

SECOND DIVISION

[G.R. No. 252195, June 30, 2021]

JOLLY R. CARANDAN, PETITIONER, VS. DOHLE SEAFRONT CREWING MANILA, INC., DOHLE (IOM) LIMITED, AND PRINCES DULATRE, RESPONDENTS.

DECISION

LAZARO-JAVIER, J.:

The Case

This petition for review on *certiorari*^[1] seeks to reverse and set aside the following dispositions of the Court of Appeals in CA-G.R. SP No. 154289:

1. Decision^[2] dated November 29, 2019, dismissing the claim of Jolly R. Carandan (petitioner) for total and permanent disability benefits; and
2. Resolution^[3] dated March 3, 2020 denying petitioner's motion for reconsideration.

Antecedents

On January 15, 2016, respondent Dahle Seafront Crewing Manila, Inc., on behalf of its principal respondent Dahle (IOM) Limited (collectively, respondents), hired petitioner as Able Seaman of its vessel "MV Favourisation" for nine (9) months with a monthly salary of US\$592.00.^[4]

Petitioner's responsibilities included several strenuous physical activities, both at sea and at port, such as carrying out proper operation of ballast tank valves and sounding during ballast operations, cleaning the bridge, radio room, chart room, and other adjacent places as instructed by the master or other officers, being stationed at mooring station during entering and leaving harbor or at the bridge to carry out steering operation in accordance with the master's orders, preparing and securing cranes, cargo holds of all windlass and other deck machinery before entering and leaving harbor, and other tasks given by the master.^[5]

In December 2015, prior to his deployment, petitioner underwent routine Pre-Employment Medical Examination (PEME). In the process, petitioner was asked whether he was aware of, diagnosed with, or treated for hypertension and heart disease, among others. Petitioner answered in the negative. Based on the results of his examination, petitioner was declared fit for sea duty and got deployed on January 17, 2016.^[6]

On April 23, 2016, barely three (3) months on board and while performing his

routinary tasks, petitioner suffered a cardiac arrest, lost consciousness and passed out. He was later brought to a doctor in Germany where he was diagnosed with coronary artery disease and myocardial infarct. He underwent coronary angiography and PCI stenting for two (2) vessels. He was discharged with a final diagnosis of Non-ST-Elevation Myocardial Infarction; Coronary Two Vessel Disease (LAD and LCX); and Normal Ejection Fraktion (50%). Consequently, he got repatriated on May 3, 2016. As soon as he got back, he was referred to the company-designated doctor and got treated at the Cardinal Santos Medical Center.^[7]

From May 23 to 27, 2016, petitioner was once again confined at the hospital for dizziness. He was diagnosed with Benign Paroxysmal Vertigo, Ischemic Heart Disease Secondary to Coronary Artery Disease; S/P Percutaneous Coronary Angiogram for 2 Vessel Disease; and S/P NSTEMI (February 2016).^[8]

On June 24, 2016, the company-designated doctor opined that petitioner's recuperation may last for 124 days. On even date, Marine Medical Services' Medical Coordinator Dr. Esther Go (Dr. Go) issued a brief clinical history of petitioner with a final diagnosis of Non-ST-Elevation Myocardial Infarction; Coronary Two Vessel Disease; S/P Percutaneous Coronary Intervention with Drug Eluting Stenting of Left Circumflex Artery and Left Anterior Descending Artery.^[9]

Despite treatment and medications, petitioner's health condition did not improve. Too, respondents did not respond to his inquiry whether he was already fit to resume sea duties. Left with no other recourse, he sought another medical opinion from an independent Cardiologist Dr. Efren R. Vicaldo (Dr. Vicaldo). On September 16, 2016, Dr. Vicaldo issued a medical certificate where he opined that petitioner's cardiovascular disease was work aggravated. He advised petitioner to take maintenance medication for one (1) year, to monitor his lipid profile to maintain his LDL level low, and to take low salt low fat diet. Lastly, he said that petitioner is now unfit to resume work as a seaman in any capacity. Petitioner subsequently demanded that respondents pay his disability benefits, but the same fell on deaf ears.^[10]

Respondents argued that petitioner was guilty of material concealment and that his cardiovascular disease was not work related. They explained that during his PENIE, he answered "no" to the questions on whether he had been diagnosed with or suffering from any medical condition likely to be aggravated by service at sea, and whether he was taking any prescribed drugs for such illness. Yet, when he was medically repatriated, he admitted to Dr. Go that he had suffered chest pains since the year 2000 and was later diagnosed with hypertension during his 2012 PEME for which he was given maintenance medication. Too, in May 2016, he answered "yes" when asked whether he had suffered from or been told that he had heart trouble or chest pain, stroke, and had undergone any operation.^[11] When petitioner followed-up with Dr. Go in May 2016, the latter told him that his condition was not work-related. In view of this and his supposed concealment of his previous diagnosis, his treatment was discontinued.^[12]

Petitioner vehemently denied that he ever told Dr. Go that he was previously diagnosed with hypertension. Too, when he answered "yes" to the query of whether he had suffered from or been told that he had heart trouble or chest pain, or stroke, he was clearly referring to his diagnosis the month before, which was the subject of

the present controversy. Thus, he did not conceal anything when he answered "no" to the same question prior to his deployment.^[13]

The parties failed to amicably settle during the mandatory conference.^[14]

Ruling of the Panel of Voluntary Arbitrators

By Decision^[15] dated August 1, 2017, the Panel of Voluntary Arbitrators (PVA) granted petitioner's claim for total and permanent disability benefits, *viz.*:

WHEREFORE, judgment is hereby rendered ordering respondents Dahle Seafront Crewing, Manila, Inc., Dahle (IOM) Limited and Princes Dulatre, to pay complainant Jolly R. Carandan, jointly and severally, the amount of ***NINETY-EIGHT THOUSAND, EIGHT HUNDRED FORTY EIGHT US DOLLARS (US\$98,848.00)***, representing his permanent and total disability benefits plus ten percent (10%) thereof as and by way of attorney's fees or its equivalent in Philippine Peso at the time of actual payment.

Other claims are dismissed for lack of merit.

SO ORDERED.^[16]

The PVA said that petitioner's cardiovascular disease was an illness specifically listed under Section 32-A of the Philippine Overseas Employment Administration Standard Employment Contract (POEA-SEC). His duties on board aggravated his cardiovascular condition. It did not give credence to Dr. Go's statement on petitioner's supposed previous diagnosis for lack of proof. It noted that respondents did not even present the purported PEME which would show the alleged previous diagnosis. Too, respondents were not able to rebut petitioner's express denial that he made an admission of past diagnosis. Lastly, respondents did not give a definite and final medical assessment regarding petitioner's condition within the mandatory 120/240 days reckoned from the latter's repatriation. For these reasons, petitioner was entitled to total and permanent disability benefits.^[17]

In its Resolution^[18] dated January 5, 2018, the PVA denied respondents' motion for reconsideration.

Ruling of the Court of Appeals

On respondents' petition for review,^[19] the Court of Appeals reversed under its assailed Decision^[20] dated November 29, 2019, *viz.*:

WHEREFORE, premises considered, the Petition is **GRANTED**. The *Decision* and *Resolution* dated 1 August 2017 and 5 January 2018 respectively of the Panel of Voluntary Arbitrators of the National Conciliation and Mediation Board in Arbitration Case No. MVA-043-RCMB-NCR-272-09-11-2016 are **REVERSED** and **SET ASIDE**. Let a new judgment be entered dismissing Carandan's claim for permanent total disability benefits for lack of merit.

SO ORDERED.^[21]

The Court of Appeals held that petitioner was guilty of material concealment when he did not disclose that he was diagnosed with hypertension and chest pains, with nocturnal dyspnea in 2012. His answer that he had not suffered any cardiovascular condition in his 2015 PEME form was contradicted by the answer he gave in the Information Sheet in May 2016 that he had suffered heart trouble/chest pain. In any case, petitioner's illness was not work related. Petitioner was not able to show that he was exposed to rigorous activities which could have caused or aggravated his heart condition. On the contrary, it was shown that he was given adequate rest. Too, Dr. Vicaldo failed to show the reasonable connection between petitioner's ailment and his work on board respondents' vessel. Although respondents failed to give a final disability assessment within the required period, petitioner was still not entitled to disability benefits because he was guilty of material concealment.^[22]

Through its assailed Resolution^[23] dated March 3, 2020, the Court of Appeals denied petitioner's motion for reconsideration.^[24]

The Present Petition

Petitioner now seeks affirmative relief from the Court and prays that the dispositions of the Court of Appeals be reversed and set aside.

Petitioner's Position^[25]

Petitioner asserts that he was not guilty of material concealment. He vehemently denies telling Dr. Go that he was previously diagnosed with hypertension or any cardiovascular disease for that matter. Aside from Dr. Go's self-serving allegations, there is nothing on record to support the same. Respondents did not even submit in evidence his PEME form purportedly showing such diagnosis.^[26]

The Court of Appeals also erred when it took his "yes" answer opposite "heart trouble/chest pain, stroke and surgery/amputation/operations" (May 5, 2016 Information Sheet) as a supposed admission that he had been diagnosed before with heart ailment. His "yes" referred to his heart attack in April 2016 for which he is now claiming total and permanent disability. But, prior to his PEME last December 2015 and his embarkation aboard respondents' vessel in January 2016, he had not suffered or was diagnosed with hypertension or any heart ailment. In sum, there was total lack of evidence indicating that he was indeed diagnosed with cardiovascular disease prior to his employment with respondents. The glaring truth is that he was diagnosed with myocardial infarction only during his employment with respondents.^[27]

His cardiovascular disease is work related. There was no question that he performed manual labor on board "*MV Favourisation*." The strain of his work caused his acute heart attack. He did not show signs of any heart ailment prior to his embarkation in January 2016. More, cardiovascular disease is specifically listed as one of the compensable illnesses under the POEA-SEC.^[28]

Respondents' Position^[29]

Respondents deny that petitioner was exposed to extreme manual labor and noxious gases which could have contributed to his deteriorating health. His work was limited to maintenance of ventilation column and his working time was limited to 7:30 in the morning to 5:30 in the afternoon, with break. Petitioner could not even clearly say what he was doing when he experienced difficulty in breathing on April 23, 2016. He also failed to prove the correlation between his 3-month stint on board and his illness.^[30]

Petitioner concealed his previous diagnosis for hypertension. He suffered chest pain since the year 2000, long before he got employed with them. He had a habit of not taking his medications whenever he ran out of supply. Thus, the reason for his attack on April 23, 2016 was triggered by his uncontrolled and unregulated heart condition, which he suffered even before his employment with them. Without a doubt, petitioner is guilty of misrepresentation for concealing his true medical condition. As such, he is not entitled to any disability benefits.^[31]

Issues

1. Is petitioner guilty of material concealment of a previous medical condition?
2. Is petitioner entitled to total and permanent disability benefits?

Ruling

To begin with, not being a trier of facts, it is not the Court's function to analyze or weigh evidence all over again in view of the corollary legal precept that the factual findings of the Court of Appeals are conclusive and binding on this Court. Nevertheless, it may proceed to probe and resolve factual issues presented here because the findings of the Court of Appeals are contrary to those of the PVA.^[32]

Petitioner 's employment is governed by the contract he executed with respondents on January 15, 2016, the POEA-SEC, and the Collective Bargaining Agreement (CBA) between them.^[33]

First Issue

No material concealment

Respondents denied petitioner's claim for total and permanent disability benefits because he supposedly concealed from them that prior to his employment with them, he had already been diagnosed with pre-existing hypertension and chest pains with nocturnal dyspnea.

Pursuant to the 2010 POEA-SEC, an illness shall be *considered as pre-existing* if prior to the processing of the POEA contract, any of the following conditions is present: (a) the advice of a medical doctor on treatment given for such continuing illness or condition; or (b) the seafarer had been diagnosed and has knowledge of such illness or condition but failed to disclose the same during the PEME, and such cannot be diagnosed during the PEME.^[34] More, to speak of fraudulent misrepresentation is not only to say that a person failed to disclose the truth but