SECOND DIVISION

[G.R. No. 247338, September 02, 2020]

ROGER V. CHIN, PETITIONER, VS. MAERSK-FILIPINAS CREWING, INC., MAERSK LINE A/S, AND RENEL C. RAMOS, RESPONDENTS.

D E C I S I O N

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*[1] are the Resolutions dated December 19, 2018[2] and May 9, 2019[3] of the Court of Appeals (CA) in CA-G.R. SP No. 158643, dismissing outright the appeal filed by petitioner Roger V. Chin (petitioner) under Rule 43 of the Revised Rules of Civil Procedure from the Decision[4] dated August 28, 2018 of the Maritime Voluntary Arbitrator (VA) in MVA-031-RCMB-NCR-129-02-04-2018, for having been filed out of time.

The Facts

On April 13, 2016, petitioner was hired as Able Seaman by Maersk-Filipinas Crewing, Inc. and its officer Renel C. Ramos, for and on behalf of their foreign principal, Maersk Line A/S (respondents), for a six (6)-month contract on board the vessel *MV Maersk Danube*, allegedly covered by a Singaporean Organization of Seamen Collective Bargaining Agreement (SoS CBA).[5] After undergoing the required Pre-Employment Medical Examination, petitioner was declared fit for duty. On May 1, 2016, he boarded the vessel and assumed his duties, which required hard manual labor.[6]

Sometime in October 2016, while lifting the steel cover of a chain pipe located under the mooring in order to clear some debris, petitioner allegedly felt excruciating pain on his back that resulted to blurring of vision or symptoms of heart attack. He reported his condition to his superiors and requested for medical consultation, but was refused. Instead, he was recommended for medical repatriation and, subsequently, signed off from the vessel on October 17, 2016.[7]

Upon arrival in Manila, petitioner was given proper post-employment medical examination and further treatment by the company-designated physician, Dr. Ferdinand Bernal (Dr. Bernal). Subsequently, petitioner was diagnosed with *Degenerative Disc Disease, L3-L4 to L5-S1*; hence, he was given appropriate medications and advised to start physical therapy sessions. After completing various consultations and tests, or on December 5, 2016, petitioner was revealed to be asymptomatic and had no more lower back pains.[8] Thus, on even date, he was declared fit to work and signed a Certificate of Fitness for Work.[9]

On January 25, 2018, petitioner sought the second medical opinion of another physician, Dr. Cesar H. Garcia (Dr. Garcia), who assessed that petitioner was "unfit for sea duty in whatever capacity."[10] Petitioner requested disability compensation from respondents, which was denied, prompting him to file a notice to arbitrate with the National Conciliation and Mediation Board (NCMB) for permanent and total disability benefits, damages, and attorney's fees.[11]

For their part, respondents maintained, *inter alia*, that petitioner was declared fit to work on December 5, 2016 by the company designated physician, Dr. Bernal, which declaration was the result of an extensive medical attention given to petitioner. Moreover, Dr. Bernal's findings were the result of consistent and regular monitoring of petitioner's condition and therefore, remain unrefuted by Dr. Garcia's examination, whose only basis was the same MRI conducted on petitioner in 2016. Respondents also argued that petitioner had already signed the Certificate of Fitness to Work.[12]

After the parties failed to settle the dispute before the NCMB, they agreed to undergo voluntary arbitration.

The VA Ruling

In a Decision[13] dated August 28, 2018, the VA dismissed petitioner's complaint for lack of merit.[14] In ruling that petitioner was not entitled to permanent and total disability benefits, the VA considered that: (*a*) he was declared fit to work by the company designated physician, Dr. Bernal, after extensive medical examination, treatment, and therapy sessions; (*b*) petitioner himself signed and did not contest the Certificate of Fitness to Work, which serves as an admission that he agrees and conforms with the findings of Dr. Bernal; (*c*) petitioner failed to present substantial evidence to prove work-relatedness or work aggravation of his illness and the nature of his employment as a seafarer; (*d*) since petitioner did not comply with the conflict resolution procedure or a third doctor referral as mandated under Section 20 (A) (3)[15] of the Philippine Overseas Employment Administration - Standard Employment Contract (POEA-SEC), the company-designated physician's findings shall prevail; (*e*) Dr. Garcia's medical assessment, which was based on a one-time medical consultation almost fourteen (14) months after petitioner was declared fit to work and was a mere interpretation of the medical findings of the company-designated physician, had no evidentiary weight; and (*f*) even assuming that petitioner was entitled to disability benefits, he was not entitled to the disability benefits under the SoS CBA because the vessel *MV Maersk Danube* is not covered by the same.[16]

Petitioner moved for reconsideration[17] but was denied in a Resolution[18] dated October 29, 2018, a copy of which he received on November 22, 2018.

Aggrieved, he filed a petition for review[19] under Rule 43 of the Rules of Court before the CA.

The CA Ruling

In a Resolution[20] dated December 19, 2018, the CA dismissed the petition outright for having been filed one (1) day late, finding that petitioner only had until December

3, 2018[21] within which to file the petition. Instead, petitioner filed the same only on December 4, 2018 and through a private courier, in violation of Section 4, Rule 43 of the Rules of Court.[22]

Petitioner's motion for reconsideration was denied in a Resolution[23] dated May 9, 2019; hence, this petition.

The Issue Before the Court

For the purpose of resolving this petition, the Court will limit the issue to whether or not the CA correctly dismissed the petition for having been filed out of time.

The Court's Ruling

The petition is meritorious.

In the 2018 case of *Guagua National Colleges vs. CA*[24] (*Guagua*), the Court acknowledged the variance in its rulings and categorically declared that the correct period to appeal the decision or award of the Voluntary Arbitrator or Panel of Arbitrators to the CA *via* a petition for review under Rule 43 of the Rules of Court is the fifteen (15)-day period set forth in Section 4[25] thereof reckoned from notice or receipt of the VA's resolution on the motion for reconsideration, and that the ten (10)-day period provided in Article 276[26] of the Labor Code refers to the period within which an aggrieved party may file said motion for reconsideration, to wit:

> Given the variable rulings of the Court, what should now be the period to be followed in appealing the decisions or awards of the Voluntary Arbitrators or Panel of Arbitrators?
>
> In the 2010 ruling in *Teng v. Pagahac*, the Court clarified that the 10-day period set in Article 276 of the *Labor Code* gave the aggrieved parties the opportunity to file their motion for reconsideration, which was more in keeping with the principle of exhaustion of administrative remedies, holding thusly:
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> > In the exercise of its power to promulgate implementing rules and regulations, an implementing agency, such as the Department of Labor, is restricted from going beyond the terms of the law it seeks to implement; it should neither modify nor improve the law. The agency formulating the rules and guidelines cannot exceed the statutory authority granted to it by the legislature.
> >
> > **By allowing a 10-day period, the obvious intent of Congress in amending Article 263 to Article 262-A is to provide an opportunity for the party adversely affected by the VA's decision to seek recourse via a motion for reconsideration or a petition for review under Rule 43 of the Rules of Court filed with the CA. Indeed, a motion for reconsideration is the more appropriate remedy in line**

> **with the doctrine of exhaustion of administrative remedies. For this reason, an appeal from administrative agencies to the CA *via* Rule 43 of the Rules of Court requires exhaustion of available remedies as a condition precedent to a petition under that Rule.**
>
> The requirement that administrative remedies be exhausted is based on the doctrine that in providing for a remedy before an administrative agency, every opportunity must be given to the agency to resolve the matter and to exhaust all opportunities for a resolution under the given remedy before bringing an action in, or resorting to, the courts of justice. Where Congress has not clearly required exhaustion, sound judicial discretion governs, guided by congressional intent.
>
> **By disallowing reconsideration of the VA's decision, Section 7, Rule XIX of DO 40-03 and Section 7 of the 2005 Procedural Guidelines went directly against the legislative intent behind Article 262-A of the Labor Code. These rules deny the VA the chance to correct himself and compel the courts of justice to prematurely intervene with the action of an administrative agency entrusted with the adjudication of controversies coming under its special knowledge, training and specific field of expertise.** In this era of clogged court dockets, the need for specialized administrative agencies with the special knowledge, experience and capability to hear and determine promptly disputes on technical matters or intricate questions of facts, subject to judicial review, is indispensable. In *Industrial Enterprises, Inc. v. Court of Appeals*, we ruled that relief must first be obtained in an administrative proceeding before a remedy will be supplied by the courts even though the matter is within the proper jurisdiction of a court. (Emphasis supplied)

> Hence, the 10-day period stated in Article 276 should be understood as the period within which the party adversely affected by the ruling of the Voluntary Arbitrators or Panel of Arbitrators may file a motion for reconsideration. Only after the resolution of the motion for reconsideration may the aggrieved party appeal to the CA by filing the petition for review under Rule 43 of the *Rules of Court* **within 15 days from notice pursuant to Section 4 of Rule 43.** (Citations omitted; emphasis and underscoring supplied)

The Court further noted in *Guagua* that despite the clarification made in *Teng v. Pagahac*[27] in 2010, the Department of Labor and Employment (DOLE) and NCMB have yet to revise or amend Section 7,[28] Rule VII of the Revised Procedural Guidelines in the Conduct of Voluntary Arbitration Proceedings and that such inaction has caused confusion, particularly with respect to the filing of the motion for reconsideration as a condition precedent to the filing of the petition for review in the

CA. Thus, the Court expressly directed[29] the DOLE and the NCMB to cause the revision or amendment of the aforesaid section in order to allow the filing of motions for reconsideration in line with Article 276 of the Labor Code. Unfortunately, no revision has yet been made in this regard. Consequently, the DOLE and the NCMB are again reminded to cause the revision or amendment of Section 7, Rule VII of the Revised Procedural Guidelines in the Conduct of Voluntary Arbitration Proceedings insofar as it prohibits the filing of a motion for reconsideration, if they have not done so.

In view of the foregoing, petitioner in this case had fifteen (15) days from receipt of the Resolution denying his motion for reconsideration to file his petition for review with the CA. Having received a copy of the VA's October 29, 2018 Resolution on November 22, 2018, petitioner therefore had until December 7, 2018 to file his petition. As the records show that the petition was filed on December 4, 2018, albeit through a private courier, it was therefore timely filed and the CA erred in dismissing it outright. To rule otherwise would be clearly antithetical to the tenets of fair play, not to mention the undue prejudice to petitioner's rights.[30] Thus, in light of the fact that the CA dismissed the petition for review outright based solely on procedural grounds, a remand of the case for a resolution on the merits is warranted.

WHEREFORE, the petition is **GRANTED**. The Resolutions dated December 19, 2018 and May 9, 2019 of the Court of Appeals in CA-G.R. SP. No. 158643 are **SET ASIDE**. The present case is hereby **REMANDED** to the Court of Appeals for resolution on the merits. The Department of Labor and Employment and the National Conciliation and Mediation Board are again **REMINDED** to revise or amend the Revised Procedural Guidelines in the Conduct of Voluntary Arbitration Proceedings to reflect the 2018 ruling in *Guagua National Colleges v. Court of Appeals*, G.R. No. 188492, if they have not done so.

SO ORDERED.

Hernando, Inting, and *Delos Santos, JJ.,* concur.
Baltazar-Padilla, J., on leave.

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[1] *Rollo*, pp. 46-67.

[2] Id. at 35-36. Penned by Associate Justice Marlene B. Gonzales-Sison with Associate Justices Victoria Isabel A. Paredes and Rafael Antonio M. Santos, concurring.

[3] Id. at 38-41.

[4] Id. at 270-294. Penned by Maritime Voluntary Arbitrator Captain Gregorio B. Sialsa.

[5] See Contract of Employment dated April 13, 2016; id. at 199.

[6] See id. at 270-271.

[7] See id. at 271.

[8] See id. at 271-273.

[9] Dated December 5, 2016. Id. at 208.

[10] See id. at 274. See also id. at 212.

[11] See id.

[12] Id.

[13] Id. at 270-294.

[14] Id. at 294.

[15] SECTION 20. COMPENSATION AND BENEFITS

A. COMPENSATION AND BENEFITS FOR ILLNESS AND INJURY

x x x

3. x x x

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.

[16] See *rollo*, pp. 276-293.

[17] See motion for reconsideration dated September 13, 2018; id. at 295-306.

[18] Id. at 307-308.

[19] Id. at 75-92.

[20] Id. at 35-36.

[21] December 2, 2018 being a Sunday.

[22] *Rollo*, p. 35.

[23] Id. at 38-41.

[24] G.R. No. 188492, August 28, 2018; citing *Teng v. Pagahac*, 649 Phil. 460 (2010).

[25] Section 4. *Period of appeal*. – The appeal shall be taken within fifteen (15) days from notice of the award, judgment, final order or resolution, or from the date of its last publication, if publication is required by law for its effectivity, or of the denial of petitioner's motion for new trial or reconsideration duly filed in accordance with the governing law of the court or agency *a quo*. Only one (1) motion for reconsideration shall be allowed. Upon proper motion and the payment of the full amount of the docket fee before the expiration of the reglementary period, the Court of Appeals may grant an

additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days.

[26] Article 276. Procedures. – x x x

The award or decision of the Voluntary Arbitrator or panel of Voluntary Arbitrators shall contain the facts and the law on which it is based. It shall be final and executory after ten (10) calendar days from receipt of the copy of the award or decision by the parties.

x x x

[27] Supra note 24.

[28] SECTION 7. *Motions for Reconsideration*. – THE DECISION OF THE VOLUNTARY ARBITRATOR IS NOT SUBJECT OF A MOTION FOR RECONSIDERATION.

[29] The *fallo* reads:

> **ACCORDINGLY,** the Court **DISMISSES** the unmeritorious petition for *certiorari*; **AFFIRMS** the decision promulgated on December 15, 2008 by the Court of Appeals; and **DIRECTS** the Department of Labor and Employment and the National Conciliation and Mediation Board to revise or amend the *Revised Procedural Guidelines in the Conduct of Voluntary Arbitration Proceedings* to amend the *Revised Procedural Guidelines in the Conduct of Voluntary Arbitration Proceedings* to reflect the foregoing ruling herein. (See *Guagua National Colleges v. CA*, supra note 24.)

[30] See *Castells v. Saudi Arabian Airlines*, 716 Phil. 667 (2013).
