



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

ROMMEL S. ALENAJE,*
Petitioner,

G.R. No. 249195

Present:

- versus -

PERLAS-BERNABE, S.A.J.,
Chairperson,
HERNANDO,
INTING,
GAERLAN, and
DIMAAMPAO, JJ.

**C.F. SHARP CREW
MANAGEMENT, INC.,
REEDEREI CLAUS-PETER
OFFEN (GMBH & CO.) and
ROBERTO B. DAVANTES,**
Respondents.

Promulgated:

FEB 14 2022

X ----- X

DECISION

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated March 28, 2018 and the Resolution³ dated August 29, 2019 of the Court of Appeals (CA) in CA-G.R. SP No. 10288 that affirmed the Decision⁴ dated January 29, 2016 and the Resolution⁵ dated May 20, 2016 of the National Labor Relations Commission (NLRC) in NLRC Case No. OFW VAC-01-000007-2016/SRAB Case No. VI OFW (M) 2015-07-0065.

* Spelled as Alinaje in some parts of the *rollo*.

¹ *Rollo*, pp. 12-30.

² *Id.* at 37-46; penned by Associate Justice Edward B. Contreras, with Associate Justices Edgardo L. Delos Santos (now a retired Member of the Court) and Louis P. Acosta, concurring.

³ *Id.* at 47-48; penned by Associate Justice Edward B. Contreras, with Associate Justices Edgardo L. Delos Santos (now a retired Member of the Court) and Gabriel T. Ingles, concurring.

⁴ *Id.* at 49-61; penned by Presiding Commissioner Violeta Ortiz-Bantug, with Commissioners Julie C. Rendoque and Jose G. Gutierrez, concurring.

⁵ *Id.* at 62-63.

The Antecedents

On July 15, 2015, Rommel S. Alenaje (petitioner) filed with the Labor Arbiter (LA) a Complaint⁶ for illegal dismissal, payment of the unexpired portion of his contract, damages, and attorney's fees.

In his Position Paper,⁷ he contended the following:

He had worked as a seaman for 18 years already. On April 13, 2015, he entered into a Contract of Employment⁸ with Reederei Claus-Peter Offen (GMBH & Co.) KG (respondent foreign principal), through its local agent, C.F. Sharp Crew Management, Inc. (respondent local manning agency) represented by Roberto B. Davantes (collectively, respondents), as a steward on board the vessel *M/V CPO New York* for a period of six months with a basic monthly salary of US\$644.00, among others.⁹

On April 14, 2015, he boarded *M/V CPO New York* that then left Manila. He was surprised to learn that he was the only steward assigned in the vessel considering its size and number of crew. There was also no mess man assigned to the crew. Thus, he worked as a steward for the officers and, at the same time, as a mess man for the crew. He would work until 1:00 a.m. and wake up at 6:00 a.m., or just five hours later, to arrange the food in the provision room.¹⁰

On the morning of April 17, 2015, while he was preoccupied with arranging the scattered food in the provision room, Chief Mate Lukasz Leszek Kucharz (Chief Mate Kucharz) instructed him to strip and wax the navigational bridge floor from 10:00 a.m. to 11:00 a.m. While the assigned task was not part of his duties and responsibilities as a steward, he politely told Chief Mate Kucharz that, if possible, he would clean the navigational area in the afternoon because anytime before 11:00 a.m., he would start to prepare and serve the food to the officers, the crew, and the additional ten persons who were repairing the vessel. Chief Mate Kucharz, however, accused him of insubordination; he threatened him that he would work out for his dismissal.¹¹

⁶ *Id.* at 97.

⁷ *Id.* at 98-109.

⁸ *Id.* at 81-88.

⁹ *Id.* at 100.

¹⁰ *Id.* at 101.

¹¹ *Id.* at 101-102.

The next day, April 18, 2015, petitioner received a Show Cause Notice¹² with the charge of insubordination. A hearing was conducted on the same day. He explained that in his years of service as a steward, there was not an instance that he was asked to strip and wax the navigational bridge floor. He stated that he did not refuse outright Chief Mate Kucharz's request but merely asked if he could do the task anytime in the afternoon and not during the time when he would be preparing and serving food to the vessel officers and crew.¹³

On that same day, he received a Notice of Formal Warning¹⁴ that if his future behavior would not be compliant with the code of conduct, he would be dismissed from the vessel.¹⁵

After the hearing, Chief Mate Kucharz continued telling him that he would be dismissed from his employment. He felt harassed and singled out by Chief Mate Kucharz: it added to the tension and pressure brought about by the April 17 incident.¹⁶ As a result, he was constrained to tender his resignation on April 21, 2015,¹⁷ which was accepted on the same date through an email¹⁸ from Jan Wehner, the Senior Personnel Officer of respondent foreign principal.

On May 20, 2015, a Notice of Dismissal¹⁹ was issued to him. He was subsequently repatriated and was paid his salary equivalent to one month and eight days.²⁰

In their Position Paper,²¹ respondents alleged the following:

Petitioner disobeyed the lawful order of the Captain, through Chief Mate Kucharz, to clean the navigational bridge floor. He was disrespectful in his refusal to follow such order; thus he was given a warning of insubordination on April 18, 2015 which was entered in the

¹² *Id.* at 91.

¹³ *Id.* at 102.

¹⁴ *Id.* at 92.

¹⁵ *Id.* at 102.

¹⁶ *Id.* at 102-103.

¹⁷ See Letter dated April 21, 2015, *id.* at 93.

¹⁸ *Id.* at 94.

¹⁹ *Id.* at 95.

²⁰ *Id.* at 103.

²¹ *Id.* at 129-143.

vessel's logbook.²² Despite the warning, he still refused to follow the lawful order of his superior so that a disciplinary action was taken against him. In the Notice of Hearing, respondents informed him that a hearing for insubordination will be conducted in the master's office where he may bring with him his statement, documents, and witnesses for his defense.²³

In the Minutes of Hearing,²⁴ the following were stated: (1) that petitioner admitted having disregarded the order for him to strip and wax the navigational bridge floor as it was not his duty to do so; (2) that he demanded repatriation; and (3) that he aggressively raised his voice during the proceedings. Respondents dismissed him effective May 21, 2015,²⁵ but he refused to receive the Notice of Dismissal.²⁶

Petitioner disembarked the vessel by virtue of the termination of his contract due to valid grounds provided under Section 33 (insubordination) of the Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-going Ships (POEA Standard Contract).²⁷ After his repatriation, on May 22, 2015, he went to the office of respondent local manning agency where he accomplished a Debriefing Report.²⁸ In the report, he stated "resign" as the reason for his sign-off and did not give negative remarks on any of the questions in the Report regarding any problem on board the ship.²⁹

On June 26, 2015, respondents filed with the Philippine Overseas Employment Administration (POEA) a Complaint³⁰ for disciplinary action for insubordination against petitioner, but the latter failed to appear during the hearing. However, respondents were surprised to receive an Order from the LA declaring them to have waived their right to file a position paper in the illegal dismissal case filed by petitioner against them for failure to appear during the scheduled mandatory conciliation conference. Respondents filed their motion for

²² *Id.* at 131-132.

²³ *Id.* at 132.

²⁴ *Id.* at 153-154.

²⁵ *Id.* at 95.

²⁶ *Id.* at 156.

²⁷ *Id.* at 132.

²⁸ *Id.* at 158.

²⁹ *Id.*

³⁰ *Id.* at 256-257.

reconsideration with the LA; the latter granted it and allowed them to file their position paper.³¹ Respondents subsequently filed a Reply.³²

Ruling of the LA

On November 24, 2015, the LA issued a Decision,³³ the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered:

1. FINDING that the complainant was constructively dismissed.

2. HOLDING respondents C.F. Sharp Crew Management, Inc. and Roberto B. Davantes solidarily liable to the complainant and ORDERING them to pay complainant Rommel S. Alenaje the amount of Php 192,458.22, comprising the payment of the unexpired portion of his employment contract, moral and exemplary damages in the amount of P30,000.00 and ten percent (10%) attorney's fees.

Respondents C.F. Sharp Crew Management, Inc. and Roberto B. Davantes are directed jointly and severally, to deposit the said amount to the Cashier of this Sub-Arbitration Branch within ten (10) days from receipt of this Decision.

[3]. DENYING all other claims whether of the complainant or of the respondents, for their failure to adduce substantive evidence therefore and /for lack of merit.

SO ORDERED.³⁴

In so ruling, the LA found that petitioner had substantially established that he was constructively dismissed; that respondents committed a breach of the employment contract because petitioner was ordered to strip and wax the navigational bridge floor of the ship when such work was not part of his duties and responsibilities as a steward; that on the other hand, respondents had not produced anything to substantiate that the job assigned to be done was one of the duties of a steward; and that the document titled "Function Description: Steward,"

³¹ *Id.* at 133.

³² *Id.* at 110-117.

³³ *Id.* at 171-179; penned by Labor Arbiter Rodrigo P. Camacho.

³⁴ *Id.* at 179.

which was submitted by respondents, could not be given credence especially such was not received or signed by petitioner.³⁵

The LA also found that there was some truth to the allegation of petitioner that Chief Mate Kucharz threatened him with dismissal from employment because, despite the warning issued to him on April 18, 2015, a Notice of Dismissal was also issued on May 20, 2015.³⁶

Ruling of the NLRC

Respondents filed their appeal³⁷ with the NLRC.

In the Decision³⁸ dated January 29, 2016, the NLRC reversed the LA's Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the Decision of the Labor Arbiter is hereby REVERSED AND SET ASIDE. Complainant ✓ Rommel Alenaje's claims of his salaries and benefits for the unexpired portion of his contract with respondents C.F. Sharp Crew Management, Inc., Roberto B. Davantes and Reederei Claus-Peter Offen (GMBH & Co.), moral and exemplary damages as well as attorney's fees are denied for lack of basis and merit.³⁹

The NLRC found that petitioner tendered his resignation on April 21, 2015 which was accepted on the same day by respondent foreign principal. Thus, NLRC declared that it was him who pre-terminated his contract with respondents. It also noted that the Notice of Dismissal issued by the Ship Master on May 20, 2015 was delivered to him almost a month after his resignation.⁴⁰

The NLRC further ruled that petitioner failed to discharge his burden of proving that his continued employment with respondents was rendered impossible and/or unreasonable by the acts of the respondents;⁴¹ that under the POEA Standard Contract provision, he is bound to obey the lawful commands of the master or any person who

³⁵ *Id.* at 177.

³⁶ *Id.* at 177-178.

³⁷ See Notice of Appeal with Memorandum of Appeal dated December 16, 2015, *id.* at 180-202.

³⁸ *Id.* at 49-61.

³⁹ *Id.* at 60.

⁴⁰ *Id.* at 55.

⁴¹ *Id.* at 57-60.

shall lawfully succeed him; and that stripping and waxing of the navigational bridge, which involved the maintenance and cleanliness of a part of the vessel, was part of his duties which the master or the chief officer may assign to him.⁴²

The NLRC furthermore found that petitioner failed to narrate the specific acts of the alleged harassment done to him by Chief Mate Kucharz. It declared that his allegation of Chief Mate Kucharz' voicing an opinion for his dismissal, granting it to be true, cannot be considered as sufficient basis to conclude that his work has become unbearable so that he had no other choice but to resign.⁴³

Petitioner filed a motion for reconsideration, but the NLRC denied it in a Resolution⁴⁴ dated May 20, 2016.

Ruling of the CA

Petitioner filed a Petition⁴⁵ for *Certiorari* with the CA. After the parties' submission of their respective pleadings, the case was submitted for decision.

On March 28, 2018, the CA issued its assailed Decision,⁴⁶ the dispositive portion of which states:

WHEREFORE, the Petition is DISMISSED. The Decision and Resolution of the National Labor Relations Commission in NLRC Case No. OFW VAC-01-000007-2016, dated January 29, 2016 and May 20, 2016, respectively, are AFFIRMED.⁴⁷

The CA ruled that the NLRC did not commit grave abuse of discretion in issuing its decision as it was duly supported by substantial evidence. It declared that if indeed petitioner was badly treated at his work, he should have indicated it in the Debriefing Report he filled up upon his repatriation;⁴⁸ that it took him quite sometime to bring the matter to the labor authorities' attention after his arrival on May 22,

⁴² *Id.* at 58.

⁴³ *Id.*

⁴⁴ *Id.* at 62-63.

⁴⁵ *Id.* at 282-302.

⁴⁶ *Id.* at 37-46.

⁴⁷ *Id.* at 45.

⁴⁸ *Id.* at 42-43.

2015; and that he only filed the illegal dismissal complaint on July 15, 2015 after respondent local manning agency filed an insubordination complaint against him with the POEA.⁴⁹

The CA denied petitioner's motion for reconsideration in a Resolution⁵⁰ dated August 29, 2019.

Hence, the petition before the Court.

Issues

- (1) Whether petitioner was constructively dismissed from his employment; and
- (2) Whether petitioner's dismissal was illegal for he was penalized twice for a single and/or same infraction.⁵¹

The Court's ruling

The Court finds no merit in the petition.

At the outset, the Court deems it proper to dispose of the procedural issues raised by respondents in their Comment.⁵²

Respondents assert that the decision of the NLRC had already attained finality because petitioner's motion for reconsideration of the decision was filed beyond the reglementary period.⁵³

The Court is not persuaded.

In *Opinaldo v. Ravina*,⁵⁴ where therein petitioner contended that therein respondent's petition filed with the CA should have been dismissed outright as the latter's motion for reconsideration before the NLRC was filed out of time, the Court held:

⁴⁹ *Id.* at 44-45.

⁵⁰ *Id.* at 47-48.

⁵¹ *Id.* at 20.

⁵² *Id.* at 392-410.

⁵³ *Id.* at 397-399.

⁵⁴ 719 Phil. 584 (2013).

Time and again, we have ruled and it has become doctrine that the perfection of an appeal within the statutory or reglementary period and in the manner prescribed by law is mandatory and jurisdictional. Failure to do so renders the questioned decision final and executory and deprives the appellate court of jurisdiction to alter the final judgment, much less to entertain the appeal. In labor cases, the underlying purpose of this principle is to prevent needless delay, a circumstance which would allow the employer to wear out the efforts and meager resources of the worker to the point that the latter is constrained to settle for less than what is due him.

In the case at bar, the applicable rule on the perfection of an appeal from the decision of the NLRC is Section 15, Rule VII of the 2005 Revised Rules of Procedure of the National Labor Relations Commission:

Section 15. Motions for Reconsideration. – Motion for reconsideration of any decision, resolution or order of the Commission shall not be entertained except when based on palpable or patent errors; provided that the motion is under oath and filed within ten (10) calendar days from receipt of decision, resolution or order, with proof of service that a copy of the same has been furnished, within the reglementary period, the adverse party; and provided further, that only one such motion from the same party shall be entertained.

Should a motion for reconsideration be entertained pursuant to this SECTION, the resolution shall be executory after ten (10) calendar days from receipt thereof.

We are not, however, unmindful that the NLRC is not bound by the technical rules of procedure and is allowed to be liberal in the application of its rules in deciding labor cases. Thus, under Section 2, Rule I of the 2005 Revised Rules of Procedure of the National Labor Relations Commission it is stated:

Section 2. Construction. – These Rules shall be liberally construed to carry out the objectives of the Constitution, the Labor Code of the Philippines and other relevant legislations, and to assist the parties in obtaining just, expeditious and inexpensive resolution and settlement of labor disputes.

It is significant that the 2011 NLRC Rules of Procedure, under Section 2, Rule I thereof, also carries exactly the same provision. Further, the 2005 Revised Rules and the 2011 Rules carry identical provisions appearing under Section 10, Rule VII of both laws:

Section 10. Technical rules not binding. – The rules of procedure and evidence prevailing in courts of law and equity shall not be controlling and the Commission shall use every and all reasonable means to ascertain the facts in each case speedily and objectively, without regard to technicalities of law or procedure, all in the interest of due process.

In any proceeding before the Commission, the parties may be represented by legal counsel but it shall be the duty of the Chairman, any Presiding Commissioner or Commissioner to exercise complete control of the proceedings at all stages.

All said, despite this jurisdiction's stance towards the exercise of liberality, the rules should not be relaxed when it would render futile the very purpose for which the principle of liberality is adopted. The liberal interpretation stems from the mandate that the workingman's welfare should be the primordial and paramount consideration.

x x x x

We defer to the exercise of discretion by the NLRC and uphold its judgment in applying a liberal construction of its procedural and technical rules to this case in order to ventilate and resolve the issues raised by respondent in the motion for reconsideration and fully resolve the case on the merits. It would be purely conjectural to challenge the NLRC's exercise of such liberality for being tainted with grave abuse of discretion especially that it did not reverse, but even affirmed, its questioned decision which sustained the ruling of the Labor Arbiter – that respondent illegally dismissed petitioner. In view of such disposition, that the NLRC gave due course to the motion in the interest of due process and to render a full resolution of the case on the merits is the more palpable explanation for the liberal application of its rules.⁵⁵

In the present case, the NLRC denied petitioner's motion for reconsideration in this wise:

Complainant's counsel claims not to have received a copy of the aforementioned Decision. However, the registry receipt of said document clearly shows that it was sent through registered mail (Letter/Package No. 1183) at the Cebu Central Post Office on 16 February 2016. Its registry return receipt, addressed to Atty. Emmanuel S. Brotarlo, Atty. Sherwin G. Real, Real Brotarlo & Real Law Offices," complainant's counsel on record, likewise confirms that it was delivered on 23 February 2016. The Supreme Court had

⁵⁵ *Id.* at 597-600. Citations omitted.

held that postal office certifications are prima facie proof that processes had been delivered to and received by the recipient.

Evidently, complainant's motion was filed out of time since the same should have been filed within the ten-day period upon receipt of the Decision. Apart from that, a cursory examination of the records shows that the issues raised in complainant's motion were already resolved and squarely passed upon in Our Decision sought to be reconsidered. Hence, We find no reason or ground to reverse or modify the same. Our Decision, finding complainant to have voluntarily resigned and not illegally/constructively dismissed, stands.⁵⁶

While the NLRC found that the motion for reconsideration was indeed filed out of time, it still gave due course to the motion when it decided the motion on the merits and affirmed the assailed decision. The Court defers to the exercise of the NLRC's discretion in applying a liberal construction of its procedural and technical rules.

Respondents also argue that the assailed CA Decision dated March 28, 2018 had already attained finality because petitioner's motion for reconsideration of the decision did not bear the signature of counsel;⁵⁷ thus making it an unsigned pleading that produced no legal effect as provided under Section 3, Rule 7 of the Rules of Court, to wit:

Section 3. *Signature and address.* — Every pleading must be signed by the party or counsel representing him, stating in either case his address which should not be a post office box.

The signature of counsel constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay.

An unsigned pleading produces no legal effect, however, the court may, in its discretion, allow such deficiency to be remedied if it shall appear that the same was due to mere inadvertence and not intended for delay. Counsel who deliberately files an unsigned pleading, or signs a pleading in violation of this Rule, or alleges scandalous or indecent matter therein, or fails promptly report to the court a change of his address, shall be subject to appropriate disciplinary action. (Italics supplied.)

⁵⁶ *Rollo*, pp. 62-63.

⁵⁷ *Id.* at 399-400.

It appears that the CA had exercised its discretion when it did not only rule on the technical issue but also the merits of the motion for reconsideration.⁵⁸

The Court now addresses the merits of the case.

Petitioner tendered his resignation on April 21, 2015, and it was accepted on the same day through an email from respondents' Senior Personnel Officer, Jan Wehner:

We accept your resignation and guarantee repatriation from the next convenient port. Your decision is either to stay in the cabin off duty until repatriation or to work according to Head of Department/Masters orders. Your wages will be paid until arrival in your home country.⁵⁹

As petitioner admittedly resigned, it is incumbent upon him to prove that his resignation was involuntary and that it was actually a case of constructive dismissal with clear, positive, and convincing evidence.⁶⁰ Bare allegations of constructive dismissal, when uncorroborated by the evidence on record, cannot be given credence.⁶¹

The issue of whether petitioner's resignation was involuntary that constitutes constructive dismissal is a question of fact. It has been repeatedly held that the Court is not a trier of facts. Rule 45 of the Revised Rules of Court limits the office of a petition for review to questions of law and leaves the factual issues as found by the quasi-judicial bodies, as long as they are supported by evidence. However, when the rulings of the labor tribunal and the appellate court are in conflict, the Court is constrained to analyze and weigh the evidence again.⁶² In the case, the decision of the LA are in conflict with the decisions of the NLRC and the CA; thus the Court may review and weigh the evidence presented.

⁵⁸ *Id.* at 47-48.

⁵⁹ *Id.* at 94.

⁶⁰ *Paredes v. Feed the Children Philippines, Inc.*, 769 Phil. 418, 436 (2015), citing *Hechanova Bugay Vilchez Lawyers v. Atty. Matorre*, 719 Phil. 608, 618-619 (2013), further citing *Vicente v. Court of Appeals (Former 17th Div.)*, 557 Phil. 777, 787 (2007).

⁶¹ *Italkarat 18, Inc. v. Gerasmio*, G.R. No. 221411, September 28, 2020, citing *Philippine Rural Reconstruction Movement (PRRM) v. Pulgar*, 637 Phil. 244, 370-372 (2010), further citing *Go v. Court of Appeals*, 474 Phil. 404, 413 (2004).

⁶² *Paredes v. Feed the Children Philippines, Inc.*, *supra* note 60 at 433, citing *Agabon v. NLRC*, 485 Phil. 248, 277 (2004).

In *Gan v. Galderma Philippines, Inc.*,⁶³ the Court elucidated on the meaning of constructive dismissal and resignation as follows:

x x x [C]onstructive dismissal is defined as quitting or cessation of work because continued employment is rendered impossible, unreasonable or unlikely; when there is a demotion in rank or a diminution of pay and other benefits. It exists if an act of clear discrimination, insensibility, or disdain by an employer becomes so unbearable on the part of the employee that it could foreclose any choice by him except to forego his continued employment. There is involuntary resignation due to the harsh, hostile, and unfavorable conditions set by the employer. The test of constructive dismissal is whether a reasonable person in the employee's position would have felt compelled to give up his employment/position under the circumstances.

On the other hand, "[r]esignation is the voluntary act of an employee who is in a situation where one believes that personal reasons cannot be sacrificed in favor of the exigency of the service, and one has no other choice but to dissociate oneself from employment. It is a formal pronouncement or relinquishment of an office, with the intention of relinquishing the office accompanied by the act of relinquishment. As the intent to relinquish must concur with the overt act of relinquishment, the acts of the employee before and after the alleged resignation must be considered in determining whether he or she, in fact, intended to sever his or her employment."⁶⁴

After a careful review of the evidence presented and applying the foregoing principles as a guide, the Court finds that the CA committed no reversible error in upholding the findings of the NLRC that there was voluntary resignation on the part of petitioner. The Court finds that petitioner failed to prove his allegations of constructive dismissal with clear and positive evidence.

In his letter of resignation dated April 21, 2015, petitioner wrote:

In as much as you forced me to work not in accordance with my duties and responsibilities under my contract of employment and due to unbearable working condition/and or atmosphere and in consideration of my safety, I am tendering my resignation effective today (April 21, 2015). Hence, I am requesting my repatriation to my home country.⁶⁵

⁶³ 701 Phil. 612 (2013).

⁶⁴ *Id.* at 638-639. Citations omitted.

⁶⁵ *Rollo*, p. 93.

It had been established that petitioner was instructed by Chief Mate Kucharz, on behalf of the captain, to strip and wax the navigational bridge floor.⁶⁶ However, petitioner alleged that such job was not part of his work as a steward. Notably, Section 1(B)(3) of the POEA Standard Contract provides that the seafarer has the duty to be obedient to the lawful commands of the master or any person who shall lawfully succeed him and to comply with company policy including the safety policy and procedures and any instructions given him in connection therewith. The order to strip and wax the navigational bridge floor was a lawful command of Chief Mate Kucharz, on behalf of the captain, and it concerned the safety policy in the ship;⁶⁷ thus petitioner had the duty to follow such order.

In fact, respondents had attached the Affidavits⁶⁸ of three seafarers who had worked on-board international container ships as stewards for years where they all stated that stripping and waxing or cleaning of navigational bridge floor was an occasional duty which may be assigned to them by the chief officer on behalf of the master and that such work was not unlawful nor beyond their duties as steward. Therefore, the assigned task may also be done occasionally by a steward, if the need arises, as instructed by the Master or the Chief Officer. Petitioner, however, tendered his resignation because he did not want to do the waxing or cleaning of navigational bridge floor as ordered by Chief Mate Kucharz, citing that it was not part of his duty.

Moreover, the fact that petitioner did not want to do the assigned task was also proved by the Minutes of Hearing⁶⁹ held on April 18, 2015, to wit:

Mr. Alenaje admitted that he had disregarded the order about stripping and waxing of navigational bridge floor. He claimed that it is not his duty and would not do it. Mr. Alenaje demanded repatriation. We must add that manner of expression of Mr. Alenaje was unacceptable he was raising voice in aggressive way.⁷⁰ (*sic*)

Petitioner's claim that he politely asked Chief Mate Kucharz if he could do the stripping and waxing of the navigational bridge in the afternoon but not between 10:00 a.m. to 11:00 a.m. as ordered because

⁶⁶ *Id.* at 58.

⁶⁷ *Id.*

⁶⁸ *Id.* at 118- 120.

⁶⁹ *Id.* at 153-154.

⁷⁰ *Id.* at 154.

he would be preparing the food by 11:00 a.m. was not supported by the evidence on record. Such defense appeared only as an afterthought because petitioner never stated it in his resignation letter nor was it mentioned in the Minutes of Hearing.

Also, if indeed petitioner had politely told Chief Mate Kucharz that he would do the assigned task in the afternoon, and had actually done it, there would be no entry of the verbal warning of insubordination in the vessel's logbook;⁷¹ and there would be no need for a hearing regarding the incident and no formal warning would be issued to him. The fact that he did not do the assigned task proved that he did not want to do it believing that it was not part of his duty as a steward.

Petitioner's allegation of unbearable working conditions/atmosphere because Chief Mate Kucharz kept on telling him that he will be dismissed and that he was maltreated and insulted were all self-serving due to lack of evidentiary support. In fact, his claim was contradicted by the Debriefing Report⁷² dated May 22, 2015 which he himself filled up in respondents' local manning office after his repatriation. Petitioner's answers to the pertinent questions on the Debriefing Report are as follows:

Reason for s/off: RESIGN

x x x x

A. Feedback on Policy Matters:

1. Comments on principal general policies: Good

x x x x

B. Feedback on Vessel & Working Conditions:

1. Vessel's schedule/trade: OK

x x x x

9. Details of incidents/accidents, if any during your tenure: --

C. Feedback on Yourself & Other Ship Staff

⁷¹ *Id.* at 157.

⁷² *Id.* at 158.

x x x x

3. Communication/relationship with Officers: Good⁷³

Petitioner's allegation of fear for his safety which made him tender his resignation was also not substantiated. The Court agrees with the CA when it adopted the NLRC's findings that petitioner was on-board the vessel for more than a month after he submitted his resignation and before he was repatriated without any untoward incident.⁷⁴


Based on the foregoing discussions, the Court finds no need to pass upon the second issue raised in this petition.

WHEREFORE, the petition for review is **DENIED**. The Decision dated March 28, 2018 and the Resolution dated August 29, 2019 of the Court of Appeals in CA-G.R. SP No. 10288 are hereby **AFFIRMED**.


SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


RAMON PAUL L. HERNANDO
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

⁷³ *Id.*

⁷⁴ *Id.* at 42.


JAPAR B. DIMAMPAO

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.


ESTELA M. PERLAS-BERNABE

Senior 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.


ALEXANDER G. GESMUNDO

Chief Justice

