



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

WARREN A. REUYAN,
Petitioner,

G.R. No. 250203

- versus -

Present:

**INC NAVIGATION CO. PHILS.,
INC., INTERORIENT MARINE
SERVICES LTD., and
REYNALDO L. RAMIREZ,**
Respondents.

LEONEN, *S.A.J.*, Chairperson,
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., *JJ.*

Promulgated:

DEC 07 2022

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DECISION

KHO, JR., J.:

Assailed in this petition for review on *certiorari*¹ filed under Rule 45 of the Rules of Court are the Decision² dated June 28, 2019 and the Resolution³ dated October 24, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 153375, which affirmed the Decision⁴ dated June 28, 2017 and the Resolution⁵ dated August 31, 2017 of the National Labor Relations Commission (NLRC) in NLRC LAC No. (OFW-M) 04-000308-17, finding petitioner Warren A. Reuyan (petitioner) not entitled to total and permanent disability benefits.

¹ *Rollo*, pp. 29-64.

² *Id.* at 13-23. Penned by Associate Justice Ronaldo Roberto B. Martin with Associate Justices Ramon M. Bato, Jr. and Ramon A. Cruz, concurring.

³ *Id.* at 25-26.

⁴ *Id.* at 155-167. Penned by Commissioner Gina F. Cenit-Escoto with Presiding Commissioner Gerardo C. Nograles and Commissioner Romeo L. Go, concurring.

⁵ *Id.* at 169-170.

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The Facts

Petitioner was employed as an Ordinary Seaman by respondent INC Navigation Co. Phils., Inc. for and on behalf of its principal, Interorient Marine Services Ltd. (respondents), on board M/V Jork Valiant under a seven (7)-month contract signed by the parties and approved by the Philippine Overseas Employment Administration (POEA). On November 28, 2015, petitioner boarded the vessel.⁶

Petitioner alleged that sometime in February 2016, he developed an enlarging mass on his neck while on board the vessel. On March 2, 2016, he developed a fever and chills, prompting him to request for a medical check-up. Petitioner averred that the vessel's captain told him to wait until the next port in Athens, Greece. On March 9, 2016, he consulted a doctor in Athens and found out through a neck CT scan that he has a "palpable mass at approximately 4 cm the right side of the thyroid gland pain on palpation"⁷ and "enlarged node approximately 3[.]5 cm of the thyroid gland at the right si[d]e complicated by bleeding."⁸ He underwent another check-up and his final medical report recommended thyroidectomy.⁹

Consequently, he was medically repatriated on March 13, 2016. Petitioner claimed that upon his repatriation, he immediately reported to his manning agency and was referred to a company-designated physician at NGC Medical Specialist Clinic, Inc. where he underwent neck ultrasound and was recommended to undergo surgery. On April 6, 2016, he was admitted at Manila Doctors Hospital for his surgery. The mass recovered from him was then biopsied and the results revealed that he has papillary thyroid carcinoma. He was then readmitted to the hospital on May 13, 2016 for complete thyroidectomy and later discharged on June 5, 2016. **On September 2, 2016, petitioner alleged that the company-designated physician recommended radiation therapy but said treatment was discontinued by respondents.** This prompted petitioner to seek treatment and ask for an independent assessment of his medical condition from Dr. Emmanuel Trinidad (Dr. Trinidad) who declared him to be unfit for sea duty and that his illness, papillary thyroid carcinoma, is work-related/aggravated. Thus, petitioner was constrained to file a complaint for, *inter alia*, disability benefits against respondents.¹⁰

For their part, respondents denied petitioner's claims, contending that petitioner's illness was not work-related and that there was no accident nor incident on board the vessel related to the health of petitioner aside from the manifestation of his condition, as admitted by petitioner in his consultation with the physician in Athens. Respondents further alleged that upon

⁶ Id. at 14.

⁷ Id. at 253.

⁸ Id.

⁹ Id. at 14.

¹⁰ Id. at 14-15.

ATB

repatriation, petitioner was placed under the care of the company-designated physicians of NGC Medical Specialist Clinic, Inc. led by Dr. Nicomedes Cruz (Dr. Cruz). He was treated from March 15, 2016 to August 31, 2016 or for a total of 169 days. Respondents maintained that petitioner's true state of health was ascertained with specialized diagnostic examinations and tests such as ultrasound and that he underwent thyroidectomy to alleviate his condition. Respondents further claimed that petitioner was provided with a medical regimen and regular physical examination to monitor his condition and ensure his recovery. Respondents averred that petitioner's illness, papillary carcinoma of the thyroid, was found not to be work-related, as affirmed by the medical assessment¹¹ dated September 23, 2016. Finally, respondents alleged that petitioner was fully paid of his sickness allowance as shown by four (4) cash vouchers signed by him.¹²

The LA Ruling

In a Decision¹³ dated January 12, 2017, the Labor Arbiter (LA) ruled that petitioner was suffering from a work-related permanent and total disability. Accordingly, respondents were ordered to solidarily pay petitioner permanent and total disability benefits in the Philippine currency equivalent of US\$60,000.00, plus ten percent (10%) attorney's fees amounting to US\$6,000.00.¹⁴

The LA found that petitioner was able to establish that as Ordinary Seaman, he was exposed to and came in direct contact with various injurious and harmful chemicals on board the vessel, which contributed to his thyroid cancer. In this regard, the LA opined that the law does not require a causal relation but merely reasonable work connection for an illness to be compensable. Further, the LA found that petitioner could no longer perform the tasks and duties required by his position due to his illness and there being no proof that he was able to land any gainful employment during the 240-day period, petitioner is entitled to full disability compensation equivalent to Grade 1 impediment under the 2010 POEA Standard Employment Contract (SEC). Finally, as regards the third doctor provision of the POEA-SEC, the LA pointed out that the records show that petitioner, through his counsel/representative, sent a copy of the medical report of his physician of choice on November 15, 2016 through electronic mail. Having been notified of the contrary medical assessment, it was incumbent upon respondents to initiate the process of appointing a third doctor. Thus, respondents' inaction should work against them and they could no longer invoke the provision of the POEA-SEC pertaining to non-referral to a third doctor.¹⁵

¹¹ Id. at 322.

¹² Id. at 15 and 332-335.

¹³ Id. at 172-191. Penned by Labor Arbiter Norberto D. Enriquez.

¹⁴ Id. at 190-191.

¹⁵ Id. at 180-189.

However, anent the claim of sickness allowance, the same was denied as the records show that it had already been paid by respondents. In a similar vein, petitioner's prayer for moral and exemplary damages were likewise denied due to his failure to prove entitlement thereto.¹⁶

Aggrieved, respondents appealed to the NLRC.

The NLRC Ruling

In a Decision¹⁷ dated June 28, 2017, the NLRC reversed and set aside the LA ruling, and accordingly, ruled that petitioner is not entitled to permanent and disability benefits.¹⁸

Contrary to the LA's findings, the NLRC ruled that petitioner failed to substantiate his claim and prove that his illness is work-related in order to be entitled to disability compensation. Petitioner's medical certificate issued by his physician of choice did not establish any causal connection between his work as Ordinary Seaman and his thyroid cancer. Relevantly, the NLRC found that the examination and treatment given by the company-designated physicians were more extensive than that of petitioner's physician of choice. The NLRC also held that petitioner's exposure to radiation from the communication facilities of the vessel, which emit electromagnetic radiation, as well as his exposure to various harmful substances or chemicals, still could not be deemed, for purposes of disability compensation, to have caused, aggravated or contributed to the development of his thyroid cancer.¹⁹

Petitioner moved for reconsideration but the same was denied in a Resolution²⁰ dated August 31, 2017. Thus, petitioner elevated the case to the CA through a Rule 65 petition for *certiorari*.

The CA Ruling

In a Decision²¹ dated June 28, 2019, the CA found no grave abuse of discretion on the part of the NLRC in ruling that petitioner is not entitled to disability benefits.²²

The CA held that although petitioner's thyroid cancer is disputably presumed to be work-related, respondents presented evidence to the contrary.

¹⁶ Id. at 189-190.

¹⁷ Id. at 155-167.

¹⁸ Id. at 166.

¹⁹ Id. at 160-166.

²⁰ Id. at 169-170.

²¹ Id. at 13-23.

²² Id. at 23.

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In this regard, the CA pointed out that the company-designated physicians led by Dr. Cruz found that petitioner's illness is not work-related. The extensive medical attention spanning 169 days from March 15, 2016 up to August 31, 2016 that the company-designated physicians gave to petitioner enabled them to acquire a more accurate diagnosis of his medical condition. Further, the CA opined that even assuming that the thyroid cancer is work-related, petitioner failed to prove that his working conditions on board M/V Jork Valiant caused or aggravated his illness.²³

Petitioner moved for reconsideration, which was denied in a Resolution²⁴ dated October 24, 2019; hence, this petition.

The Issue

The issue for the Court's resolution is whether or not the CA correctly ruled that the NLRC did not gravely abuse its discretion in holding that petitioner was not entitled to total and permanent disability benefits.

The Court's Ruling

The petition is partly meritorious.

At the outset, it bears emphasizing the distinct approach of the Court in reviewing the appellate court's ruling in a labor case. In such an instance, the Court is essentially called to rule whether or not the CA correctly determined the presence or absence of grave abuse of discretion in the NLRC ruling.²⁵ Relatedly, "[g]rave abuse of discretion connotes judgment exercised in a capricious and whimsical manner that is tantamount to lack of jurisdiction. To be considered 'grave,' discretion must be exercised in a despotic manner by reason of passion or personal hostility, and must be 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 at all in contemplation of law."²⁶ Thus, "[i]n labor cases, grave abuse of discretion may be ascribed to the NLRC when its findings and conclusions are not supported by substantial evidence, which refers to that amount of relevant evidence that a reasonable mind might accept as adequate to justify a conclusion. Thus, if the NLRC's ruling has basis in the evidence and the applicable law and jurisprudence, then no grave abuse of discretion exists and the CA should so declare and, accordingly, dismiss the petition."²⁷

²³ Id. at 18-22.

²⁴ Id. at 25-26.

²⁵ *Pelagio v. Philippine Transmarine Carriers, Inc.*, G.R. No. 231773, March 11, 2019, 895 SCRA 546, 554-555, citing *University of Santo Tomas (UST) v. Samahang Manggagawa ng UST*, 809 Phil. 212, 219-220 (2017).

²⁶ *Paiton v. Armscor Global Defense, Inc.*, G.R. No. 255656, April 25, 2022, citing *Jolo's Kiddie Carts v. Caballa*, 821 Phil. 1101, 1109 (2017).

²⁷ Id., citing *Jolo's Kiddie Carts v. Caballa*, id. at 1109-1110.

Guided by the foregoing considerations, the Court finds that the CA erred in not ascribing grave abuse of discretion on the part of the NLRC when the latter tribunal ruled that petitioner is not entitled to permanent and total disability benefits, as will be explained hereunder.

In *Pelagio v. Philippine Transmarine Carriers, Inc. (Pelagio)*,²⁸ the Court had the opportunity to reiterate the following guidelines that govern seafarers' claims for permanent and total disability benefits:

1. The company-designated physician must issue a final medical assessment on the seafarer's disability grading within a period of 120 days from the time the seafarer reported to him;

2. If the company-designated physician fails to give his assessment within the period of 120 days, without any justifiable reason, then the seafarer's disability becomes permanent and total;

3. If the company-designated physician fails to give his assessment within the period of 120 days with a sufficient justification (*e.g.*, seafarer required further medical treatment or seafarer was uncooperative), then the period of diagnosis and treatment shall be extended to 240 days. The employer has the burden to prove that the company-designated physician has sufficient justification to extend the period; and

4. **If the company-designated physician still fails to give his assessment within the extended period of 240 days, then the seafarer's disability becomes permanent and total, regardless of any justification.**²⁹ (Emphasis and underscoring in the original)

Thus, *Pelagio* instructs that "the company-designated physician is required to issue a ***final and definite assessment*** of the seafarer's disability rating within the aforesaid 120/240-day period; otherwise, the opinions of the company-designated and the independent physicians are ***rendered irrelevant*** because the seafarer is already conclusively presumed to be suffering from a [work-related] permanent and total disability, and thus, is entitled to the benefits corresponding thereto."³⁰

In this case, the 17 medical reports issued by the company-designated physician did not state whether petitioner was already fit to work or had been assessed with a certain disability grading. A circumspect perusal of these medical reports would show that what were stated therein were merely findings of the examinations done per check-up, diagnosis, medications to take, and the schedule of the next appointment. Specifically, in the Medical Report dated July 29, 2016,³¹ it was only stated that "[t]he diagnosed illness

²⁸ Supra note 25.

²⁹ Id. at 556, citing *Jebsens Maritime, Inc. v. Rapiz*, 803 Phil. 266, 273 (2017).

³⁰ Id. at 557; citations omitted.

³¹ *Rollo*, p. 320.

of papillary carcinoma of the thyroid is not work-related.” In fact, in the latest Medical Report dated September 23, 2016,³² petitioner was required to undergo a radioactive iodine treatment and to undergo further treatment after radioactive iodine for a period of sixty (60) days. More importantly, respondents discontinued the radioactive iodine treatment, thus, precluding the company-designated physicians to issue a *final and definite assessment required by law*.

Verily, the failure of the company-designated physicians to issue a final and definite assessment within the prescribed periods gave rise to the *conclusive presumption* that petitioner indeed sustained a work-related permanent and total disability; thus, entitling him to benefits corresponding thereto. In this regard, it bears reiterating that the issuance of a final and definite disability assessment by the company-designated physician within the prescribed periods is *strictly necessary* to determine the true extent of a seafarer’s sickness or injury and their capacity to resume work as such. Without such assessment, the extent of a seafarer’s sickness or injury remains an open question and thus, prejudicial to claims for disability benefits. As such, in line with the general policy of our laws to afford protection to labor, failure to comply with this mandatory requirement renders the seafarer’s disability as total and permanent by operation of law.³³

In view of the foregoing disquisition which entitles petitioner to permanent and total disability benefits, the Court shall no longer traverse the other matters related to this issue.

However, as regards petitioner’s claim for sickness allowance, the same must be denied as it has been shown to have been paid by respondents.³⁴ As to the claim for moral and exemplary damages, it appears from the records that these were not supported by any proof of bad faith or malice on respondents’ part, and hence, must also be denied.³⁵ With regard to his claim of attorney’s fees, however, the Court finds that petitioner is entitled to attorney’s fees in the amount equivalent to ten percent (10%) of the total award, or its peso equivalent at the time of payment, in line with prevailing jurisprudence.³⁶ This is because petitioner was forced to litigate and incur expenses to protect his valid claim.

Finally, the Court deems it proper to impose on all monetary awards due to petitioner legal interest at the rate of six percent (6%) per annum,

³² Id. at 322.

³³ See *Onia v. Leonis Navigation Co., Inc.*, G.R. No. 256878, February 14, 2022.

³⁴ *Rollo*, pp. 332-335.

³⁵ See *BPI Family Bank v. Franco*, 563 Phil. 495, 514-515 (2007).

³⁶ *Atienza v. Orophil Shipping International Co., Inc.*, 815 Phil. 480 (2017).

reckoned from finality of this Decision until full payment, in accordance with prevailing jurisprudence.³⁷

ACCORDINGLY, the petition is **PARTLY GRANTED**. The Decision dated June 28, 2019 and the Resolution dated October 24, 2019 of the Court of Appeals in CA-G.R. SP No. 153375, which affirmed the Decision dated June 28, 2017 and the Resolution dated August 31, 2017 of the National Labor Relations Commission in NLRC LAC No. (OFW-M) 04-000308-17, are hereby **REVERSED** and **SET ASIDE**. The Decision dated January 12, 2017 of the Labor Arbiter in NLRC NCR Case No. OFW (M) 10-13058-16 is **REINSTATED with MODIFICATION**, in that petitioner Warren A. Reuyan is awarded total and permanent disability benefits amounting to the Philippine currency equivalent of US\$60,000.00, plus ten percent (10%) attorney's fees amounting to US\$6,000.00. The same shall earn legal interest at the rate of six percent (6%) per annum from finality of this Decision until full payment.

SO ORDERED.



ANTONIO T. KHO, JR.

Associate Justice

WE CONCUR:



MARVIC M.V.F. LEONEN

Senior Associate Justice
Division Chairperson



AMY C. LAZARO-JAVIER

Associate Justice



MARICEL V. LOPEZ

Associate Justice



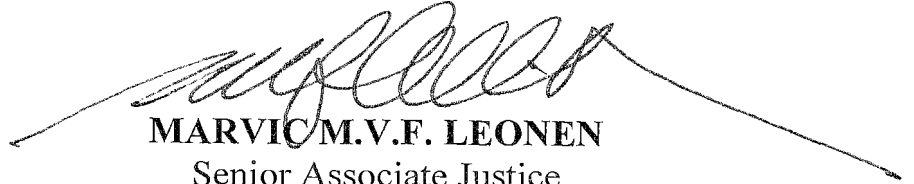
JHOSEP V. LOPEZ

Associate Justice

³⁷ *Pelagio v. Philippine Transmarine Carriers, Inc.*, supra, citing *Nacar v. Gallery Frames*, 716 Phil. 267 (2013).

ATTESTATION

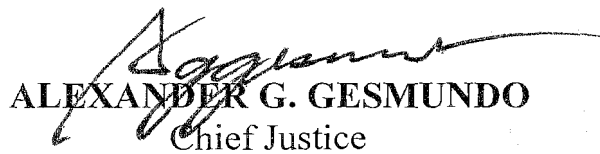
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**MARVIC M.V.F. LEONEN**

Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**ALEXANDER G. GESMUNDO**

Chief Justice

