

781 Phil. 674

## THIRD DIVISION

[ G.R. No. 206256, February 24, 2016 ]

**ALBERT C. AUSTRIA, PETITIONER, VS. CRYSTAL SHIPPING, INC.,  
AND/OR LARVIK SHIPPING A/S, AND EMILY MYLA A.  
CRISOSTOMO, RESPONDENTS.**

### DECISION

#### **PEREZ, J.:**

For resolution of the Court is the instant Petition for Review on *Certiorari* filed by petitioner Albert C. Austria (Petitioner), seeking to reverse and set aside the Decision<sup>[1]</sup> dated 4 September 2012 and Resolution<sup>[2]</sup> dated 13 March 2013 of the Court of Appeals (CA) in CA-G.R. SP No. 117578. The assailed decision and resolution reversed the National Labor Relations Commission (NLRC) Decision dated 17 August 2010 and its Resolution dated 14 October 2010 and thereby found the disability of the petitioner not compensable under the Collective Bargaining Agreement (CBA).

#### ***The Facts***

Respondent Crystal Shipping, Inc., is a foreign juridical entity engaged in maritime business. It is represented in the Philippines by its manning agent, and co-respondent herein, Larvik Shipping A/S, a corporation organized and existing under Philippine laws.

Petitioner was hired by Crystal Shipping thru its manning agent, Larvik Shipping as Chief Cook. His employment was to run for a period of eight months and he was to receive, *inter alia*, a basic monthly salary of US\$758.00 with an overtime pay of US\$422.00 each month as evidenced by his Contract of Employment.<sup>[3]</sup> Under his contract, petitioner was covered by the Norwegian International Ship Register (NIS) - CBA.

Prior to the execution of the contract, petitioner underwent a thorough Pre-Employment Medical Examination (PEME) and after compliance therewith, he was certified as "*fit to work*" by the company designated physician.

On 27 August 2008, petitioner commenced his work as Chief Cook on board M/V Yara Gas. Sometime in the last week of September 2008, petitioner, while on board the vessel, started suffering from chronic cough with excessive phlegm and experienced difficulty breathing. He immediately reported his condition to the medical officer on board. Upon the arrival of the vessel in Hamburg, Germany, petitioner was referred for medical examination and it was found that he was suffering from "*Bronchial Catarrh/Bronchitis; Pharnx Irritation*."<sup>[4]</sup> After giving him proper medication, the

examining physician declared him "*fit for duty*" and so he resumed his work in the vessel.

In January 2009, petitioner again complained of similar symptoms, excessive cough with phlegm and difficulty breathing, and, was again referred for further medical examination in the Netherlands. This time he was confined at ZorgSaam Hospital from 20 January 2009 to 12 February 2009 where he was diagnosed with "*Dilated Cardiomyopathy secondary to Viral Myocarditis*," a condition which would require further medical treatment and management. Considering the seriousness of his ailment, petitioner's repatriation back to the Philippines was recommended by doctors.

Escorted by a physician, petitioner arrived in the Philippines on 14 February 2009 and was immediately confined at the Metropolitan Medical Center. After a series of tests, it was found that petitioner was suffering from "*Dilated Cardiomyopathy, Bicuspid Aortic Stenosis*," rendering him unfit for any sea duty.<sup>[5]</sup>

Claiming that his illness that rendered him totally unfit for any sea duty is work-related, petitioner sought for the payment of permanent disability benefits but respondents failed or refused to acknowledge that they are liable under the CBA. This prompted petitioner to initiate an action for recovery of permanent disability benefits in accordance with the NIS CBA, moral and exemplary damages, attorney's fees and other benefits. Petitioner asserted that he was in good health when he joined the vessel and assumed his duties as chief cook as shown by his PEME. There is a high probability, however, that the extreme working conditions in the vessel, the lifestyle on board, constant exposure to chemicals, intensive heat and extreme weather changes caused to or aggravated his illness. He asserted that he is entitled to the amount of US\$110,000.00 as disability compensation under Article 12 of the NIS CBA.

For their part, respondents disavowed liability for the illness of petitioner citing the medical report of the company designated physician that "*Dilated Cardiomyopathy, Bicuspid Aortic Stenosis*" is a condition that is congenital in nature and is not caused or aggravated by his work as a Chief Cook. They posited that due to non-exploratory nature of PEME, serious diseases that require intensive test could not be discovered before the seafarer's employ. There is a high probability therefore that petitioner could be suffering from the said ailment prior to his engagement

For failure of the parties to reach an amicable settlement, reception of position papers from respective parties ensued and the case was eventually submitted for the resolution of the Labor Arbiter.

On 14 January 2010, the Labor Arbiter rendered a Decision in favor of petitioner, and, ordered respondents to pay him total disability benefits in the amount of US\$ 110,000.00 pursuant to the CBA. The dispositive portion of the Labor Arbiter's Decision reads:

**WHEREFORE**, premises considered, judgment is hereby rendered ordering respondents to pay [petitioner] jointly and severally the following:

1. Permanent disability benefits in the sum of US\$ 110,000.00 in accordance with the CBA;
2. Moral and exemplary damages in the sum of US\$3,000.00; and
3. Attorney's fees in the sum equivalent to 10% of the judgment award.

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

**SO ORDERED.**<sup>[6]</sup>

On appeal, the NLRC affirmed with modification the ruling of the Labor Arbiter in a Decision dated 17 August 2010 deleting the award of moral and exemplary damages. The *fallo* of the NLRC Decision reads:

**"WHEREFORE**, premises considered, judgment is hereby rendered finding the award of full disability benefits, sickness allowance and attorney's fees proper while damages are hereby ordered deleted from the monetary award. Accordingly, the Decision of the Labor Arbiter dated January 10, 2010 is hereby MODIFIED. All other dispositions not otherwise modified STANDS.

**SO ORDERED.**"<sup>[7]</sup>

For lack of merit, the Motion for Reconsideration of the respondents was denied by the NLRC in a Resolution dated 14 October 2010.

Ascribing grave abuse of discretion, respondents elevated the adverse NLRC ruling to the Court of Appeals.

On 4 September 2012, the Court of Appeals rendered a Decision<sup>[8]</sup> reversing the ruling of both the Labor Arbiter and the NLRC. The appellate court gave credence to the findings of the company accredited physician that the illness of the petitioner was congenital in nature and could not be caused by his working condition in any way. According to the Court of Appeals, the most common cause of aortic stenosis in younger people is a congenital bicuspid valve, in which the aortic valve consists only of two "cusps" (*i.e.*, flaps) instead of the normal three. In fine, the appellate court held that "[petitioner] failed to establish that his medical condition was work related or that it contributed or exposed him to the risk of contracting the same in the course of his employment."

Similarly ill-fated was petitioner's Motion for Reconsideration which was denied by the appellate court in a Resolution<sup>9</sup> dated 13 March 2013.

### ***The Issue***

Unflinching, petitioner is now before this Court *via* this instant Petition for Review on *Certiorari* assailing the Courts of Appeals' Decision and Resolution on the following

grounds:

I.

xxx PETITIONER [WAS] RENDERED TOTALLY UNFIT AS [A] SEAFARER IN ANY CAPACITY DUE TO WORK RELATED AND WORK AGGRAVATED ILLNESSES ENTITLING HIM TO FULL DISABILITY COMPENSATION UNDER THE CBA.

II.

THAT THE DECISION OF THE HONORABLE NLRC AFFIRMING THE DECISION OF THE LABOR ARBITER IS JUDICIOUS AND MERITORIOUS AS IT IS SUPPORTED BY SUBSTANTIAL EVIDENCE.<sup>[10]</sup>

***The Court's Ruling***

**The Court resolves to grant the petition.**

Entitlement of seamen on overseas work to disability benefits is a matter governed, not only by medical findings, but by law and by contract. The material statutory provisions are Articles 191 to 193 under Chapter VI (Disability Benefits) of the Labor Code, in relation with Rule X of the Rules and Regulations Implementing Book IV of the Labor Code. By contract, the POEA-SEC, as provided under Department Order No. 4, series of 2000 of the Department of Labor and Employment, and the parties' CBA bind the seaman and his employer to each other.<sup>[11]</sup>

Section 20 (B), paragraph 6 of the 2000 POEA-SEC<sup>[12]</sup> reads:

*Section 20-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:

xxxx

6. In case of permanent total or partial disability of the seafarer caused by either injury or illness the seafarer shall be compensated in accordance with the schedule of benefits enumerated in Section 32 of this Contract. Computation of his benefits arising from an illness or disease shall be governed by the rates and the rules of compensation applicable at the time the illness or disease was contracted, xxx

For disability to be compensable under Section 20 (B) of the 2000 POEA-SEC, two elements must concur: (1) the injury or illness must be work-related; and (2) the work-

related injury or illness must have existed during the term of the seafarer's employment contract. In other words, to be entitled to compensation and benefits under this provision, it is not sufficient to establish that the seafarer's illness or injury has rendered him permanently or partially disabled; it must also be shown that there is a causal connection between the seafarer's illness or injury and the work for which he had been contracted.<sup>[13]</sup>

The 2000 POEA-SEC defines "work-related injury" as "injury(ies) resulting in disability or death arising out of and in the course of employment" and "work-related illness" as "any sickness resulting to disability or death as a result of an occupational disease listed under Section 32-A of this contract with the conditions set therein satisfied."

For an occupational disease and the resulting disability or death to be compensable, all of the following conditions must be satisfied:

1. The seafarer's work must involve the risks described herein;
2. The disease was contracted as a result of the seafarer's exposure to the describe[d] risks;
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.<sup>[14]</sup>

The ultimate question that needs to be addressed in the case at bar is whether or not the illness which caused the repatriation of petitioner is an occupational disease and thus compensable as permanent total disability under the circumstances.

***We rule in the affirmative.***

In dismissing the claim of petitioner that his ailment is compensable, the appellate court disregarded the rulings of both the Labor Arbiter and the NLRC and tilted the scale in favor of the employers who in turn, harped on the findings of the company-designated physician that the condition of the petitioner is congenital in nature, and, that there is no way that it could be contracted while he was under their employ.

***We do not agree.***

To justify the grant of extraordinary remedy of *certiorari*, the petitioner must satisfactorily show that the court or quasi-judicial authority gravely abused the discretion conferred upon it. Grave abuse of discretion connotes a capricious and whimsical exercise of judgment, done in a despotic manner by reason of passion or hostility, the character of which being so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act all in contemplation of law.<sup>[15]</sup>

In labor disputes, grave abuse of discretion may be ascribed to the NLRC when, *inter alia*, its findings and conclusions are not supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to

justify a conclusion.<sup>[16]</sup>

Gauged by the foregoing yardstick, the Court finds that the Court of Appeals committed a reversible error in attributing grave abuse to the NLRC for awarding compensation to the petitioner for his illness after the latter established his claim by substantial evidence. We find that there is a cogent legal basis to conclude that petitioner has successfully discharged the burden of proving that his condition was aggravated by his working condition.

For one, petitioner was employed by respondent as *Chief Cook* which constantly exposes him to heat while preparing the food for the entire crew all throughout the day while he was under employ. The steady and prolonged exposure to heat naturally causes exhaustion which could unduly burden his heart and interfere with the normal functioning of his cardiovascular system.

In simple terms, petitioner's ailment called *dilated cardiomyopathy* is a condition in which the heart's ability to pump blood is decreased because the heart's main pumping chamber, the left ventricle, is enlarged and weakened.<sup>[17]</sup> In petitioner's case, his *dilated cardiomyopathy* is caused by a bicuspid aortic valve. Bicuspid aortic valve is an aortic valve that only has two leaflets, instead of three.<sup>[18]</sup> The aortic valve regulates blood flow from the heart into the aorta, the major blood vessel that brings blood to the body.<sup>[19]</sup> Bicuspid aortic valve is present at birth (congenital). An abnormal aortic valve develops during the early weeks of pregnancy, when the baby's heart develops. The cause of this problem is unclear, but it is the most common congenital heart disease. It often runs in families.<sup>[20]</sup>

Even if it were shown that petitioner's condition is congenital in nature, it does not automatically take his ailment away from purview of compensability. Pre-existence of an illness does not irrevocably bar compensability because disability laws still grant the same provided seafarer's working conditions bear causal connection with his illness.<sup>[21]</sup> As succinctly pointed above, petitioner's working environment as chef constantly exposed him to factors that could aggravate his heart condition.

Compensability of an ailment does not depend on whether the injury or disease was pre-existing at the time of the employment but rather if the disease or injury is work-related or aggravated his condition.<sup>[22]</sup> It is not necessary, in order for an employee to recover compensation, that he must have been in perfect condition or health at the time he received the injury, or that he be free from -disease.<sup>[23]</sup> Every workman brings with him to his employment certain infirmities, and while the employer is not the insurer of the health of his employees, he takes them as he finds them, and assumes the risk of having the weakened condition aggravated by some injury which might not hurt or bother a perfectly normal, healthy person.<sup>[24]</sup> The degree of contribution of the employment to the worsening of the seafarer's condition is not significant to the compensability of the illness, thus:

"[W]e awarded benefits to the heirs of the seafarer therein who worked as radioman on board a vessel; and who, after ten months from his latest deployment, suffered from bouts of coughing and shortness of breath, necessitating open heart surgery. We found in said case that the seafarer's work exposed him to different climates and unpredictable weather, which could trigger a heart attack or heart failure. **We likewise ruled in said case that the seafarer had served the contract for a significantly long amount of time, and that his employment had contributed, even to a small degree, to the development and exacerbation of the disease.**"<sup>[25]</sup> [Emphasis supplied]

Although the employer is not the insurer of the health of his employees, he takes them as he finds them and assumes the risk of liability. The quantum of evidence required in labor cases to determine the liability of an employer for the illness suffered by the employee under the POEA-SEC is not proof beyond reasonable doubt but mere substantial evidence, xxx.<sup>[26]</sup>

All told, petitioner having established through substantial evidence that his illness was aggravated by his work condition, and hence, compensable, no grave abuse of discretion can be imputed against the NLRC in upholding the Labor Arbiter's grant of disability benefits. For reasons herein detailed, the Court finds that the decision of the NLRC is devoid of capriciousness or whimsicality.

**WHEREFORE**, premises considered, the petition is **GRANTED**. The assailed Decision and Resolution of the Court of Appeals are hereby **REVERSED**. The decision of the Labor Arbiter as modified by the decision of the National Labor Relations Commission, granting petitioner permanent disability benefits and attorney's fees in the sum equivalent to 10% of the award, is hereby **REINSTATED**.

**SO ORDERED.**

*Velasco, Jr., (Chairperson), Peralta, Reyes, and Jardeleza, JJ., concur.*

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**March 9, 2016**

## **NOTICE OF JUDGMENT**

Sirs/Mesdames:

Please take notice that on February 24, 2016 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on March 9, 2016 at 10:48 a.m.

Very truly yours,  
**(SGD)**  
**WILFREDO V. LAPITAN**  
*Division Clerk of Court*

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[1] *Rollo*, pp. 34-48; penned by Associate Justice Agnes Reyes-Carpio with Associate Justices Rosalinda Asuncion-Vicente and Priscilla J. Baltazar-Padilla, concurring.

[2] *Id.* at 50-51.

[3] *Id.* at 81.

[4] *Id.* at 111.

[5] *Id.* at 128-134.

[6] *Id.* at 38; records, p. 74.

[7] *Id.* at 39.

[8] *Supra* note 1.

[9] *Id.* at 50.

[10] *Id.* at 16-17.

[11] *Magsaysay Maritime Corp., et al. v. NLRC (2<sup>nd</sup> Division), et. al.*, 630 Phil. 352, 362 (2010).

[12] Department Order No. 4, series of 2000 is entitled Amended Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Vessels.

[13] *Supra* note 11 at 362-363.

[14] *Niscla v. Sea Serve Maritime Agency, et al*, 611 Phil. 291, 316 (2009).

[15] *Bahia Shipping Services, Inc., v. Hipe, Jr.*, G.R. No. 204699, 12 November 2014.

[16] *Id.*

[17] [www.medicinenet.com](http://www.medicinenet.com)

[18] [www.medlineplus.com](http://www.medlineplus.com)

[19] Id.

[20] Id.

[21] *Status Maritime Corporation, et al. v. Spouses Delalamon*, G.R. No. 198097, 30 July 2014, 731 SCRA390, 409.

[22] *NYK-FHShip Management, Inc. v. Talavera*, 591 Phil. 786, 800 (2008).

[23] Id.

[24] Id.

[25] Supra note 14 at 319.

[26] *Magsaysay Maritime Services v. Laurel*, G.R. No. 195518, 20 March 2013, 694 SCRA 225, 245-246.



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