

## SECOND DIVISION

[ G.R. No. 212098, July 26, 2017 ]

**JULIO C. ESPERE, PETITIONER, V. NFD INTERNATIONAL  
MANNING AGENTS, INC./TARGET SHIP MANAGEMENT PTE  
LTD./CYNTHIA SANCHEZ, RESPONDENTS.**

### D E C I S I O N

**PERALTA, J.:**

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision<sup>[1]</sup> and Resolution<sup>[2]</sup> of the Court of Appeals (CA), dated November 13, 2013 and April 3, 2014, respectively, in CA-G.R. SP No. 130210. The questioned CA Decision annulled and set aside the February 28, 2013 Decision and March 27, 2013 Resolution of the National Labor Relations Commission (NLRC) which reversed the November 5, 2012 Decision of the Labor Arbiter (LA). The Decision of the LA, in turn, dismissed herein petitioner's complaint for recovery of permanent total disability compensation as well as attorney's fees and damages.

The pertinent factual and procedural antecedents of the case are as follow:

On June 21, 2011, petitioner Julio C. Espere was hired as a Bosun by respondent NFD International Manning Agents, Inc. (NFD) for and in behalf of its foreign principal Target Ship Management Pte Ltd. on board the vessel *M. V. Kalpana Prem*, for a period of nine (9) months, with a basic monthly salary of US\$730.00.<sup>[3]</sup> Prior to his employment and embarkation, petitioner underwent a Pre-Employment Medical Examination where he was pronounced "Fit For Sea Duty."<sup>[4]</sup>

Around five (5) months into his deployment, petitioner complained that he was feeling dizzy, had body malaise and chills. He was then referred to a clinic in Vancouver, Canada, where the physician who examined him found that he was suffering from "uncontrolled hypertension", "malaise NYD", and "psychosomatic illness". He was also declared unfit for duty and was repatriated back to the Philippines.<sup>[5]</sup>

Upon his return, petitioner was examined at the Marine Medical Services of the Metropolitan Medical Center by the company-designated physicians. In the case report prepared by Dr. Frances Hao-Quan (*Dr. Hao-Quan*), Asst. Medical Coordinator, which was noted by Dr. Roberto D. Lim (*Dr. Lim*), Medical Coordinator, of Marine Medical Services, dated December 23, 2011, it was stated that petitioner was suffering from hypertension. Pie was given medication for his condition and advised to come back for re-evaluation on December 26, 2011.<sup>[6]</sup>

On the said date, petitioner came back as directed. In the follow-up report<sup>[7]</sup> of Dr. Hao-Quan, which was also noted by Dr. Lim, she noted that petitioner is already under the care of a cardiologist. She likewise stated that petitioner's blood pressure is elevated and that the laboratory tests done on the petitioner "showed normal

fasting blood sugar, creatinine, cholesterol, triglyceride, HDL, LDL, VLDL, SGPT and potassium." Further, petitioner was advised to continue his medication and to come back on January 5, 2012 for his re-evaluation.

In the next follow-up report<sup>[8]</sup> prepared by Dr. Hao-Quan and noted by Dr. Lim, dated January 6, 2012, it was stated that petitioner still had an elevated blood pressure. Petitioner was given additional anti-hypertensive medication and the dose of his present anti-hypertensive medication was adjusted for better blood pressure control. Petitioner was also directed to return for another evaluation.

Thereafter, petitioner religiously went back for check-up and re-evaluation on January 20, 2012,<sup>[9]</sup> January 27, 2012,<sup>[10]</sup> February 10, 2012,<sup>[11]</sup> February 15, 2012,<sup>[12]</sup> February 29, 2012,<sup>[13]</sup> March 28, 2012,<sup>[14]</sup> April 3, 2012,<sup>[15]</sup> April 17, 2012,<sup>[16]</sup> April 24, 2012,<sup>[17]</sup> and May 8, 2012.<sup>[18]</sup> In all these follow-up evaluations, petitioner was continually diagnosed to be suffering from hypertension and was given the appropriate medications to address his medical condition. Moreover, during the time he was undergoing treatment, petitioner received sickness allowance which amounted to Two Thousand Eight Hundred Eighty-Seven US dollars and Three Cents (US\$2,887.03) from respondent.<sup>[19]</sup>

Meanwhile, on February 16, 2012, the Marine Medical Services of the Metropolitan Medical Center issued a report stating that the cause of petitioner's hypertension was not work-related and that the cause of his hypertension is multifactorial in origin, which includes genetic predisposition, poor lifestyle, high salt intake, smoking, diabetes mellitus, age, and increased sympathetic activity.<sup>[20]</sup> Moreover, petitioner's hypertension can be triggered by stress and emotional outburst.<sup>[21]</sup> In a subsequent report dated April 24, 2012, one of the company doctors stated that petitioner's hypertension "is not a contraindication to resume work as long as patient will be compliant with taking his anti-hypertensive medications and we are able to achieve adequate blood pressure control."<sup>[22]</sup>

On May 7, 2012, not satisfied with the findings of the company-designated physicians, petitioner consulted Dr. Manuel C. Jacinto, Jr. (*Dr. Jacinto*), who specializes in Orthopedic Surgery and Traumatology/Disease of Bones and Joints, of the Sta. Teresita General Hospital. After examining petitioner, Dr. Jacinto issued a Medical Certificate<sup>[23]</sup> stating that petitioner suffered from "uncontrolled essential hypertension." Dr. Jacinto also concluded that petitioner's illness started from work and his condition did not improve despite treatment. Dr. Jacinto marked petitioner's condition as "work-related/work-aggravated."<sup>[24]</sup>

Eventually, on May 16, 2012, petitioner filed a Complaint<sup>[25]</sup> against respondents claiming disability benefits for permanent disability and damages. After receiving the parties' position papers, the LA, on November 5, 2012, rendered a Decision<sup>[26]</sup> dismissing the complaint, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered  
DISMISSING the complaint and other claims for lack of merit.

SO ORDERED.<sup>[27]</sup>

The LA held that petitioner failed to prove by substantial evidence that his hypertension was work-related. The LA also did not give much weight to the findings of Dr. Jacinto because there was no showing that he conducted a thorough medical evaluation of the petitioner.<sup>[28]</sup>

Aggrieved, petitioner sought recourse before the NLRC. On February 28, 2013, the NLRC 3<sup>rd</sup> Division rendered a Decision<sup>[29]</sup> in favor of the petitioner, which reversed and set aside the decision of the LA, viz.:

WHEREFORE, the appeal is hereby GRANTED. The decision of the Labor Arbiter dismissing the complaint is REVERSED and SET ASIDE, and a new one entered granting:

- a) The claim for disability benefits assessed at Grade 1 disability;
- b) Ordering respondent to pay the sum of US\$60,000.00 as disability benefits at the rate of exchange at the time of payment; and
- c) 10% of the money awards as attorney's fees.

SO ORDERED.<sup>[30]</sup>

The NLRC held that the nature of petitioner's stressful work on board the vessel was a factor in the aggravation of his hypertension. Also, since 120 days had lapsed without petitioner having gone back to his former trade as a seaman, he is entitled to permanent total disability equivalent to Grade 1 rating.<sup>[31]</sup>

Respondents filed a motion for reconsideration, but it was denied in the NLRC Resolution<sup>[32]</sup> dated March 27, 2013. Respondents then filed a petition for *certiorari* before the CA assailing the decision and resolution of the NLRC.

During the pendency of the petition before the CA, the LA, on July 30, 2013, issued a Writ of Execution. In compliance with the writ, respondents deposited the judgment award before the NLRC Cashier.<sup>[33]</sup>

On November 13, 2013, the CA rendered a Decision<sup>[34]</sup> granting the petition. The CA annulled and set aside the decision of the NLRC and dismissed petitioner's complaint, the dispositive portion of which reads:

WHEREFORE, premises considered, the petition is **GRANTED**. The **DECISION** of the NLRC in NLRC LAC (OFW-M) 01-000124-13 is hereby **ANNULLED** and **SET ASIDE**, and the DECISION of the Labor Arbiter dismissing the Complaint filed by Julio C. Espere is hereby **REINSTATED**.

SO ORDERED.<sup>[35]</sup>

Ruling in favor of respondents, the CA held that petitioner failed to establish by adequate proof that his hypertension was work-related. It also opined that according to the Standard Employment Contract approved by the Philippine Overseas Employment Agency (POEA-SEC), only essential hypertension is listed as an occupational disease and petitioner's hypertension was never classified to be essential. Unconvinced by the findings of Dr. Jacinto, the CA found the findings of

the company physicians more credible, thus, denying petitioner's claim for disability benefits.

Petitioner filed a Motion for Reconsideration, but it was denied in the CA Resolution<sup>[36]</sup> dated April 3, 2014.

Hence, the present petition assigning the following errors:

## I

THAT THE HONORABLE COURT OF APPEALS HAS COMMITTED CLEAR AND PALPABLE ERROR AND GRAVE ABUSE OF DISCRETION IN REVERSING THE JUDICIOUS FINDING OF FACTS AND CONCLUSION OF THE HONORABLE PUBLIC RESPONDENT (sic) NLRC.

## II

THAT THE HONORABLE COURT OF APPEALS HAS COMMITTED PALPABLE ERROR AND GRAVE ABUSE OF DISCRETION WHEN IT SWALLOWED HOOK, LINE AND SINKER THE BASELESS AND SPECULATIVE ASSERTION OF THE COMPANY-DESIGNATED PHYSICIAN ALLEGING THAT [PETITIONER'S] ILLNESS OF *HYPERTENSION* IS ALLEGEDLY NOT WORK-RELATED OR WORK-AGGRAVATED, ALTHOUGH [PETITIONER] WAS EMPLOYED BY [RESPONDENTS] CONSISTENTLY AND CONTINUOUSLY WITHOUT INTERRUPTION STARTING IN 1989 AND THAT PRIOR TO HIS DEPLOYMENT HE WAS FOUND TO BE FIT FOR WORK.

## III

THAT THE HONORABLE COURT OF APPEALS HAS COMMITTED PALPABLE ERROR AND GRAVE ABUSE OF DISCRETION WHEN IT DID NOT UPHELD (sic) THE MAXIMUM CURE PERIOD OF A MEDICALLY-REPATRIATED SEAFARER PROVIDED FOR UNDER THE POEA STANDARD EMPLOYMENT CONTRACT WHICH IS FOR A PERIOD NOT EXCEEDING 120 DAYS AND THEREFORE THE CONTENTION OF THIS HONORABLE COURT THAT THE 240 DAYS SHALL BE NECESSARY IS CERTAINLY VIOLATIVE OF THE PROVISIONS OF THE POEA STANDARD EMPLOYMENT CONTRACT WHICH IS THE LAW BETWEEN [PETITIONER] AND [RESPONDENTS].

## IV

THAT THE HONORABLE COURT OF APPEALS HAS COMMITTED PALPABLE ERROR AND GRAVE ABUSE OF DISCRETION WHEN IT DID NOT DISMISS THE PETITION OF RESPONDENTS ALTHOUGH IT IS ALREADY CONSIDERED MOOT AND ACADEMIC CONSIDERING THAT THE JUDGMENT AWARD OF THIS CASE WAS ALREADY FULLY SETTLED BY RESPONDENTS BEFORE THE HONORABLE LABOR ARBITER A QUO.<sup>[37]</sup>

Petitioner mainly argues that the CA erred in giving much weight and credence to the findings of the company-designated physicians that his illness is not work-related and in totally disregarding the medical assessment of Dr. Jacinto, his appointed doctor. Petitioner, likewise, contends that he is already entitled to full disability compensation in accordance with the POEA-SEC, because he was not

declared fit to work upon the lapse of 120 days from his sign-off from the vessel *M.V. Kalpana Prem* for medical treatment.

Petitioner also posits that the matters raised by respondents with the CA are factual matters which fall within the primary jurisdiction of the NLRC and which are not proper subjects of inquiry by the appellate court in a petition for *certiorari*. Petitioner argues that the CA should have accorded not only respect but even finality to the factual findings and conclusions of the NLRC. Petitioner also contends that the CA should have dismissed the petition for being moot and academic based on his allegation that respondents already paid and settled the monetary award while the petition was pending before the CA.

The petition is bereft of merit.

Before delving into the main issues raised, the Court shall first dispose of the procedural matters brought up by petitioner.

*First*, petitioner contends that what was raised by respondents in their petition filed with the CA "are purely factual matters and concerns that were already judiciously resolved by the x x x NLRC [and] [considering that the [CA] is not a trial court and it is not a trier of facts and only exercising an appellate jurisdiction over the x x x NLRC then factual matters and concerns are not certainly within the ambit of judicial inquiry in the petition considering that there was no palpable error or grave abuse of discretion committed by the x x x NLRC in rendering its assailed decision."<sup>[38]</sup>

The Court is not persuaded.

It is a long-settled rule that the proper mode for judicial review of decisions of the NLRC is a petition for *certiorari* under Rule 65 of the Rules of Court.<sup>[39]</sup>

As to the propriety of reviewing the factual findings of the NLRC in a *certiorari* petition, this Court's ruling in *Univac Development, Inc. v. Soriano*<sup>[40]</sup> is instructive. Thus, this Court has held that:

x x x x

x x x in a special civil action for *certiorari*, the issues are confined to errors of jurisdiction or grave abuse of discretion. In exercising the expanded judicial review over labor cases, the Court of Appeals can grant the petition if it finds that the NLRC committed grave abuse of discretion by capriciously, whimsically, or arbitrarily disregarding evidence which is material or decisive of the controversy which necessarily includes looking into the evidence presented by the parties. **In other words, the CA is empowered to evaluate the materiality and significance of the evidence which is alleged to have been capriciously, whimsically, or arbitrarily disregarded by the NLRC in relation to all other evidence on record.** The CA can grant a petition when the factual findings complained of are not supported by the evidence on record; when it is necessary to prevent a substantial wrong or to do substantial justice; **when the findings of the NLRC contradict those of the LA;** and when necessary to arrive at a just decision of the case. Thus, contrary to the contention of petitioner, **the CA can review the finding of facts of the NLRC and the evidence of the parties to determine whether the NLRC gravely abused its discretion x x x.**<sup>[41]</sup>