THIRD DIVISION

[G.R. No. 209756, June 14, 2021]

DIONISIO M. REYES, PETITIONER, VS. MAGSAYSAY MITSUI OSK MARINE INC., MOL SHIPMANAGEMENT CO., LTD., AND/OR CAPT. FRANCISCO MENOR, RESPONDENTS.

D E C I S I O N

LOPEZ, J., J.:

A definite declaration by the company-designated physician is an obligation, the abdication of which indubitably transforms the temporary total disability to permanent total disability, regardless of the disability grade.[1]

Challenged before this Court *via* this Petition for Review on *Certiorari*[2] under Rule 45 of the Rules of Court is the August 1, 2013 Decision[3] and the November 5, 2013 Resolution[4] of the Court of Appeals (*CA*) in CA-G.R. SP No. 122004, which affirmed the June 17, 2011 Decision[5] and August 31, 2011 Resolution[6] of the National Labor Relations Commission (*NLRC*).

The Antecedent Facts

As borne from the records, the following are the facts:

Dionisio M. Reyes (*petitioner*) is a seafarer by profession. On February 4, 2009, petitioner entered into a contract of employment[7] with Magsaysay Mitsui OSK Marine, Inc., in behalf of its principal Mol Shipmanagement Co., Ltd. (*respondents*), to work as a bosun on board the vessel M/V Yahagi Maru. He was declared fit for sea duty upon undergoing the mandatory Pre-Employment Medical Examination (*PEME*).[8]

On August 20, 2009 during his deployment, petitioner figured in an accident while climbing the stairs on board, falling from a height of 15 meters. He was immediately rushed to the St. Elizabeth Hospital in General Santos City for emergency treatment.[9] Thereafter, he was referred to the company-designated physicians for further medical attention. During the course of his treatment, he was diagnosed with "Pulmonary Contusion Right with Pleural Effusion (hemothorax) S/P CTT Right Aug. 20, 2009 Gen. Santos City, Subcutaneous Emphysema Right Lateral Hemithorax, Complete Oblique Fracture Right Clavicle, Multiple Fracture Right 3rd, 5th, 6th and 8th Posterior Ribs. S/P ORIF Right Clavicle (August 29, 2009)."[10]

Petitioner alleges that after several months of therapy, he was contacted by respondents, informing him that they could no longer keep him in their pool of seafarers due to the extent of his injuries. Surprised, he demanded to examine his medical records, which went unheeded. Such inattentiveness prompted him to seek a second medical opinion from a private physician, Dr. Renato P. Runas (*Dr. Runas*),

on November 9, 2009, who found him permanently disabled and unfit to return to sea duty.[11]

In accordance with the CBA, petitioner subsequently entered into a series of grievance conferences to address the issue of his disability benefits. During such conferences, petitioner contended that he kept on insisting that he be subjected to an independent physician, taking into account the findings of Dr. Runas. The agreements ended in a deadlock due to the failure of the parties to agree on the issue of disability.[12]

Thus, petitioner filed the instant complaint with the Labor Arbiter (*LA*) on January 25, 2010. During the mandatory conciliation and mediation proceedings, petitioner reiterated that his requests to be subjected to the final and binding opinion of a third independent physician was consistently refused by respondents.

On the other hand, respondents asseverated that upon transfer from the St. Elizabeth Hospital, petitioner received sufficient treatment from the company-designated physicians.[13] In fact, on September 2, 2009, petitioner underwent open reduction with internal fixation (ORIF) right clavicle at the respondents' expense. He was discharged on September 9, 2009, and in a follow-up check-up on October 14, 2009, he was noted to have "good alignment of the fracture fragments." His sutures were removed and was prescribed with the corresponding medications while being referred to physical therapy. Finally, in a medical report dated December 18, 2009, petitioner was declared fit to work. Notwithstanding such declaration, which went unquestioned, respondents were surprised to receive notice that petitioner filed the instant complaint on January 25, 2010, claiming payment of permanent disability benefits.[14]

Labor Arbiter's Ruling

On October 7, 2010, the LA rendered a Decision,[15] the dispositive portion of which reads:

> **WHEREFORE**, premises considered, judgment is hereby rendered ordering respondents Magsaysay Mitsui OSK Marine, Inc. and MOL Shipmanagement Co., Ltd. to pay complainant Dionisio Reyes jointly and severally the amount of ONE HUNDRED EIGHTEEN THOUSAND DOLLARS (US$ 118,000.00) as disability benefits or its peso equivalent at the time of payment and attorney's fees equivalent to ten percent (10%) of the award made in the amount of US$11,800.00.
>
> Claims for moral and exemplary damages are dismissed for want of basis.
>
> **SO ORDERED**.[16]

In the Decision, the LA sustained petitioner's claim of disability benefits, as he was on board the vessel when he incurred the accident. While the procedure in the Philippine Overseas Employment Administration-Standard Employment Contract (*POEA-SEC*) requires that it is the company-designated physicians who determine a seafarer's fitness to work as well as his/her degree of disability, a claimant may still dispute such findings by consulting another doctor. In such a case, the medical report issued by the latter shall still be evaluated by the LA. Here, notwithstanding

the medical treatments afforded by the company-designated physicians, the LA was convinced to accept the findings of Dr. Runas that due to the extent of his injuries, he can no longer return to sea duty and is entitled to 100% permanent disability compensation.

Aggrieved, respondents filed an appeal with the NLRC.[17]

Ruling of the National Labor Relations Commission

On appeal, the NLRC reversed the Decision of the LA, thus:

> **WHEREFORE**, premises considered, respondents' appeal is **GRANTED**. The Decision dated October 7, 2010 is **VACATED** and **SET ASIDE**, and a new one entered dismissing the complaint for lack of merit.
>
> **SO ORDERED.**[18]

Contrary to the conclusion reached by the LA, the NLRC stated that whatever medical condition that petitioner suffered while under contract with respondents has been resolved with the issuance of a certificate of fitness to work by the company-designated physicians. It cited *German Marine Agencies, Inc., et al. v. NLRC et al*.,[19] where this Court decreed that in order to claim disability benefits under the POEA-SEC, it is the company-designated physician who must proclaim that the seafarer suffered a permanent disability whether total or partial due to either injury or illness during the term of the latter's employment. In this case, the company-designated physicians were the same doctors who had monitored and supervised petitioner's medical status following his repatriation, and had issued the assessment with respect to the various medical complaints that attended his accident, particularly with respect to his basal surgery to address his fracture and other related medical conditions. The NLRC gave scant consideration to the findings of Dr. Runas, as the same was merely a product of a single medical consultation.

Unsatisfied, petitioner sought relief via a motion for reconsideration,[20] which was denied by the NLRC in a Resolution[21] dated August 31, 2011 for failure to raise any new matter of substance to compel a reconsideration of the assailed decision.

Thus, petitioner elevated the case to the CA in a petition for *certiorari* under Rule 65 of the Rules of Court.

Ruling of the Court of Appeals

On August 1, 2013, the CA found the instant petition bereft of merit, affirming the assailed Decision and Resolution of the NLRC. The *fallo* of the Decision is as follows:

> **WHEREFORE**, premises considered, the instant petition is hereby **DENIED**. The assailed 17 July 2011 Decision and 31 August 2011 Resolution of the National Labor Relations Commission are both **AFFIRMED**.
>
> **SO ORDERED.**[22]

The CA resolved that the NLRC did not commit grave abuse of discretion, thereby denying petitioner's entitlement to permanent and total disability benefits. It ruled that while the seafarer may dispute the initial assessment of the company-

designated physician by seeking a second opinion and consult a doctor of his/her choice, he/she must comply with the mandatory procedure to dispute such findings. Here, petitioner failed to seasonably dispute the "fit to work" certification, having consulted Dr. Runas while he was still undergoing treatment and medications with the company-designated physicians. Thus, there was no final assessment to contest. Connectedly, the CA concluded that without the second medical opinion from petitioner's doctor of choice seasonably disputing the company-designated physicians' final assessment, there is absolutely no basis for petitioner's insistence to subject him to a third doctor's final and binding opinion. Lastly, the CA similarly rejected petitioner's claim that his non-rehiring was apparent proof of his permanent disability. Notably, there appears no iota of evidence to show that petitioner sought re-employment with the respondents, or even sought employment as a seafarer elsewhere.

Petitioner moved for reconsideration,[23] which the CA denied in a Resolution[24] dated November 5, 2013, finding no cogent or compelling reason to modify or reverse its earlier ruling.

Hence, the instant petition.

Issue/s

Petitioner raises the following issues for the resolution of this Court:

1. Whether the Court of Appeals committed serious reversible error of law in concluding that the medical assessment of petitioner's doctor of choice (Dr. Renata Runas) was premature;
2. Whether the Court of Appeals committed serious reversible error in law when it ruled that the petitioner is not permanently disabled despite the lapse of the 120 day period.[25]

In their Comment,[26] respondents argue, among other points, that the CA judiciously sustained the undisputed fit to work declaration of the company-designated physicians. They submit that the presentation of a prematurely issued medical report from a doctor who was never privy to petitioner's treatment and while he was still undergoing continuous treatment with the company physicians, cannot be considered credible evidence to justify petitioner's exaggerated claim for total and permanent disability benefits.

In his Reply,[27] petitioner counters that the final report issued by the company-designated physicians solely pertains to the treatment of his right shoulder, without any reference to his other conditions that likewise need adequate treatment. He adds that it was well within his right to seek a second medical opinion when he became dubious of the findings of the company-designated physicians. He insists that he was only forced to seek recourse from Dr. Runas when the respondents unreasonably refused to furnish him with copies of his medical certificates and documents. He likewise asseverates that Dr. Runas' medical report must be given more weight: compared with the assessment of the company-designated physicians, Dr. Runas' report appears to be more descriptive and broader in scope, categorically stating that petitioner "should no longer be allowed to board and work in any sea vessel and declared unfit for sea duties permanently."

This Court's Ruling

The crux of the entire controversy is nestled on the argument that petitioner is entitled to permanent and total disability benefits.

After a judicious review of the records, the Court resolves to grant the petition.

Prefatorily, this Court is aware of the well-settled principle that questions of fact are proscribed in Rule 45 Petitions. As a trier of law and not of facts, it is not bound to analyze and recalibrate the evidence already considered below, as factual findings of the appellate courts are "final, binding, or conclusive on the parties and upon this Court."[28] As an exception, however, this Court may re-examine evidence when the judgment is based on a misapprehension of facts; when the findings of facts of lower courts are conflicting; or when the findings of facts are premised on the supposed absence of evidence but which are contradicted by the evidence on record.[29] In this case, there. is sufficient reason to apply the foregoing exceptions considering the different factual conclusions of the LA and the NLRC, as later affirmed by the CA, regarding the liability of respondents.

It is well entrenched that the entitlement of a seafarer on overseas employment to disability benefits is governed by law, the parties' contracts and by medical findings. [30]

By law, Article 192(c)(1) of the Labor Code initially defines permanent and total disability of laborers, *viz*.:

> ART. 192. *Permanent Total Disability*
>
> (c) The following disabilities shall be deemed total and permanent:
>
> > (1) Temporary total disability lasting continuously for more than one hundred twenty days, except as otherwise provided in the Rules.

The Rules above-mentioned refer to Rule X, Section 2 of the Amended Rules on Employees' Compensation, which implemented Book IV of the Labor Code, and expound on the income benefit of an employee's disability:

> Sec. 2. *Period of entitlement*. - (a) The income benefit shall be paid beginning on the first day of such disability. If caused by an injury or sickness it shall not be paid longer than 120 consecutive days except where such injury or sickness still requires medical attendance beyond 120 days but not to exceed 240 days from onset of disability in which case benefit for temporary total disability shall be paid. However, the System may declare the total and permanent status at any time after 120 days of continuous temporary total disability as may be warranted by the degree of actual loss or impairment of physical or mental functions as determined by the System.

Pertaining specifically to seafarers, Section 20(A)(3)[31] of the POEA-SEC, as echoed by jurisprudence,[32] emphasizes that when a seafarer suffers a work-related injury or illness in the course of employment, it is the company-designated physician who is obligated to arrive at an assessment of the seafarer's fitness, which would become the basis for seeking monetary benefits.