

FIRST DIVISION

[G.R. NO. 155338, February 20, 2007]

DEOGRACIAS CANSINO, PETITIONER, V.S. PRUDENTIAL SHIPPING AND MANAGEMENT CORPORATION (IN SUBSTITUTION FOR MEDBULK MARITIME MANAGEMENT CORPORATION) AND SEA JUSTICE, S.A., RESPONDENTS.

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Before us is a petition for review on certiorari filed under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision^[1] of the Court of Appeals dated March 21, 2002 in CA-G.R. SP No. 57111.

The facts of the case, as gleaned from the records, are:

On July 18, 1996, pursuant to a contract of employment,^[2] Deogracias Cansino, petitioner, worked as a seaman in the Medbulk Maritime Management Corporation, a local manning agent of Sea Justice, S.A., a Greek shipping company. Under the contract, petitioner will serve on board the vessel *M/V Commander* for a term of twelve (12) months with a monthly basic salary of US\$470.00, fixed overtime pay of US\$141.00 for 120 hours, and vacation leave with pay of US\$63.00 per month, or a total monthly compensation of US\$674.00. The contract was then processed and approved by the Philippine Overseas Employment Administration (POEA).

While on board the *M/V Commander*, the ship's master, Captain Nikolaos Kandylis, unilaterally altered the terms and conditions of the employment contract. Petitioner's position as seaman was changed to pumpman. Actually this was a promotion considering that his initial monthly pay of US\$674.00 was raised to US\$1,164.00.

Later, Captain Kandylis received several derogatory reports against petitioner, such as drunkenness, insubordination, abandonment of post, and disorderly behavior. These were duly recorded in the ship's logbook.

On August 10, 1996, seven (7) members of the crew of *M/V Commander* (including petitioner) submitted a request to Captain Kandylis for early repatriation because of family problems. Their requests were granted. After disembarking, they were furnished hotel accommodations and repatriation expenses. Petitioner then returned to the Philippines.

On November 18, 1996, petitioner filed with the Arbitration Branch, NLRC, National Capital Region a complaint for illegal dismissal and underpayment of wages against Medbulk Maritime Management Corporation^[3] and Sea Justice, S.A.

On August 31, 1998, the Labor Arbiter dismissed petitioner's complaint, holding that his employment was validly terminated. He was found liable for drunkenness, a ground for dismissal from the service under his contract of employment.

On appeal, the NLRC, in its Decision, set aside the Labor Arbiter's judgment, thus:

ACCORDINGLY, premises considered, the August 31, 1998 decision of the Labor Arbiter is hereby set aside and new one entered ordering respondent Prudential Shipping to pay complainant the amount of US\$258.00 as underpayment of wages from September to November 1886 and US\$10,000.00 representing his salary from December 1996 to July 1997.

SO ORDERED.

Respondents filed a motion for reconsideration but it was denied.

Respondents then filed with the Court of Appeals a petition for *certiorari* under Rule 65 of the 1997 Rules of Civil Procedure, as amended.

On March 21, 2002, the Court of Appeals promulgated its Decision granting respondents' petition and setting aside the NLRC Decision.

Petitioner filed a motion for reconsideration. However, it was denied by the appellate court on September 5, 2002.

Hence, the instant petition raising the sole issue of whether the Court of Appeals erred in holding that petitioner's dismissal from employment was for cause.

Section 2, Rule VII, Book IV of the POEA Rules And Regulations Governing Overseas Employment provides:

SEC. 2. Grounds for Disciplinary Action. – Commission by the worker of any of the offenses enumerated below or of similar offenses while working overseas shall be subject to appropriate disciplinary actions as the Administration may deem necessary:

x x x

(c) Desertion or abandonment;

(d) **Drunkenness**, especially where the laws of the host country prohibit intoxicating drinks;

x x x

(g) Creating trouble at the worksite or in the vessel;

Appendix 2 of the POEA Standard Employment Contract for Filipino migrant workers contains a list of offenses with corresponding sanctions. This list includes **drunkenness**.

Petitioner contends that Captain Kandylis has a grudge against him, the reason why