

## SECOND DIVISION

[ CA-G.R. SP. NO. 135993, December 11, 2014 ]

**NESTOR J. PLATA, PETITIONER, VS. NATIONAL LABOR  
RELATIONS COMMISSION, MEDLINE PHILIPPINES, INC. AND/OR  
PAFALOS\* SHIPPING S.A. AND/OR CAPT. ANGEL J. OSEÑA,  
RESPONDENTS.**

### D E C I S I O N

**SALAZAR-FERNANDO, J.:**

Before this Court is a Petition for *Certiorari*<sup>[1]</sup> under Rule 65 of the 1997 Revised Rules of Civil Procedure assailing the Decision<sup>[2]</sup> dated March 24, 2014 and the Resolution<sup>[3]</sup> dated April 25, 2014 of the National Labor Relations Commission (NLRC), Fifth Division in NLRC NCR Case No. (M) 11-16243-12 NLRC LAC No. (OFW-M) 12-001136-13, entitled "NESTOR J. PLATA, *Complainant-Appellant*, versus MEDLINE PHILIPPINES, INC. and/or FAFALIOS SHIPPING S.A. and/or CAPT. ANGEL J. OSEÑA, *Respondents-Appellees*.", the dispositive portions of which read:

#### ***Decision dated March 24, 2014***

"**WHEREFORE**, premises considered, complainant's Appeal is hereby **PARTLY GRANTED**. The Decision of Labor Arbiter Pablo A. Gajardo, Jr. dated August 30, 2013 is hereby **MODIFIED** in that complainant is entitled to his sickness allowance equivalent to his basic salary for the period of April 27, 2012 to July 15, 2012. Further, complainant is entitled to financial assistance in the amount of TWO HUNDRED THOUSAND PESOS (P200,000.00).

**SO ORDERED.**"<sup>[4]</sup>

#### ***Resolution dated April 25, 2014***

"**WHEREFORE**, the Motion for Partial Reconsideration of complainant is **DENIED** for lack of merit. The Motion for Reconsideration of respondents is **PARTLY GRANTED**. The Decision dated March 24, 2014 is **MODIFIED** to the extent that the sickness allowance awarded to complainant is computed from April 27, 2012 to May 21, 2012.

All other dispositions **STAY**.

**SO ORDERED.**"<sup>[5]</sup>

The facts are:

On November 20, 2012, petitioner Nestor J. Plata (Plata for brevity) filed a Complaint<sup>[6]</sup> for payment of disability benefits, damages, sick leave pay, attorney's fees, and reimbursement of sickness allowance against private respondents Medline Philippines, Inc. (MPI for brevity), Capt. Angel J. Oseña (Oseña for brevity), and/or Fafalos Shipping S.A. (FSSA or PSSA, or collectively, private respondents for brevity).

In his Position Paper<sup>[7]</sup>, petitioner Plata averred that: he was engaged by private respondent MPI for and in behalf of its foreign principal, private respondent PSSA as "2/Cook" for ten (10) months in the latter's vessel, M/V Nueva Fortuna (vessel for brevity); such employment was his eighteenth (18th) in a series of successively renewed contracts he had with private respondent PSSA, a Greek company, since April 12, 1992; he underwent pre-employment medical examination (PEME for brevity) conducted by the company-designated physician prior to his deployment; after being declared fit to work by the company-designated physician, he joined as 2nd cook of the vessel with various kitchen duties; while onboard the vessel, he performed strenuous tasks such as lifting, carrying, pulling, pushing or moving provisions and materials; in the performance of his duties, he was constantly exposed to inhalation and direct contact to fumes, gas, dust and various injurious and harmful chemicals; his work was not confined to the regular eight to five schedule but started early at dawn with broken time work and rest schedule; the extended amount of work spent each day had inevitably caused him tremendous strains and fatigue; adverse conditions of work included exposure to varying temperatures of extreme hot and cold as he moved from the hot cooking and down to the cold food storage and vice versa, harsh sea weather conditions, frequent adjustment to different time zones, all of which were physically and mentally stressful; he performed his duties satisfactorily until he suffered symptoms of his illness in the course of his employment; his Greek superiors were verbally abusive to him but he opted to contain his emotions for the sake of his family; as assistant cook, he was subjected to daily verbal abuse by the Greek Chief Cook who shouted derogatory remarks and vented anger at him for no apparent reason; he experienced difficulty sleeping for several days accompanied by headaches, difficulty in concentration and increased blood pressure; when insomnia persisted, he approached the Chief Mate who advised him to seek the help of their employer, private respondent MPI, but the latter told him to shoulder the medical expenses to be incurred; upon the vessel's arrival in Singapore, he was referred to Khoo Tech Pvat Hospital with the chief complaint of giddiness accompanied by right hand numbness, neck pain, and insomnia; when asked what triggered his symptoms, he merely replied that his family problem was a factor, without mentioning his abusive chief cook for fear that the latter would eventually discover his complaint, and with the hope that he will have a more humane Greek superiors in his next assignment; he was initially diagnosed of Acute Stress Reactive Depression for which he was given several medications; while on his way back to the vessel onboard a tugboat, he collapsed; he was readmitted to the hospital for observation, and later recommended for repatriation; he was repatriated on April 12, 2012 feeling weak with body pain; due to his persistent insomnia, headache, dizziness, abdominal discomfort and body malaise, he was referred to NGC Clinic and later on to Dr. Tomas Bautista for further evaluation and management; he was prescribed Clonazepam (Rivotril); on July 15, 2012, despite being unwell, he was declared fit to

work by the company-designated physician; because his symptoms persisted, he wrote private respondents on August 16, 2012 requesting that he be treated, evaluated, and given his sick wages, but he did not receive any reply; he sent a follow-up handwritten letter dated August 31, 2012 informing private respondents that he was going to secure a second opinion; he thereafter consulted an independent specialist, psychiatrist Dr. Joel Enrico N. Anastacio (Anastacio for brevity) who diagnosed him of Generalized Anxiety Disorder, a mental disorder which limits his daily activities with some directed care; Dr. Anastacio declared him permanently unfit for sea duties as a seaman in any capacity with impediment Grade 1 (120%) based on POEA contract; in the meantime, in his home province, he had a check-up because of hypertension, increased uric acid, and blood sugar and was prescribed Glecoxib, Allopurinol, and Losartan; later on, he received a letter-reply from private respondents dated September 24, 2012 stating that their liability had ceased after he was declared fit to work by the company-designated physician; and, on the basis of the finding of the Dr. Anastacio, he sought payment of his disability benefits from private respondents, but the latter refused to acknowledge their contractual obligation.

For their part, private respondents filed their Position Paper<sup>[8]</sup> asserting that: on March 22, 2012, petitioner Plata was engaged by private respondent MPI in behalf of private respondent FSSA as 2<sup>nd</sup> Cook for the vessel for a period of ten (10) months; on April 9, 2012, petitioner Plata boarded the vessel; based on the e-mail of the Master addressed to the principal, petitioner Plata was unable to sleep for three (3) days and suffered occasional headaches; petitioner Plata's blood pressure and temperature were checked while onboard the vessel and the results were normal; petitioner Plata was given paracetamol; on April 27, 2012, the Vessel arrived in Singapore where petitioner Plata was taken to a physician and was diagnosed to be suffering from hypertension, headache and emotional upset; upon reaching the vessel, petitioner Plata was again very sick so he was brought back to the hospital, where he was given medication while his condition was monitored; thereafter, he was repatriated to the Philippines; private respondents referred petitioner Plata to the company-designated physician and he was diagnosed with hypertension and partner relational problem; he was given oral medications and had regular sessions with a psychiatrist; on May 21, 2012, or 21 days after he was initially diagnosed and treated by the company-designated specialist physicians, petitioner Plata was declared fit to work; based on the final medical report, his blood pressure had been placed under control and that he had reconciled with his wife; on the same date, petitioner Plata signed a Certificate of Fitness to Work in both English and Filipino versions stating therein that he released private respondents from any and all claims, actions, and demands in connection with his being declared fit for sea duty, he recognized the validity of such Certificate, and that said document can be used or pleaded as a bar in any legal proceeding; and, the company-designated physicians signed the Certificate as witnesses.

Thereafter, both parties filed their respective Replies.<sup>[9]</sup>

On August 30, 2013, Labor Arbiter Pablo A. Gajardo, Jr. rendered a Decision<sup>[10]</sup> dismissing petitioner Plata's complaint for lack of merit. According to the Labor Arbiter, the declaration of fitness to work dated May 21, 2012 issued by the company-designated physicians who treated, closely monitored and examined petitioner Plata deserves credence considering the amount of time and effort doctors

gave to monitoring and treating the seafarer's condition. Moreover, evidence showed that "Partner Relational Problem" is not work-related nor work-aggravated, and petitioner Plata was unable to present evidence to prove otherwise except for his bare assertions. Ultimately, the Labor Arbiter ruled that petitioner Plata is not entitled to disability benefits because the company-designated physician issued an assessment declaring him fit for work within the 240-day period under the POEA Standard Employment Contract (POEA-SEC for brevity).

Aggrieved, petitioner Plata filed a Notice of Appeal with Memorandum of Appeal.<sup>[11]</sup>

On March 24, 2014, public respondent NLRC rendered the assailed Decision<sup>[12]</sup> partly granting petitioner Plata's appeal, awarding sickness allowance equivalent to his basic salary from April 27, 2012 to July 15, 2012 and financial assistance in the amount of P200,000.00, taking into consideration petitioner Plata's twenty (20)-year service to private respondents. Public respondent NLRC found that a later declaration by the company-designated physician that petitioner Plata's sickness is not work-related cannot prejudice the latter, considering that he got ill while onboard the vessel and within his 10-month employment, and especially since at the time of his repatriation, his illness was not yet medically declared as not work-related and thus, the presumption under Section 20 A.4 of the 2010 POEA-SEC applies. Therefore, public respondent NLRC reasoned, petitioner Plata is entitled to his sickness allowance pending assessment and declaration by the company-designated physician on the work-relatedness of his condition. However, public respondent NLRC denied petitioner Plata's claim for permanent total disability benefits because he failed to establish that his illness was work-related. Upon evaluation of the Psychiatric Report issued by petitioner Plata's physician, public respondent NLRC observed that it was not only undated but was also unsupported by diagnostic tests and procedures as would adequately refute the normal results of those administered to petitioner Plata at Khoo Teck Pvat Hospital and by NGC Medical Specialist Clinic, Inc..

Unsatisfied, both parties filed their respective Motion for Reconsideration<sup>[13]</sup> and Motion for Partial Reconsideration<sup>[14]</sup> which were partly granted and denied, respectively, by the public respondent NLRC in the assailed Resolution dated April 25, 2014.<sup>[15]</sup> Hence, this Petition for Certiorari raising the following grounds:<sup>[16]</sup>

I.

PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF ITS JURISDICTION IN DENYING THE PETITIONER'S CLAIM FOR FULL DISABILITY BENEFITS AND ILLNESS ALLOWANCE FOR A PERIOD OF 120 DAYS.

II.

PUBLIC RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF ITS JURISDICTION IN NOT AWARDING THE PETITIONER'S CLAIM FOR ATTORNEY'S FES (*sic*).

The petition lacks merit.

In challenging the aforesaid findings of public respondent NLRC, petitioner Plata contends<sup>[17]</sup> that: public respondent NLRC should not have denied his claim for disability benefits just because the medical report he presented does not have supporting documents showing diagnostic tests and procedures administered to him by his own physician; courts take judicial notice of the greater physical and emotional strain experienced by seafarers while doing their job onboard a moving vessel; he worked long hours and was exposed to adverse conditions of work which affected and aggravated his mental condition; Dr. Comising, the company-designated physician is a general surgeon, compared to his doctor of choice, Dr. Anastacio, who is a psychiatrist; the latter is thus in a better position to determine the ability or disability of a seafarer; and, in the absence of a credible fit-to-work assessment from the company-designated physician within the 120/240-day period, the law steps in to consider the disability to be permanent and total.

At the outset, it should be stressed that *certiorari* is a remedy narrow in its scope and inflexible in character. It is not a general utility tool in the legal workshop. *Certiorari* will issue only to correct errors of jurisdiction and not to correct errors of judgment.<sup>[18]</sup> Indeed, for a petition for *certiorari* to prosper, mere abuse of discretion on the part of the public respondent is not enough. It must be grave abuse of discretion as when the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and must be so patent and so gross as to amount to an evasion of a positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law.<sup>[19]</sup>

Under these parameters, this Court finds that the public respondent NLRC did not commit grave abuse of discretion in issuing the assailed Decision and Resolution. In awarding sickness allowance equivalent to his basic salary from April 27, 2012 to May 21, 2012,<sup>[20]</sup> public respondent NLRC was merely enforcing Section 20 (B) of the POEA-SEC which states that:

"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." (Emphasis supplied.)

In this case, it is admitted that petitioner Plata became ill during his term of employment with private respondents, while onboard the vessel. While petitioner Plata alleged in his petition that he was repatriated to the Philippines on April 12, 2012,<sup>[21]</sup> medical records submitted by no less than petitioner Plata himself show that he was admitted to the Khoo Teck Pvat Hospital in Singapore sometime on April 26, 2012,<sup>[22]</sup> while a Medical Certificate from the NGC Medical Specialist Clinic issued by the company-designated physician, Dr. Comising, indicates that he was repatriated to the Philippines on April 27, 2012.<sup>[23]</sup> Obviously, it would be physically