

FIRST DIVISION

**BANDILA MARITIME G.R. No. 171984
SERVICES, INC. and/or
TOKOMARU KAIUN CO., LTD.,
Petitioners, Present:**

PUNO, *C.J.*, *Chairperson*,
CORONA,

- v e r s u s - CHICO-NAZARIO,^{*}
LEONARDO-DE CASTRO and
BERSAMIN, *JJ.*

**ROLANDO DUBDUBAN,
Respondent. Promulgated:**

September 29, 2009

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R E S O L U T I O N

CORONA, J.:

Respondent Rolando Dubduban was engaged by petitioner Tokomaru Kaiun Co., Ltd. and its Philippine manning agent, Bandila Maritime Services, Inc., as chief cook of M/V White Arrow for 10 months. ^[1] He boarded the vessel on November 3, 1998.

After the expiration of his contract, respondent returned to the Philippines on October 8, 1999. A month later, he had a medical examination at the Metropolitan Hospital in Manila where he was diagnosed with fibroid scarrings in his right upper ear lobe and consequently was advised to undergo parotidectomy. ^[2] Respondent agreed. During the pre-operational procedure, he was found to be suffering from diabetes mellitus type II.

After recovering from surgery, respondent filed a complaint for disability benefits and damages ^[3] in the National Labor Relations Commission (NLRC). He alleged that he could no

longer be employed as a seafarer because of his diabetes. Petitioners, being his last employers, were therefore liable to pay him disability benefits and reimburse him for medical expenses.

Petitioners, on the other hand, pointed out that respondent was diagnosed with diabetes after his contract expired on September 3, 1999. Thus, they were not liable for disability benefits and reimbursement of medical expenses.

In a decision dated January 3, 2001,^[4] the labor arbiter^[5] dismissed the complaint for lack of merit. It held that because respondent was found to be suffering from diabetes only after the expiration of his contract, petitioners were not liable for disability benefits.

Respondent appealed^[6] to the NLRC disclosing that he had been previously diagnosed with diabetes in 1994. Noting that respondent did not complain of diabetic symptoms while aboard M/V White Arrow, the NLRC affirmed the decision of the labor arbiter *in toto*.^[7]

Aggrieved, respondent filed a petition for certiorari^[8] in the Court of Appeals (CA) assailing the decision of the NLRC. He claimed that the NLRC committed grave abuse of discretion in affirming the decision of the labor arbiter. Respondent insisted that the diabetes was an occupational disease.

The CA noted that since respondent was obliged to taste what he prepared for the officers and crew of the vessel, the nature of his employment therefore aggravated his condition. In a decision dated October 28, 2005,^[9] the CA reversed and set aside the decision of the NLRC and ordered petitioners to pay, jointly and severally, respondent's disability benefits amounting to US \$20,150 or its equivalent in Philippine pesos.

Petitioners moved for reconsideration but it was denied.^[10] Hence, this recourse.

Petitioners insist that the CA erred in holding them liable for disability benefits. A seafarer may claim disability benefits under Section 20(B) of the 1996 POEA Standard Contract of Employment for Seafarers (Contract) only if he suffers a work-related injury or illness *during the term* of his contract.

The petition is meritorious.

Respondent admitted that he had been previously diagnosed with diabetes in 1994 or four years before he was engaged by petitioners as chief cook of M/V White Arrow. Clearly, he was not afflicted with the said illness only during the term of his contract but even prior to his employment. He did not even complain of any complications of the disease at any time during his employment. Hence, Section 20(B) of the Contract was inapplicable.

Moreover, even assuming respondent contracted the disease during the term of his contract, he was precluded from claiming disability benefits for his failure to comply with Section 20(B)(3) of the Contract.^[11] The provision requires a claimant to submit himself to a company-designated physician three days after his arrival in the Philippines for medical examination and failure to do so bars the filing of a claim for disability benefits.^[12]

Respondent did not submit himself to a company-designated physician for medical examination within three days from his arrival in the Philippines, without any lawful excuse. Respondent's claim (assuming he had a valid one) was therefore barred.

Neither is respondent entitled to disability benefits under Section 32-A of the Contract since diabetes is not one of the compensable occupational diseases listed there. Since his claim has no basis in the Contract, there is no reason to award him disability benefits.

WHEREFORE, the petition is hereby **GRANTED**. The October 28, 2005 decision and March 13, 2006 resolution of the Court of Appeals in CA-G.R. SP No. 89211 are **REVERSED** and **SET ASIDE**. The October 20, 2003 decision and December 28, 2004 resolution of the National Labor Relations Commission in NLRC NCR Case No. 027873-01 are **REINSTATED**.

No costs.

SO ORDERED.

RENATO C. CORONA
Associate Justice

WE CONCUR:

REYNATO S. PUNO
Chief Justice
Chairperson

MINITA V. CHICO-NAZARIO TERESITA J. LEONARDO-DE CASTRO
Associate Justice Associate Justice

LUCAS P. BERSAMIN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Courts Division.

REYNATO S. PUNO

Chief Justice

* Per Special Order No. 698 dated September 4, 2009.

[1] Respondent was hired under the following terms and conditions:

Duration of contract ten (10) months

Position Chief cook

Basic monthly salary US \$530

Hours of work 44 hours per week

Overtime US \$394/month for 103 hours

US \$3.83/hour in excess of 103 hours

Vacation leave 6 days per month.

[2] Respondent underwent parotidectomy on December 8, 1999 and February 2, 2000.

[3] Docketed as NLRC OFW Case No. (M)-00-03-0449-00.

[4] *Rollo*, pp. 62-68.

[5] Godofredo V. Seneres, Jr.

[6] Docketed as NLRC NCR Case No. 027873-01, p. 6.

[7] Decision penned by Commissioner Vicente S.E. Veloso (now a member of the Court of Appeals) and concurred in by Presiding Commissioner Roy V. Seeres and Commissioner Romeo L. Go of the First Division of the NLRC. Dated October 20, 2003. *Rollo*, pp. 70-79.

Respondent moved for reconsideration but it was denied in a resolution dated December 28, 2004. *Id.*, pp. 81-82.

[8] Under Rule 65 of the Rules of Court. Docketed as CA-G.R. SP No. 89211.

[9] Penned by Presiding Justice Conrado M. Vasquez, Jr. and concurred in by Associate Justices Juan M. Enriquez, Jr. and Vicente Q. Roxas (dismissed from the service) of the Fifth Division of the Court of Appeals. *Rollo*, pp. 30-36.

[10] Resolution dated March 13, 2006. *Id.*, p. 28.

[11] The contract applicable to respondent. This was amended by DOLE Department Order No. 4, s. 2000.

[12] *Maunlad Transport Inc. v. Manigo, Jr.*, G.R. No. 161416, 13 June 2008, 554 SCRA 446.