REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **25 November 2019** which reads as follows:

“G.R. No. 224184 (*Manpower Resources of Asia, Inc. vs. National Labor Relations Commission [Fifth Division] and Jerson Malicse*). – After a careful study of the case, the Court resolves to **DENY** the instant Petition for Review¹ assailing the Decision² dated January 15, 2016 and the Resolution³ dated April 14, 2016 of the Court of Appeals (CA) in CA-G.R. SP No. 140774 for failure of Manpower Resources of Asia, Inc. (petitioner) to sufficiently show that the CA committed any reversible error in upholding Jerson Malicse’s (respondent) entitlement to total and permanent disability benefits.

In *Kestrel Shipping Co., Inc. et al. v. Munar*,⁴ the Court held that: *first*, “the 120 days provided under Section 20-B(3) of the Philippine Overseas Employment Administration-Standard Employment Contract is the period given to the employer to determine fitness to work and when the seafarer is deemed to be in a state of total and temporary disability;” *second*, “the 120 days of total and temporary disability may be extended up to a maximum of 240 days should the seafarer require further medical treatment;” and *third*, a total and temporary disability becomes permanent: (a) when so declared by the company-designated physician within 120 or 240 days, as the case may be; or (b) upon the expiration of the periods *without* a declaration of either fitness to work or permanent disability and the seafarer is still unable to resume his regular seafaring duties.⁵

In this case, the CA aptly pointed out that the 120-day and 240-day periods had expired *without* any declaration of fitness to work or

¹ *Rollo*, pp. 9-20.

² *Id.* at 25-39; penned by Associate Justice Fernanda Lampas Peralta with Associate Justices Jane Aurora C. Lantion and Nina G. Antonio-Valenzuela, concurring.

³ *Id.* at 41-42.

⁴ 702 Phil. 717 (2013).

⁵ *Id.* at 732-733 citing *Vergara v. Hammonia Maritime Services, Inc., et al.*, 588 Phil. 895 (2008).

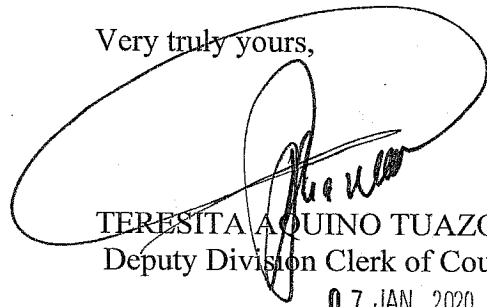
permanent disability from the company-designated physician, and even after 293 days, respondent was still unable to resume his regular seafaring duties due to his shoulder injury.⁶

Given the company-designated physician's failure to issue either a fit-to-work certification or a final disability rating within the prescribed periods, respondent is deemed to be suffering from a total and permanent disability⁷ and is thus entitled to the benefits corresponding thereto.⁸

WHEREFORE, the petition is **DENIED**. The Decision dated January 15, 2016 and the Resolution dated April 14, 2016 of the Court of Appeals in CA-G.R. SP No. 140774 are **AFFIRMED**.

SO ORDERED." (Reyes, A., Jr., *J.*, on leave; Zalameda, *J.*, designated additional member per Special Order No. 2724 dated October 25, 2019).

Very truly yours,



TERESITA AQUINO TUAZON
Deputy Division Clerk of Court

07 JAN 2020

p 17

⁶ Rollo, p. 36.

⁷ *Sharpe Sea Personnel, Inc. v. Mahunay, Jr.*, G.R. No. 206113, November 6, 2017, 844 SCRA 18, 25.

⁸ *Seacrest Maritime Management, Inc. v. Andrino*, G.R. No. 244270, March 11, 2019.

VELICARIA EGENIAS LAW OFFICES (reg)

Counsel for Petitioner
3rd Floor, Adamson Centre
121 Leviste Street, Salcedo Village
1227 Makati City

TOLENTINO & BAUTISTA LAW OFFICES (reg)

Counsel for Respondent
8th Floor, Philflex by the Bay, 15 Coral way Drive,
Central Business Park, Mall of Asia Complex,
1300 Pasay City

NATIONAL LABOR RELATIONS

COMMISSION (reg)

PPSTA Building, Banawe Street
corner Quezon Boulevard
1100 Quezon City
(NLRC LAC No. (OFW)-M) 12-000990-14)

JUDGMENT DIVISION (x)

Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)

LIBRARY SERVICES (x)

[For uploading pursuant to A.M. No. 12-7-1-SC]

OFFICE OF THE CHIEF ATTORNEY (x)

OFFICE OF THE REPORTER (x)

Supreme Court, Manila

COURT OF APPEALS (x)

Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. SP No. 140774

Please notify the Court of any change in your address.

GR224184. 11/25/19(160)URES

