaries/wages, reimbursement of transportation expenses, payment of sickness allowance, moral and exemplary damages, and attorney's fees against ASC, its Owner/Manager/President Natividad A. Pappas, and Epidaurus S.A. (respondents), before the NLRC, docketed as NLRC NCR OFW Case (M)-08-12057-13. The complaint was subsequently amended[29] on October 2, 2013 to include a claim for total and permanent disability benefits in view of Dr. Magtira's independent medical report finding petitioner unfit to resume his usual work as a seafarer.[30]

In support of his claim, petitioner averred that from the time he was repatriated for his back injury, he was no longer capable of resuming work as a seafarer that lasted for more than 240 days despite medical treatment and therapy. By reason thereof, he had lost his capacity to obtain further sea employment and an opportunity to earn an income, thus entitling him to payment of total disability compensation in the full amount of US\$90,000.00 pursuant to the P.N.O "TCC" Collective Agreement for Crews on Flag of Convenience Ships[31] (CBA) that was enforced during his last employment contract. Petitioner also sought for the payment of moral and exemplary damages in view of respondents' unjustified refusal to settle the matter and their evident bad faith in dealing with him, as well as attorney's fees pursuant to Article 2208, paragraphs (2) and (8) of the Civil Code.[32]

For their part,[33] respondents maintained that petitioner was not entitled to permanent and total disability benefits under the CBA since the latter's illness did not arise from an accident.[34] They contended that petitioner's diagnosed illnesses, namely, Gastric Ulcer and Duodenitis, were already resolved as shown in the August 22, 2013 medical report, while his other illnesses, namely, hypertension, generalized disc bulge and left paracentral disc protrusion, and lacunar infarct, were all declared by Dr. Go to be not work-related, hence, not compensable.[35] Finally, they argued that petitioner's action was premature as the 240-day extended medical treatment has not yet expired at the time he filed his complaint and that he failed to comply with the provisions of the Philippine Overseas Employment Agency (POEA) Standard Employment Contract (POEA-SEC) in case of conflict in medical findings by the parties' respective doctors.[36] They further denied petitioner's other monetary claims asserting that his sickness allowance had already been paid, while his claim for reimbursement of transportation expenses was unsupported by receipts. Petitioner was also not entitled to moral and exemplary damages having been treated fairly and in good faith, as well as to attorney's fees for lack of basis.[37]

The LA Ruling

In a Decision[38] dated May 30, 2014, the LA dismissed the complaint for lack of cause of action, holding that the claim for disability benefits was filed before the lapse of the allowable 240-day extended medical treatment period. The LA pointed out that Dr. Go's assessment on May 14, 2013 giving petitioner a Grade 10 disability rating was only interim and that the latter's resort to an independent physician was premature as the former has yet to issue his final assessment within the agreed extended 240-day extended treatment period.[39] Nevertheless, the LA found merit in petitioner's claim for sickness allowance, noting that he was paid for a period of 93 days only and not 120 days as provided under the POEA-SEC.[40] The other claims for unpaid salaries, medical expenses and damages were denied for lack of basis, while an award of ten (10%) percent attorney's fees was found reasonable under the circumstances as petitioner was compelled to litigate to protect his interest in accordance with Article 2208 (7) of the Civil Code, as well as Article 111 of the Labor Code and Section 8, Rule VIII, Book III of the Omnibus Rules Implementing the Labor Code.[41]

Aggrieved, petitioner filed an appeal[42] to the NLRC.

The NLRC Ruling

In a Decision[43] dated September 17, 2014, the NLRC set aside the LA decision,[44] ruling that the 240-day extended medical treatment was not an automatic application in case of disability claim. It pointed out that there must be a need for further medical treatment before the 120-day period may be extended which Dr. Go failed to show. It observed that the May 14, 2013 medical report, which showed that the estimated length of petitioner's treatment was approximately three (3) months, was self-serving and devoid of any probative value as there was no mention of the particular treatment or rehabilitation needed. It added that while there was no question as to his medications, there was, however, no proof showing that petitioner, in fact, underwent rehabilitation, or if there was, that it went beyond the 120-day period. On the contrary, it held that the company's specialists' opinion that the "prognosis for returning to sea duties is guarded and fitness to work is unlikely due to risk of another cerebrovascular event" was an indication that there was no need to extend the 120-day period since the unlikelihood of working was due to the fact that (a) petitioner was permanently disabled, and (b) that an extended treatment was unnecessary considering that it would no longer restore petitioner to his pre-injury condition. It ruled that Dr. Go's assessment of a Grade 10 disability was not interim or conditional absent any similar import suggesting the same, and that there was no need to await a final assessment given that it referred to petitioner's slight brain functional disturbance, and not his lumbar spondylosis, that incapacitated him to resume work for more than 120-days.[45]

Further, the NLRC found that petitioner's incapacity is work-related, stating that it is of no moment that his work as a Third Officer or even his working conditions on board respondents' vessel was not the sole or direct cause of his lumbar spondylosis, as it suffices that his work, at the very least, aggravated his illness.[46]

Accordingly, the NLRC ordered respondents to jointly and severally pay petitioner total and permanent disability benefits in the amount of US\$60,000.00 pursuant to the provisions of the POEA-SEC and not the CBA, as the disability did not arise from an accident, as well as ten percent (10%) attorney's fees.[47]

Respondents filed a motion for reconsideration,[48] while petitioner moved to reconsider[49] the amount of his disability benefits asserting that he was entitled to US\$90,000.00 pursuant to the overriding provisions of the existing CBA.[50]

In a Resolution[51] dated November 28, 2014, the NLRC denied both motions prompting respondents to file a petition for certiorari[52] before the CA, docketed as CA-G.R. SP No. 138842.

The CA Ruling

In a Decision[53] dated October 9, 2015, the CA gave due course to the petition finding the NLRC to have gravely abused its discretion,[54] and reinstated the LA's Decision dated May 30, 2014 with modification deleting the award of attorney's fees.[55] It ruled that since petitioner was advised to continue with his rehabilitation program in the medical report[56] dated August 1, 2013 and to undergo laboratory examinations and gastroscopy on his next check-up scheduled on August 22, 2013, the company-designated physician, Dr. Go, had until November 22, 2013 (240[th] day) to determine with finality the former's fitness to work or disability. There being no final assessment yet, the complaint for total and permanent disability benefits was premature. The CA added that assuming the company designated physician's assessment in the May 14, 2013 medical report was final, petitioner committed a breach of his contractual obligation when he failed to resort to the opinion of a third doctor as mandated in Section 20 (B) (3) of the 2010 POEA-SEC. Consequently, the CA deleted the award of attorney's fees holding that there was no unlawful withholding of benefits.[57]

Dissatisfied, petitioner filed a motion for reconsideration,[58] which was, however, denied in a Resolution[59] dated March 21, 2016; hence, this petition.

The Issue Before the Court

The essential issue is whether or not the CA erred in holding that the NLRC gravely abused its discretion when it ruled that petitioner was entitled to total and permanent disability benefits.

The Court's Ruling

The petition is meritorious.

I

To justify the grant of the extraordinary remedy of certiorari, the petitioner must satisfactorily show that the court or quasi-judicial authority gravely abused the discretion conferred upon it. Grave abuse of discretion connotes a capricious and whimsical exercise of judgment, done in a despotic manner by reason of passion or personal hostility, the character of which being so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act at all in contemplation of law.[60]

In labor disputes, grave abuse of discretion may be ascribed to the NLRC when, inter alia, its findings and conclusions are not supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[61]

Guided by the foregoing considerations, the Court finds that the CA committed reversible error in granting respondent's certiorari petition since the NLRC did not gravely abuse its discretion in awarding petitioner total and permanent disability benefits.

The Labor Code and the Amended Rules on Employees Compensation (AREC) provide that the seafarer is declared to be on temporary total disability during the 120-day period within which the seafarer is unable to work.[62] However, a temporary total disability lasting continuously for more than 120 days, except as otherwise provided in the Rules, is considered as a total and permanent disability.[63]

The exception referred to above pertains to a situation when the sickness "still requires medical attendance beyond the 120 days but not to exceed 240 days" in which case the temporary total disability period is extended up to a maximum of 240 days.[64] Note, however, that for the company-designated physician to avail of the extended 240-day period, he must first perform some significant act to justify an extension (e.g., that the illness still requires medical attendance beyond the initial 120 days but not to exceed 240 days); otherwise, the seafarer's disability shall be conclusively presumed to be permanent and total.[65]

In sum, the following guidelines are observed when a seafarer claims permanent and total disability benefits:

1. The company-designated physician must issue a final medical assessment on the seafarer's disability grading within a period of 120 days from the time the seafarer reported to him;
2. If the company-designated physician fails to give his assessment within the period of 120 days, without any justifiable reason, then the seafarer's disability becomes permanent and total;
3. If the company-designated physician fails to give his assessment within the period of 120 days with a sufficient justification (e.g., seafarer required further medical treatment or seafarer was uncooperative), then the period of diagnosis and treatment shall be extended to 240 days. The employer has the burden to prove that the company-designated physician has sufficient justification to extend the period; and

4. If the company-designated physician still fails to give his assessment within the extended period of 240 days, then the seafarer's disability becomes permanent and total, regardless of any justification.[66]

In this case, the Court finds that the NLRC did not gravely abuse its discretion in ruling that there was no sufficient justification for the extension of petitioner's treatment from the initial 120-day period to 240 days.

Records disclose that respondents issued a confidential medical report on May 14, 2013, which was within 120 days from the time petitioner was repatriated on March 26, 2013. In this report, the company-designated physician, Dr. Go, pointed out that petitioner suffered from numerous illnesses, namely: (a) Gastric Ulcer; (b) Duodenitis; (c) Hypertension; (d) L3 - L4 and L4 - L5 Generalized Disc Bulge; (e) L5 - S1 Left Paracentral Disc Protrusion; and (f) acute brainstem infarction, and suggested that "[i]f [petitioner] is entitled to a disability, his suggested disability grading is Grade 10 - slight brain functional disturbance that requires little attendance or aid and which interferes to a slight degree with the working capacity of the patient." [67]

While the May 14, 2013 medical report states that "[petitioner's] estimated length of further treatment [for his temporary total disability] is approximately 3 more months before he reached his maximum medical improvement," [68] the NLRC correctly pointed out that aside from simply alleging "maximum medical improvement," the same report failed to indicate what kind of further treatment the seafarer would be subjected to. At most, it mentions that petitioner would be made to undergo gastroscopy (for his ulcer), which is not only unrelated to his temporary total disability for "slight brain functional disturbance" but was likewise recommended for monitoring purposes only. Moreover, while petitioner's medical progress reports mention that he was "advised to continue his rehabilitation and medication," they nonetheless failed to indicate what kind of rehabilitation he has to undergo. In fact, there is no proof that petitioner actually underwent any rehabilitation or further treatment. [69] On the contrary, respondents themselves concede that petitioner was not treated as he unilaterally abandoned his medical treatment. [70] Notably, however, respondents' claim of medical abandonment was not substantiated by any evidence.

Thus, for all these reasons, the Court agrees with the NLRC that respondents failed to sufficiently show that further medical treatment would address petitioner's alleged temporary total disability, which therefore, discounts the proffered justification to extend the 120-day period to 240 days. As such, petitioner had rightfully commenced his complaint for disability compensation. In *C.F. Sharp Crew Management, Inc. v. Taok*, [71] the Court held that "a seafarer may pursue an action for total and permanent disability benefits if x x x the company-designated physician failed to issue a declaration as to his fitness to engage in sea duty or disability even after the lapse of the 120-day period and there is no indication that further medical treatment would address his temporary total disability, hence, justify an extension of the period to 240 days x x x," [72] as in this case.

Additionally, it deserves mentioning that aside from the lack of substantiation on the further treatment petitioner supposedly needed, the May 14, 2013 medical report was, in itself, riddled with material inconsistencies. For one, while the report states that petitioner is suffering from "slight brain functional disturbance that requires little attendance or aid and which interferes to a slight degree with the working capacity of the patient," the same report contradictorily states that "[t]he specialists opine that patient's prognosis for returning to sea duties is guarded and fitness to work is [already] unlikely due to risk of another cerebrovascular event." [73] The specialists' finding insinuates that petitioner's disability was not only temporary and total, but rather, permanent and total. The Court observes that this latter statement, in fact, finds more bearing in the records as petitioner's medical reports show that he still complained of lower back pain during prolonged sitting, residual left leg weakness and instability in balancing, as well as dizziness. [74] On this score, the case of *Fil-Star Maritime Corporation v. Rosete* [75] illumines that:

A total disability does not require that the employee be completely disabled, or totally paralyzed. What is

necessary is that the injury must be such that the employee cannot pursue his or her usual work and earn from it. On the other hand, a total disability is considered permanent if it lasts continuously for more than 120 days. What is crucial is whether the employee who suffers from disability could still perform his work notwithstanding the disability he incurred.[76]

It should also be pointed out that the Grade 10 disability rating was given for petitioner's slight brain functional disturbance, which risk factors, however, were inconsistently stated to be not work-related. As the NLRC aptly mused, "[w]hy would the company doctor even base his disability assessment on an incapacity which is not even work-related? His assessment should have focused on the incapacity brought about by [petitioner's] Lumbar Spondylosis (disc bulge and disc protrusion) which is the illness which [the latter] averred in his Position Paper and Memorandum of Appeal and by reason of which he now seeks compensation." [77]

II.

In similar vein, the Court finds that the NLRC correctly ruled that petitioner's illnesses were work-related.

As a rule, a seafarer shall be entitled to compensation if he suffers from a work-related injury or illness during the term of his contract. Under the 2010 POEA-SEC, a "work-related illness" is defined as "any sickness as a result of an occupational disease listed under Section 32-A of this Contract with the conditions set therein satisfied." Corollarily, Section 20 (A) (4) thereof further provides that "[t]hose illnesses not listed in Section 32 of this Contract are disputably presumed as work-related."

Records reveal that petitioner's back pain - generalized disc bulge and disc protrusion, non-listed illnesses - occurred only while he was on board the vessel. While said illness was claimed to be degenerative in nature, the company doctor herself acknowledged that it may be aggravated or precipitated by heavy work or lifting/pushing or pulling of heavy objects, a manual task basically demanded from a seafarer. Since there was no proof to show that these activities were not performed by petitioner while he was on board or were not part of his duties while the ship was at berth as advanced by respondents,[78] it can be safely concluded that the arduous nature of his job may have caused or at least aggravated his condition more so since he was declared fit to work prior to his deployment, hence, work-related.[79] Jurisprudence provides that "[p]robability, not the ultimate degree of certainty, is the test of proof in compensation proceedings. And probability must be reasonable; hence it should, at least, be anchored on credible information,"[80] as in this case.

III.

Finally, respondents contend that petitioner failed to observe the third-doctor-referral provision under the 2010 POEA-SEC, which thus similarly negates his claim for disability benefits.

Section 20 (A) (3) of the 2010 POEA-SEC reads:

SECTION 20. COMPENSATION AND BENEFITS

A. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS

x x x x

3. x x x.

x x x x

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.

In Philippine Hammonia Ship Agency, Inc. v. Dumadag,[81] the Court held that the seafarer's non-compliance with the said conflict-resolution procedure results in the affirmance of the fit-to-work certification of the company-designated physician.[82]

However, it should be pointed out that "[a] seafarer's compliance with such procedure presupposes that the company-designated physician came up with an assessment as to his fitness or unfitness to work before the expiration of the 120-day or 240-day periods." In Kestrel Shipping Co., Inc. v. Munar:[83]

In addition, that it was by operation of law that brought forth the conclusive presumption that Munar is totally and permanently disabled, there is no legal compulsion for him to observe the procedure prescribed under Section 20-B(3) of the POEA-SEC. A seafarer's compliance with such procedure presupposes that the company-designated physician came up with an assessment as to his fitness or unfitness to work before the expiration of the 120-day or 240-day periods. Alternatively put, absent a certification from the company-designated physician, the seafarer has nothing to contest and the law steps in to conclusively characterize his disability as total and permanent.[84] (Emphasis supplied).

In this case, there was no showing that petitioner duly received a conclusive and definitive assessment for his lumbar spondylosis. The May 14, 2013 medical report was a confidential document, which was not shown to have been received by him. In fact, respondents did not respond to his initial query regarding the true state of his condition and whether or not he would be able to return to his pre-injury capacity and resume work despite his back pain.[85] Thus, although petitioner did consult an independent physician regarding his illness, the lack of a conclusive and definite assessment from respondents left him nothing to properly contest and perforce, negates the need for him to comply with the third-doctor referral provision under Section 20 (A) (3) of the 2010 POEA-SEC. As case law states, without a valid final and definite assessment from the company-designated physician, the law already steps in to consider petitioner's disability as total and permanent.

All told, the Court finds that the CA committed reversible error in granting respondents' certiorari petition since the NLRC did not gravely abuse its discretion in awarding total and permanent disability benefits in favor of petitioner.

WHEREFORE, the petition is GRANTED. The Decision dated October 9, 2015 and the Resolution dated March 21, 2016 of the Court of Appeals in CA-G.R. SP No. 138842 are hereby REVERSED and SET ASIDE. The Decision dated September 17, 2014 and the Resolution dated November 28, 2014 of the National Labor Relations Commission in NLRC LAC No. OFW-M-07-000582-14 are REINSTATED.

SO ORDERED.

Carpio,[*] (Acting Chief Justice, Chairperson), Peralta, Caguioa, and Reyes, Jr., JJ., concur.

[*] Acting Chief Justice per Special Order No. 2475 dated August 29, 2017.

[1] Rollo, pp. 33-57.

[2] Id. at 8-22A. Penned by Associate Justice Normandie B. Pizarro with Associate Justices Samuel H. Gaerlan and Agnes Reyes Carpio concurring.

[3] Id. at 24-26.

[4] Id. at 422-436. Penned by Commissioner Angelo Ang Palaña with Presiding Commissioner Herminio V. Suelo and Commissioner Numeriano D. Villena concurring.

- [5] Id. at 505-509.
- [6] Id. at 331-355. Penned by LA Benedict G. Kato.
- [7] See Contract of Employment; id. at 100.
- [8] See id. at 9 and 100.
- [9] See Medical Examination Records; id. at 143.
- [10] See Seafarer's Identification and Record Book; id. at 188. See also id. at 9-10.
- [11] See copy of Master's report; id. at 189.
- [12] See id. at 10 and 85.
- [13] See copy of Master's report dated March 17, 2013; id. at 198.
- [14] See copy of Master's report dated March 24, 2013; id. at 199.
- [15] Id. at 200. Signed by a certain Dr. M. Noui.
- [16] See Marine Medical Services 1st report dated March 27, 2013; id. at 202-203.
- [17] See Marine Medical Services 3rd report dated April 16, 2013; id. at 206-207.
- [18] See id.
- [19] See id. at 206. See also Marine Medical Services report dated April 23, 2013; id. at 208.
- [21] See Marine Medical Services 6th report dated May 2, 2013; id. at 210-211.
- [22] See id. at 211.
- [23] See Marine Medical Services Private and Confidential report; id. at 214-215.
- [24] See Marine Medical Service reports; id. at 211-219.
- [25] Id. at 220.
- [26] Id. at 101-103.
- [27] See id. at 102-103.
- [28] Id. at 137-138.
- [29] See Amended Complaint; id. at 140-141.
- [30] See id. at 140.
- [31] Id. at 151-186.
- [32] See Complainant's Position Paper dated November 28, 2013; id. at 83-97.
- [33] See Position Paper dated November 20, 2013; id. at 104-134.
- [34] See id. at 112-114.
- [35] See id. at 115-124.
- [36] See id. at 124-129.

[37] See *id.* at 129-133.

[38] *Id.* at 331-355.

[39] See *id.* at 347-353.

[40] See *id.* at 353.

[41] See *id.* at 353-354.

[42] *Id.* at 356-381.

[43] *Id.* at 422-436.

[44] See *id.* at 435.

[45] See *id.* at 430-433.

[46] See *id.* at 434.

[47] See *id.* at 433-435.

[48] Dated September 24, 2014. *Id.* at 474-490.

[49] See Motion for (Partial) Reconsideration (Re: Decision Promulgated on 17 September 2014) dated September 30, 2014; *id.* at 467-472.

[50] See *id.* at 470.

[51] *Id.* at 505-509.

[52] Dated January 7, 2015. *Id.* at 510-559.

[53] *Id.* at 8-22A.

[54] See *id.* at 18.

[55] See *id.* at 22.

[56] See Marine Medical Services 13th report; *id.* at 219.

[57] See *id.* at 21-22.

[58] See Private Respondent's Motion for Reconsideration (Re Decision Promulgated on 09 October 2015); *id.* at 610-622.

[59] *Id.* at 24-26.

[60] *Bahia Shipping Services, Inc. v. Hipe, Jr.*, 746 Phil. 955, 965-966 (2014).

[61] *Id.* at 966.

[62] See Article 198 (c) (1) of the Labor Code, and Section 2 (b), Rule VII of the AREC.

[63] See Article 198 (c) (1) of the Labor Code, and Section 2 (b), Rule VII of the AREC.

[64] See *Vergara v. Hammonia Maritime Services, Inc.*, 588 Phil. 895, 911-912 (2008).

[65] See *Elburg Ship management Phils., Inc. v. Quiogue, Jr.*, 765 Phil. 341, 361-362.

[66] Id. at 362-363.

[67] See rollo, pp. 214-215.

[68] Id. at 214.

[69] See id. at 430-431.

[70] See id. at 650.

[71] 691 Phil. 521 (2012).

[72] Id. at 538.

[73] See rollo, pp. 214-215.

[74] See id. at 216-219.

[75] 677 Phil. 262 (2011).

[76] Id. at 274.

[77] Rollo, pp. 432-433.

[78] See id. at 122, 190-197, and 638.

[79] See *NYK-FilShip Management, Inc. v. Talavera*, 591 Phil. 786, 801 (2008).

[80] *Casomo v. Career Philippines Shipmanagement, Inc.*, 692 Phil. 326, 350; citation omitted.

[81] 712 Phil. 507 (2013).

[82] See id. at 521.

[83] 702 Phil. 717 (2013).

[84] Id. at 737-738.

[85] See rollo, p. 86.

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