

THIRTEENTH DIVISION

[CA-G.R. SP NO. 128473, May 29, 2014]

EDUARDO P. LIM, PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (FIRST DIVISION), AND BSM CREW SERVICE CENTRE (PHILS.), INC., RESPONDENTS.

D E C I S I O N

DIMAAMPAO, J.:

At the maelstrom of the instant *Petition for Certiorari*^[1] are the *Decision*^[2] and *Resolution*^[3] dated 14 September 2012 and 27 November 2012, respectively, of the National Labor Relations Commission (NLRC) in NLRC LAC No. OFW (M) 04-000418-12.

The factual backdrop of the case unfolds as follows:

Petitioner Eduardo Lim (petitioner) was engaged as Chief Cook by private respondent BSM Crew Service Center (Phils.), Inc. for and in behalf of its foreign principal, co-private respondent Bernhard Schulte Shipmanagement, Ltd., under an employment contract for nine months. Petitioner left Manila on 17 March 2010 and boarded the vessel *Ocean Elegance* in Cuba on 19 March 2010. On 26 January 2011, he returned to Manila after completing his contract. Inevitably, petitioner instituted a *Complaint*^[4] for payment of permanent disability benefits, sickness allowance, reimbursement of medical expenses, damages and attorney's fees. In his *Complaint*, petitioner averred, *inter alia*, that his illness was acquired during the term of his contract. While on board the vessel lifting heavy cooking materials, he sustained a fall after which he experienced severe chest pains, dizziness and abdominal pain radiating down to his right lower extremity. He reported his condition to the superior officers, but he was only given pain reliever which afforded temporary relief. As his condition worsened, he was examined at the Ship Clinic and later on at a Port Clinic in Curacao. He was diagnosed to have *Cardiovascular Disease and Uncontrolled Hypertension*, and was advised to be repatriated for further evaluation and management.

When petitioner arrived in Manila, he reported to the local manning agency for referral of his condition. His plea fell into deaf ears as his ailments were not work-related. He consulted a cardiologist, Dr. Josette Villanueva-Cristobal. After two months of treatment, he was declared unfit for sea duties in any capacity.^[5] Another internist, Dr. Eduardo Yu, confirmed this finding and likewise opined that petitioner was physically unfit to go back to work. He demanded payment of disability benefits from the manning agency but his entreaty remained unheeded.

Au contraire, private respondent asseverated that petitioner is not entitled to disability compensation inasmuch as his repatriation was due to completion of contract and not to any medical reason. Petitioner failed to adduce proof that he contracted an injury/illness while on board the vessel and during the effectivity of

his contract. Likewise, he did not proffer any evidence that he complied with the three-day mandatory post-employment examination.

Confronted with the diverse postures of the parties, the Labor Arbiter dismissed petitioner's *Complaint* as he was found to be disqualified to receive any benefits for failure to comply with the compulsory reporting requirement. The Labor Arbiter ratiocinated and disposed in this wise—

"The cornerstone of award of disability benefits under the POEA SEC is the sufferance by a seafarer aboard ocean going vessel of a work-related illness or injury during the term of his employment contract. Stripped to its elements, the claimant must prove that – 1. he suffered a work-related injury or illness on board and 2. the injury or illness was contracted or aggravated during the term of the contract of employment. As a safeguard against fraudulent claims, the seafarer shall(,) however(,) 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.

Those requisites were not proven in this case with sufficient evidence.

X X X

X X X

WHEREFORE, premised (sic) considered, judgment is hereby rendered dismissing the complaint for lack of merit.

All other claims are likewise denied for being bereft of merit.

SO ORDERED.”^[6]

Nonplussed, petitioner appealed the propriety of the denial of his claim for disability benefits to the NLRC. In the challenged *Decision*, the NLRC affirmed on appeal the judgment of the Labor Arbiter.

His *Motion for Reconsideration* having been denied in the assailed *Resolution*, petitioner commenced the instant *Petition* anchored on the following postulations:

I

THE ILLNESSES/CONDITIONS OF PETITIONER ARE CLEAR-LY WORK-RELATED AND WORK-AGGRAVATED, THEREFORE CLEARLY COMPENSIBLE UNDER THE POEA STANDARD EMPLOYMENT CONTRACT.

II

A FINDING OF “FIT TO WORK” IN THE PRE-EMPLOYMENT MEDICAL EXAMINATION DID PROVE THAT THE ILLNESS/ CONDITION THAT WAS DISCOVERED AT THE TIME OF EMPLOYMENT IS WORK-RELATED AND COMPENSIBLE.

III

THE ASSESSMENT OF THE COMPANY-DESIGNATED PHYSICIAN MUST NOT BE GIVEN CREDENCE AND MUST NOT BE UPHELD AS MANDATED BY THE BINDING PROVISIONS OF THE POEA CONTRACT AND THE CBA.

IV

THERE IS ABSOLUTELY LEGAL AND FACTUAL BASIS FOR THE AWARD OF MORAL DAMAGES AND ATTORNEY'S FEES.

The Petition is barren of merit.

Discernibly, the *lis mota* of the controversy is whether or not petitioner is entitled to disability compensation and other benefits.

Case law teaches Us that the terms and conditions of a seafarer's employment are governed by the provisions of the contract he signs at the time he is hired. But unlike that of others, deemed written in the seafarer's contract is a set of standard provisions set and implemented by the POEA called the 2000 Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels, which are considered to be the minimum requirements acceptable to the government for the employment of Filipino seafarers on board foreign ocean-going vessels.^[7]

Paragraphs (1) and (3), Section 20(B) of the POEA Standard Employment Contract (SEC) unequivocally state:

"B. COMPENSATION AND BENEFITS FOR INJURY OR ILLNESS

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

X X X

X X X

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."^[8]

From the foregoing, it is as clear as day that the employer is liable only when the seafarer sustained a work-related injury or illness during the term of employment. For an injury or illness to be duly compensated under the POEA SEC, it must be shown that such injury/illness occurred or was suffered during the effectivity of employment contract.^[9]