



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

REYNALDO P. CABATAN,
Petitioner,

G.R. No. 219495

Present:

PERLAS-BERNABE, S.A.J.,
Chairperson,
HERNANDO,
ZALAMEDA,
ROSARIO, and
MARQUEZ, JJ.

- versus -

SOUTHEAST ASIA SHIPPING
CORP./ ATTY. ROMEO
DALUSONG and/or MARITIME
MANAGEMENT SERVICES,
Respondents.

Promulgated:

FEB 28 2022

X

X

DECISION

HERNANDO, J.:

This petition for review on *certiorari*¹ seeks to annul and set aside the January 23, 2015 Decision² and July 20, 2015 Resolution³ of the Court of Appeals (CA) in CA-G.R. SP No. 126155, which affirmed the April 26, 2012 Decision⁴ and June 18, 2012 Resolution⁵ of the National Labor Relations Commission (NLRC) in NLRC LAC No. (OFW-M) 10-000897-11.

¹ *Rollo*, pp. 11-49.

² Id. at 53-65. Penned by Associate Justice Samuel H. Gaerlan (now a Member of this Court) and concurred in by Associate Justices Normandie B. Pizarro and Pedro B. Corales.

³ Id. at 67-68.

⁴ CA *rollo*, pp. 59-69. Penned by Commissioner Dolores M. Peralta-Beley and concurred in by Commissioner Mercedes R. Posada-Lacap.

⁵ Id. at 56-57. Penned by Commissioner Dolores M. Peralta-Beley and concurred in by Presiding Commissioner Leonardo L. Leonida and Commissioner Mercedes R. Posada-Lacap.

The Antecedents:

Petitioner Reynaldo P. Cabatan (Cabatan) was employed as an oiler by Southeast Asia Shipping Corp. (SEASCORP) on behalf of its principal, Maritime Management Services (Maritime Management) from 2006 to 2010.⁶ Before deployment, he underwent his Pre-Employment Medical Examination (PEME) and was certified to be fit for sea duty.⁷ On January 30, 2010, he boarded M/V BP Pioneer under a three month contract.⁸

On March 29, 2010, while Cabatan was on his 12-hour duty, the spare parts assigned to one of the generators he was tasked to repair were delivered. He carried the spare parts along with a heavy connecting rod. At that point, the vessel, which had a restricted alley, suddenly swayed due to the big waves. This caused Cabatan to bend and nearly fall to his knees. Then, he felt excruciating pain in his scrotal/inguinal area. Despite feeling pain and numbness in his left leg all the way down, he continued to carry the parts and repaired the generator until he was relieved by another oiler.⁹

After his duty, Cabatan went to his cabin and took a pain reliever. Shortly after, he went to the ship's clinic to have himself checked by the doctor on board. In the Report of Illness¹⁰ by the ship's doctor, the latter advised him to rest until further observation since it may just be due to tiredness. Furthermore, the doctor ruled out hernia and trauma.¹¹

On May 19, 2010, Cabatan was re-examined by the doctor. He still felt pain during prolonged standing or while walking, with numbness of his lower extremity. However, the doctor concluded that this was normal considering his age and was just advised to take pain relievers.¹²

Upon expiration of his contract on May 25, 2010, Cabatan disembarked the vessel at the port of Takoradi, Ghana and was repatriated back to the Philippines. Believing that the pain in his scrotal/inguinal area was normal and, as the doctor had advised, he took a complete rest for about a month.¹³

Eventually, SEASCORP called him for possible deployment. He was sent to Merita Diagnostic Clinic (Merita), the company-accredited clinic, for his PEME. During his examination, Cabatan informed the doctor about the injury

⁶ See Certification of Employment, *id.* at 236.

⁷ *Id.* at 273.

⁸ *Id.* at 217-218.

⁹ *Id.*

¹⁰ *Id.* at 237-239.

¹¹ *Id.* at 218; See Report of Illness, *id.* at 237-239.

¹² *Id.*

¹³ *Id.* at 219.

sustained while on board. Thus, the doctor asked him to get an x-ray of his scrotal/inguinal area and lumbar spine.¹⁴

On July 2, 2010, Merita reported the following findings/recommendations regarding Cabatan's examination:

NOTED: PERINEAL PAIN (WHILE WALKING)
EXTENDING TO MEDIAL ASPECT OF BOTH THIGH
*LUMBO SACRAL X-RAY RESULT:
RETROLESTHESES L2 OVER L3
OSTEODEGENERATIVE CHANGES LS
SACRALIZATION OF L5
ORTHOPAEDIC SURGEON ASSESSMENT:
TO CONSIDER NERVE ROOT COMPRESSION
FOR EMG NCV OF LOWER EXREMEITIES AND MRI OF
LUMBOSACRAL
OTHER REMARKS:
GENITALS (+) PENILE IMPLANT RULE OUT
BULGING MASS – CLEARED BY SURGEON
HYPERTENSION CONTROLLED WITH
MAINTENANCE: MICARDS PLUS 40 MG
ONCE DAILY¹⁵

On July 30, 2010, Cabatan also underwent Magnetic Resonance Imaging (MRI) of the Lumbo-Sacral Spine. The findings were as follows:

1. Central canal and bilateral neural foraminal stenosis, L4-L5 and L5-S1, secondary to posterior disc protrusion, ligamentum flaval thickening and facet arthropathy.
2. Disc bulging, L2-L3 and L3-L4.
3. Lumbar osteophytes with disc desiccations.
4. Posterior annular tears, L4-L5 and L5-S1.
5. Grade I spondylolisthesis, L4/L5.
6. Subcutaneous cyst, left posterior wall of lumbar spine.

x x x x¹⁶

He also underwent EMG NCV which yielded the following results:

Interpretation:

Today's electrodiagnostic examination revealed findings compatible with a mild chronic lumbar radiculopathy involving the L4-5 and L5-S1 spinal roots. Kindly correlate clinically.

x x x x¹⁷

¹⁴ Id.

¹⁵ Id. at 241.

¹⁶ Id. at 242.

¹⁷ Id. at 244.

Cabatan further consulted Dr. Detabali of the De los Santos Hospital who advised him to have L4-S1 Laminectomy and L4-L5 Instrumented Posterolateral Fusion. Due to the costly price of the procedures, Cabatan asked for financial assistance from SEASCORP through its crewing manager, Mr. Aguinaldo, considering that he sustained his injury during his employment. Mr. Aguinaldo promised to relay the request to its principal, Maritime Management, but the request was left unheeded.¹⁸

On August 26, 2010, Cabatan also consulted Dr. David M. Cabatan, Jr. (Dr. Cabatan), an orthopedic and spine surgeon, who made the following findings:

DIAGNOSIS: SPINAL STENOSIS L4-L5 AND L5-S1
GRADE 1 SPONDYLOLISTHESIS, L4-L5

Mr. Reynaldo P. Cabatan is a 54 year old male, seaman, who first consulted the undersigned on August 20, 2010. He complained of greatly diminished standing and walking tolerance secondary to low back pain radiating down the lower extremities of about 6 months duration. This was left sided worse than right and was aggravated by 15 minutes of standing or walking. There was accompanying numbness and paresthesias of the lower extremities. Mr. Cabatan has been on medication and physiotherapy without apparent relief of his symptoms.

On physical examination, Mr. Cabatan walked into the office bent forward and with a limp. There was reproduction of his pain with low back extension and left lateral flexion. He was able to walk on tiptoe and on heels without any difficulty. Trendelenburg test was negative. Nerve root tension signs were absent and Patrick's test was negative. Manual muscle testing revealed no more deficits.

Magnetic resonance imaging (MRI) of the lumbosacral spine revealed a grade 1 spondylolisthesis at L4-L5 causing moderate to severe spinal stenosis. There also were spondylotic changes at L5-S1 and L2-L3 causing mild to moderate stenosis.

Mr. Cabatan has been advised surgical decompression of this spinal stenosis as symptoms have become quite disabling. The planned procedure as a laminectomy from L4-S1 and posterolateral instrumented fusion at L4-L5 due to the spondylolisthesis. Risks and benefits of the surgery were discussed. He is to have a medical and cardiac clearance prior to the surgery.

x x x¹⁹

Dr. Cabatan also estimated the total surgery cost amounting to ₱473,000.00.²⁰

¹⁸ Id. at 220.

¹⁹ Id. at 245.

²⁰ Id. at 246.

On March 1, 2011, Cabatan filed a complaint²¹ against the respondents for permanent and total disability benefits.²²

On the other hand, respondents maintained that during Cabatan's last employment contract, he underwent PEME and was certified fit for sea duty.²³ Upon completion of his contract on May 25, 2010, Cabatan disembarked the vessel. When he arrived in Manila, Cabatan did not report to the manning agency for the mandatory post-employment medical examination, nor request for medical assistance for any injury or illness.²⁴

After almost a year following the termination of his contract, Cabatan suddenly filed a complaint against respondents before the NLRC and claimed for total and permanent disability benefits, moral and exemplary damages, and attorney's fees.²⁵

Ruling of the Labor Arbiter (LA):

In its August 31, 2011 Decision,²⁶ the LA ruled in favor of Cabatan. The dispositive portion thereof reads:

WHEREFORE, foregoing premises considered, respondents Southeast Asia Shipping Corp. and Maritime Management Services, Inc. are hereby directed to pay complainant Reynaldo P. Cabatan, jointly and severally, his permanent and total disability compensation equivalent to \$60,000.00 plus attorney's fees equivalent to 10% of the total judgment award.

All other claims are hereby ordered dismissed for lack of merit.

SO ORDERED.²⁷ (Emphasis in the original)

The LA found that Cabatan suffered an injury while performing his duties as an oiler. Being a work-related injury, it held that it must be compensable. As to respondents' contention of Cabatan's failure to comply with the mandatory three-day reporting requirement for a post-employment examination, it found the same untenable. Cabatan was repatriated not because of a medical condition but due to the expiration of his contract. Thus, the three-day mandatory

²¹ Id. at 275-276.

²² Id. at 222.

²³ Id. at 273.

²⁴ Id. at 250.

²⁵ Id.

²⁶ Id. at 149-166.

²⁷ Id. at 165-166.

reporting requirement under Section 20 (B) (2) and (3) of the Philippine Overseas Employment Administration Standard Employment Contract (POEA SEC) did not apply in Cabatan's case.²⁸

Ruling of the National Labor Relations Commission:

Aggrieved, respondents filed an appeal²⁹ before the NLRC. They argued that Cabatan failed to prove that he suffered a work-related injury during the term of his employment which rendered him permanently and totally disabled. There was no accident on board as the Report of Illness reveals that Cabatan experienced scrotal/inguinal discomfort while lifting a heavy object. Moreover, while he complained of scrotal/inguinal discomfort, Cabatan is claiming for disability compensation for an alleged injury on his back and/or spinal region.

Respondents also pointed out that if Cabatan was really suffering from an illness/injury, he should have sought medical assistance immediately upon repatriation and that he was not really repatriated due to medical reasons. Lastly, Cabatan's failure to report to the company-physician within three days from arrival for post-employment examination bars him from claiming any disability benefits.

In its April 26, 2012 Decision,³⁰ the NLRC reversed and set aside the LA's Decision and dismissed Cabatan's claim for disability benefits for lack of merit. It found Cabatan's assertion, that he suffered an injury while on board and felt pain on his left leg to his foot, unsupported by evidence. What was reflected on record is the discomfort on his scrotal and inguinal area. Moreover, a seafarer who claims to be medically infirm must be examined by the company-designated physician within three days from repatriation. Thus, Cabatan's failure to report within the mandatory period without justifiable cause resulted in the forfeiture of his right to claim compensation and disability benefits under the POEA-SEC.

Cabatan filed a motion for reconsideration³¹ which was later denied by the NLRC in its June 18, 2012 Resolution.³²

Ruling of the Court of Appeals:

Aggrieved, Cabatan filed a petition for *certiorari*³³ before the CA. In his petition, Cabatan averred that Section 20(B)(3) which requires the three-day mandatory reporting requirement only covers seafarers who are medically

²⁸ Id. at 159-165.

²⁹ Id. at 113-147.

³⁰ Id. at 59-69.

³¹ Id. at 70-96.

³² Id. at 56-57.

³³ Id. at 3-54.

repatriated. Since he was repatriated due to the completion of his contract, he is entitled to permanent and total disability benefits upon the company-accredited clinic's finding that he was unfit for sea duty. The controlling factor in claiming disability benefits is that the seafarer suffers a work-related injury or illness during the term of his contract. Thus, his failure to report to the company-designated physician for post-employment examination shall not bar him from claiming disability benefits.³⁴

Cabatan also claimed that he substantially proved the injury in his scrotal and inguinal area through the Report of Illness by the ship doctor which stated that he experienced pain while lifting a heavy object during the performance of his duties as an oiler. However, since the ship doctor did not recommend him for medical attention, Cabatan explained that he no longer went to the company-designated physician for a post-employment medical examination. He only found out about his disability when the company-designated physician eventually declared him to be unfit for sea duty. Consequently, his disability became permanent and total.

In its January 23, 2015 Decision,³⁵ the CA denied Cabatan's appeal. It held that Cabatan's failure to comply with the mandatory reporting requirement resulted in the forfeiture of his right to claim compensation and benefits for injury or illness. The *fallo* of the CA's judgment reads:

WHEREFORE, premises considered, the instant petition is **DENIED** for lack of merit.

SO ORDERED.³⁶

Discontented, Cabatan filed a Motion for Reconsideration³⁷ but it was later denied by the CA in its July 20, 2015 Resolution.³⁸

Issue

Hence, the present petition for review on *certiorari* raising the following errors:

1. The Honorable Court of Appeals blatantly erred when it failed to consider the "REPORT OF ILLNESS" of the Ship's doctor indicating that petitioner's illness of "Spondylolisthesis" was contracted during the petitioner's term of employment with respondents.

³⁴ Id. at 3-53.

³⁵ *Rollo*, p. 53-65.

³⁶ Id. at 64.

³⁷ Id. at 72-83.

³⁸ Id. at 67-68.

2. The Honorable Court of Appeals seriously erred when it ruled that the 3-day reporting requirement under Section 20 (B) paragraph 3 of the 2000 POEA-SEC is an absolute rule, contrary to existing jurisprudence.
3. Petitioner is entitled to disability compensation for the injury/illness suffered during the term of his employment with respondents pursuant to Section 20 (B) paragraph 6 of the 2000 POEA-SEC, thus, he is entitled to permanent total disability under the Labor Code concept of permanent total disability consistently applied by the Honorable Supreme Court to Filipino seamen on-board ocean-going vessels. Likewise, petitioner is entitled to 10% of the award for and as attorney's fees.³⁹

Our Ruling

The petition is without merit.

Generally, a petition for review under Rule 45 is only limited to questions of law since the Court is not a trier of facts and it is beyond its function to evaluate the evidence already considered in the proceedings below.⁴⁰ One of the recognized exceptions is when the findings of the LA and NLRC on one hand, and the CA, on the other, are conflicting. Such is the case bar. Thus, in the exercise of this its equity jurisdiction, this Court is compelled to re-evaluate the factual issues and re-examine the questioned findings.⁴¹

It is undisputed that Cabatan's employment contract with SEASCORP executed on January 30, 2010 is governed by the 2000 Amended Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Ships (2000 POEA-SEC). Paragraph 3, Section 20 (B) thereof regarding disability benefits provides:

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

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 by the company-designated physician or the degree of permanent disability has been assessed by the company-designated physician but in no case shall it exceed one hundred twenty (120) days.

³⁹ Id. at 34.

⁴⁰ See *Miro v. Vda. de Erederos*, 721 Phil. 772, 785 (2013).

⁴¹ *Reyes v. Glaucoma Research Foundation, Inc.*, 760 Phil. 779, 790 (2015), citing *Legend Hotel (Manila) v. Reahyo*, 691 Phil. 226, 237 (2012).

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. (Emphasis supplied)

X X X X

Thus, in order to claim compensability under the forgoing section, it is required that the seafarer must have: (1) suffered a work-related illness or injury during the term of his contract; and (2) submitted himself to a mandatory post-employment medical examination within three (3) working days upon his arrival. As explained in *Jebsens Maritime, Inc. v. Undag*,⁴² the purpose of the three-day mandatory reporting requirement is to enable the company-designated physician to ascertain if the seafarer's injury or illness is work-related, *viz.*:

The rationale behind the rule can easily be divined. **Within three days from repatriation, it would be fairly easier for a physician to determine if the illness was work-related or not.** After that period, there would be difficulty in ascertaining the real cause of the illness.

To ignore the rule would set a precedent with negative repercussions because it would open the floodgates to a limitless number of seafarers claiming disability benefits. **It would certainly be unfair to the employer who would have difficulty determining the cause of a claimant's illness considering the passage of time. In such a case, the employers would have no protection against unrelated disability claims.**⁴³

The same doctrine was applied in *Wallem Maritime Services, Inc. v. Tanawan*⁴⁴ (*Wallem*), *InterOrient Maritime Enterprises, Inc. v. Creer III*⁴⁵ (*InterOrient*), *Scanmar Maritime Services, Inc. v. De Leon*⁴⁶ (*Scanmar*), and *Manila Shipmanagement & Manning, Inc. v. Aninang*⁴⁷ (*Manila*).

In *Wallem*,⁴⁸ the seafarer was repatriated due to a foot injury and was examined by the company physician within the three-day reporting requirement; however he claimed for disability benefits for both foot and eye

⁴² *Jebsens Maritime, Inc. and/or Alliance Marine Services, Ltd. v. Undag*, 678 Phil. 938 (2011).

⁴³ *Id.* at 945.

⁴⁴ 693 Phil. 416 (2012).

⁴⁵ 743 Phil. 164 (2014).

⁴⁶ 804 Phil. 279 (2017).

⁴⁷ 824 Phil. 916 (2018).

⁴⁸ *Supra*.

injuries. Under such facts, the Court denied his claim for disability benefits due to the eye injury for his failure to report the same to the company physician within three days from repatriation.

In *InterOrient*⁴⁹ and *Scanmar*,⁵⁰ the mariner also failed to submit himself to a post-employment medical examination within three days from disembarkation. The Court held that non-compliance with the three-day reporting requirement bars his claim for disability benefits.

In *Manila*,⁵¹ We also denied the seafarer's claim for disability benefits absent any showing that he presented himself before the company three days upon disembarkation. This Court further clarified that the fact that a seafarer was not repatriated for medical reasons will not exempt him from compliance with the mandatory three-day reporting requirement.

As pointed out by Cabatan, the three-day mandatory reporting requirement is not absolute. In *Wallem Maritime Services v. National Labor Relations Commission*,⁵² the Court explained that if the seafarer is physically incapacitated from complying with the requirement for being terminally ill and is in need of immediate medical attention, the mandatory reporting period may be dispensed with.

However, the three-day reporting requirement is not absolute as correctly pointed out by Cabatan. Paragraph 3, Section 20 (B) of the POEA-SEC also provides that a seafarer who is physically incapacitated to report for a post-employment examination may send a written notice to its agency within the same period. In *Status Maritime Corp. v. Spouses Delalamon*,⁵³ We recognized the deteriorating condition of the seafarer who cannot be reasonably expected to report to his employer's office considering the physical strain caused by his illness. Moreover, the employer was already notified of the failing health condition of the seafarer upon finding out he was diagnosed with a serious illness abroad.

Based on the foregoing, Cabatan's claim for disability benefits and other monetary awards prayed for by him must be denied. It is evident that Cabatan was repatriated due to the expiration of his contract. Regardless of the cause of his repatriation, he was required to submit himself to a post-employment

⁴⁹ Supra note 45.

⁵⁰ Supra note 46.

⁵¹ Supra note 47.

⁵² See 376 Phil. 738, 749 (1999).

⁵³ See 740 Phil. 175, 191-192 (2014).

medical examination by the company-designated physician within three working days upon his return in order to ascertain if he was really suffering from a work-related injury or illness. Cabatan may only be excused from such requirement if he was physically incapacitated to do so. However, such is not the case at bar.

Moreover, in the complementary case of *Maunlad Trans Inc. v. Isidro*,⁵⁴ We held:

While the facts, as found by the CA and the NLRC, point to the existence of a knee injury which respondent suffered in 2009, during the term of his employment contract and while on board the vessel, **such knee injury was not the ailment complained of by respondent upon repatriation to the Philippines.** x x x⁵⁵

Here, Cabatan complained of pain in the scrotal/inguinal area while on board which is why the initial diagnosis by the ship doctor was *epididymorchitis*. Aside from his bare assertion, there is nothing on record to show that he felt pain or numbness on his lower extremities while on board or that the ship doctor concluded that he contracted *spondylolisthesis*. It was only on July 2010 or after his repatriation that the said findings were made by a doctor, which is well-beyond the three-day mandatory reporting period.

While this Court commiserates with petitioner's plight, non-compliance with the requirements set forth in Section 20 (B), paragraph (3) of the 2000 POEA-SEC renders it difficult to ascertain if his injury or illness was work-related.


In view of the foregoing, the Court finds no need to discuss the other issues raised by Cabatan.

WHEREFORE, the instant Petition for Review on *Certiorari* is **DENIED** for lack of merit. The January 23, 2015 Decision and July 20, 2015 Resolution of the Court of Appeals in CA-G.R. SP No. 126155 are hereby **AFFIRMED**.

⁵⁴ 814 Phil. 49 (2017).


⁵⁵ Id. at 57.

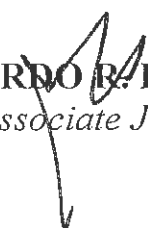
SO ORDERED.


RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson



RODIL V. ZALAMEDA
Associate Justice


RICARDO B. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice


ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice