Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

MARTIN K. AYUNGO, Petitioner,	**G.R. No. 203161**
- versus -	Present:
BEAMKO SHIPMANAGEMENT CORPORATION, EAGLE MARITIME RAK FZE, AND JUANITO G. SALVATIERRA, JR.,[***] Respondents.	CARPIO, *J.*, Acting Chief Justice,[*] Chairperson, DEL CASTILLO, PEREZ, PERLAS-BERNABE, and LEONEN,[**] *JJ.*
	Promulgated: FEB 26 2014

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DECISION

PERLAS-BERNABE, *J.*:

Assailed in this petition for review on *certiorari*[1] are the Decision[2] dated May 4, 2012 and Resolution[3] dated August 16, 2012 of the Court of Appeals (CA) in CA-G.R. SP No. 117162 which reversed and set aside the Resolutions[4] dated July 20, 2010 and September 28, 2010 of the National Labor Relations Commission (NLRC) in OFW (M) 09-12328-08 dismissing petitioner Martin K. Ayungo's (Ayungo) claim for disability benefits.

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* Designated Acting Chief Justice per Special Order No. 1644 dated February 25, 2014.
** Designated Acting Member per Special Order No. 1643 dated February 25, 2014.
*** "Juanito Salvatierra" in some parts of the records.
1 *Rollo*, pp. 33-81.
2 Id. at 8-30. Penned by Associate Justice Agnes Reyes-Carpio, with Associate Justices Jose C. Reyes, Jr. and Franchito N. Diamante, concurring.
3 Id. at 108-109.
4 Id. at 505-524 and 551-552, respectively. Penned by Presiding Commissioner Raul T. Aquino, with Commissioners Teresita D. Castillon-Lora and Napoleon M. Menese, concurring.

The Facts

On October 11, 2007, Ayungo entered into a twelve (12) month Contract of Employment [5] with respondent Beamko Shipmanagement Corporation (Beamko) on behalf of its foreign principal, respondent Eagle Maritime RAK FZE (Eagle Maritime), whereby he was engaged as Chief Engineer for the vessel M/V World Star (vessel).

Prior to his embarkation, or on October 10, 2007, Ayungo underwent a pre-employment medical examination[6] (PEME) at the Sagrada Corazon Medical and Allied Services Center, Inc. (SCMASCI) in Ermita, Manila. During his PEME, Ayungo disclosed that he had Diabetes Mellitus. However, when asked if he suffered from High Blood Pressure (Hypertension), he answered in the negative. With these representations, Dr. Janilyn M. Ong and Dr. Catalina P. Ricohermoso of SCMASCI declared Ayungo "FIT FOR SEA DUTY." Thereafter, Ayungo left Manila and boarded the vessel on October 14, 2007.[7]

In the morning of March 15, 2008, Ayungo suddenly lost his sense of hearing while on duty in the engine room, and only heard a continuous ringing noise. But since the vessel was about to reach the port of Yokohama, Japan, Ayungo continued to work until 8:00 in the evening of that day. After three (3) hours, Ayungo woke up and felt like his surroundings were spinning. Then, he vomited, lost consciousness, and was later found by Oiler Desiderio Sumalinog lying on the floor. The incident was reported[8] to the master of the vessel, Captain J. A. Clenista, for proper action.[9]

Upon reaching the port of Yokohama, Japan on March 16, 2008, Ayungo was confined at the Yokohama Red Cross Hospital and was initially diagnosed with "sudden dysacousis" – a condition in which certain sounds produce discomfort (auditory dysesthesia).[10] On March 25, 2008, he was repatriated to the Philippines for further medical treatment and examination.[11]

Following his repatriation, Ayungo was attended to by Dr. Robert Lim (Dr. Lim) of the Metropolitan Medical Center (MMC), the designated physician of Beamko. In a Medical Certificate[12] dated March 26, 2008, his tests reflected the following impressions: (*a*) to consider Meniere's Syndrome (Endolymphatics Hydrops); (*b*) Hypertension; and (*c*) Diabetes

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5 Id. at 144.
6 Id. at 145
7 Id. at 10.
8 Id. at 148.
9 Id. at 10.
10 Id. at 149-150.
11 Id. at 10.
12 Id. at 231-232.

Mellitus. It was also revealed that Ayungo was previously diagnosed with Hypertension which he maintained by taking the prescriptive drug Lifezar.

In another Medical Report[13] dated May 21, 2008, Ayungo was further diagnosed with Multiple Lacunar Infarcts and Coronary Artery Disease (CAD).

On July 9, 2008, Dr. Mylene Cruz-Balbon (Dr. Cruz-Balbon) and Dr. Lim of the MMC issued another report,[14] finding that Ayungo's Hypertension and Diabetes Mellitus were both pre-existing and not work-related, *viz.*:

> As per our reply to your previous inquiry dated April 10, 2008, his **Hypertension and Diabetes Mellitus are <u>both pre-existing</u>** and can be contributory to the Multiple Lacunar Infarcts noted on CT Scan.
>
> x x x x
>
> **Hypertension is <u>not work-related</u>.** It is multifactorial in origin which includes genetic predisposition, poor lifestyle, high salt intake, smoking, Diabetes Mellitus, age and increased sympathetic activity.
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> **Diabetes Mellitus is usually familial/hereditary and is <u>not work related</u>.** (Emphases and underscoring supplied)

Unconvinced, Ayungo consulted another physician, Dr. May S. Donato-Tan (Dr. Donato-Tan) of the Philippine Heart Center. In an undated medical certificate,[15] the latter declared him to be suffering from CAD, Hypertension and Diabetes Mellitus that rendered him unfit for sea duty in any capacity, the status thereof being that of a permanent total disability.[16]

On September 2, 2008, Ayungo filed a complaint[17] before the NLRC for the payment of permanent total disability benefits, sickness allowance, reimbursement of medical expenses, damages and attorney's fees against Beamko, respondent Juanito G. Salvatierra, Jr. (Salvatierra, Jr.), in his capacity as President of Beamko, and Eagle Maritime (respondents).

In his Position Paper[18] dated February 4, 2009, Ayungo claimed that he is entitled to permanent total disability benefits considering that: (*a*) his medical records disclose that his Hypertension caused the impairment of his heart and kidney organs;[19] (*b*) his Hypertension and CAD developed and/or

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13 Id. at 238.
14 Id. at 242.
15 Id. at 165-166.
16 Id. at 166.
17 Id. at 110-112.
18 Id. at 114-143.
19 Id. at 124.

became aggravated as a result of the conditions of his employment;[20] and (*c*) by employing Ayungo despite the disclosure in his PEME that he had Diabetes Mellitus, Beamko and Eagle Maritime assumed the risk of liability arising from his weakened medical condition.[21]

In opposition, respondents contended[22] that: (*a*) Ayungo was already suffering from his illnesses when he entered into the contract of employment with Beamko and Eagle Maritime;[23] and (*b*) his illnesses were not work-related under the 2000 Philippine Overseas Employment Agency Standard Employment Contract (2000 POEA-SEC).[24]

The LA Ruling

In a Decision[25] dated May 14, 2009, the Labor Arbiter (LA) ordered Beamko, Eagle Maritime, and Salvatierra, Jr. to jointly and severally pay Ayungo the sum of: (*a*) US$60,000.00 as permanent total disability benefits, as well as US$6,300.00 sickness allowance, to be paid in Philippine currency at the time of payment; (*b*) ₱100,000.00 as moral damages; (*c*) ₱100,000.00 as exemplary damages; and (*d*) attorney's fees equivalent to 10% of the total monetary award.

The LA held that Beamko, Eagle Maritime, and Salvatierra, Jr. cannot evade liability by claiming that Ayungo's illnesses were pre-existing considering that during his PEME, he divulged that he had Diabetes Mellitus, and despite such, was still declared "fit for sea duty."[26] The LA did not give credence to Dr. Cruz-Balbon's and Dr. Lim's findings that Ayungo's Diabetes Mellitus and Hypertension were not work-related as the same appeared to be mere general statements unsupported by medical and laboratory tests.[27] Lastly, the LA concluded that Ayungo's Hypertension can be classified as primary or essential for the reason that it had caused the impairment of his heart and kidney organs.[28]

Dissatisfied, respondents filed an appeal to the NLRC.

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20 Id. at 134.
21 Id. at 135.
22 See Position Paper dated November 22, 2008; id. at 186-221.
23 Id. at 192-193.
24 Id. at 196.
25 Id. at 355-365. Penned by LA Madjayran H. Ajan.
26 See id. at 358-360.
27 See id. at 360-362.
28 Id. at 361.

The NLRC Ruling

In a Resolution[29] dated July 20, 2010, the NLRC denied the appeal, and thereby affirmed the LA's ruling *in toto*. It fully subscribed to the findings of the LA that Ayungo's Diabetes Mellitus and Hypertension were work-related and, hence, compensable, effectively debunking respondents' contention that Ayungo is not entitled to permanent total disability benefits on the ground that his illnesses were pre-existing.

Respondents moved for reconsideration which the NLRC denied in a Resolution[30] dated September 28, 2010, prompting the filing of a petition for *certiorari* before the CA.

Pending resolution thereof, both parties jointly filed a Conditional Satisfaction of Judgment Award[31] before the NLRC, wherein Ayungo manifested his receipt[32] of the sum of ₱3,391,506.31 from respondents, without prejudice to the outcome of the *certiorari* case filed before the CA.

The CA Ruling

In a Decision[33] dated May 4, 2012, the CA granted the *certiorari* petition, and thereby set aside the NLRC's decision. It found that while Ayungo indeed disclosed that he had Diabetes Mellitus, this fact alone does not entitle him to disability benefits as he failed to show the causal connection between his illness and the work for which he was contracted.[34] Similarly, the CA rejected Ayungo's claim in connection with his Hypertension as it was not shown that said illness impaired the function of any of his body organs.[35] Lastly, the CA stated that the undated medical certificate of Dr. Donato-Tan cannot be given credence for failing to show that Ayungo's illnesses were work-related, considering too that Ayungo failed to refer the matter to a "third doctor" as prescribed under the 2000 POEA-SEC.[36]

Dissatisfied, Ayungo filed a motion for reconsideration which was denied in a Resolution[37] dated August 16, 2012, hence, this petition.

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29 Id. at 505-524.
30 Id. at 551-552.
31 Id. at 662-666.
32 Id. at 667-668.
33 Id. at 8-30.
34 Id. at 100-102.
35 Id. at 102.
36 Id. at 103.
37 Id. at 108-109.

The Issue Before the Court

The essential issue for the Court's resolution is whether or not the CA erred in granting respondents' petition for *certiorari*, thereby setting aside the NLRC's decision holding that Ayungo was entitled to disability benefits.

The Court's Ruling

To justify the grant of the extraordinary remedy of *certiorari*, the petitioner must satisfactorily show that the court or quasi-judicial authority gravely abused the discretion conferred upon them. Grave abuse of discretion connotes judgment exercised in a capricious and whimsical manner that is tantamount to lack of jurisdiction. To be considered "grave," the discretionary authority must be exercised in a despotic manner by reason of passion or personal hostility, and must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined by or to act all in contemplation of law.[38]

In labor disputes, grave abuse of discretion may be ascribed to the NLRC when, *inter alia*, its findings and the conclusions reached thereby are not supported by substantial evidence.[39] This requirement is clearly expressed in Section 5, Rule 133 of the Rules of Court which provides that "[i]n cases filed before administrative or quasi-judicial bodies, a fact may be deemed established if it is supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion."

Guided by the foregoing considerations, the Court finds that the CA correctly granted respondents' *certiorari* petition since the NLRC gravely abused its discretion when it held that Ayungo was entitled to disability benefits notwithstanding the latter's failure to establish his claim through substantial evidence.

Specifically, Ayungo was not able to demonstrate, under the parameters of the above-mentioned evidentiary threshold, that his Diabetes Mellitus was related to his work as Chief Engineer during the course of his employment. It is well-settled that for a disability to be compensable, the seafarer must establish that there exists "a reasonable linkage between the disease suffered by the employee and his work to lead a rational mind to conclude that his work may have contributed to the establishment or, at the very least, aggravation of any pre-existing condition he might have had."[40] In other words, not only must the seafarer establish that his injury or illness

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38 *Ramos v. BPI Family Savings Bank, Inc.*, G.R. No. 203186, December 4, 2013.

39 See id.; citations omitted.

40 *Magsaysay Maritime Services v. Laurel*, G.R. No. 195518, March 20, 2013, 694 SCRA 225, 242; see also Section 20(B) of the 2000 POEA-SEC.

rendered him permanently or partially disabled, it is equally pertinent that he shows a causal connection between such injury or illness and the work for which he had been contracted.[41]

In this case, the NLRC gravely abused its discretion in affirming the LA's findings that Ayungo is entitled to disability benefits on the ground that Beamko and Eagle Maritime assumed the risk of liability of his weakened condition.[42] Beamko and Eagle Maritime's subsequent hiring of Ayungo, despite knowledge of his Diabetes Mellitus, did not make them guarantors of his health nor did it warrant outright compensation in favor of Ayungo.[43] Indeed, despite the pre-existing nature of his Diabetes Mellitus and the concomitant disputable presumption that it is work-related,[44] Ayungo still had the burden to prove the causal link between his Diabetes Mellitus and his duties as Chief Engineer. As pronounced in *Quizora v. Denholm Crew Management (Philippines), Inc.*:[45]

> At any rate, granting that the provisions of the 2000 POEA-SEC apply, the disputable presumption provision in Section 20 (B) does not allow him to just sit down and wait for respondent company to present evidence to overcome the disputable presumption of work-relatedness of the illness. **Contrary to his position, he still has to substantiate his claim in order to be entitled to disability compensation. He has to prove that the illness he suffered was work-related and that it must have existed during the term of his employment contract.** He cannot simply argue that the burden of proof belongs to respondent company. (Emphasis supplied)

Thus, considering that Ayungo failed to establish the work-relatedness of his Diabetes Mellitus through substantial evidence, his claim for disability benefits therefor should not have been granted by the NLRC.

As for Ayungo's Hypertension, suffice it to state that he did not disclose that he had been suffering from the same and/or had been actually taking medications therefor (*i.e.*, Lifezar) during his PEME.[46] As the records would show, the existence of Ayungo's Hypertension was only revealed after his repatriation, as reflected in the Medical Report[47] dated March 26, 2008 and reinforced by subsequent medical reports[48] issued by MMC. To the Court's mind, Ayungo's non-disclosure constitutes fraudulent misrepresentation which, pursuant to Section 20(E) of the 2000 POEA-SEC,[49] disqualifies him from claiming any disability benefits from his

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41 See *Magsaysay Maritime Corporation v. NLRC (Second Division)*, G.R. 186180, March 22, 2010, 616 SCRA 362, 373-374.

42 *Rollo*, pp. 515-516.

43 *Francisco v. Bahia Shipping Services, Inc.*, G.R. No. 190545, November 22, 2010, 635 SCRA 660.

44 See Section 32-A (List of Occupational Diseases) of the 2000 POEA-SEC.

45 G.R. No. 185412, November 16, 2012, 660 SCRA 309, 319.

46 *Rollo*, p. 145.

47 Id. at 231-232.

48 See Medical Reports dated April 10, 2008 and July 9, 2008, id. at 241-242.

49 SECTION 20. COMPENSATION AND BENEFITS

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employer. In fact, even if the Court were to discount Ayungo's misrepresentation on the premise that his Hypertension was not pre-existing, his claim for disability benefits therefor should remain dismissible given that he had still failed to satisfy the requirements stated in Section 32-A(20) of the 2000 POEA-SEC, *viz.*:

> 20. Essential Hypertension.
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> 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. (Emphasis supplied)

Breaking down the provision, Hypertension is considered compensable when it is shown that: (*a*) it causes impairment of function of body organs like kidneys, heart, eyes, and brain, resulting in permanent disability; and (*b*) there are documents that substantiate said finding, such as chest x-ray report, ECG report, blood chemistry report, funduscopy report, and C-T scan. As records are bereft of any showing that these requirements had been complied with by Ayungo, his Hypertension should not have been considered by the NLRC as compensable.

Finally, the Court deems it worthy to note that Ayungo failed to comply with the procedure laid down under Section 20(B)(3) of the 2000 POEA-SEC which provides that "[i]f a doctor appointed by the seafarer disagrees with the assessment [of the company doctor], a third doctor may be agreed jointly between the Employer and the seafarer," and that "[t]he third doctor's decision shall be final and binding on both parties." In *Philippine Hammonia Ship Agency, Inc. v. Dumadag* [50] (*Philippine Hammonia*), the Court held that the seafarer's non-compliance with the said conflict-resolution procedure results in the affirmance of the fit-to-work certification of the company-designated physician, *viz.*:

> **The filing of the complaint constituted a breach of Dumadag's contractual obligation to have the conflicting assessments of his disability referred to a third doctor for a binding opinion.** x x x **Thus, the complaint should have been dismissed, <u>for without a binding third opinion, the fit-to-work certification of the company-designated physician stands</u>** x x x.
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> x x x x

E. **A seafarer who knowingly conceals and does not disclose past medical condition, disability and history in the pre-employment medical examination constitutes fraudulent misrepresentation and <u>shall disqualify him from any compensation and benefits</u>**. This may also be a valid ground for termination of employment and imposition of the appropriate administrative and legal sanctions. (Emphasis and underscoring supplied)

[50] G.R. No. 194362, June 26, 2013; citations omitted.

> Whatever his reasons might have been, Dumadag's disregard of the conflict-resolution procedure under the POEA-SEC and the CBA cannot and should not be tolerated and allowed to stand, lest it encourage a similar defiance. x x x The third-doctor-referral provision of the POEA-SEC, it appears to us, has been honored more in the breach than in the compliance. This is unfortunate considering that the provision is intended to settle disability claims voluntarily at the parties' level where the claims can be resolved more speedily than if they were brought to court.
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> **Given the circumstances under which Dumadag pursued his claim, especially the fact that he caused the non-referral to a third doctor, Dr. Dacanay's fit-to-work certification must be upheld.** In *Santiago v. Pacbasin Ship Management, Inc.*, the Court declared: "[t]here was no agreement on a third doctor who shall examine him anew and whose finding shall be final and binding. x x x **[T]his Court is left without choice but to uphold the certification made by Dr. Lim with respect to Santiago's disability**. (Emphases and underscoring supplied)

In this case, the findings of Beamko and Eagle Maritime's physicians that Ayungo's illnesses were not work-related were, in turn, controverted by Ayungo's personal doctor stating otherwise. In light of these contrasting diagnoses, Ayungo prematurely filed his complaint before the NLRC without any regard to the conflict-resolution procedure under Section 20(B)(3) of the 2000 POEA-SEC. Thus, consistent with *Philippine Hammonia*, the Court is inclined to uphold the opinion of Beamko and Eagle Maritime's physicians that Ayungo's illnesses were pre-existing and not work-related, hence, non-compensable.

In sum, the CA rightfully granted respondents' *certiorari* petition as the NLRC findings and the conclusions reached thereby are tainted with grave abuse of discretion considering that Ayungo's claim for disability benefits remains unsupported by substantial evidence and is even anathema to the provisions of the 2000 POEA-SEC. Verily, while the Court adheres to the principle of liberality in favor of the seafarer in construing the POEA Standard Contract, it cannot allow claims for compensation based on surmises. When the evidence presented then negates compensability, the claim must fail, lest it causes injustice to the employer.[51]

WHEREFORE, the petition is **DENIED**. The Decision dated May 4, 2012 and Resolution dated August 16, 2012 of the Court of Appeals in CA-G.R. SP No. 117162 are **AFFIRMED.**

SO ORDERED.

ESTELA M. PERLAS-BERNABE
Associate Justice

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[51] *Francisco v. Bahia Shipping Services, Inc.*, supra note 43, at 667.

WE CONCUR:

ANTONIO T. CARPIO
Acting Chief Justice
Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

MARVIC MARIO VICTOR F. LEONEN
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.

ANTONIO T. CARPIO
Acting Chief Justice