

## SECOND DIVISION

[ G.R. No. 202885, January 20, 2016 ]

**WALLEM MARITIME SERVICES, INC., REGINALDO A. OBEN AND  
WALLEM SHIPMANAGEMENT, LTD., PETITIONERS, VS. EDWINITO  
V. QUILLAO, RESPONDENT.**

### DECISION

**DEL CASTILLO, J.:**

This Petition for Review on *Certiorari* assails the May 15, 2012 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 122787. The CA affirmed the December 8, 2011 Decision<sup>[2]</sup> of the Panel of Voluntary Arbitrators (PVA), National Conciliation and Mediation Board in AC-0809-NCR-46-04-07-11, with modification that the amount to be jointly and severally paid by Wallem Maritime Services, Inc. (WMS) and Wallem Shipmanagement Ltd. (WSL) to Edwinito V. Quillao (respondent) is US\$98,010.00 or its peso equivalent at the time of payment, instead of US\$98,110.00. Also challenged is the August 1, 2012 CA Resolution<sup>[3]</sup> denying reconsideration of its Decision.

#### ***Factual Antecedents***

WMS is a local manning agency, with Reginaldo A. Oben (Oben) as its President and Manager.<sup>[4]</sup> On September 30, 2008, WMS, for and in behalf of its foreign principal, WSL, hired respondent as fitter aboard the vessel Crown Garnet for a period of nine months with a monthly salary of US\$698.00.<sup>[5]</sup>

Respondent alleged that his employment was covered by a collective bargaining agreement (CBA) between the Associated Marine, Officers' and Seamen's Union of the Philippines (AMOSUP) and WSL - Hong Kong, represented by WMS.<sup>[6]</sup> He stated that after undergoing pre-employment medical examination, he was declared fit to work. He joined the vessel on October 4, 2008.<sup>[7]</sup>

Respondent averred that in January 2009, he started experiencing neck and lower back pain. In April 2009, he purportedly noticed numbness and weakness of his left hand. Respondent stated that towards the end of his contract, the Chief Engineer tried to convince him to extend his contract but he declined. The Chief Engineer then told him that he would report to their Superintendent respondent's ailment.<sup>[8]</sup>

Respondent further stated that he signed off from the vessel on July 13, 2009. Upon arrival in the Philippines on July 15, 2009, he was referred to the company-designated physician Dr. Ramon S. Estrada (Dr. Estrada) and was diagnosed of cervical radiculopathy, thoracic and lumbar spondylosis, as well as carpal tunnel syndrome of the left, and trigger finger, third digit of his right hand. He was also referred to Dr. Arnel V. Malaya (Dr. Malaya) for back rehabilitation and to Dr. Ida

Tacata, a specialist for hand surgery orthopedics.<sup>[9]</sup> He underwent carpal tunnel surgery on his left hand, and physical therapy (PT) sessions for his cervical and lumbar condition.<sup>[10]</sup>

On September 9, 2009, Dr. Estrada reported that respondent's carpal tunnel surgery was healing well. Respondent followed up with Dr. Malaya, his physiatrist, for his shoulder pain.<sup>[11]</sup> As of November 12, 2009, respondent had completed 24 PT sessions for his shoulder, upper back and cervical pain. However, the company-designated doctor declared that respondent was complaining of pain in these areas with poor response to therapy and medications. And because of complaint for low back pain, he advised respondent to defer PT sessions and seek the opinion of an orthopedic specialist.<sup>[12]</sup>

However, on November 23, 2009, the Legal Affairs Department of AMOSUP informed WMS of respondent's claim for disability benefits<sup>[13]</sup> and the clarificatory conference scheduled on November 27, 2009.

On November 24, 2009, respondent requested from the company-designated doctor the final assessment of his health condition but to no avail.<sup>[14]</sup>

Thereafter, grievance proceedings were held at the AMOSUP office regarding respondent's claim. Respondent admitted that after several meetings, he was advised to continue his PT sessions until March 15, 2010.<sup>[15]</sup>

On January 9, 2010, the company-designated doctor opined that respondent's chance of being declared fit to work was "quite good" provided he completes his remaining physical therapy sessions for about 4-6 weeks for his left hand pain and back pain. He also reported that respondent failed to return for his consultation since November 12, 2009.<sup>[16]</sup>

On February 5, 2010, upon referral of Dr. Malaya, respondent underwent EMG-NCV<sup>[17]</sup> test which revealed that: "1.) A severe chronic distal focal neuropathy of the left median nerve as in carpal tunnel syndrome. A moderately severe CTS is also seen on the left[; and,] 2.) Findings compatible with a chronic lumbar radiculopathy involving the right L4-5 spinal roots."<sup>[18]</sup>

On March 12, 2010, the company-designated doctor gave respondent a final disability rating of Grade 10, and made the following pronouncements:

x x x [Respondent] was seen and re-evaluated by the physiatrist Dr. Malaya and with findings of no apparent improvement in his pain symptoms which is not compatible with all the tests and clinical evaluation/findings. He still complains of pain [on] the upper back and both hands, apparently with no significant improvement after several sessions of intensive physical therapy. Discontinuation of his rehabilitation program was advised by the specialist. With those developments, [I would declare that respondent's] condition is already at the stage of maximum medical wellness and no further treatment will improve his pain perception. Disability Grade 10 will be applicable to his present physical status under the POEA guidelines. x x x.<sup>[19]</sup>

On August 2, 2011, respondent consulted Dr. Renato P. Runas (Dr. Runas), an independent orthopedic surgeon. Dr. Runas diagnosed him of being afflicted with cervical and lumbar spondylosis with nerve root compression.<sup>[20]</sup> On August 15, 2011, Dr. Runas opined that respondent "is not fit for further sea duty permanently in whatever capacity with a status equivalent to Grade 8" Impediment - moderate rigidity or 2/3 loss of trunk motion or lifting power.<sup>[21]</sup>

Respondent posited that he was entitled to permanent and total disability benefits because: he was declared fit to work prior to his last contract with petitioners; he sustained his illness in the course of and by reason of his work; despite surgery and PT, his condition did not improve; the company-designated physician did not assess the degree of his disability; his chosen physician declared him permanently unfit for sea duty; and, since repatriation, he had never been employed and his earning capacity had since then been impaired.<sup>[22]</sup>

For their part, WMS, WSL and Oben (petitioners) confirmed that respondent's employment with them was covered by a CBA; and that while he was aboard the vessel he complained of pain and finger numbness on his left hand. They affirmed that upon repatriation, they referred him to the company-designated physician, Dr. Estrada, as well as to Dr. Malaya for back rehabilitation, and to Dr. Ida Tacata for hand surgery.<sup>[23]</sup>

Petitioners stressed that when respondent filed a complaint before the AMOSUP on November 23, 2009, he was still undergoing treatment; and during which the company-designated physician had not yet given him a final disability assessment.<sup>[24]</sup> They insisted that the company-designated doctor failed to give an assessment within 120 days because respondent failed to appear for his consultations with the company-designated doctors.<sup>[25]</sup> They explained that although no assessment was issued within the 120-day period, respondent was given a final assessment on March 12, 2010, or within the 240-day maximum period for treatment.<sup>[26]</sup>

### ***Ruling of the Panel of Voluntary Arbitrators***

On December 8, 2011, the PVA rendered its Decision<sup>[27]</sup> for respondent, the dispositive portion of which reads:

WHEREFORE, premises considered, a decision is hereby rendered, ORDERING herein respondents Wallem Maritime Services[, ] Inc. and/or Wallem Shipmanagement Ltd., to jointly and severally pay complainant Edwinito V. Quillao, the amount of Eighty Nine Thousands [sic] One Hundred US Dollars (US\$89,100.00) as disability benefits, plus ten percent thereof as attorney's fees, or a total of Ninety Eight Thousands [sic] One Hundred Ten US Dollars (US\$98,110.00) or its peso equivalent converted at the time of payment.

The complainant's prayer for exemplary [damages], moral damages and reimbursement of medical expenses are dismissed for sheer lack of merit.

x x x x

SO ORDERED.<sup>[28]</sup>

In ruling that respondent is entitled to permanent and total disability benefits, the PVA held that despite the lapse of 120 days, the company-designated doctor neither gave respondent an assessment on his condition nor issued a certificate on his fitness or unfitness for sea duty. The PVA also declared that the amount of disability should not be based on the schedule of disability gradings in the Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Vessels of the Philippine Overseas Employment Administration (POEA-SEC) considering that despite continuous treatment, he was not restored to his former health condition. The PVA disregarded petitioner's allegation of prematurity or lack of cause of action and medical abandonment reasoning that no final assessment was issued within 120 days and that Dr. Estrada discontinued respondent's rehabilitation based on his opinion that the latter already reached the maximum level of medical wellness. Moreover, the PVA lent more credence to the assessment of Dr. Runas ratiocinating that he is "an orthopedic surgeon specialist" vis-a-vis Dr. Estrada "who was not an orthopedic surgeon but a general and colorectal surgeon."<sup>[29]</sup> Finally, it also decreed that respondent was covered by the CBA from which his entitlement for disability benefits must be based.

### ***Ruling of the Court of Appeals***

Petitioners filed a Petition for Review with the CA arguing that the PVA seriously erred in finding them liable to pay respondent total disability benefits and attorney's fees.

On May 15, 2012, the CA rendered the assailed Decision,<sup>[30]</sup> the decretal portion of which reads:

WHEREFORE, premises considered the Petition is DENIED for lack of merit. The Decision dated 08 December 2011 of the Panel of Voluntary Arbitrators, National Conciliation and Mediation Board in AC-0809-NCR-46-04-07-11 is AFFIRMED with the correction that total amount to be jointly and severally paid by petitioners Wallem Maritime Services, Inc. and Wallem Shipmanagement Ltd, to respondent Edwinito V. Quillao is Ninety Eight Thousand and Ten US Dollars (US\$98,010,00) or its peso equivalent converted at the time of payment, and not US\$98,110.00.

Costs against petitioners.

SO ORDERED.<sup>[31]</sup>

Like the PVA, the CA gave more weight to the opinion of Dr. Runas explaining thus:

While the company-designated physician Dr. Estrada, a general and colorectal surgeon, gave respondent a Grade 10 disability, he, however, utterly failed to issue any certification as to the fitness or unfitness of respondent to render further sea duties in any capacity. It was respondent's personal physician Dr. Runas, an orthopedic surgeon, who declared him as not fit for further sea duty permanently in whatever

capacity, and assessed that he has an impediment Grade 8 (33.59%) moderate rigidity or 2/3 loss of trunk motion or lifting power.<sup>[32]</sup>

Moreover, the CA affirmed the PVA's ruling that respondent has a cause of action against petitioners "because they failed to pay his disability benefits."<sup>[33]</sup> It also agreed with the PVA that respondent is not guilty of medical abandonment because he was already pronounced to have reached the maximum level of wellness.<sup>[34]</sup> Finally, it held that in case of conflict between the medical opinion of the company-designated doctor and that of the seafarer's doctor-of-choice, the latter's opinion shall prevail because the "law looks tenderly on the laborer."<sup>[35]</sup>

On August 1, 2012, the CA denied petitioners' Motion for Reconsideration.<sup>[36]</sup>

Thus, petitioners filed this Petition stating that:

- I. x x x the Court of Appeals [erred] in awarding disability benefits in favor of respondent x x x despite the ruling of this Honorable Court in the recent case of CF Sharp Crew Management, Inc. x x x vs. x x x Taok x x x wherein this Honorable Court dismissed the complaint of seafarer Taok x wherein this Honorable Court dismissed the complaint of seafarer Taok for lack of a cause of action. At the time of the filing of the complaint, the seafarer had no cause of action as he was still being treated and it was still undetermined whether he would be declared fit or permanently disabled by the company doctor.<sup>[37]</sup>
- II. Assuming x x x respondent is entitled to disability benefits x x x his entitlement to disability benefits should be limited to Grade 10 as subsequently assessed by the company-designated physician.<sup>[38]</sup>
- III. x x x the Court of Appeals [erred] in awarding disability benefits in favor of respondent x x x when it set aside the disability assessments given by the company-designated physician and gave credence to the assessment of respondent's own physician in clear contradiction of this Honorable Court's ruling in Santiago vs Pacbasin x x x upholding the disability grading assessment of the company-designated physician in the absence of an examination by a third doctor whose finding shall be final and binding. As the company-designated physician assessed respondent with a final disability assessment of Grade 10, respondent is only entitled to [US]\$17,954.00 under the CBA.<sup>[39]</sup>
- IV. x x x the Court of Appeals [erred] in awarding attorney's fees in favor of respondent x x x. No bad faith attended the denial of respondent's claims as the denial was based on just and legal grounds, to wit: respondent has no cause of action against petitioners as he was still undergoing treatment when he commenced his claim for permanent total disability benefits, he was guilty of medical abandonment and assuming respondent is still entitled to disability benefits despite the foregoing, he was only