THIRD DIVISION

[G.R. No. 238933, July 01, 2020]

JOEY RONTOS CLEMENTE, PETITIONER, VS. STATUS MARITIME CORPORATION, BEKS DEMI ISLETMECILIGI VE TICARET A.S., AND/OR LOMA B. AGUIMAN, RESPONDENTS.

DECISION

LEONEN, J.:

For this Court's resolution is a Petition for Review[1] assailing the Decision[2] and Resolution[3] of the Court of Appeals which affirmed the decisions of the National Labor Relations Commission and Labor Arbiter, disqualifying Joey Rontos Clemente from claiming disability benefits under the POEA Standard Employment Contract.

On August 7, 2015, Joey Rontos Clemente (Clemente) was hired by Status Maritime Corporation (Status Maritime) as a fitter on behalf of Beks Gemi Isletmeciligi Ve Ticaret A.S. and its owner, Loma B. Aguiman.[4] The terms of employment were as follows:

Duration of Contract:	9+3 MONTHS UPON MUTUAL
Position:	CONSENT OF BOTH PARTIES
Basic Monthly Salary:	FITTER
Fixed Overtime/103 Hrs.	US$735.20
Monthly:	US$546.40
Hours of Work:	48 HOURS/WEEK
Leave Pay:	US$171.55
Leave Subject:	US$100.80
Owner's Bonus/Extra O.T.	US$264.05
Over and Above 103 Hrs.:	
Point of Hire:	MANILA, PHILIPPINES
O.T/Hour:	US$5.30
CBA. if any:	NONE[5]

Before boarding the vessel, Clemente underwent pre-employment medical examination and was declared fit to work.[6]

On March 25, 2016, Clemente's shoulder snapped and was dislocated while he was allegedly lifting a heavy object. He was repatriated and recommended for surgical repair after being diagnosed with recurrent left shoulder dislocation.[7]

Immediately after repatriation, Clemente reported to Status Maritime, which referred him to the company designated physician who advised him to undergo MRI. However,

Status Maritime later disapproved the procedure and rejected Clemente's sickness allowance claim.[8]

Clemente then consulted Dr. Misael Ticman (Dr. Ticman). After undergoing MRI, Clemente was diagnosed with "Rotator cuff tear (Supraspinatus), left shoulder." Dr. Ticman concluded that his condition is a permanent disability and declared him "unfit to work" as a seafarer.[9]

On June 16, 2016, Clemente filed a complaint for permanent total disability before the Labor Arbiter.[10] He claimed disability benefits amounting to US$60,000.00, as well as P1,000,000.00 for moral damages, P200,000.00 for exemplary damages, and attorney's fees.[11]

For its part, Status Maritime maintained that Clemente is not entitled to disability benefits because he fraudulently concealed his history of shoulder dislocation.[12]

Status Maritime alleged that Clemente disclosed to his crewmates that he had shoulder dislocations twice in the past. According to Ken Steven Lachica (Lachica), one of Clemente's crewmates, he was playing billiards with Clemente when the latter asked for help as he could not move his left shoulder. Jose Lancheta (Lancheta) also claimed that when the therapist came to relocate Clemente's shoulder, he told him about having shoulder dislocations even before boarding the vessel. Volkan Jose (Jose) likewise testified that Clemente told him about his history of shoulder dislocation.[13]

Status Maritime further claimed that Clemente admitted it was his third episode of shoulder dislocation when he was diagnosed by Dr. Ruben Raj Selvarajah (Dr. Selvarajah) abroad. Hence, when Clemente was repatriated, Status Maritime discontinued his treatment after discovering the fraudulent concealment. Moreover, Status Maritime maintained that Clemente's injury is not work-related.[14]

The Labor Arbiter dismissed the complaint and ruled that Clemente is not entitled to disability benefits.[15] The dispositive portion of the Decision reads:

> **WHEREFORE**, premises considered, judgment is hereby rendered DISMISSING the complaint for disability benefits for lack of merit.
>
> All other claims are likewise dismissed for lack of merit.
>
> SO ORDERED.[16] (Emphasis in the original)

The Labor Arbiter found that Clemente's injury was not work-related because it was acquired before the duration of the contract as evidenced by Clemente's medical records which stated that he suffered the same injury twice—in June and July 2015.[17]

Moreover, the Labor Arbiter reasoned that Clemente failed to show how the nature of his work aggravated or contributed to his injury. Even assuming that his injury is compensable under POEA Standard Employment Contract, Clemente was still

disqualified from claiming disability benefits because he failed to disclose his medical history during the pre-employment medical examination.[18]

Upon appeal, the National Labor Relations Commission affirmed the ruling of the Labor Arbiter, thus:

> **WHEREFORE**, premises considered, the appeal is denied for lack of merit. The assailed Decision of Labor Arbiter Norberto D. Enriquez dated October 12, 2016 is **AFFIRMED**.
>
> **SO ORDERED**.[19] (Emphasis in the original)

Clemente appealed to the Court of Appeals, arguing that the National Labor Relations Commission committed grave abuse of discretion in rejecting his claim for disability benefits. He contended that Status Maritime cannot claim he was unfit to work prior to the contract when it had the opportunity to detect his shoulder injury but failed to do so.[20]

The Court of Appeals upheld the ruling of the labor tribunals,[21] thus;

> **WHEREFORE**, premises considered, the petition is **DISMISSED**. The Decision dated 31 January 2017 and the Resolution dated 31 March 2017 of the National Labor Relations Commission in NLRC LAC No. (OFW-M) 01-000075-17 are **AFFIRMED**.
>
> **SO ORDERED.**[22] (Emphasis in the original)

It ruled that Clemente's willful concealment of his medical history disqualified him from claiming disability benefits pursuant to Section 20(E) of the POEA Standard Employment Contract.[23]

The Court of Appeals found that when Clemente underwent pre-employment medical examination, he misrepresented that he was not aware that he was suffering from any illness. However, when he was diagnosed abroad, he admitted to Dr. Selvarajah that it was already his third time to sustain left shoulder dislocation and that two episodes occurred before he boarded the vessel.[24] This medical report was corroborated by Clemente's crewmates.[25] On the other hand, Clemente did not refute that he concealed his condition during his pre-employment medical examination and that he suffered shoulder dislocation prior to embarkation.[26]

Moreover, the Court of Appeals ruled that even if Clemente did not conceal his medical history, he still cannot claim disability benefits because his injury was not work-related.[27] While his condition manifested onboard, Clemente failed to show the connection of his injury to the nature of his work as a fitter[28] Since Clemente failed to present substantial evidence that his work condition caused or aggravated his injury, the Court of Appeals ruled that the lower tribunals did not commit grave abuse of discretion in denying him disability benefits.[29]

Clemente moved for reconsideration of the Decision, but it was denied.[30] Thus, he filed this Petition for Review.[31]

Petitioner Clemente argues that he did not willfully conceal his medical condition during his pre-employment medical examination. He claims that he merely forgot to disclose his medical history and, being a layman without medical background, thought there was no need to disclose this information.[32]

Petitioner further contends that his medical condition should have been detected during the pre-employment medical examination because it is an apparent and external injury.[33] He claims respondents are estopped because they had all the opportunity to screen him for the injury.[34]

Moreover, petitioner avers that the Court of Appeals erred in solely relying on the findings of the foreign physician and unverified testimonies of his co-workers.[35]

Petitioner questions the lack of diagnosis by a company-designated physician, stressing that the POEA Standard Employment Contract mandates that a company-designated physician must make their own determination as to the medical condition of a seafarer upon repatriation.[36] He argues that failure to make a personal determination renders the assessment invalid.[37]

He points out that, Dr. Selvarajah, a foreign doctor, was not a company- designated physician and, therefore, "not qualified to make conclusive findings"[38] for respondents. He avers that the company-designated physician must be a doctor who examines the seafarer after repatriation.[39] Moreover, Dr. Selvarajah's task was merely to give emergency medical attention and not to determine the nature and extent of his injury.[40]

Petitioner maintains that the failure of a company-designated physician to give a definite medical finding after the period set under the POEA Standard Employment Contract renders the disability permanent and total.[41]

Lastly, petitioner claims that he is entitled to moral and exemplary damages, as well as attorney's fees, because the respondents grossly breached their duty to grant him disability benefits.[42]

In their Comment,[43] respondents argue that petitioner is not entitled to disability benefits because he is guilty of medical concealment,[44] Citing Section 20(E) of the POEA Standard Employment Contract, respondents aver that petitioner's failure to disclose his previous shoulder dislocation constitutes fraudulent misrepresentation which disqualifies him from any compensation or benefit.[45]

In his pre-employment medical examination, petitioner categorically denied that he had

shoulder dislocations in the past. Respondents claim this concealment exempts them from any obligation for the subsequent manifestation of the injury.[46]

Moreover, respondents stress that petitioner failed to refute their evidence and deny his previous episodes of shoulder dislocation.[47] They claim that petitioner likewise cannot capitalize on his pre-employment medical examination clearance because it is possible that his injury was not apparent at the time he was examined, making it difficult to detect. Further, they argue that it is the seafarers' duty to disclose their medical history.[48]

Respondents also argue that petitioner did not establish that his injury was work related.[49] They point out that petitioner's claim that he was lifting a heavy object when his shoulder snapped is baseless. They claim that petitioner neither identified the time and place of the incident nor the object he was lifting. To support this, Respondents presented an engine logbook showing that on the day of the incident, there was no pump or compeller maintenance, which is usually done by a fitter.[50] They posit that petitioner's shoulder injury occurred during a billiard game,[51] and an injury during an off- duty incident should not be compensable because it is not work-related.[52]

Moreover, respondents contend that petitioner is not entitled to damages and attorney's fees as they did not act in bad faith in rejecting his disability claim.[53]

In his Reply,[54] petitioner reiterates that there is no fraudulent misrepresentation on his part.[55] He adds that there is a presumption of fitness which was uncontroverted by evidence.[56] He refers to respondents' verified undertaking during the issuance of a license to engage Filipino seafarers, which states that it shall "deploy only technically qualified and medical fit applicants."[57]

Moreover, petitioner argues that, at the very least, his nature of employment had contributed to the aggravation of his shoulder injury.[58] Work-relatedness is apparent in the nature of his job as a fitter which requires manual work. In fact, he claims his injury occurred while he was working and carrying a heavy object. Assuming his injury is not work-related, petitioner avers that he is still entitled to disability benefits because his injury occurred during the effectivity of the contract and the POEA Standard Employment Contract does not specify that the injury or illness be work-related for it to be compensable.[59]

The sole issue for this Court's resolution is whether or not petitioner is entitled to permanent and total disability benefits. Subsumed under this issue are the following:

(1) Whether or not the respondents complied with their obligation of referral to a company-designated physician; and

(2) Whether or not petitioner is disqualified from claiming disability benefits due to

fraudulent concealment.

I

Section 20(A) of the POEA Standard Employment Contract provides the rule on the liability of the employer in cases where seafarers incur injuries or illnesses during the term of contract. The provision reads:

> SECTION 20. *Compensation and Benefits*. —
>
> A. *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:
>
> 1. The employer shall continue to pay the seafarer his wages during the time he is on board the ship;
>
> 2. If the injury or illness requires medical and/or dental treatment in a foreign port, the employer shall be liable for the full cost of such medical, serious dental, surgical and hospital treatment as well as board and lodging until the seafarer is declared fit to work or to be repatriated. However, if after repatriation, the seafarer still requires medical attention arising from said injury or illness, he shall be so provided at cost to the employer until such time he is declared fit or the degree of his disability has been established by the company-designated physician.
>
> 3. In addition to the above obligation of the employer to provide medical attention, the seafarer shall also receive sickness allowance from his employer in an amount equivalent to his basic wage computed from the time he signed off until he is declared fit to work or the degree of disability has been assessed by the company-designated physician. The period within which the seafarer shall be entitled to his sickness allowance shall not exceed 120 days. Payment of the sickness allowance shall be made on a regular basis, but not less than once a month.
>
> The seafarer shall be entitled to reimbursement of the cost of medicines prescribed by the company-designated physician. In case treatment of the seafarer is on an out-patient basis as determined by the company-designated physician, the company shall approve the appropriate mode of transportation and accommodation. The reasonable cost of actual traveling expenses and/or accommodation shall be paid subject to liquidation and submission of official receipts and/or proof of expenses.
>
> 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. In the course of the treatment, the seafarer shall

> also report regularly to the company-designated physician specifically on the dates as prescribed by the company-designated physician and agreed to by the seafarer. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits.
>
> 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.
>
> 4. Those illnesses not listed in Section 32 of this Contract are disputably presumed as work-related.[60]

Kestrel Shipping Co., Inc. v. Munar[61] synthesized the rules and the period for determining a seafarer's disability for the purpose of granting disability benefits, thus:

> [T]he seafarer, upon sign-off from his vessel, must report to the company-designated physician within three (3) days from arrival for diagnosis and treatment. For the duration of the treatment but in no case to exceed 120 days, the seaman is on temporary total disability as he is totally unable to work. He receives his basic wage during this period until he is declared fit to work or his temporary disability is acknowledged by the company to be permanent, either partially or totally, as his condition is defined under the POEA Standard Employment Contract and by applicable Philippine laws. If the 120 days initial period is exceeded and no such declaration is made because the seafarer requires further medical attention, then the temporary total disability period may be extended up to a maximum of 240 days, subject to the right of the employer to declare within this period that a permanent partial or total disability already exists. The seaman may of course also be declared fit to work at any time such declaration is justified by his medical condition.
>
> [A] temporary total disability only becomes permanent when so declared by the company physician within the periods he is allowed to do so, or upon the expiration of the maximum 240-day medical treatment period without a declaration of either fitness to work or the existence of a permanent disability. In the present case, while the initial 120-day treatment or temporary total disability period was exceeded, the company-designated doctor duly made a declaration well within the extended 240-day period that the petitioner was fit to work. Viewed from this perspective, both the NLRC and CA were legally correct when they refused to recognize any disability because the petitioner had already been declared fit to resume his duties. In the absence of any disability after his temporary total disability was addressed, any further discussion of permanent partial and total disability, their existence, distinctions and consequences, becomes a surplusage that serves no useful purpose.[62] (Citation omitted)

The periods prescribed under the POEA Standard Employment Contract are mandatory and must be strictly observed. A window of three days is given for the company-

designated physician to examine the seafarer because within this period, "it would be fairly manageable for the physician to identify whether the disease . . . was contracted during the term of [their] employment or that [their] working conditions increased the risk of contracting the ailment."[63] At the same time, this shortened period is meant to protect the employers from unscrupulous claims. In *Manota v. Avantgarde Shipping Corp*.:

> Moreover, the post-employment medical examination within 3 days from ... arrival is required in order to ascertain [the seafarer's] physical condition, since 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.[64] (Citations omitted)

The conduct of the post-employment medical examination is a reciprocal obligation shared by the seafarer and the employer. The seafarer is 'obliged to submit to an examination within three (3) working days from his or her arrival, and the employer is correspondingly obliged 'to conduct a meaningful and timely examination of the seafarer.'"[65]

This post-employment medical examination is primarily conducted by the company-designated physician.[66] However, to be reliable, the assessment or findings of the company-designated physician must be "complete and definite to give the proper disability benefits to seafarers." Furthermore:

> A final and definite disability assessment is necessary in order to truly reflect the true extent of the sickness or injuries of the seafarer and his oilier capacity to resume work as such. Otherwise, the corresponding disability benefits awarded might not be commensurate with the prolonged effects of the injuries suffered.[67] (Citation omitted)

When the employer refuses to comply with its obligation to have the seafarer examined, the seafarer may rely on the medical findings of his or her chosen physician.[68] Thus:

> The Court has in the past, under unique circumstances, sustained the award of disability benefits even if the seafarer's disability had been assessed by a personal physician. In Philippine Transmarine Carriers, Inc. v. NLRC, we affirmed the grant by the CA and by the NLRC of disability benefits to a claimant, based on the recommendation of a physician not designated by the employer. The "claimant consulted a physician of his choice when the company-designated physician refused to examine him." In Cabuyoc v. Inter-Orient Navigation Shipmanagement, Inc., we reinstated the NLRC's decision, affirmatory of that of the labor arbiter, which awarded sickness wages to the petitioner therein even if his disability had been assessed by the Philippine General Hospital, not by a company-designated hospital. Similar to the case at bar, the seafarer in Cabuyoc initially sought medical

> assistance from the respondent employer but it refused to extend him help.[69] (Citation omitted)

In *Dionio v. ND Shipping Agency and Allied Services, Inc.*,[70] this Court ruled that between a "non-existent medical assessment of a company- designated physician. . . and the medical assessment of [the seafarer's] physicians of choice, the latter evidently stands."[71]

> As respondents refused to answer the medical treatment of Gil upon his repatriation, contrary to the provisions of the POEA-SEC, Gil was never examined by the company-designated physician. *A fortiori*, respondents could not present any medical report prepared by the company-designated physician on the medical condition of Gil. They could not state whether Gil was fit to return to work or the specific grading of his disability.
>
> . . . .
>
> . . . Absent the company-designated physician's medical assessment, respondents could only present unsupported allegations and suppositions regarding Gil's medical condition.
>
> On the other hand, as respondents completely ignored the medical needs of Gil upon his repatriation, he had no choice but to seek medical attention from other physicians at his own expense[.]
>
> Between the non-existent medical assessment of a company- designated physician of respondents and the medical assessment of Gil's physicians of choice, the latter evidently stands. Respondents were obliged to refer Gil to a company-designated physician and shoulder the medical expenses, but they reneged on their responsibility and simply ignore the plight of their seafarer.[72] (Citations omitted)

In this case, petitioner went to the respondents immediately after arriving in the Philippines. However, when he requested a medical diagnosis of his condition, the respondents refused to subject him to a post-employment medical examination. This compelled petitioner to go to a physician of his choice.

Respondents insist that the foreign doctor's assessment is sufficient compliance with the law and that it should be deemed the company-designated physician's diagnosis. We disagree.

The law clearly states that the company-designated physician should be the doctor who will diagnose the condition of the seafarer after repatriation. The post-employment medical examination presumes that the company- designated physician will conduct a thorough, final, and definitive assessment of the seafarer's medical condition.

Dr. Sevarajah's diagnosis cannot be considered compliance with this requirement. A strict reading of the POEA Standard Employment Contract requires that the company-designated physician be the one to diagnose the seafarer upon repatriation. Even if the

rules are applied liberally, the assessment of Dr. Sevarajah cannot be considered thorough, final, and definitive as it was merely for an urgent medical care. In Dr. Sevarajah's medical report, there is no showing that he conducted tests to arrive at a proper diagnosis. In fact, he even recommended for petitioner undergo further tests to determine the extent of the injury.[73]

Moreover, Dr. Severajah's report explicitly states that it is "not meant for any medicolegal proceedings, [that it should] not be used as a reference in any court hearing and [that it] does not support any compensation claim."[74] The provisional nature of Dr. Sevarajah's diagnosis is further supported by his act of recommending that petitioner see an orthopedic surgeon for further assessment,[75]

On the other hand, petitioner's chosen physician, an orthopedic surgeon, diagnosed petitioner with rotator cuff tear in his left shoulder after an MRI scan.[76] Dr. Ticman's disability report states:

> **Physical examination** - conscious, coherent, ambulatory
> - stable vital signs
> - (+) tenderness on[range of motion], left shoulder
> - (+) limitation on motion, left shoulder
> - (+) Apprehension test, left shoulder
>
> **Diagnosis**
>
> Rotator Cuff Tear (Supraspinatus), Left Shoulder
>
> **DISABILITY RATING**
>
> Based on the history and physical examination on the patient, in spite of the medications given the symptoms persist the prognosis is not good. I am therefore recommending ***Permanent Disability*** and that he is **unfit** to work as a seaman in any capacity.[77] (Emphasis in the original)

When there is no post-employment medical examination by a company- designated physician, the evaluation of the chosen physician is considered by law as binding between the parties. Respondents' refusal to submit petitioner to a medical examination is a contravention of their responsibility under the POEA Standard Employment Contract. Thus, the permanent disability rating of Dr. Ticman stands.

II

However, petitioner's benefits claim must be denied due to fraudulent concealment.

> Section 20 (E) of the POEA Standard Employment Contract states that "[a] seafarer who knowingly conceals a pre-existing illness or condition" is disqualified from claiming compensation and benefits. The provision reads:
>
> SECTION 20. *Compensation and Benefits. —*

> E. A seafarer who **knowingly conceals** a pre-existing illness or condition in the Pre-Employment Medical Examination (PEME) shall be liable for **misrepresentation and shall be disqualified from any compensation and benefits**. This is likewise a just cause for termination of employment and imposition of appropriate administrative sanctions.[78] (Emphasis supplied)

In *Philman Marine Agency, Inc. v. Cabanban*,[79] it was ruled that the seafarer's failure to disclose any illness or injury that they have knowledge of disqualifies them from claiming disability benefits. In that case, the seafarer filed a claim for disability benefits after being diagnosed with hypertension while onboard the vessel. He asserted that since his pre-employment medical examination was exploratory and showed that he was in good health prior to the employment, his subsequent diagnosis proves that his illness occurred during his employment.

In rejecting the compensation claim, the Court in *Philman* held that the seafarer concealed that he suffered from hypertension and was taking antihypertensive medication prior to his employment, which disqualified him from compensation under the POEA Standard Employment Contract.

> Second, although Dr. Ranjan of the Fujairah Port Clinic diagnosed Armando with hypertension, Armando did not reveal in his PEME that he had been suffering from this condition and had been taking antihypertensive medications for five years. As the petitioners correctly argued, Armando's concealment of this vital information in his PEME disqualifies him from claiming disability benefits pursuant to Section 20-E of the POEA-SEC[.]
>
> We need not belabor this point as a plain reading of the above provision shows that the seafarer's concealment of a pre-existing medical condition disqualifies him from claiming disability benefits. We note that Dr. Ranjan of the Fujairah Port Clinic stated in his report that Armando was a "known case of HT, on atenolol 50 mg OD [for five years]." The import of this statement cannot be disregarded as it directly points to Armando's willful concealment; it also shows that Armando did not acquire hypertension during his employment and is therefore not work-related.[80]

Moreover, the Court in *Philman* ruled that the seafarer cannot capitalize on his clearance in the pre-employment medical examination because it was not exhaustive. Employers are not burdened to discover any and all preexisting medical conditions of the seafarer, thus:

> Contrary to Armando's contention, the PEME is not sufficiently exhaustive so as to excuse his non-disclosure of his pre-existing hypertension. The PEME is not exploratory and does not allow the employer to discover any and all pre-existing medical condition with which the seafarer is suffering and for which he may be presently taking medication. The PEME is nothing more than a summary examination of the seafarer's physiological condition and is just

> enough for the employer to determine his fitness for the nature of the work for which he is to be employed.[81] (Citations omitted)

In *Ayungo v. Beamko Shipmanagement Corporation,*[82] this Court likewise ruled that a seafarer is disqualified from claiming disability benefits for non-disclosure of previous medical illness.

> As for Ayungo's Hypertension, suffice it to state that he did not disclose that he had been suffering from the same and/or had been actually taking medications therefor (i.e., Lifezar) during his PEME. As the records would show, the existence of Ayungo's Hypertension was only revealed after his repatriation, as reflected in the Medical Report dated March 26, 2008 and reinforced by subsequent medical reports issued by MMC. To the Court's mind, Ayungo's non-disclosure constitutes fraudulent misrepresentation which, pursuant to Section 20(E) of the 2000 POEA- SEC, disqualifies him from claiming any disability benefits from his employer.[83] (Citations omitted)

Similarly, in *Status Maritime Corp. v. Spouses Delalamon*,[84] this Court held that the pre-employment medical examination does not preclude the employers from rejecting disability claims if it was shown that the seafarer willfully concealed his or her medical history.

> The fact that Margarita passed his PEME cannot excuse his willful concealment nor can it preclude the petitioners from rejecting his disability claims. PEME is not exploratory and does not allow the employer to discover any and all pre-existing medical condition with which the seafarer is suffering and for which he may be presently taking medication. The PEME is nothing more than a summary examination of the seafarer's physiological condition; it merely determines whether one is "fit to work" at sea or "fit for sea service" and it does not state the real state of health of an applicant. The "fit to work" declaration in the PEME cannot be a conclusive proof to show that he was free from any ailment prior to his deployment.
>
> Thus, for knowingly concealing his diabetes during the PEME, Margarito committed fraudulent misrepresentation which under the POEA- SEC unconditionally barred his right to receive any disability compensation or illness benefit.[85]

Nevertheless, the Court in *Deocariza v. Fleet Management Services*[86] resolved that Section 20 (E) places the burden on the employer to prove the concealment of a pre-existing illness or medical condition to disqualify seafarers from compensation.

> The Court, however, finds the foregoing conclusion anchored on pure speculation. At the outset, it bears to point out that Section 20 (E) of the 2010 POEA-SEC speaks of an instance where an employer is absolved from liability when a seafarer suffers a work-related injury or illness on account of the latter's willful concealment or misrepresentation of a preexisting condition or illness. Thus, the burden is on the employer to prove such

> concealment of a pre-existing illness or condition on the part of the seafarer to be discharged from any liability. In this regard, an illness shall be considered as pre-existing if prior to the processing of the POEA contract, any of the following conditions is present, namely: (a) ***the advice of a medical doctor on treatment was given for such continuing illness or condition;*** *or* ***(b) the seafarer had been diagnosed and has knowledge of such illness or condition but failed to disclose the same during the PEME, and such cannot be diagnosed during the PEME***.[87] (Emphasis supplied)

In this case, petitioner denies that he knowingly concealed his medical history. He argues that respondents' failure to discover his shoulder injury during the examination precludes them from rejecting his compensation claim. Moreover, petitioner contends that the testimony of his workmates may not be given credence for not being verified.

We reject petitioner's arguments.

Petitioner knowingly concealed his history of shoulder dislocation from the respondents. As resolved by the labor tribunals and the Court of Appeals, petitioner had two instances of left shoulder dislocation prior to his employment—once in June 2015 and another in July 2015. Knowing that he had this recurring condition, petitioner should have disclosed this fact during his pre-employment medical examination. This non-disclosure is apparent in his medical certificate, wherein he answered "no" to the question "Is applicant suffering from any medical condition likely to be aggravated by service at sea or to render the seafarer unfit for service. . ,?"[88]

Moreover, petitioner cannot bank on the fact that he was cleared during the pre-employment medical examination. As jurisprudence has settled, this examination is not exploratory in nature and employers are not burdened to discover any and all pre-existing medical condition of the seafarer during its conduct. Pre-employment medical examinations are only summary examinations. They only determine whether seafarers are fit to work and does not reflect a comprehensive, in-depth description of the health of an applicant. This is precisely why Section 20 (E) mandates the seafarer to disclose his or her medical history during the pre-employment medical examination.

Further, petitioner contends that the affidavits of his co-workers should not be given credence as they were unverified. This contention must fail. Article 227 of the Labor Code provides that labor tribunals are not bound by technical rules of evidence and they may use all reasonable means to ascertain the facts of the case without regard to technicalities of law and procedure.[89] Thus, the testimonies of petitioner's crewmates may be accepted as evidence before the labor tribunals.

Further, respondents were able to present evidence that petitioner did not perform any job at the day of the incident. The engine logbook shows that there was no pump or compeller maintenance on that day. This coincides with the testimony of petitioner's co-workers that they were playing billiards when petitioner's shoulder injury occurred.

Intentional concealment of a pre-existing illness or injury is a ground for disqualification

for compensation and benefits under the POEA Standard Employment Contract. While our laws give ample protection to our seafarers, this protection does not condone fraud and dishonesty. Petitioner cannot feign ignorance and downplay the concealment of his medical condition. Clearly, petitioner knew that he had a recurring shoulder dislocation. He never denied this fact. Hence, his disability claim must be denied.

WHEREFORE, the Petition for Review is **DENIED**. The Decision and Resolution of the Court of Appeals in CA G.R. SP No. 151058 are **AFFIRMED**.

SO ORDERED.

Gesmundo, Carandang, Lazaro-Javier,* and *Gaerlan, JJ.,* concur.

November 25, 2020

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on **July 1, 2020** 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 November 25, 2020 at 8:50 a.m.

Very truly yours,

(Sgd.) MISAEL DOMINGO C. BATTUNG III
Division Clerk of Court

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* Designated additional Member per Raffle dated June 8, 2020.

[1] *Rollo*, pp. 3-26.

[2] Id. at 32-42. The Decision dated February 13, 2018 in CA-G.R. SP No. 151058 was penned by Associate Justice Renato C. Francisco and concurred in by Associate Justices Magdangal M, De Leon (Chairperson) and Rodil V. Zalameda of the Sixth Division, Court of Appeals, Manila.

[3] Id. at 44-45. The Resolution dated May 2, 2018 in CA-G.R. SP No. 151058 was penned by Associate Justice Renato C. Francisco and concurred in by Associate Justices Magdangal M. De Leon (Chairperson) and Rodil V. Zalameda of the Sixth Division, Court of Appeals, Manila.

[4] Id. at 33.

[5] Id.

[6] Id. at 33-34.

[7] Id. at 34.

[8] Id.

[9] Id.

[10] Id.

[11] Id. at 9.

[12] Id. at 34-35.

[13] Id. at 35.

[14] Id.

[15] Id. at 35-36.

[16] Id. at 36.

[17] Id. at 35

[18] Id. at 36.

[19] Id.

[20] Id. at 38.

[21] Id. at 32-42.

[22] Id. at 42.

[23] Id. at 38-39.

[24] Id. at 39.

[25] Id.

[26] Id. at 39-40.

[27] Id. at 40.

[28] Id. at 41.

[29] Id.

[30] Id. at 44-45.

[31] Id. at 3-25.

[32] Id. at 12.

[33] Id. at 12-13.

[34] Id. at 13-14.

[35] Id. at 14.

[36] Id.

[37] Id. at 15-17.

[38] Id. at 18.

[39] Id.

[40] Id. at 20.

[41] Id. at 21.

[42] Id. at 22-24.

[43] Id. at 54-75.

[44] Id. at 60.

[45] Id. at 60-61.

[46] Id. at 63.

[47] Id.

[48] Id.

[49] Id. at 64.

[50] Id.

[51] Id. at 66.

[52] Id. at 67-68.

[53] Id. at 70.

[54] Id. at 79-92.

[55] Id. at 79.

[56] Id. at 80.

[57] Id. citing Book II, Rule II, sec. 1(f-1) of the POEA Rules and Regulations, which provides: SECTION 1. *Requirements for the issuance of license*. — Every applicant for license to operate a private employment agency shall submit a written application letter together with the following requirements:

. . . .

f. a verified undertaking stating that the applicant:

1. Shall select only medically and technically qualified applicants[.]

[58] Id. at 81.

[59] Id. at 82.

[60] POEA Memo. Circ. No. 010-10, sec. 20(A).

[61] *Kestrel Shipping Co., Inc. v. Munar*, 702 Phil. 717 (2013) [Per J. Reyes, First Division],

[62] Id. at 734.

[63] *Manota v. Avantgarcle Shipping Corp*, 715 Phil. 54, 64 (2013) [Per J. Peralta, Third Division],

[64] Id. at 65.

[65] Ebuenga v. Southfield Agencies, Inc., G.R. No. 208396, March 14, 2018, [Per J. Leonen, Third Division].

[66] *Orient Hope Agencies, Inc. v. Jara*, G.R. No. 204307, June 6, 2018, < http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64210 > [Per J. Leonen, Third Division].

[67] Id.

[68] *Ebuenga v. Southfield Agencies, Inc.*, G.R. No. 208396, March 14, 2018, < http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64089 > [Per J. Leonen, Third Division].

[69] Id., citing *Career Philippines Shipmanagement, Inc. v. Serna*, 700 Phil. 1-18 (2012) [Per J. Brion, Second Division].

[70] *Dionio v. ND Shipping Agency and Allied Services, Inc*., G.R. No. 231096, August 15, 2018, < http://elibrary.judiciary.gov.ph/thebookshel/showdocs/1/64626 > [Per J. Gesmundo, Third Division].

[71] Id.

[72] Id.

[73] *Rollo*, pp. 48-50.

[74] Id. at 50.

[75] Id. at 49.

[76] Id. at 52.

[77] Id.

[78] POEA Memo. Circ. No. 010-10, sec. 20(B)(E).

[79] 715 Phil. 454 (2013) [Per J. Brion, Second Division].

[80] Id. at 479-480.

[81] Id. at 480.

[82] *Ayungo v. Beamko Shipmanagement Corp*., G.R. No. 203161, February 26, 2014, < http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/56522 > [Per J. Perlas-Bernabe, Third Division].

[83] Id.

[84] *Status Maritime Corp. v. Spouses Delalamon*, 740 Phil. 175 (2014) [Per J. Reyes, First Division].

[85] Id. at 194–195.

[86] *Deocariza v. Fleet Management Services Philippines, Inc.*, G.R. No. 229955, July 23, 2018, < http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64445 > [Per J. Perlas-Bernabe, Second Division].

[87] Id.

[88] *Rollo*, p. 47.

[89] LABOR CODE, art. 227 provides:

ARTICLE 227. *Technical Rules Not Binding and Prior Resort to Amicable Settlement.* — in any proceeding before the Commission or any of the Labor Arbiters, the rules of evidence prevailing in courts of law or equity shall not be controlling and it is the spirit and intention of this Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively, without regard to technicalities of law or procedure, all in the interest of due process. In any proceeding before the Commission or any Labor Arbiter, the parties may be represented by legal counsel but it shall be the duty of the Chairman, any Presiding Commissioner or Commissioner or any Labor Arbiter to exercise complete control of the proceedings at all stages.

Any provision of law to the contrary notwithstanding, the Labor Arbiter shall exert all efforts towards the amicable settlement of a labor dispute within his jurisdiction on or before the first hearing. The same rule shall apply to the Commission in the exercise of its original jurisdiction.
