REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **08 June 2020** *which reads as follows*:

"**G.R. No. 250488 (*Mark Anthony Lee Querubin v. Magsaysay Maritime Corporation, Wilhemsen Ship Management (Norway) AS., Marlon R. Roño*).** – The Court **NOTES** the manifestation and compliance dated 10 February 2020 by counsel for petitioner with the Resolution dated 8 January 2020, submitting the certified true copies of the Decision dated 27 December 2016 of the Labor Arbiter and the Decision dated 31 May 2017 and Resolution dated 31 July 2017 of the National Labor Relations Commission.

Before the Court is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court which seeks to set aside the Decision dated 25 July 2019[2] and Resolution dated 14 November 2019[3] of the Court of Appeals (CA) in CA-G.R. SP No. 152930 which affirmed the decision of the National Labor Relations Commission (NLRC), dismissing petitioner Mark Anthony Lee Querubin's (petitioner) complaint for total and permanent disability benefits.

Facts

In April 2014, petitioner underwent Pre-Employment Medical Examination (PEME) where he indicated "NO" to the question of whether he had previously suffered from "Fainting Spells, Fits, Seizures or Other Neurological Disorders." He likewise denied having been previously hospitalized. Accordingly, on 24 April 2014, petitioner was declared Fit for Sea Duty by Physician's Diagnostic Services Center, Inc.[4]

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1 *Rollo*, pp. 3-37.
2 Id. at 42-57. Penned by Associate Justice Nina G. Antonio-Valenzuela, with Associate Justices Ramon R. Garcia and Ruben Reynaldo G. Roxas, concurring.
3 Id. at 58-59.
4 Id. at 106.

On 5 May 2014, through an eight-month contract of employment, petitioner was hired as Ordinary Seaman by respondent manning agency Magsaysay Maritime Corporation (MMC) for and on behalf of its foreign principal, respondent Wilhemsen Ship Management (Norway) AS.[5]

On 11 July 2014, petitioner was deployed on board vessel M/S Paul Gaugain.[6]

On 22 January 2015, while performing his usual tasks, petitioner was found on the floor unconscious and experiencing seizure. The ship's physician diagnosed petitioner's condition as Epilepsy, declared him unfit for work, and recommended his medical disembarkation on 24 January 2015. The petitioner was then brought to a hospital in French Polynesia where his attending doctor recommended his immediate repatriation for further evaluation and treatment.[7]

On 30 January 2015, petitioner arrived in Manila and immediately reported to MMC. He was then referred to the company-designated physician at the Marine Medical Services (MMS) where he underwent a series of medical tests and diagnostic examinations.[8]

On 4 March 2015, MMS Assistant Medical Coordinator Dr. Esther Go, as noted by Medical Coordinator Dr. Robert Lim, issued a Medical Report stating that petitioner was diagnosed to have Seizure Disorder Secondary to Left Frontal Arteriovenous Malformation which is congenital in nature and is not work-related. The attending physician recommended that petitioner undergo "4-vessel angiogram" but the same was not approved and the petitioner's medical treatment was stopped.[9]

On 30 June 2015, petitioner sought the opinion of an independent physician of his choice, Dr. Lennie Lynn Chua of UP-PGH Adult Neurology. Subsequently, he underwent 4-vessel angiography under Dr. Alaric Salonga (Dr. Salonga) of PGH Neurology.[10] Dr. Salonga later answered a questionnaire provided to him by the lawyers of petitioner where he declared that Anteriovenous Malformation (AVM), while congenital, may be triggered by physical strain experienced on board the vessel, *i.e.* lifting of heavy objects, and advised petitioner not to resume his former duties as a seaman.[11]

On 18 May 2016, petitioner filed a complaint for recovery of disability benefits against respondents MMC, Wilhemsen Ship Management and Marlon R. Roño.[12] In summary, petitioner alleged that his medical

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5 Id. at 104.
6 Id. at 106.
7 Id. at 107.
8 Id. at 44.
9 Id. at 107-108.
10 Id. at 118.
11 Id. at 10.
12 Id. at 106.

condition is work-related or aggravated per the opinion of the physician of his choice; and in view of the fact that he was not issued a certification of fitness or a definite disability assessment by the company-designated physician despite the lapse of 240 days from the date of his repatriation and considering that he did not secure any gainful employment as a result of the illness that befell him while on board the vessel, his illness is deemed permanent and total.

The Labor Arbiter's Ruling

On 27 December 2016, the Labor Arbiter rendered a Decision[13] dismissing the petitioner's complaint, the dispositive portion of which reads:

> WHEREFORE, premises considered, the instant case is hereby DISMISSED for lack of merit.
>
> SO ORDERED.

The Labor Arbiter opined that based on various online literatures, AVM is congenital in nature, hence, petitioner did not acquire such illness during the term of his contract and the same is not work-related. Furthermore, the Labor Arbiter ruled that petitioner concealed his past medical condition from respondents which disqualifies him from any compensation and benefits per Sec. 20 (E) of the POEA Standard Employment Contract. The Labor Arbiter noted that during his PEME, the petitioner answered "NO" to the inquiries of whether or not he experienced any fainting spells, seizures or other neurological disorders and denied any hospitalization. He also did not disclose his medical problems or illness or his history of surgery or hospitalization or that he had Epilepsy when he filled out the medical history questionnaire. Yet, in the Injury/Illness Report of the ship's medical doctor, petitioner disclosed that he had an epileptic attack in 2011. It was likewise stated in the Initial Medical Report of the company-designated doctor that petitioner was treated at San Juan De Dios Medical Center in 2011 for experiencing loss of consciousness secondary to Hypokalemic Periodic Paralysis after drinking brandy and beer.

The NLRC Ruling

In its 31 May 2017 Decision,[14] the NLRC affirmed the ruling of the Labor Arbiter that petitioner's illness is congenital and not acquired nor aggravated during the term of his employment contract. The NLRC stressed that although the personal doctor of petitioner stated that physical stress and lifting heavy objects may trigger the onset of seizure, he did not provide any medical basis for his conclusion. Likewise, the NLRC agreed with the Labor Arbiter that due to petitioner's concealment of previous epileptic attack and hospitalization, his right to receive any compensation or benefit is forfeited. In the end, the NLRC decreed as follows:

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[13] Id. at 104-114.
[14] Id. at 116-124.

WHEREFORE, premises considered, the appeal is DENIED for lack of merit and the December 27, 2016 Decision is hereby AFFIRMED.

SO ORDERED.

The petitioner filed a motion for reconsideration of the above decision but the same was denied in the NLRC Resolution dated 31 July 2017.[15] Thereafter, petitioner filed a *certiorari* petition under Rule 65 before the CA.

The CA Ruling

On 25 July 2019, the CA rendered the assailed decision, dismissing the Petition for *Certiorari*, the dispositive portion of which reads:

ACCORDINGLY, we DISMISS the Petition for *Certiorari*.

IT IS SO ORDERED.

The CA affirmed the findings of the Labor Arbiter and NLRC that petitioner's medical condition or illness of AVM is not work-related being congenital in nature and not acquired nor aggravated during the term of his employment contract. Likewise, the CA held that petitioner is disqualified from claiming any type of disability benefit or compensation for failing to disclose a previous or pre-existing illness or condition at the time of executing the PEME.

The petitioner filed a motion for reconsideration of the above CA decision but the same was denied in the assailed resolution dated 14 November 2019. Hence, the instant petition.

The Issue Before the Court

The main issue in this case is whether or not the petitioner is entitled to total and permanent disability benefits pursuant to the 2010 POEA-SEC.

The Court's Ruling

The petition is not meritorious.

The petitioner argues that his medical condition or illness of AVM is work-related since there is causal connection between the nature of his employment and said illness, or at the very least, the same is work-aggravated brought by the physical strain experienced while working on board the vessel. He further contends that he is not guilty of concealment of a previous or pre-existing illness or condition. These, however, are factual issues that are not reviewable in a petition under Rule 45 of the Rules of Court.[16]

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[15] Id. at 127-129.

[16] *Menez v. Status Maritime Corporation*, G.R. No. 227523, August 29, 2018.

The petitioner is fundamentally assailing the findings of the CA and the NLRC that the evidence on record does not support his claim for disability benefits. In effect, he would have us sift through, calibrate and re-examine the credibility and probative value of the evidence on record so as to ultimately pass upon whether or not there is sufficient basis to hold the respondents accountable for refusing to pay disability benefits to him under the Philippine Overseas Employment Administration Standard Employment Contract (POEA-SEC), which is deemed written in his contract of employment. This clearly involves a factual inquiry, the determination of which is the statutory function of the NLRC.[17]

Elementary is the principle that the Court is not a trier of facts, and this applies with greater force in labor cases; only errors of law, are generally reviewed in petitions for review on *certiorari* criticizing decisions of the CA. Factual questions are for the labor tribunal to resolve. Moreover, findings of fact of quasi-judicial bodies like the NLRC, as affirmed by the CA, are generally conclusive on this Court.[18] Accordingly, the instant petition must be dismissed outright as it raises a question of fact.

The Court is not oblivious to the settled rule that it may examine the CA's Decision from the prism of whether the latter had correctly determined the presence or absence of grave abuse of discretion in the NLRC's Decision. In this case, however, the Court finds no reversible error on the part of the CA when it declared that the NLRC did not commit grave abuse of discretion in affirming the ruling of the NLRC and Labor Arbiter that petitioner's illness is not work-related and that he is disqualified from claiming disability benefits for concealing a previous or pre-existing illness or condition.

A review of the findings of the Labor Arbiter and the NLRC that petitioner's illness of AVM is not work-related being congenital in nature and not acquired nor aggravated during the term of his employment contract is supported by substantial evidence, as extensively discussed in their decisions.

Moreover, the petitioner cannot simply rely on the disputable presumption provision in the POEA-SEC that his illness was work-related. While the law recognizes that an illness may be disputably presumed to be work-related, the seafarer or the claimant must still show a reasonable connection between the nature of work on board the vessel and the illness contracted or aggravated. Thus, the burden is placed upon the claimant to present substantial evidence that his work conditions caused or at least increased the risk of contracting the disease.[19] Petitioner failed to discharge this burden. As pointed out by the CA, petitioner's personal doctor's opinion that his illness is work-aggravated has no medical basis and factual

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[17] See *Guerrero v. Philippine Transmarine Carriers, Inc.*, G.R. No. 222523, October 3, 2018.
[18] Id.
[19] *Espere v. NFD International Manning, Inc., et al.*, 814 Phil. 820, 838 (2017).

support as the same was only stated in his short and ambiguous answers to a questionnaire provided by petitioner's lawyers.

The CA likewise correctly affirmed the NLRC in ruling that petitioner is disqualified from claiming any type of disability benefit or compensation for concealing a pre-existing medical illness or condition.

Sec. 20 (E) of the 2010 POEA-SEC provides that:

> 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.

In this case, as noted by the Labor Arbiter, petitioner had an epileptic attack in 2011 and he was treated at San Juan De Dios Medical Center in 2011 for experiencing loss of consciousness secondary to Hypokalemic Periodic Paralysis. These facts are disclosed by petitioner as respectively indicated in the Injury/Illness Report of the ship's medical doctor and in the Initial Medical Report of the company-designated doctor. The same are likewise undisputed in this case by petitioner. However, when petitioner underwent PEME in April 2014, he answered "NO" to the questions of whether he had previously suffered from "Fainting Spells, Fits, Seizures or Other Neurological Disorders." He likewise denied having been previously hospitalized. Clearly, his categorical denial of the aforementioned questions shows his intention to conceal his pre-existing medical condition or illness material to his employment as a seafarer and relevant to the cause of his repatriation on 30 January 2015, which renders him liable for misrepresentation and disqualifying him from any compensation and benefits under the 2010 POEA-SEC.

WHEREFORE, the Petition for Review on *Certiorari* is **DENIED**. The assailed 25 July 2019 Decision and 14 November 2019 Resolution of the Court of Appeals in CA-G.R. SP No. 152930 are **AFFIRMED**.

SO ORDERED." (*J. Gaerlan, designated Additional Member per Special Order No. 2780 dated May 11, 2020.*)

Very truly yours,

TERESITA AQUINO TUAZON
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24 AUG 2020

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