

## THIRD DIVISION

[ G.R. No. 185412, November 16, 2011 ]

**GILBERT QUIZORA, PETITIONER, VS. DENHOLM CREW  
MANAGEMENT (PHILIPPINES), INC., RESPONDENT.**

### DECISION

**MENDOZA, J.:**

Before this Court is a petition for review challenging the September 10, 2008 Decision<sup>[1]</sup> of the Court of Appeals (CA), which set aside the Resolutions<sup>[2]</sup> of the National Labor Relations Commission (NLRC) dated September 20, 2004 and May 24, 2005, and reinstated the Decision of the Labor Arbiter (LA) dated June 27, 2002.

#### The Facts

Records show that in 1992, Denholm Crew Management (Philippines), Inc. (*respondent company*), a domestic manning agency that supplied manpower to Denklav Maritime Services, Ltd. (*Denklav*), a foreign maritime corporation, hired the services of Gilbert Quizora (petitioner) to work as a messman on board the international vessels of Denklav. Based on Article 4.2 of the Collective Bargaining Agreement<sup>[3]</sup> (CBA) entered into by and between the Association of Marine Officers and Seamen Union of the Philippines (AMOSUP) and Denholm Ship Management (Singapore) Ltd., represented by Denklav, his contractual work as messman was considered terminated upon the expiration of each contract. Article 5.1 thereof provided that the duration of his sea service with respondent company was nine (9) months depending on the requirements of the foreign principal. After the end of a contract for a particular vessel, he would be given his next assignment on a different vessel. His last assignment was from November 4, 1999 to July 16, 2000 on board the vessel "MV Leopard."

After the expiration of his contract with "MV Leopard," petitioner was lined up for another assignment to a different vessel, but he was later disqualified for employment and declared unfit for sea duty after he was medically diagnosed to be suffering from "venous duplex scan (lower extremities) deep venous insufficiency, bilateral femoral and superficial femoral veins and the (L) popliteal vein." In layman's terms, he was medically found to have varicose veins.

Subsequently, petitioner demanded from respondent company the payment of disability benefits, separation pay and reimbursement of medical expenses. His demands, however, were denied. He then submitted his claim before the AMOSUP, but it was likewise denied. Thereafter, he filed with the LA a complaint for payment of disability benefits, medical expenses, separation pay, damages, and attorney's fees.

On June 27, 2002, the LA, after due hearing, rendered a decision dismissing petitioner's complaint for lack of merit.

On appeal, the NLRC issued its Resolution dated September 20, 2004 reversing the LA's decision and ordering respondent company to pay petitioner his disability compensation in the amount of US\$60,000.00.

Upon the denial of its motion for reconsideration in the NLRC Resolution dated May 24, 2005, respondent company elevated the case to the CA with the following arguments:

PUBLIC RESPONDENT ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK AND/OR EXCESS OF JURISDICTION IN RULING THAT PRIVATE RESPONDENT IS ENTITLED TO DISABILITY BENEFITS OF \$60,000.00 CONSIDERING THAT:

1) PRIVATE RESPONDENT FAILED TO PROVE BY SUBSTANTIAL EVIDENCE THAT HIS ACQUISITION OF VARICOSE VEINS WAS CAUSED BY HIS PREVIOUS EMPLOYMENT WITH PETITIONER COMPANY.

2) VARICOSE VEINS IS A COMMON DISEASE FOR THOSE WHO ARE AT LEAST 30 YEARS OLD. IT CAN BE ACQUIRED GENETICALLY OR CAN BE DUE TO LACK OF EXERCISE. HENCE, TO BLAME THE PETITIONER COMPANY FOR PRIVATE RESPONDENT'S VARICOSE VEINS IS MOST UNFAIR AND UNJUST.

3) WHILE PRIVATE RESPONDENT MAY HAVE ACQUIRED A DISABILITY, HE NEVER LOST HIS EARNING CAPACITY PERMANENTLY SO AS TO ENTITLE HIM TO DISABILITY BENEFITS UNDER THE CBA.

### ***Decision of the Court of Appeals***

On September 8, 2010, the CA rendered a decision setting aside the NLRC Resolution and reinstating the LA Decision. The CA explained that since having varicose veins was not among those listed as occupational diseases under Presidential Decree (P.D.) No. 626, petitioner bore the burden of proving that such ailment was brought about by his working conditions. His mere claim that his employment with respondent company was the cause of his varicose veins hardly constituted substantial evidence to convince a reasonable mind that his ailment was work-related or the risk of contracting it was increased by his working conditions with respondent company. There was even no proof that the disease progressed due to the circumstances of his work which did not fall under any of the factors that contribute to varicose veins. The mere fact that he had no other employer except respondent company did not necessarily impute to the latter the disease acquired by him. Since his claim was not supported by substantial evidence, he was not entitled to disability benefits.

Unsatisfied with the CA decision, petitioner raised before this Court the following

## **ISSUES**

### I

WHETHER RESPONDENT HAS THE BURDEN OF PROVING THAT  
PETITIONER'S ILLNESS IS NOT WORK RELATED

### II

WHETHER PETITIONER'S ILLNESS IS WORK RELATED

### III

WHETHER PETITIONER IS ENTITLED TO DISABILITY BENEFITS

In advocacy of his position, petitioner argues that the burden of proving that his illness is not work-related rests on the respondent company. Citing the provisions of the Philippine Overseas and Employment Authority Standard Employment Contract (*POEA-SEC*), he claims that illnesses not listed therein are disputably presumed work-related. It is only when the claim is under the provisions of the Employees Compensation Act that the claimant has the burden of proving that the illness is work-related. As it is not listed, he is relieved from the trouble of proving the work-relatedness of the illness because it is already disputably presumed by law. Hence, respondent company should rebut this presumption by proving otherwise but, unfortunately, it failed to do so.

To petitioner, there is little difficulty in showing that acquiring varicose veins is work-related for a seafarer. He avers that he was engaged by respondent company as a seafarer for nine (9) years covering seven (7) contracts with their vessels; that he was medically screened in every contract; and that he was found fit to work up to his last contract on board the vessel "MV Leopard."

Moreover, petitioner claims that he is entitled to total and permanent disability benefits because his varicose veins have rendered him permanently incapacitated to return to work as a seafarer.

### ***Position of respondent company***

Respondent company counters that there is no evidence showing that petitioner's varicose veins were caused by his previous employment with respondent company, that this disease was work-related, and that it caused him permanent disability.

Petitioner omitted to mention his health after his stint on the "MV Leopard." Also, his application for a new contract with respondent company came long after the contract ended. He was discovered to have varicose veins in March 2001, or months after his last employment contract with respondent company ended in July 2000. So, it is difficult to conclude that his varicose veins can only be attributable to his previous employment with the company.

Besides, petitioner's employment was not continuous but on a per-contract basis which usually lasted for nine (9) months depending on the requirement of the foreign principal. He was considered "signed-off" upon the expiration of each contract. It was possible that he acquired varicose veins while he was "signed-off" from the vessels of respondent company. Except for his bare allegations, there is nothing to support his theory that his intermittent contracts of employment with respondent company had reasonable connection with his acquisition of varicose veins. He neither presented proof on this point nor offered a medical expert opinion.

Respondent company further argues that the disputable presumption under Section 20(B) (4) of the 2000 POEA SEC is completely irrelevant to this case. *First*, the 2000 POEA-SEC initially took effect sometime in July 2002. Petitioner's last employment contract with respondent company was from November 1999 to July 2000. Thus, at the time the parties entered into an overseas employment contract in November 1999, the provisions of the POEA-SEC, which were deemed incorporated into the contract, were those from the 1996 POEA-SEC. Hence, it is the 1996 POEA-SEC, not the 2000 POEA-SEC, which should govern his claim for disability benefits. The disputable presumption relied upon by petitioner does not appear in the 1996 POEA-SEC but can only be found in the 2000 POEA-SEC.

*Second*, even assuming that the 2000 POEA-SEC governed petitioner's previous employment with respondent company, he was still not entirely relieved of the burden to submit evidence to prove his claim because Section 20(B) of the 2000 POEA-SEC specifically pertains to work-related injury or illness. Therefore, it is still incumbent upon him to present proof that his varicose veins were reasonably connected to his work.

Respondent company opines that varicose veins is a common disease for those who are at least 30 years old and it can be acquired genetically or through lack of exercise.

Lastly, respondent company asserts that there is no showing that petitioner's varicose veins caused him permanent disability. While affliction with varicose veins may bring pain and discomfort to the body of a person, the illness is not permanent as it can actually be treated, either through self-help or medical care.

### **The Court's Ruling**

The Court finds no merit in the petition.

Before tackling the issue of what rule governs the case, there is a need to compare the provisions of Section 20-B of the 1996 POEA-SEC and Section 20-B of the 2000 POEA-SEC. Section 20 (B) of the 1996 POEA-SEC reads as follows:

#### SECTION 20. COMPENSATION AND BENEFITS

##### B. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS:

The liabilities of the employer when the seafarer suffers injury or illness during the term of his contract are as follows:

1. The employer shall continue to pay the seafarer his wages during the time he is on board the vessel;

2. If the injury or illness requires medical and/or dental treatment in a foreign port, the employer shall be liable for the full cost of such medical, serious dental, surgical and hospital treatment as well as board and lodging until the seafarer is declared fit to work or to be repatriated.

However, if after repatriation, the seafarer still requires medical attention arising from said injury or illness, he shall be so provided at cost to the employer until such time he is declared fit or the degree of his disability has been established by the company-designated physician.

3. Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is declared fit to work or the degree of permanent disability has been assessed by the company-designated physician, but in no case shall this period exceed one hundred twenty (120) days.

For this purpose, the seafarer shall submit himself to a post-employment medical examination by a company-designated physician within three working days upon his return except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period is deemed as compliance. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits.

4. Upon sign-off of the seafarer from the vessel for medical treatment, the employer shall bear the full cost of repatriation in the event that the seafarer is declared (1) fit for repatriation; or (2) fit to work but the employer is unable to find employment for the seafarer on board his former vessel or another vessel of the employer despite earnest efforts.

5. In case of permanent total or partial disability of the seafarer during the term of employment caused by either injury or illness, the seafarer shall be compensated in accordance with the schedule of benefits enumerated in Section 30 of his Contract. Computation of his benefits arising from an illness or disease shall be governed by the rates and the rules of compensation applicable at the time the illness or disease was contracted.

On the other hand, Section 20 (B) of the 2000 POEA-SEC reads:

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