

for Work¹³ wherein he released respondent of all actions and claims in connection with his being released as fit for duty.¹⁴

Petitioner underwent a subsequent PEME on January 19, 2016.¹⁵ However, respondent did not deploy him despite medical clearances and certification that he was fit for sea duty.¹⁶ Confused, petitioner consulted a cardiologist, Dr. Efren R. Vicaldo (Dr. Vicaldo) of the Philippine Heart Center to assess his condition. Dr. Vicaldo declared him unfit to resume work as a seaman in any capacity. After his examination of petitioner and his medical history, Dr. Vicaldo concluded that his illness was work-related.¹⁷

In a letter to respondent, petitioner requested for a meeting in order to settle his claim for disability benefits, medical reimbursement and other related benefits, but to no avail.¹⁸ This prompted petitioner to file a Notice to Arbitrate¹⁹ before the NCMB for payment of full disability benefits, sickness allowance, moral and exemplary damages, and attorney's fees. He asserted that: (1) the fit to work assessments by the company doctors were inconclusive and must be disregarded because his illness was still existing and he was still under medication when he was declared to be fit to work; (2) his unfitness to work was bolstered by his non-deployment; (3) his illness completely restricted his ability to effectively discharge his duties as chief cook; (4) his continued work would result in his discomfort and pain because of intermittent chest pain and tightness; and (5) the Certificate of Fitness for Work should not be given weight as he was only compelled to sign it because of the promise of deployment.²⁰

The Ruling of the NCMB

In the Decision²¹ dated February 1, 2017, the NCMB ruled in favor

¹³ Id. at 339.

¹⁴ Id.

¹⁵ Id. at 424.

¹⁶ Id. at 67.

¹⁷ See Medical Evaluation for Patient/Seaman Allan S. Navarette dated January 25, 2016, id. at 297-298.

¹⁸ See Letter dated March 11, 2016, id. at 299.

¹⁹ Id. at 599.

²⁰ Id. at 425-426.

²¹ Id. at 422-432.

The Ruling of the CA

In the assailed Decision³⁰ dated January 14, 2019, the CA set aside the Decision dated February 1, 2017 of the NCMB and found petitioner as not totally and permanently disabled. The *fallo* of the assailed Decision reads:

WHEREFORE, the Petition for Review filed by the petitioner is hereby GRANTED. The Decision dated February 1, 2017 and Resolution dated July 12, 2017 which were both rendered by the National Conciliation and Mediation Board in the case docketed as MVA-089-RCMB-NCR-241-12-11-2016 are hereby REVERSED.

Respondent Allan S. Navarette is hereby found not to be totally and permanently disabled. As such, the award of full disability benefit and attorney's fees to Respondent Allan S. Navarette are hereby DELETED.

SO ORDERED.³¹

The CA held in the assailed Decision that: (1) the burden of proof was upon petitioner to show by substantial evidence that he was entitled to receive his disability benefits;³² (2) the cause for the exacerbation of petitioner's condition can be attributed to the nature of his work as a chief cook which was physically demanding and exposed him to extreme temperatures;³³ (3) there was nothing in the records that would show that petitioner had vices that could have significantly contributed to the aggravation of his pre-existing heart condition;³⁴ and (4) petitioner's working environment overburdened his already defective cardiovascular system in just a quick span of four years.³⁵

Nonetheless, the CA reversed the finding of the NCMB and declared petitioner as not totally and permanently disabled. In ruling for respondent, the CA gave credence to the medical attention given to petitioner by the company-designated physician who gave a more accurate diagnosis of his medical condition and fitness to resume work.

³⁰ Id. at 64-78.

³¹ Id. at 77.

³² Id. at 70.

³³ Id. at 74.

³⁴ Id. at 74-75.

³⁵ Id.

Petitioner adds that: (1) his chosen doctors examined him and reviewed the tests done by the company doctor and his previous medical conditions; (2) the CA erred when it accorded outright credence to the assessment of the company-designated physician on the basis of the amount of time given in monitoring his condition; (3) he was still advised to continue his medication despite assessing him to be fit for work;⁴² (4) the medical assessment of the company-designated physician is biased and self-serving; (5) with his present condition, he can no longer fully, efficiently and properly discharge his customary and usual duties as a chief cook and as a seafarer without serious discomfort and pain; and (6) his present condition had prevented him from landing any gainful employment on an ocean vessel for a period of more than 240 days thereby making him permanently and totally disabled.⁴³

In its Comment,⁴⁴ respondent counters that petitioner was already suffering from hypertension and possible heart condition prior to boarding the vessel. As his condition was pre-existing, it was not suffered or acquired during the term of the contract hence, it cannot be considered as compensable.⁴⁵ Respondent denies any unusual strain in the nature of petitioner's work and dismisses the latter's allegation as self-serving.⁴⁶

Respondent likewise points out that: (1) the company-designated physicians were the ones who treated and monitored petitioner which resulted in his successful treatment and fitness to work;⁴⁷ (2) petitioner signed a Certificate of Fitness for Work acknowledging his condition;⁴⁸ (3) petitioner underwent a subsequent PEME where he was determined to be fit for sea duty;⁴⁹ and (4) petitioner is not entitled to any disability benefits because his condition was fully resolved by respondent.⁵⁰

⁴² Id. at 25.

⁴³ Id. at 27-29.

⁴⁴ Id. at 607-635.

⁴⁵ Id. at 615.

⁴⁶ Id. at 617.

⁴⁷ Id. at 622.

⁴⁸ Id. at 622-623.

⁴⁹ Id. at 622.

⁵⁰ Id. at 623.

resolves to deny the petition.

At the outset, there is no more question as to whether the illness of petitioner was work-related and contracted on board as the issue was no longer raised in the petition. At any rate, the Court agrees with the findings of both the NCMB and the CA that it is work-related.⁵⁹

To determine whether a seafarer is entitled to total and permanent disability benefits, the Court takes into consideration the law, the employment contract which governs his or her overseas employment, and the findings as to his or her medical condition in accordance with the pertinent rules.⁶⁰

The laws and rules that govern permanent total disability benefits of seafarers.

The law that governs a seafarer's disability benefits claim is Article 198 [Formerly Article 192] (c) (1) of the Labor Code of the Philippines. It provides:

ART. 198. [192] *Permanent Total Disability*. — x x x x

(c) The following disabilities shall be deemed total and permanent:

(1) Temporary total disability lasting continuously for more than one hundred twenty days, except as otherwise provided for in the Rules;

x x x x

Moreover, Section 2(b) of Rule VII of the Amended Rules on Employees' Compensation (AREC) defines disability as follows:

Section 2. *Disability*. — x x x x

(b) A disability is total and permanent if as a result of the injury or sickness the employee is unable to perform any gainful

⁵⁹ *Rollo*, pp. 74, 428.

⁶⁰ See *Wilhelmsen Smith Bell Manning, Inc. v. Villaflor*, G.R. No. 225425, January 29, 2020, citing *The Late Alberto B. Javier v. Philippine Transmarine Carriers, Inc.*, 738 Phil. 374 (2014).

For this purpose, 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. In the course of the treatment, the seafarer shall also report regularly to the company-designated physician specifically on the dates as prescribed by the company-designated physician and agreed to by the seafarer. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim 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.

The Court in *Elburg Shipmanagement Phils., Inc. v. Quiogue*⁶¹ explained the foregoing rules governing a claim for total and permanent disability benefits, viz.:

In summary, if there is a claim for total and permanent disability benefits by a seafarer, the following rules (*rules*) shall govern:

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

⁶¹ 765 Phil. 341 (2015).

In the case, petitioner entered into a Contract of Employment⁶⁷ with respondent on January 21, 2015 for a period of four months. He was repatriated for medical reasons on June 11, 2015 and respondent referred him to its company-designated physician for further management.⁶⁸ Petitioner was initially diagnosed to be suffering from hypertension and acute gastritis. After a series of tests and work-ups, the company-designated physician diagnosed him with “*ischemic heart disease, hypertension and acute gastritis.*”⁶⁹

The Medical Reports⁷⁰ reveal that petitioner was regularly seen and managed by the company-designated physicians from June 24, 2015 to November 20, 2015 for at least 18 times. In his Medical Report dated November 20, 2015, it was stated that his ischemic heart disease and acid peptic ulcer disease were treated while his hypertension was controlled. It was thus recommended that he was already fit to resume sea duties effective November 20, 2015.⁷¹ In fact, petitioner signed a Certificate of Fitness for Work⁷² on the same day stating, among others, that he was releasing respondent “*of all claims, demands, etc. in connection with my being released on this date as fit for duty*”⁷³ and holding respondent free from any and all liabilities as a consequence thereof.⁷⁴

Petitioner thereafter underwent another PEME on January 19, 2016 and he was again declared fit for sea duty.⁷⁵ He was issued medical clearances by Dr. Jane Campos, Liver and Gastrointestinal Disease Specialist, on January 22, 2016⁷⁶ and Dr. Sison, a Cardiologist, on January 25, 2016.⁷⁷ Both doctors assessed petitioner as fit to work with advise from Dr. Sison to continue with his medication.

⁶⁷ *Rollo*, p. 455.

⁶⁸ *Id.* at 66-67.

⁶⁹ *Id.* at 67.

⁷⁰ *Id.* at 320-338.

⁷¹ *Id.* at 338.

⁷² *Id.* at 339.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.* at 424.

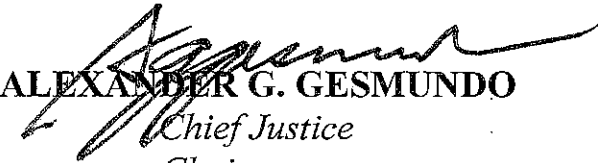
⁷⁶ *Id.* at 344.

⁷⁷ *Id.* at 345.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

(On official leave)

SAMUEL H. GAERLAN
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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