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THIRD DIVISION

[G.R. No. 209302, July 09, 2014]

ALONE AMAR P. TAGLE, PETITIONER, VS. ANGLO-EASTERN CREW MANAGEMENT, PHILS., INC., ANGLO-EASTERN CREW MANAGEMENT (ASIA) AND CAPT. GREGORIO B. SIALSA, RESPONDENTS.

D E C I S I O N

MENDOZA, J.:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court, assailing the October 31, 2012 Decision[1] and the April 12, 2013 Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP No. 117886.

This case originated from a claim for payment of permanent total disability benefits, medical expenses, damages, and attorney's fees filed by petitioner Alone Amar P. Tagle (*petitioner*) against respondent manning agency, Anglo-Eastern Crew Management, Phils., Inc.; its foreign principal, Anglo-Eastern Crew Management (Asia); and Anglo-Phils' president, respondent Capt. Gregorio B. Sialsa (*respondents*).

In her Decision,[3] dated November 27, 2009, Labor Arbiter Lilia S. Savari *(LA)* granted petitioner's claim for permanent total disability benefits and attorney's fees but dismissed his claim for sick wages and damages. On appeal, the National Labor Relations Commission (*NLRC*) *modified* the award given by the LA by lowering the disability grading to Grade 11 and deleting the award of attorney's fees for lack of legal basis. Accordingly, petitioner was awarded the amount of $7,456.00 or its Philippine Peso equivalent.[4] After his motion for reconsideration was denied by the NLRC, in its November 15, 2010 Resolution,[5] petitioner filed a petition for *certiorari* with the CA.[6]

The CA *dismissed* the petition for lack of merit.[7] Petitioner's attempt to seek reconsideration met the same fate.[8]

The Facts:

On June 16, 2008, petitioner was hired by Anglo-Eastern Crew Management, Phils., Inc. for Anglo-Eastern Crew Management (Asia) and was assigned to work on board the vessel NV Al Isha'a as *3rd Engineer.* On July 19, 2008, just two days after boarding the vessel, petitioner was found unconscious inside the engine room of the vessel. Upon docking of the vessel at the nearest port, petitioner was admitted at the Taj Mahal Medical Complex, Ltd., Hamdard University Hospital, in Karachi, Pakistan, where he was diagnosed to be suffering from *cervical spondylosis* and heat exhaustion. He was thereafter repatriated.[9]

On July 30, 2008, a day after his return to the country, petitioner was admitted at the Metropolitan Medical Center. On August 2, 2008, petitioner was diagnosed to be suffering from *cervical and lumbar spondylosis, chronic L5 spondylosis and Grade 1 spondylolisthesis*. As a result, he was prescribed several medicines and was advised to continue his rehabilitation on an out-patient basis. Following orders from the company-designated physician, petitioner continued his treatment and rehabilitation and had regular check-ups twice a month from August to October 2008. While his back improved, he continued to suffer from on and off bouts of pain on his neck.[10]

On November 6, 2008, the company-designated physician conducted a repeat EMG-NCV study on petitioner and found that he was suffering from *"L5 riduculopathy."* As a result, petitioner was advised to continue the rehabilitation and to return after three (3) weeks,[11] suggesting at the same time the following disability grading:

> Suggested disability grading is Grade 12 (neck) – slight stiffness of the neck and Grade 11 (chest-trunk-spine) – slight rigidity or 1/3 loss of motion or lifting power of the trunk.[12]

Per suggestion, petitioner reported for his check-up in December 2008 and, thereafter, was advised to continue with his medication.[13]

On January 6, 2009, petitioner again complained of back pains. An examination by the company-designated physician revealed the following observations: "a limitation of motion of the left shoulder towards abduction and flexion; muscle spasm on bilateral upper back and paracervical area; muscle strength of 4/5, left upper extremity and 5/5 both lower extremities with no sensory deficit noted; and empty can test is positive on the left."[14] Petitioner was advised to continue his physical therapy and medication and to report back on February 3, 2009 for re-evaluation. All this time, respondents shouldered petitioner's medical expenses.[15] He also continued to receive his basic wage.[16]

This time, however, petitioner no longer reported back to the company-designated physician. Instead, he sought the opinion of his own physician, Dr. Nicanor F. Escutin *(Dr. Escutin)*. During the consultation, petitioner informed Dr. Escutin that

> x x x At the Metropolitan Medical Center, upon thorough examination, he was diagnosed to have (sic) herniated disc at the cervical and lumbar spine. So he was recommended for operation but he (sic) has doubts about it. The plan (sic) operation is to remove the disc that was pressing on his nerve roots. If these are not (sic) remove, his condition would worsen to the exten[t] that he cannot use his upper extremities. x x x [17]

Dr. Escutin later concluded that petitioner suffered from "*Central disc herniation, C3/C4, C4/C5; Cervical spondylosis; Central disc herniation L4/L5; Spondylolistheisi, L5/S1 and nerve Radiculopathy, C3/C4, C4/C5, L4/L5, L5S1.*" He then reported the

following

> DISABILITY RATING:
>
> x x x
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> He is given a (sic) PERMANENT DISABILITY. HE IS UNFIT TO BE A SEAMAN (sic) ON WHATEVER CAPACITY.[18]

Acting on petitioner's request for compensation, respondents offered a settlement based on the disability grading given by the company-designated physician. Petitioner refused and insisted that he be paid the benefits corresponding to that given to those suffering from permanent total disability.

On February 11, 2009, petitioner filed his complaint before the LA claiming permanent total disability benefits.

Respondents sought the dismissal of the complaint for lack of merit, or, in the alternative, the limitation of the award of disability benefits to Grade 11 and/or 12 as suggested by its company-designated physician. According to respondents, rather than upholding the findings of Dr. Escutin that petitioner suffered from "permanent disability," the disability gradings suggested by the company-designated physicians should prevail considering that they thoroughly examined and treated petitioner from August 2008 to January 2009.

Decision of the Labor Arbiter

As earlier stated, on November 27, 2009, the LA rendered its Decision[19] awarding petitioner permanent total disability benefits amounting to $60,000.00 as well as attorney's fees. For the LA, there was no conflict in the assessment of the company physicians and that of Dr. Escutin, only that the latter further declared that he could no longer return to his former job as a seaman because he suffered from "permanent disability."[20] Thus, the LA opined that the conclusion of Dr. Escutin that petitioner was permanently disabled should be upheld because the findings of the company-designated physicians, which were often biased, did not declare him as "fit to work."[21] In disposing the complaint, the LA also awarded attorney's fees, but dismissed the claims for sick wages and damages for lack of legal basis.[22]

Decision of the NLRC

In its August 31, 2010 Decision[23] reversing the LA, the NLRC was of the considered view that the findings of the company-designated physicians were different from those of Dr. Escutin. The former recommended the disability grading of Grade 12, for the neck, and Grade 11, for the chest-trunk-spine, while the latter never indicated any disability rating – only "permanent disability." With this, the NLRC opined that since the company-designated physicians had been treating petitioner since his repatriation in July 2008 until January 2009, they were in a better position to know the injury suffered by petitioner, its treatment and its disability grading.[24]

For the NLRC, the mere finding of Dr. Escutin that petitioner could no longer return to sea as he reportedly suffered from a "permanent disability" was insufficient to award him with the Grade 1 disability benefits of $60,000.00. The NLRC stated that such findings should be correlated with the disability grading under Section 32 of the Philippine Overseas Employment Administration-Standard Employment Contract (*POEA-SEC*).[25] Accordingly, the NLRC awarded petitioner the disability benefits of Grade 11, the higher of the two gradings given by the company-designated physician, amounting to $7,465.00.[26] Petitioner sought reconsideration but to no avail.[27]

Decision of the Court of Appeals

Affirming the NLRC decision, the CA similarly ruled that the disability gradings given by the company-designated physicians should prevail since they were in a better position to know petitioner's injury, unlike Dr. Escutin who examined petitioner only once.[28]

In addition, the CA noted that from the time petitioner suffered injury on July 19, 2008, until the time he was given a disability grading by the company-designated physicians on November 6, 2008, only 110 days had lapsed. Then, when petitioner instituted his labor complaint, only 196 days had lapsed from the time he sustained his injury. Consequently, the CA ruled that the required 240-day period under Rule X, Section 2 of the Rules and Regulations Implementing Book IV had not yet expired.

Petitioner sought reconsideration but was rebuffed.

Hence, this petition.

Petitioner claims that both the CA and the NLRC disregarded the evidence proving that he suffered from permanent total disability.[29] He argues that he was entitled to be awarded permanent total disability benefits, considering that it was the company-designated physicians who first found him to suffer from "*cervical and lumbar spondylosis, chronic L5 spondylosis and Grade 1 Spondylolisthesis*."[30]

Moreover, petitioner insists that the company-designated physicians' lack of any finding that he was permanently disabled should not be made the basis of his actual condition, considering that jurisprudence has held that the findings of the company-designated physician should not be given credence when they cannot be established as impartial.[31]

The Court's Ruling

The petition lacks merit.

At the outset, it should be pointed out that from a perusal of petitioner's arguments, it is quite apparent that the petition raises questions of facts, inasmuch as this Court is being asked to revisit and assess anew the factual findings of the CA and the NLRC. Petitioner is fundamentally assailing the findings of the CA and the NLRC that

the evidence on record does not support his claim for permanent total disability benefits. In effect, he would have the Court sift through, calibrate and re-examine the credibility and probative value of the evidence on record so as to ultimately decide whether or not there is sufficient basis to hold respondents accountable for entirely/partially refusing to pay for his disability benefits. This clearly involves a factual inquiry, the determination of which is the statutory function of the NLRC.[32]

The general rule is that the Court is not a trier of facts and this doctrine applies with greater force in labor cases. Questions of fact are for the labor tribunals to resolve. [33] Only errors of law are generally reviewed in petitions for review on *certiorari* under Rule 45 of the Rules of Court.

In exceptional cases, however, the Court may be urged to probe and resolve factual issues where there is insufficient or insubstantial evidence to support the findings of the tribunal or the court below, or when too much is concluded, inferred or deduced from the bare or incomplete facts submitted by the parties or, where the LA and the NLRC came up with conflicting positions.[34] In this case, considering the conflicting findings of the LA, on one hand, and the NLRC and the CA, on the other, the Court is compelled to resolve the factual issues along with the legal ones, the core issue being whether or not petitioner is entitled to disability benefits on account of his medical condition.

The rule is that a seafarer's right to disability benefits is a matter governed by law, contract and medical findings. The relevant legal provisions are Articles 191 to 193 of the Labor Code and Section 2, Rule X of the Amended Rules on Employee Compensation (AREC). The relevant contracts are the POEA-SEC, the collective bargaining agreement, if any, and the employment agreement between the seafarer and his employer.[35] Summarizing the interplay of these provisions as they relate to the establishment of a seafarer's claim to disability benefits, the Court, in *Vergara v. Hammonia*,[36] wrote:

> As these provisions operate, the seafarer, upon sign-off from his vessel, must report to the company-designated physician within three (3) days from arrival for diagnosis and treatment. For the duration of the treatment but in no case to exceed 120 days, the seaman is on *temporary total disability* as he is totally unable to work. He receives his basic wage during this period until he is declared fit to work or his temporary disability is acknowledged by the company to be permanent, either partially or totally, as his condition is defined under the POEA Standard Employment Contract and by applicable Philippine laws. If the 120 days initial period is exceeded and no such declaration is made because the seafarer requires further medical attention, then the temporary total disability period may be extended up to a maximum of 240 days, subject to the right of the employer to declare within this period that a permanent partial or total disability already exists. The seaman may of course also be declared fit to work at any time such declaration is justified by his medical condition.

In other words, a seafarer may have basis to pursue an action for total and