

SPECIAL TWELFTH DIVISION

[CA–G.R. SP No. 133607, June 09, 2014]

**NOEL R. MALLORCA, PETITIONER, VS. NATIONAL LABOR
RELATIONS COMMISSION (FOURTH DIVISION), MARSAMAN
MANNING AGENCY, INC., AND/OR MARSAMAN
NAVIGATION/FORUMCENTRE SHIPPING LTD. AND MS.
ANTONIETA C. MABELO, RESPONDENTS.**

D E C I S I O N

DICDICAN, J.:

Before us is a Petition for *Certiorari*^[1] filed by petitioner Noel R. Mallorca ("petitioner") pursuant to Rule 65 of the 1997 Revised Rules of Court seeking to annul and set aside the Decision^[2] promulgated by the First Division of the National Labor Relations Commission ("NLRC") dated August 30, 2013 in NLRC NCR LAC 06-000624-13 which, *inter alia*, affirmed the Decision^[3] rendered by Labor Arbiter Alberto B. Dolosa ("labor arbiter") on February 28, 2013 in NCR-08-12760-12. Likewise assailed in the instant petition is the subsequent Resolution^[4] that was issued by the NLRC on October 31, 2013 which denied the motion for reconsideration that was filed by herein petitioner in the said case for lack of merit.

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

On November 11, 2009, herein petitioner entered into a contract of employment with private respondent Marsaman Manning Agency, Inc. for and in behalf of the principal of the latter, herein private respondent Marsaman Navigation, Ltd./Forumcenter Shipping, Ltd., to work as an able seaman on board the vessel "Aris T" for a period of seven (7) months. Prior to his disembarkation, the petitioner underwent a medical examination where he was found to be "fit for sea duty". The petitioner thereafter boarded the aforesaid vessel on December 11, 2009 and commenced to perform his job in accordance with his contract of employment.

In the month of April 2010, however, the petitioner claimed that he started to experience extreme back pains and difficulty in sleeping. He reported the matter to his chief mate and he was brought to a doctor in Taiwan who gave him medications for his pain. Unfortunately, the petitioner asseverated that the said medications did not address his medical condition. Subsequently, the petitioner complained that his back pain and difficulty in sleeping worsened that he eventually suffered weight loss, loss of total senses, excessive sweating, muscle pains in his hands and legs, nausea and vomiting. In fact, the petitioner narrated that, while he was loading coal when the vessel was in Australia, he experienced sudden excessive sweating followed by vomiting and loss of senses that he had to see a doctor who, in turn, gave him medications for back pains. Thereafter, when the vessel reached Papua New Guinea, the petitioner once again suffered the same symptoms which prompted the ship

officers to bring him to LAE International Hospital where he was diagnosed by the attending physician to have been suffering from musculoskeleton pain, high blood pressure, continuous sweating and lack of sleep.^[5] He was then recommended to take rest and take analgesic. However, since the petitioner continued to exhibit the above-mentioned symptoms, he was finally repatriated on May 5, 2010.

When the petitioner arrived home in the Philippines, he immediately reported to the office of private respondent Marsaman Manning Agency, Inc. in Manila. The petitioner was then referred to the company doctors at Ygeia Medical Center where he was given medications that were intended to cure hypertension and back pains. Afterwards, the petitioner was paid his partial sickness allowance amounting to Four Hundred Sixty Five US Dollars (USD\$465.00) and he was then advised to go home to his province in Iloilo.

The foregoing antecedents thereby prompted herein petitioner to file a complaint in the NLRC against the private respondents for: (1) total and permanent disability benefits; (2) sickwages allowance; reimbursement of medical and hospital expenses; (3) moral and exemplary damages; and (4) attorney's fees. In the said complaint, the petitioner maintained that he was never advised of any disability assessment but he nonetheless continued to suffer the same medical symptoms while he was still on board the vessel of the private respondents. Moreover, the petitioner lamented that he could no longer return to his previous work as a seafarer. Consequently, the petitioner prayed that he be awarded permanent disability benefits in that he had been incapacitated and unable to engage in any meaningful activity after he was repatriated on May 5, 2010.

The conduct of the mandated preliminary conference notwithstanding, the parties herein failed to amicably settle their dispute. Accordingly, the labor arbiter directed them to submit their respective position papers.

In his Position Paper^[6], the petitioner averred that he first suffered the symptoms complained of while he was working on board the vessel of the private respondents. Moreover, the petitioner contended that he was repatriated before the actual completion of the term of his employment. Thus, the petitioner asseverated that he suffered a disability which is compensable under the POEA Standard Employment Contract, stressing that, from the time of his repatriation from the vessel of the private respondents up to the time when he filed his complaint in the NLRC, he had been incapacitated and unable to engage in any meaningful activity. Further, the petitioner submitted that, under the POEA Standard Employment Contract, a seafarer who was repatriated for medical reasons is entitled to receive his or her basic salary for one hundred twenty (120) days as sickness allowance. Furthermore, the petitioner claimed that, due to his medical condition, he should be awarded permanent and total disability benefits by the private respondents in the total amount of Sixty Thousand US Dollars (USD\$60,000.00).

For their part, the private respondent posited that the petitioner underwent a pre-employment medical examination wherein it was noted that he had a "Class B+ hypertension controlled/interventricular septal hypertrophy" but he was cleared for work by the company physician and declared as "fit for sea duty". On December 11, 2009, the petitioner embarked on the "Aris T" vessel to commence the service of his contract of employment with the private respondents. While on board the aforesaid vessel, however, the private respondents narrated that the petitioner complained of back pains. Thus, the petitioner was brought to a doctor in Kaohsiung for a medical

examination where he was diagnosed with "left shoulder tendonitis". An x-ray on his left shoulder, however, revealed that there was no abnormal bone structure. Thereafter, the petitioner was recommended to see another doctor at the next port and he was advised to do only light work in the vessel.

Weeks later, the private respondents claimed that the petitioner again experienced bilateral shoulder muscle pain and the latter twice lost his consciousness while on board the vessel. Afterwards, the petitioner was seen by a doctor in Newcastle, Australia, where he was diagnosed with "musculoskeleton pain, high blood pressure, continuous sweating and lack of sleep". The petitioner was then recommended to rest and take analgesic and he was given an initial and final diagnosis of "insomnia". Finally, on May 4, 2010, the petitioner was discharged after he was found to be stable. He was then repatriated on the same day.

On May 5, 2010, the private respondents averred that the petitioner arrived in the Philippines where the latter was examined by a company-designated physician in Ygeia Medical Center, Inc. A physical examination was conducted upon the petitioner which yielded "unremarkable" results. Likewise, the results of the laboratory tests that were conducted upon him turned out to be normal. However, the petitioner was given an initial diagnosis of "controlled hypertension and to consider anxiety reaction". Afterwards, the petitioner was referred to a psychiatrist who prescribed a medication for "neurasthenia syndrome". According to the said psychiatrist, the said syndrome was a mere condition of tiredness or apathy and it was not work-related. Thereafter, the petitioner was advised to continue with his other medications. Finally, during the final check-up of the petitioner on May 31, 2010, he was noted to be asymptomatic with no muscle pain and he was declared to be fit to work by the company-designated physician. Since then, nothing was heard from the petitioner until he filed the instant complaint in the NLRC two (2) years later or on August 29, 2012.

Consequently, the private respondents argued that the petitioner was not entitled to disability benefits in that he was declared to be fit for work by the company-designated physician within one hundred six (106) days from the time of his disembarkation from the vessel. The private respondents pointed out that, once the disability of a seafarer had been cured, the employer no longer had the obligation to compensate him or her for the reason that there is no more disability to compensate in the first place.

Thus, on February 28, 2013, the labor arbiter rendered a Decision which, *inter alia*, dismissed the complaint for total and permanent disability benefits and other money claims that was filed by herein petitioner against the private respondents for lack of merit. Aggrieved by the foregoing disposition of the labor arbiter, herein petitioner appealed from the same to the NLRC^[7] on the ground that the findings of fact and conclusions of the labor arbiter were patently erroneous and without basis. However, the NLRC, in the herein assailed decision dated August 30, 2013, denied the appeal that was filed by the petitioner for lack of merit. Subsequently, herein petitioner filed a Motion for Reconsideration^[8] of the aforesaid decision of the NLRC but the same was likewise denied for lack of merit in the herein assailed resolution dated October 31, 2013.

Undaunted by the foregoing disquisition of the NLRC, the petitioner filed the instant petition with this Court assigning the following acts of grave abuse of discretion that were purportedly committed by the NLRC, to wit:

I.

THE HONORABLE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN AFFIRMING THE DECISION OF THE HONORABLE ARBITER DISMISSING THE CLAIMS OF THE PETITIONER.

II.

THE HONORABLE PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION BY UNJUSTIFIABLY IGNORING THE OVERWHELMING EVIDENCE WHICH CLEARLY SUPPORTS THE PETITIONER'S ENTITLEMENT TO MAXIMUM DISABILITY BENEFITS. THE PETITIONER WAS TOTALLY AND PERMANENTLY DISABLED IN THAT HE COULD NO LONGER RETURN TO ACTIVE SEA DUTY AND EARN THE INCOME WHICH HE ONCE ENJOYED AS A SEAFARER, A JOB WHICH HE HAD BEEN ACCUSTOMED TO PERFORM.

In sum, the sole issue to be resolved by us in this case is whether or not the petitioner was entitled to total and permanent disability benefits in the amount of Sixty Thousand US Dollars (USD\$60,000.00). 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.

In the instant petition, the petitioner vehemently contended that the POEA Standard Employment Contract was primarily and specifically designed to safeguard the rights and privileges of seafarers on board ocean-going vessels. According to the petitioner, the disability which he suffered in the vessel was compensable and that he was able to meet all the requirements under the law for a compensable disability. Moreover, the petitioner averred that the private respondents had already assumed the risk that they take the petitioner as the private respondents found him based on the mere fact that there was an employment contract that was entered into between the petitioner and the private respondents after the latter had subjected him to the pre-qualification standard.

Further, the petitioner asseverated that the record of the case is not bereft of evidence that he was, indeed, permanently incapable of going back to his former work as a seafarer. As a seafarer, the petitioner submitted that he was required to engage in strenuous activities and exert considerable effort in order to perform his job. However, he had been unanimously pronounced as permanently unfit for sea duty by his attending physicians. According to the petitioner, the nature and character of his injury would show that he could no longer dispose of his duty as a seafarer for the very reason that he had been totally and permanently impaired by the injuries which he sustained while on board the vessel of the private respondents. Consequently, the petitioner maintained that he was entitled to receive the maximum benefits that were provided by law.

Furthermore, the petitioner stressed that, in view of the refusal of the private respondents to faithfully perform their duties under the contract of employment which they entered into with the petitioner, the latter should be awarded moral and exemplary damages, plus attorney's fees.

For their part, the private respondents countered that, contrary to the argument of the petitioner, the fact that his medical examination revealed that he joined the