



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 6, 2022, which reads as follows:

“G.R. No. 260460 (Nissan Car Lease Phils., Inc., *Petitioner* vs. National Labor Relations Commission, Labor Arbiter Claradel C. Javier-Rotor, and Diana Marquez Vivo, *Respondents*) – Considering the allegations, issues, and arguments adduced in the Petition for Review on *Certiorari*,¹ the Court resolves to **DENY** it for failure to show that the Court of Appeals (CA) committed any reversible error in its assailed Decision² dated January 25, 2021 and Resolution³ dated February 28, 2022 in CA-G.R. SP No. 158620. The CA correctly held that the National Labor Relations Commission (NLRC) did not commit grave abuse of discretion when it found that Nissan Car Lease Phils., Inc. (petitioner) terminated Diana Marquez Vivo’s (respondent) employment illegally.⁴

To begin with, it bears stressing that the Court is not a trier of facts such that it generally does not entertain questions of fact in a petition for review on *certiorari*.⁵ Moreover, as a rule, the factual findings of quasi-judicial agencies such as the NLRC are accorded not only respect but also finality because of the special knowledge and expertise gained by these agencies from handling matters under their specialized jurisdiction.⁶ Considering the foregoing, it is evident, even at side glance, that the Petition for Review on *Certiorari*⁷ should be denied outright. The labor tribunals and the CA were unanimous in finding that respondent’s dismissal from employment is illegal as petitioner’s loss of trust and confidence against respondent was not founded on clearly established facts. Respondent’s alleged drug use had been negated by the second drug test and the

¹ *Rollo*, pp. 3-24.

² *Id.* at 26-39. Penned by Associate Justice Gabriel T. Robeniol and concurred in by Associate Justices Edwin D. Sorongon and Carlito B. Calpatura.

³ *Id.* at 41-42. Penned by Associate Justice Gabriel T. Robeniol and concurred in by Associate Justices Edwin D. Sorongon and Carlito B. Calpatura.

⁴ *Id.* at 38.

⁵ *Every Nation Language Institute (ENLI) v. Dela Cruz*, G.R. No. 225100, February 19, 2020.

⁶ *Monsanto Philippines, Inc. v. National Labor Relations Commission*, G.R. Nos. 230609-10, August 27, 2020.

⁷ *Rollo*, pp. 3-24.

subsequent hair test which confirmed that respondent is negative for drug use.⁸

Hence, respondent's dismissal from employment is illegal.⁹

Anent the award for damages, it must be stressed that not every illegally dismissed employee is entitled to damages, as it is only recoverable when the dismissal is attended by bad faith or fraud or constitutes an act oppressive to labor.¹⁰ Exemplary damages, on the other hand, is only granted "when the dismissal was done in a wanton, oppressive, or malevolent manner."¹¹ In this case, respondent's dismissal, although considered illegal, was neither without basis nor done in a malevolent manner since petitioner dismissed respondent based on an honest but mistaken belief that it had a just cause to dismiss her from employment for her alleged drug use. Petitioner's act having a semblance of reason, the Court holds respondent not entitled to either moral damages or exemplary damages.

Also, the Court imposes legal interest on the monetary awards at the rate of six percent (6%) *per annum* reckoned from the finality of this Resolution until its full payment.

Lastly, the petition suffers from technical infirmities or defects which further warrants its denial, *viz.*: (1) failure to submit the soft copy of the petition as required under the Rules on E-Filing (A.M. No. 10-3-7-SC) and the Efficient Use of Paper Rule (A.M. No. 11-9-4-SC); and (2) failure to state the material dates of receipt of the assailed decision and filing of the motion for reconsideration in violation of Section 4(b), Rule 45 of the Rules of Court.

WHEREFORE, the Decision dated January 25, 2021 and Resolution dated February 28, 2022 in CA-G.R. SP No. 158620 are **AFFIRMED** with modification in that: (1) the award for moral and exemplary damages are **DELETED**; and (2) the total monetary award of the NLRC in favor of respondent Diana Marquez Vivo shall earn legal interest at the rate of six percent (6%) *per annum* from the date of finality of this Resolution until full satisfaction.

SO ORDERED."

By authority of the Court:

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
GER
01/14/22

⁸ Id. at 47-48.

⁹ *Malcaba v. ProHealth Pharma Philippines, Inc.*, 832 Phil. 460 (2018).

¹⁰ See *Bayview Management Consultants, Inc. v. Pre*, G.R. No. 220170, August 19, 2020.

¹¹ Id., citing *Symex Security Services, Inc. v. Rivera, Jr.*, 820 Phil. 653, 674 (2017).

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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **June 22, 2022**, which reads as follows:*

“G.R. No. 257945 (Antonio H. Cruz, Jr. v. PAL Maritime Corporation/Ocean Germany GMBH/Sonrisa N. David). – After a careful review of the records, the Court resolves to **DENY** the petition for review on *certiorari* filed by petitioner Antonio H. Cruz, Jr. (petitioner), and **AFFIRM with MODIFICATION** the Resolutions dated March 18, 2021¹ and November 3, 2021² of the Court of Appeals (CA) in CA-G.R. SP No. 163786. Petitioner failed to sufficiently show that the CA committed reversible error in finding that he is not entitled to total and permanent disability benefits.

A seafarer’s entitlement to disability benefits for work-related illness or injury is governed by the Labor Code, its implementing rules and regulations, the Philippine Overseas Employment Administration-Standard Employment Contract (POEA-SEC), and prevailing case law.³

In this regard, Section 20(A) of the 2010 POEA-SEC provides that the company-designated physician has an obligation to arrive at a definite assessment of the seafarer’s fitness or degree of disability within a period of 120 days from repatriation. If a doctor appointed by the seafarer disagrees with the assessment, a third doctor may be agreed jointly between the employer and the seafarer. The third doctor’s decision shall be final and binding on both parties.

In *Bitco v. Crossworld Marine Services, Inc.*,⁴ the Court held that it is a settled rule that referral to a third doctor is mandatory, and the seafarer’s failure to abide thereby is a breach of the POEA-SEC which makes the assessment of the company-designated physician final and binding.

¹ *Rollo*, pp. 96-105; penned by Associate Justice Apolinario D. Bruselas, Jr. with Associate Justices Pablito A. Perez and Raymond Reynold R. Lawigan concurring.

² *Id.* at 59-60.

³ *Pastrana v. Bahia Shipping Services*, G.R. No. 227419, June 10, 2020.

⁴ G.R. No. 239190, February 10, 2021.

Here, it is undisputed that the medical assessments of the company-designated physician and the personal doctors of petitioner were conflicting, yet petitioner did not ask respondents PAL Maritime Corporation/Ocean Germany GMBH/Sonrisa N. David for a referral to a third doctor. In the recent case of *Reyes v. Jepsens Maritime, Inc.*,⁵ the Court reiterated that the initiative for referral to a third doctor should come from the employee. He/she must actively or expressly request for it. His/her request or notification triggers the company's burden of initiating the process of referral to a third doctor commonly agreed upon between the parties.

Conversely, petitioner argues that the third doctor rule does not apply when, as in this case, the company-designated physician failed to issue a final, definitive, and complete assessment within the 120/240-day period.⁶ The Court is not convinced.

The records show that the company-designated physician issued a final report on February 19, 2018 or 118 days from the time that petitioner was medically repatriated on October 24, 2017. The company-designated physician declared petitioner fit to resume sea duties with medications. He stated that the results of petitioner's laboratory examinations were already at an acceptable level. Petitioner's Coronary Artery Disease, Single Vessel, Hypertension, and Diabetes Mellitus Type 2 were controlled; while his Cerebro Vascular Disease, Right Basal Ganglia was stable. The medical assessment of the company-designated physician is valid, final, and definitive as it clearly indicates the seafarer's medical condition.⁷

More importantly, the company-designated physician noted in his final report that petitioner claims that "he was asymptomatic for the past four (4) weeks and is willing to go back to his previous job assignment."⁸ Petitioner did not deny that he made this claim to the company-designated physician. He also did not refute that he sent a text message⁹ to the company asserting that he is feeling medically and mentally fit and asking for employment.

In fine, considering that petitioner breached the POEA-SEC, the findings of the company-designated physician should prevail. It is also the company-designated physician who monitored, examined, and treated petitioner for several months, compared to petitioner's doctors who only saw him once.

Meanwhile, conformably with *Nacar v. Gallery Frames*,¹⁰ the assailed Decision of the CA must be modified in that the financial assistance due to

⁵ G.R. No. 230502, February 15, 2022.

⁶ Id. at 41.

⁷ Id. at 219-220.

⁸ Id. at 221.

⁹ Id. at 371.

¹⁰ 716 Phil. 267 (2013).

petitioner in the amount of US\$4,000.00 or its Philippine Peso equivalent at the time of payment shall be subject to legal interest at the rate of six percent (6%) *per annum* from the finality of this Resolution until fully paid.

WHEREFORE, the petition for review on *certiorari* is **DENIED** for lack of merit. The Resolutions dated March 18, 2021 and November 3, 2021 of the Court of Appeals in CA-G.R. SP No. 163786 are **AFFIRMED with MODIFICATION** in that the financial assistance due to petitioner in the amount of US\$4,000.00 or its Philippine Peso equivalent at the time of payment shall earn legal interest at the rate of six percent (6%) *per annum* from the finality of this Resolution until full satisfaction.

SO ORDERED.”

By authority of the Court:

MisPDCBatt
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Division Clerk of Court
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