Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **March 1, 2023** *which reads as follows:*

"G.R. No 255654 (*Lino T. Corpuz v. BSM Crew Service Centre Philippines, Inc., Bernhard Schulte Shipmanagement PTE. LTD. and/or Capt. Willie G. Mangalino*).—Petitioner Lino T. Cruz was hired by respondent BSM Crew Service Centre Philippines, Inc. to work as Master on board the vessel, Sinochart Beijing, for a period of six months with a monthly salary of US$1,934.00.[1]

On August 11, 2015, petitioner was conducting a briefing with the entire crew of the vessel in preparation for a fire and safety drill when he experienced dry throat and his voice turned hoarse. Since petitioner was almost inaudible, the Chief Mate told him to get some rest.

The next day, petitioner was examined in a medical facility in Incheon, South Korea. Petitioner complained of itchy leg and throat inflammation. The doctor diagnosed petitioner with Dermatitis and Tonsil Hyperthrophy. Petitioner was given an ointment to treat the Dermatitis and was advised to undergo surgery for the Tonsil Hyperthrophy. Thereafter, petitioner was declared "fit for normal work now." Thus, petitioner rejoined the vessel and continued to discharge his functions.[2]

However, petitioner's throat condition worsened. The CT scan on his neck revealed that he has "55mm sized poor enhancing mass in Rt. Palatine tonsil; -->DDx. Neoplastic Disorders such as Lymphoma. Lymphoepithelioma, carcinoma confirm. Abscess, less likely; x x x."[3]

On October 2, 2015, petitioner underwent a Magnetic Resonance Imaging of the neck, and the result was: "Squamous cell ca, more likely."[4]

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[1] *Rollo*, pp. 48-49.
[2] Id. at 49.
[3] CA *rollo*, p. 75.
[4] Id. at 76.

Thus, on October 10, 2015, petitioner was repatriated and was referred to the company-designated physician, who in turn referred him to the Cardinal Santos Medical Center for "punch biopsy, tonsillar mass, right." Petitioner was diagnosed with "Tonsillar Mass, right; Rule Out Malignancy." Consequently, petitioner underwent chemotherapy.[5]

On November 9, 2015, the company-designated physician opined that petitioner's illness was not work-related.

On January 18, 2016, the company doctor issued a Medical Report stating the final diagnosis on petitioner as "Diffuse Large B Cell Lymphoma, Right Tonsil; S/P Right Tonsillar Punch Biopsy."[6]

After surgery and four months of chemotherapy, the company doctor discontinued petitioner's medical treatment, without however, issuing a disability assessment. Thus, petitioner was compelled to seek treatment from his personal doctor, Dr. May S. Donato-Tan (Dr. Tan) at the Philippine Heart Center.[7] After a series of laboratory tests and examinations, Dr. Tan issued a Medical Certificate[8] dated April 4, 2016, declaring petitioner to be permanently disabled from performing his job effectively as a seafarer.

On April 20, 2016, petitioner filed a Complaint[9] before the National Labor Relations Commission (NLRC), praying for payment of total and permanent disability benefits, damages and attorney's fees.

Ruling of the Labor Arbiter

On July 29, 2016, the arbiter ruled in favor of petitioner by awarding him a Grade 1 disability rating under the Philippine Overseas Employment Administration Standard Employment Contract (POEA-SEC). The *fallo* of the Decision[10] reads:

> **WHEREFORE**, BSM Crew Service Centre Phils., Inc. and Bernhard Schulte Shipmanagement (Singapore) PTE Ltd. [a]re hereby ordered to pay in solidum the disability benefit of complainant in the amount of US$60,000.00 or in its Philippine Peso equivalent. They are also ordered to pay complainant attorney['s] fees equivalent to 10% of the total monetary award.
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> SO ORDERED.[11]

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[5] Id. at 83.
[6] Id. at 84.
[7] *Rollo*, p. 51.
[8] Id. at 85-86.
[9] CA *rollo*, pp. 34-35.
[10] Id. at 156-162.
[11] Id. at 161. Penned by Labor Arbiter Michelle P. Pagtalunan.

In arriving at the conclusion that petitioner's ailment is compensable, the arbiter applied Section 20(A), paragraph 4 of the 2010 Amended Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Ships, which provides that those illnesses not listed in Sec. 32 of this Contract are disputably presumed as work-related. Although petitioner's illness is not listed under Sec. 32 of the POEA-SEC, the arbiter found it fitting to award him a grade 1 disability benefit since his disability barred any chance of having a gainful employment as a seafarer.[12] Petitioner's claim for attorney's fees was likewise granted as petitioner was forced to litigate to protect his rights.[13] The claim for damages, was, however denied for lack of evidence.[14]

Aggrieved, respondents went to the NLRC to question the award.

Ruling of the National Labor Relations Commission

In its October 28, 2016 Decision,[15] the NLRC reversed the arbiter's Decision and dismissed the complaint on the ground of petitioner's failure to substantiate the claim that the illness is work-related. His work as Master did not entail exposure to hazardous materials or chemicals that may have caused or aggravated his illness. The decretal portion of the NLRC Decision reads:

> **WHEREFORE**, premises considered, respondents' appeal is **GRANTED** and the July 29, 2016 Decision of Labor Arbiter Michelle P. Pagtalunan is **REVERSED**.
>
> Accordingly, the award to complainant Lino Tilos Cruz of total and permanent disability benefits and attorney's fees are deleted for lack of merit.
>
> **SO ORDERED**.[16] (Emphasis in the original)

Petitioner's motion for reconsideration was denied in a Resolution[17] dated December 22, 2016, prompting him to elevate the case via a Petition for *Certiorari*[18] before the CA.

Ruling of the Court of Appeals

In a Decision,[19] dated October 7, 2019, the appellate court found no grave abuse of discretion on the part of the NLRC in dismissing the complaint

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[12] Id. at 160.
[13] Id. at 161.
[14] Id. at 160-161.
[15] Id. at 222-234. Penned by Presiding Commissioners Grace E. Maniquiz-Tan and concurred in by Commissioners Dolores M. Peralta-Beley and Mercedes R. Posada-Lacap.
[16] Id. at 233-234.
[17] Id. at 256-258.
[18] Id. at 4-33.
[19] *Rollo*, pp. 48-63. Penned by Associate Justice Eduardo B. Peralta, Jr. and concurred in by Associate Justices Ramon M. Bato, Jr. and Ruben Reynaldo G. Roxas.

for disability benefits. It observed that tonsil cancer is not an occupational disease, nor was petitioner's illness aggravated by his working conditions as Master while on board Sinochart Beijing. There was no reasonable connection between his duties as Master and his disease.

The CA also declared petitioner's complaint to be premature in view of his failure to comply with the POEA-SEC conflict resolution procedure regarding the third physician referral, considering that the findings of Dr. Tan differed with that of the company-designated doctor. The dispositive portion of the CA Decision reads:

> **WHEREFORE**, by reason of the foregoing premises, the instant Petition for Certiorari is **DENIED** for lack of merit.
>
> **SO ORDERED.**[20]

Hence, this appeal.

Petitioner insists that his ailment developed while he was on-board Sinochart Beijing, hence, work-related. Moreover, his exposure to harsh conditions and the perils of the sea, as well as severe stress while being away from his family, and fatigue due to long hours of work onboard the vessel, aggravated his medical condition.

Meanwhile, respondents reiterate the ruling of the CA that petitioner's illness is not work- related and is not an occupational disease under the POEA-SEC, thus, not compensable.

Issue

For the Court's resolution is the issue of whether petitioner was able to substantiate the claim that tonsil cancer is work-related.

Our Ruling

We deny the instant petition.

Whether petitioner's ailment is compensable is essentially a factual issue. "As a general rule, only questions of law raised *via* a petition for review under Rule 45 of the Rules of Court are reviewable by this Court. Factual findings of administrative or quasi-judicial bodies, including labor tribunals, are accorded much respect by this Court as they are specialized to rule on matters falling within their jurisdiction especially when these are supported by substantial evidence."[21] However, a relaxation of this rule is made permissible by this Court in the presence of recognized exceptions one of

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[20] Id. at 63.
[21] *Reyes v. Global Beer Below Zero, Inc.*, 819 Phil. 483, 493 (2017).

which is "when the findings of fact and conclusions of law of the Labor Arbiter or the NLRC are inconsistent with those of the CA."[22] In the present case, the LA and the CA have opposing views.

Petitioner failed to establish a reasonable nexus between his work as Master of the vessel and tonsil cancer

At the outset, it must be emphasized that as early as 2013, the Court has already settled in the case of *Transocean Ship Management (Phils.), Inc. v. Vedad*,[23] that tonsil cancer or tonsillar carcinoma is, indeed, not work-related. In view of this, it is imperative upon petitioner to establish by substantial evidence that his cancer developed or was aggravated by work-related causes. However, even the CA conceded that there is absolutely no showing in the records as to how petitioner's nature of work caused or contributed to the aggravation of his illness.

Indeed, an examination of the records reveals that there is no proof of a clear causal connection between petitioner's work as Master, and the disease he contracted in the course of his employment with respondents. Neither is there a contrary finding from his own doctor. The Court notes that in the Medical Certificate[24] issued by petitioner's physician, Dr. Tan merely described the nature and extent of petitioner's illness and concluded that as a consequence of his ailment, petitioner will no longer be able to perform his job effectively as a seafarer. There is no indication whatsoever that petitioner's cancer was brought about by his employment as Master on board respondents' vessel. In the absence of any duly medically proven work-connection, petitioner cannot be accorded disability benefits.

We are not unmindful of the rule in Sec. 20 of the POEA Standard Contract which provides that those illnesses not listed under Sec. 32 are disputably presumed as work-related. However, Sec. 20 should be read together with Sec. 32-A on the conditions to be satisfied for an illness to be compensable, to wit:

> For an occupational disease and the resulting disability or death to be compensable, all the following conditions must be established:
>
> 1. The seafarer's work must involve the risk described herein;
> 2. The disease was contracted as a result of the seafarer's exposure to the described risks;

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[22] *Aro v. National Labor Relations Commission*, 683 Phil. 605, 612 (2012).
[23] 707 Phil. 194, 206 (2013).
[24] CA *rollo*, pp. 85-86.

3. The disease was contracted within a period of exposure and under such other factors necessary to contract it; and
4. There was no notorious negligence on the part of the seafarer.[25]

Moreover, it has been repeatedly held that "the claimant must not merely rely on the disputable presumption, but must be able to present no less than substantial evidence to support [the] claim. Substantial evidence is more than a mere scintilla. It must reach the level of relevant evidence that a reasonable mind might accept as sufficient to support a conclusion."[26]

In this case, the NLRC and the CA observed that petitioner's duties and responsibilities as Master entailed administration and/or management of the vessel, the crew and its cargo. Admittedly, petitioner was the highest authority in the vessel. As such, it can be safely presumed that his job simply involved giving of orders or directives to the staff and crew. There was not even a claim that he performed strenuous physical tasks on a daily basis. We therefore cannot fathom how petitioner was exposed to hazardous substances when his principal function was to manage the ship.

Indeed, petitioner was unable to present substantial evidence to show that his work conditions caused, or at the least increased the risk of contracting his illness. Neither was he able to prove that his illness was pre-existing and that it was aggravated by the nature of his employment. Sans any substantiation that petitioner contracted the disease as a result of his exposure to harmful substances, such claim remains speculative.

While the Court adheres to the principle of liberality in favor of the seafarer in construing the POEA-SEC, it cannot allow claims for compensation based on surmises. When the evidence presented then negates compensability, the claim must fail, lest, it causes injustice to the employer.[27]

Likewise, the Court cannot sustain petitioner's asseveration that he is considered to be totally and permanently disabled because the company physician failed to declare him fit or unfit for sea duties within the 120 or 240 day-period allowed by law.

On this score, We find it fitting to echo Our pronouncement in *Bright Maritime Corporation v. Racela*:[28]

Clearly, the mere fact that a seafarer's disability exceeded 120 days, by itself, is not a ground to entitle him to full disability benefits. **Such should be read in relation to the provisions of the POEA Standard Employment Contract which, among others, provide that an illness should be work-**

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[25] *Castillon v. Magsaysay Mitsui OSK Marine, Inc.* G.R. No. 234711, March 2, 2020.
[26] *Talosig v. United, Philippine Lines, Inc.*, 739 Phil. 774, 783 (2014).
[27] *Ayungo v. Beamko Shipmanagement Corporation*, 728 Phil. 244, 256 (2014).
[28] G.R. No. 239390, June 3, 2019.

> **related. Without a finding that an illness is work-related, any discussion on the period of disability is moot.**[29] (Emphasis supplied)

Referral to a third doctor does not apply to disputes pertaining to the work-relatedness of the disease

However, We do not agree with the appellate court's ratiocination that petitioner's complaint is premature in view of his failure to comply with the POEA-SEC conflict resolution procedure regarding the third physician referral. This Court clarified in *Balbarino v. Pacific Ocean Manning, Inc.*[30] that the provision requiring referral to a third physician does not apply to disputes pertaining to the work-relatedness of the disease, thus:

> As a final point, we deem it necessary to distinguish the present case from *Philippine Hammonia Ship Agency, Inc. v. Dumadag* in order to avoid confusion in the application of the POEA-SEC. In that case, we held that under Section 20(8)(3) of the POEA-SEC, referral to a third physician in case of contrasting medical opinions (between the company-designated physician and the seafarer-appointed physician) is a mandatory procedure that must be expressly requested by the seafarer. As a consequence of the provision, the company can insist on its disability rating even against a contrary opinion by another physician, unless the seafarer signifies his intent to submit the disputed assessment to a third physician. **We clarify, however, that Section 20(B)(3) refers only to the declaration of fitness to work or the degree of disability. It does not cover the determination of whether the disability is work-related.** There is nothing in the POEA-SEC which mandates that the opinion of the company-designated physician regarding work-relation should prevail or that the determination of such relation be submitted to a third physician.
>
> It bears emphasis that, in the present case, it is not disputed that Obrero's illness is permanent in nature. **The only issue here is work-relatedness. The non-referral to a third physician is therefore inconsequential.** x x x[31] (Emphasis supplied)

All told, absent of any substantial proof of the causal connection between the disease of petitioner and his work, this Court cannot grant him disability benefits based on mere presumptions.

WHEREFORE, the instant Petition is **DENIED.**

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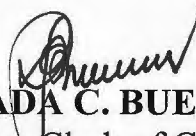
29 Id.
30 G.R. No. 201580, September 21, 2020, citing *Leonis Navigation Co. Inc. v. Obrero*, 794 Phil. 481, 494-495 (2016).
31 Id.

SO ORDERED."

By authority of the Court:



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