



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

**C.F. SHARP CREW
 MANAGEMENT, INC., BLUE
 OCEAN SHIP MANAGEMENT,
 LTD., and/or WILLIAM S.
 MALALUAN,**

Petitioners,

- versus -

WILLIAM C. ALIVIO,
 Respondent.

G.R. No. 213279

Present:

CARPIO, *J.*, Chairperson,
 BRION,
 DEL CASTILLO,
 MENDOZA,* and
 LEONEN, *JJ.*

Promulgated:

11 JUL 2016

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DECISION

BRION, J.:

We resolve the present petition for review on *certiorari*¹ seeking the reversal of the January 30, 2014 decision² and June 26, 2014 resolution³ of the Court of Appeals in CA-G.R. SP No. 124006.

The Antecedents

On August 18, 2010, the respondent William **Alivio** filed a complaint for disability benefits, reimbursement of medical expenses, damages, and attorney's fees,⁴ against the **petitioners** C.F. Sharp Crew Management, Inc. (*agency*), its Sr. Crew Manager William **Malaluan** and its principal **Blue Ocean Ship Management, Ltd.** The petitioners re-hired Alivio as *bosun* for

* On official leave.

¹ *Rollo*, pp. 3-31; filed pursuant to Rule 45 of the Rules of Court.

² *Id.* at 36-52; penned by Associate Justice Romeo F. Barza with Associate Justices Hakim S. Abdulwahid and Roman A. Cruz concurring.

³ *Id.* at 51-52.

⁴ *Id.* at 135-136.

nine months starting January 7, 2009 for the vessel *Phyllis N*.⁵ He had been under successive contracts with Blue Ocean since November 1991, starting as General Purpose (*GP*) *I*, then Able Seaman (*AB*), until he was made bosun in 1999.

Alivio alleged that prior to boarding Blue Ocean's vessels (including the *Phyllis N*), in the course of his employment with the petitioners, he passed all his pre-employment medical examinations (*PEMEs*), although sometime in October 2006, he was diagnosed to have high blood pressure. He claimed he was prescribed medications for it. He further claimed that he had been continuously hired as bosun because of his fitness to work.

Alivio signed off from the *Phyllis N* on October 3, 2009 for "*finished contract*," but before he disembarked, he allegedly experienced undue fatigue and weakness, with nape pains. On October 5, 2009, he consulted a Dr. Raymund Jay **Sugay** who diagnosed him with hypertension. Dr. Sugay advised him to "rest at home for one or two days to prevent further morbidity."⁶

On January 8, 2010, the agency asked Alivio to undergo a *PEME*, prior to a possible re-deployment. The *PEME* revealed that he was suffering from *cardiomegaly* or enlarged heart and his electrocardiography (*ECG*) showed that he had *left ventricular hypertrophy with strain*. He was diagnosed with *hypertensive cardiovascular disease* and was declared "unfit for sea duty."⁷ The petitioners did not engage Alivio due to his delicate health condition.

Alivio sought a second opinion from Hi-Precision Diagnostics which arrived at essentially the same diagnosis. He also consulted with occupational health specialist Dr. Li-Ann **Orencia** who certified that his illness is work-related, permanent in nature, and compensable.⁸ He then demanded permanent total disability compensation from the petitioners, but they refused, leaving him no option but to file his present complaint.

The petitioners denied liability, contending that Alivio is not entitled to his claim because (1) his disability resulted from an illness which is not work-related and therefore not compensable under the Philippine Overseas Employment Standard Contract (*POEA-SEC*), as he acquired the illness after the expiration of his contract with them; (2) his failure to submit himself to a post-employment medical examination by the company doctor disqualified him from claiming disability benefits; and (3) he is not entitled to damages and attorney's fees since their denial of his claim was in good faith.

⁵ *Id.* at 69.

⁶ *Id.* at 71.

⁷ *Id.* at 72.

⁸ *Id.* at 85; Alivio's Reply to petitioners' Position Paper, p. 3, pars. 11 & 12.

The Compulsory Arbitration Rulings

In her decision⁹ of February 25, 2011, Labor Arbiter (LA) Fe Cellan found merit in the complaint, holding that Alivio's *hypertensive cardiovascular disease* developed during his employment with the petitioners and was aggravated by his last engagement for the *Phyllis N. LA Cellan* further held that Alivio's failure to report for post-employment medical examination to the company-designated physician did not negate his entitlement to disability compensation. She awarded him US\$60,000.00 in permanent total disability benefits, plus 10% attorney's fees.

On appeal by the petitioners, the National Labor Relations Commission (NLRC) set aside LA Cellan's award.¹⁰ It found that Alivio was repatriated not for an illness he suffered during the term of his contract, but due to the expiration of the contract. The NLRC was not convinced by his argument that he already felt symptoms of his illness onboard the vessel, but since his contract was already due to end, he opted to just let his engagement expire, instead of being medically repatriated. Further, the NLRC held that Alivio's failure to report for post-employment medical examination upon his repatriation, as mandated by the POEA-SEC, resulted in the forfeiture of his right to claim disability compensation.

The foregoing notwithstanding, the NLRC recognized that the work of a seaman "is difficult to say the least and it is not unlikely that his work contributed, if it did not give rise to, his illness."¹¹ It therefore deemed it proper to award Alivio financial assistance of ₱250,000.00.

Alivio moved for reconsideration, but the NLRC denied the motion in its resolution of January 12, 2012.¹² He then sought relief from the CA through a Rule 65 petition for *certiorari*.

The CA Decision

In its decision of January 30, 2014,¹³ the CA set aside the NLRC ruling and reinstated LA Cellan's award. Like LA Cellan, the CA held that even if Alivio was not medically repatriated, he was not precluded from claiming disability benefits from his employer. It stressed that he should not be blamed for his failure to report for his post-employment medical examination because he thought that the "discomforts" he suffered onboard the vessel were caused by his hypertension.¹⁴ Nonetheless, the CA added, Alivio was able to prove that his cardio-vascular disease was a consequence of his work as a bosun onboard the petitioners' vessel and therefore work-related.

⁹ *Id.* at 138-154.

¹⁰ *Id.* at 209-216; June 15, 2011 Decision penned by Presiding Commissioner Benedicto R. Palacol and concurred in by Commissioners Isabel G. Panganiban Ortiguerra and Nieves Vivar-De Castro.

¹¹ *Id.* at 215; NLRC Decision, p. 7, par. 1.

¹² *Id.* at 242-243.

¹³ *Supra* note 2.

¹⁴ *Id.* at 13, par. 1.

The Petition

With their motion for reconsideration denied by the CA, the petitioners now seek the CA rulings' review by this Court, contending that the appellate court seriously erred when it (1) ruled that Alivio is entitled to permanent total disability compensation; (2) ordered the payment of attorney's fees to Alivio; and (3) held that Malaluan is solidarily liable for the award.

The petitioners submit that the NLRC committed no grave abuse of discretion in ruling that Alivio's hypertension was not duly proved and its causation was not established. Section 32-A (11) of the POEA-SEC, they argue, considers a cardio-vascular disease as occupational only if it was contracted under the following conditions:

(a) If the heart disease was known to have been present during employment, there must be proof that an acute exacerbation was clearly precipitated by the unusual strain by reason of the nature of his work.

(b) The strain of work that brings about an acute attack must be of sufficient severity and must be followed within 24 hours by the clinical signs of a cardiac insult to constitute causal relationship.

(c) If a person who was apparently asymptomatic before being subjected to strain at work showed signs and symptoms of cardiac injury during the performance of his work and such symptoms and signs persisted, it is reasonable to claim a causal relationship.

They add that for Alivio's hypertension to be considered an occupational disease, it must satisfy the following requisites under Section 32-A (20) of the POEA-SEC:

20. Essential Hypertension

Hypertension classified as primary or essential is considered compensable if it causes impairment of function of body organs like kidneys, heart, eyes and brain, resulting in permanent disability; Provided, that the following documents substantiate it: (a) chest x-ray report, (b) ECG report, (c) blood chemistry report, (d) funduscopy report, and (e) C-T scan.

The petitioners assert that Alivio failed to prove the work-causation of his illness as the evidence showed that he did not suffer any injury or illness while onboard the *Phyllis N*. The CA erred, they argue, when it declared that he suffered from a compensable illness based on his pre-employment medical examination, conducted three months after his repatriation. Relying on *NYK-FIL Ship Management, Inc., v. NLRC*,¹⁵ they submit that the PEME could not have divulged his illness since the examination is merely exploratory.

¹⁵ 503 SCRA 595 (2006).

Moreover, the CA's reliance on "work-aggravation" in awarding disability benefits, they argue, is misplaced considering that the POEA-SEC makes the employer liable only for a "work-related" injury or sickness. They stress that Alivio's hypertension and cardio-vascular disease are not work-related as they were obviously acquired prior to his contract of employment and were caused by pre-existing conditions. They cite his medical history where it was revealed that he is a known hypertensive with blood pressure elevations even before his deployment to the *Phyllis N*.

The petitioners additionally stress that Alivio disembarked from the vessel for finished contract and not for medical reasons, which explains his failure to report to the agency within 72 hours from disembarkation for post-employment medical examination, a mandatory requirement under the POEA-SEC.

The petitioners also dispute the award of attorney's fees to Alivio, insisting that they acted in good faith in considering his claim, in accordance with their contractual obligations to him. Lastly, they maintain that Malaluan cannot be held personally liable in the case because there was no showing that he knowingly participated or exceeded his authority in denying Alivio's "unwarranted claims."¹⁶

The Case for Alivio

In his October 3, 2014 Comment,¹⁷ Alivio prays for dismissal of the petition for lack of merit.

He argues that "as long as the illness is contracted during the employee's employment, the employer's obligation subsists."¹⁸ He insists that he is entitled to full disability benefits, despite the fact that he failed to report to the agency for post-employment medical examination upon his disembarkation. He considers the requirement "not absolute as it accepts of exceptions, when reason dictates, like in the case at bar, where the seafarer does not know that he is already disabled and seriously ill."¹⁹

He takes exception to the petitioners' contention that his medical condition is not work-related, asserting that he contracted his illness during his employment with them. He cited the stress, limited dietary option, imposition of staying on board the vessel after working hours, and exposure to the hazardous life at sea as among the conditions which gave rise to his illness. In any case, he argues, the work-connection of his medical condition was not an issue before the labor tribunals and it cannot now be raised by the petitioners.

¹⁶ *Supra* note 1, at 25, par. 61.

¹⁷ *Rollo*, pp. 268- 281.

¹⁸ *Id.* at 269; Comment, p. 2, par. 6, citing *Itogon Suyoc Mines v. Dulay*, 118 Phil. 1032, 1037 (1963).

¹⁹ *Id.* par. 8, citing *Wallem v. NLRC and Inductivo*, 376 Phil. 738, 748 (1999).

Alivio bewails the petitioners' refusal to grant him attorney's fees considering that he was compelled to litigate to protect his rights. Lastly, he submits that Malaluan is solidarily liable for his claim since the agency is engaged in the business of providing maritime manpower, and as such, the agency and its principal officer are clearly liable under the law.

The Court's Ruling

We find merit in the petition.

First. Alivio was repatriated for "*finished contract*," not for medical reasons. He chose to complete his employment contract with the petitioners instead of being medically repatriated, even as he claimed he experienced fatigue, weakness and nape pains shortly before his disembarkation on October 3, 2009. Yet, he did not report his "discomforts," as the CA put it, to the ship authorities for onboard examination and treatment, if necessary, or to the agency for post-employment medical examination, as required by the POEA-SEC.

Alivio's omission to report his health problem at the time could only mean that it was not serious or grave enough to require medical attention. In fact, his physician of choice, Dr. Sugay, whom he consulted two days after he disembarked on October 3, 2009, diagnosed him to have hypertension and required him only to rest for one to two days.²⁰ In *Villanueva, Sr. v. Baliwag Navigacion, Inc.*,²¹ the Court noted with approval the CA conclusion that the fact that the seafarer was repatriated for finished contract and not for medical reasons weakened, if not belied, his claim of illness on board the vessel.²²

Second. Alivio's claimed cardio-vascular disease was not work-related²³ and therefore not compensable. Although considered as an occupational disease, his heart ailment did not satisfy the conditions under the POEA-SEC to be considered occupational, as quoted above.²⁴ These conditions provide for two possibilities (1) the heart disease is present during employment and there is proof that an acute exacerbation was precipitated by the unusual strain of the seafarer's work and was followed within 24 hours by the clinical signs of a cardiac arrest or, (2) the seafarer, who is asymptomatic before being subjected to the strain of work, shows signs and symptoms of cardiac injury during the performance of his work, and such symptoms persist.

Nowhere in the case record does it appear that any of the above conditions were present during the whole term of Alivio's previous

²⁰ *Supra* note 6.

²¹ G.R. No. 206505, July 24, 2013, 702 SCRA 311.

²² *Id.* at 314.

²³ 2002 POEA-SEC, Section 20 (B) Introductory Paragraph: *The liabilities of the employer when the seafarer suffers work-related injury during the terms of his contract are as follows: x x x.*

²⁴ Section 32-A (11).

engagements up to the last employment with the petitioners. The evidence showed that his cardiomegaly was discovered three months after he finished his last contract with *Phyllis N.*

In fact, Alivio could only point to two episodes that could be considered of medical significance during his entire employment with the petitioners.

The first one occurred sometime in 2006 when he was diagnosed with high blood pressure and was advised to take prescribed medication; despite his condition, he was found fit to work and had been continuously hired by the petitioners as bosun.²⁵

The second one happened before he disembarked from the *Phyllis N* on October 3, 2009, when he claimed he experienced undue fatigue, weakness with nape pains.²⁶ But instead of reporting to the agency for medical examination, he consulted Dr. Sugay.

These two episodes, however, did not trigger Alivio's heart disease as on both occasions, he suffered no cardiac injury or cardiac arrest. In the same *Villanueva, Sr.* case, the Court said: “*We find no reversible error in the CA ruling affirming the denial of Villanueva's claim for disability benefits. We find it undisputed that he was repatriated for finished contract, not for medical reasons. More importantly, while the 2000 POEA-Standard Employment Contract (Section 32-A [11]) considers a heart disease as occupational, Villanueva failed to satisfy by substantial evidence the condition laid down in the Contract if the heart disease was known to have been present during employment, there must be proof that an acute exacerbation was clearly precipitated by the unusual strain brought by the nature of his work.*”²⁷

The circumstances leading to Alivio's disembarkation and shortly thereafter, lend credence to the petitioners' submission that his medical condition was pre-existing and could not have developed during his employment with them. This is supported by his own admission that even after being diagnosed with hypertension in October 2009, he had been continuously engaged as bosun because of his continuing fitness to work.

In this light, especially the failure to satisfy the conditions laid down under the POEA-SEC, we find that Alivio's *cardiomegaly*, discovered three months after his repatriation for “finished contract,” is not work-related and is therefore not compensable. Alivio's argument that the work-connection of his heart ailment is a non-issue because it was not raised before the labor tribunals is of no moment as the POEA-SEC which governs his employment

²⁵ *Supra* note, 2, at 2, par. 3.

²⁶ *Id.*, par. 4.

²⁷ *Supra* note 21, at 315; underscoring supplied.

expressly provides that the employer is liable only for a **work-related injury or illness suffered by the seafarer.**²⁸

Third. Even if we were to consider that Alivio was repatriated for health reasons, his failure to submit himself to a post-employment medical examination by a company-designated physician within three working days upon his return militates against his claim for disability benefits. It results in the forfeiture of his right to the benefits.²⁹

The CA justified Alivio's failure to report to the agency upon his disembarkation with the observation that "he signed off from the vessel due to finished contract," and that "while he may have suffered discomforts before his contract with Phyllis N ended, petitioner thought that it was just his hypertension x x x."³⁰ We are not convinced by the appellate court's justification. On the one hand, it stressed that Alivio was repatriated for completion of his contract without raising any medical problem with the ship management which could have been the basis of a disability compensation claim. On the other hand, it acknowledged the discomforts that Alivio experienced shortly before his disembarkation, clearly a medical issue which should have been reported to the petitioners.

As we noted earlier, the reason why Alivio did not bring his discomforts to the petitioners' attention was the fact that they were not grave enough to require medical treatment. This was confirmed by his chosen physician, Dr. Sugay, whom he consulted two days after his disembarkation on October 3, 2009 and who merely required him to rest for one to two days, following the doctor's diagnosis that he had hypertension.

In sum, we find that the CA based its rulings on the wrong legal and factual considerations and therefore effectively abused its discretion in reviewing the June 15, 2011 NLRC decision. The NLRC ruling should thus stand.

WHEREFORE, premises considered, we hereby **SET ASIDE** the January 30, 2014 decision and June 26, 2014 resolution of the Court of

²⁸ *Supra* note 23.

²⁹ POEA-SEC, Section 20 (B) 3 which provides: "*Upon sign-off from the vessel for medical treatment, the seafarer is entitled to sickness allowance equivalent to his basic wage until he is declared fit to work or the degree of his permanent disability has been assessed by the company-designated physician but in no case shall this period exceed one hundred twenty (120) days.*

For this reason, 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. Failure of the seafarer of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claims 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.

³⁰ *Supra* note 2, at 13, par. 1.

Appeals, and **REINSTATE** the June 15, 2011 decision of the National Labor Relations Commission.

The complaint is **DISMISSED** for lack of merit.

SO ORDERED.



ARTURO D. BRION
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



MARIANO C. DEL CASTILLO
Associate Justice

(On Official Leave)

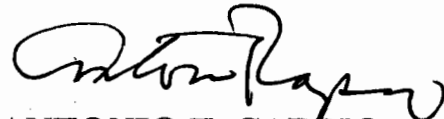
JOSE CATRAL MENDOZA
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

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.



ANTONIO T. CARPIO
Associate Justice
Chairperson

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.



MARIA LOURDES P. A. SERENO
Chief Justice