

SPECIAL TWELFTH DIVISION

[CA–G.R. SP. No. 133100, May 23, 2014]

MARLOW NAVIGATION PHILIPPINES, INC. / MARLOW NAVIGATION CO., LTD. AND MR. ANTONIO GALVEZ, JR., PETITIONERS, VS. GEOFFREY M. TORMIS AND NATIONAL LABOR RELATIONS COMMISSION (SIXTH DIVISION), RESPONDENTS.

D E C I S I O N

DICDICAN, J.:

Before this Court is a Petition for *Certiorari*^[1] filed pursuant to Rule 65 of the Revised Rules of Court assailing, for having been rendered with grave abuse of discretion amounting to lack or excess of jurisdiction, the August 30, 2013 Decision^[2] of the National Labor Relations Commission (NLRC), Sixth Division, in labor case docketed as NLRC LAC No. OFW-M-06-000639-13 (NCR-OFW-M-05-07411-12) which reversed the May 30, 2013 Decision^[3] of the Labor Arbiter. Also assailed in this petition is the October 16, 2013 Resolution^[4] of the same Commission which denied the Motion for Reconsideration filed by the petitioner.

The material and relevant facts, as culled from the record, are as follows:

Private respondent Geoffrey M. Tormis ("private respondent") was hired by the petitioner Marlow Navigation Philippines, Inc. ("petitioner"), which is a local manning agency, on behalf of its principal, petitioner Marlow Navigation Company, Ltd. He was employed as Able Bodied Seaman on board the vessel "M/V Viola" for a stipulated period of ten (10) months.^[5] He signed his contract on January 6, 2011.

Prior to his deployment, the private respondent underwent a series of medical examinations wherein he was found to be "fit to work" by the company-designated physician.^[6]

The private respondent's duties involved strenuous manual work which include pushing, pulling, lifting and carrying heavy loads of provisions on board the vessel.

On August 6, 2011, while the private respondent was doing a painting job at the port side of M/V Viola, a sudden strong wave hit the ship. By reason of the foregoing, the private respondent lost his balance and fell on a hard object. He experienced back pains and leg muscle cramps thereafter.

Since the pain persisted and was becoming more intense, he requested for immediate medical assistance and was then brought to a doctor in Cotonou Benin, Africa on August 11, 2011. He was given medication and was advised to rest for a week.

On August 17, 2011, since his condition was not improving, he was brought to another doctor in Malabo, Equatorial Guinea. After his condition was assessed, he

was diagnosed with lumbosciatalgia and was declared unfit to work. Part of the doctor's recommendation was his medical repatriation for further evaluation and treatment.

Upon his arrival in the Philippines, the private respondent immediately reported at the petitioner's office on September 9, 2011 to seek for medical assistance. He was then referred to the Manila Doctors Hospital where he was admitted. He likewise underwent pelvic traction and daily physiotherapy.

On September 16, 2011, an MRI of his lumbosacral spine was performed on the private respondent at the Cardinal Santos Medical Center. He was later diagnosed with lumbar disc herniation. On September 23, 2011, the private respondent underwent laminotomy, discectomy^[7]. He was discharged from the hospital on September 30, 2011 but continued his physiotherapy in an out-patient basis.

After more than four months of treatments, on February 27, 2011, the private respondent was declared "fit to work" by Dr. Joy Ellen Buella-Barrameda, the company-accredited doctor of the petitioners^[8].

Unfortunately, despite the series of treatments and the findings as to his condition as fit to work, he continued to feel pain on his back and on his legs. On account of the foregoing, he sought for a re-evaluation of his medical condition from the petitioners through a letter dated March 23, 2012^[9].

However, no further action was taken by the petitioners which prompted the private respondent to write another letter to the former on April 10, 2012^[10] which indicated his intention to seek for a second opinion from a doctor of his choice.

The private respondent then sought for a second medical opinion from Dr. Renato Runas ("Dr. Runas"). On April 17, 2012, Dr. Runas confirmed that the private respondent was unfit to continue his work as a seaman. Despite his surgery, the private respondent was already incapacitated to continue his work as a seaman caused by the back injury which he sustained on board the vessel. The private respondent was assessed to be no longer able to carry heavy objects or to perform other strenuous activities as this may only aggravate his condition and result to further severe damage. According to Dr. Runas, the private respondent was suffering from partial permanent disability equivalent to Grade 8 impediment based on the POEA Contract^[11].

Thus, on May 15, 2012, the private respondent filed a complaint against the petitioners for payment of disability benefits, medical and sickness allowance, moral and exemplary damages and attorney's fees^[12].

In denying their liability, the petitioners contended that the private respondent had no cause of action against them in view of the medical report declaring him to be fit to resume his duties as a seafarer by the company-designated physician. The private respondent alleged that the findings of the company-accredited doctor must be given greater consideration since he was in the constant care of the latter. Also according to the POEA Contract, if the company-accredited physician declares a seafarer to be fit to work, he is bound by such declaration. With respect to the private respondent's claim for sickness allowance, the petitioner asserted that they had duly paid the same as evidenced by the sickwages account which were duly signed by the former.

After considering the arguments of both parties, Labor Arbiter Virginia T. Luyas-Azarraga rendered a Decision dated May 30, 2013, pertinent portions of the said decision stated as follows:

"After a careful examination of the arguments of the parties and the evidence that they presented, this Office finds complainant to be fit to work as a seaman and is thus not entitled to disability benefits. The findings of the company physician that he is fit to work, as can be seen from the medical reports submitted by respondents was a result of a more elaborate examination and treatment of his condition. As compared to the one day examination and treatment of Dr. Runas which does not appear to be supported by any medical examination or treatment, this Office is inclined to uphold the findings of the company physician.

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"WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered dismissing the claim for disability benefits.

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

"SO ORDERED."

Dissatisfied, the private respondent appealed from the decision of the Labor Arbiter to the NLRC.

On August 30, 2013, the NLRC, Sixth Division rendered the assailed Decision^[13] which granted the appeal and reversed and set aside the decision of the Labor Arbiter, to wit:

"**WHEREFORE**, the appealed Decision dated 30 May 2013 is SET ASIDE and a new one entered ordering the Respondents jointly and severally, to pay the Complainant his disability benefits in the amount of US\$60,000.00 plus 10% thereof by way of attorney's fees.

"**SO ORDERED.**"

According to the NLRC, when conflicting medical assessments as to a seafarer's medical condition exist, the law looks tenderly on the laborer. Where the evidence may be reasonably interpreted in two divergent ways, one prejudicial and the other favorable to him, the balance must be tilted in his favor consistent with the principle of social justice. Moreover, the NLRC opined that there was no evidence adduced by the parties that the private respondent had, in fact, been re-employed or has found employment in the same kind of work up to the present time. Withal, the private respondent's injury had prevented him from pursuing his usual work and earn therefrom.

The petitioners filed a Motion for Reconsideration of the decision of the NLRC but the said motion was denied in a Resolution^[14] dated October 16, 2013, viz:

"WHEREFORE, the Respondents' Motion for Reconsideration is hereby DENIED for lack of merit. No further Motion of the same tenor shall be entertained.

"SO ORDERED."

Unstirred by the foregoing disposition of the NLRC, the petitioners filed the instant petition with this Court assigning the following acts of grave abuse of discretion purportedly committed by the NLRC, to wit:

I.

THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT AWARDED FULL DISABILITY BENEFITS DESPITE THE FACT THAT THE PRIVATE RESPONDENT WAS NOT ENTITLED THERETO.

II.

THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN IGNORING JURISPRUDENCE THAT FINDINGS OF COMPANY DOCTORS ARE ENTITLED TO GREAT WEIGHT IN DETERMINING AS TO WHETHER A SEAFARER IS ENTITLED TO DISABILITY BENEFITS.

III.

THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN THE CONSTRUCTION OF THE LABOR CLAUSE AS THE SAME SHOULD ONLY BE APPLIED WHEN THERE IS DOUBT AS TO THE EVIDENCE OF THE PARTIES.

IV.

THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ITS CONCLUSION THAT THE NON-REHIRING OF A SEAFARER AFTER AN INJURY IS SYNONYMOUS TO THE LATTER BEING DISABLED.

V.

THE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN FINDING THAT THE PRIVATE RESPONDENT IS NOT ENTITLED TO DAMAGES AND ATTORNEY'S FEES.

In a nutshell, the primordial issue to be resolved in this case is whether or not the NLRC committed grave abuse of discretion when it ruled that the private respondent was entitled to permanent total disability benefits from the petitioners, contrary to the findings of the company-designated physician that the former was already fit to work.

After a careful and judicious scrutiny of the whole matter, together with the applicable laws and jurisprudence in the premises, we find the instant petition to be bereft of merit.

At the onset, it is well to emphasize that, in resolving disputes on disability benefits, the fundamental consideration has been that the POEA-SEC was designed primarily for the protection and benefit of Filipino seamen in the pursuit of their employment on board ocean-going vessels. As such, its provisions must be construed and applied