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Philippine Shipping Updates – Manning Industry

By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., May 12, 2010

Supreme Court denies disability benefits for seafarer's failure to submit to post-employment medical examination within a period of 3 working days from repatriation

(Author's Note: This is the fifth decision of the Court upholding the 3 working days reporting requirement. The other four decisions are: Maunlad Transport, Inc. vs. Flaviano Manigo, Jr., G.R. No. 161416, Third Division, 13 June 2008, Associate Justice Austria Martinez, Ponente; Virjen Shipping Corporation vs. Jesus B. Barraquio; G.R. No. 178127; Second Division; April 16, 2009; Associate Justice Conchita Carpio-Morales, Ponente; Bandila Maritime Services, Inc. vs. Rolando Dubduban, G.R. No. 171984, First Division, September 29, 2009, Associate Justice Renato Corona, Ponente and Dionisio Musnit vs. Sea Star Shipping Corporation, G.R. No. 182623, First Division, December 4, 2009, Justice Conchita Carpio Morales, Ponente)

Facts:

The seafarer was hired by the manning agents on behalf of its principal to work on-board the vessel as AB for a period of nine (9) months. Throughout the period of his employment, there was no report of any illness or injury suffered by the seafarer and in fact, he was able complete his contractual period on-board the vessel. There were two (2) conflicting allegations made by the parties on whether or not the seafarer reported to the manning agent within three (3) working days upon his repatriation but the Court of Appeals in its decision ruled that there was no dispute that seafarer failed to undergo the required post-employment medical examination by a company designated physician. The seafarer's doctor found him to be suffering from the following: (1) Hypertension stage 2; (2) TB of the left Uretus (sic); (3) Cystolithiasis; and (4) Carpal Tunnel Syndrome of both hands and assessed the seafarer with a disability grading of Grade 1. The said impediment grade serves as basis for the seafarer to claim disability benefits from the Owners.

The Labor Arbiter granted the claim and ruled that the seafarer acquired his illness during his employment on-board the vessel. On appeal by the Owners, the NLRC reversed the decision because it found that the seafarer never consulted the company-designated physician. The NLRC further held that they cannot give credence to the medical report of the seafarer's doctor because it was issued fifteen (15) months after repatriation. The Court of Appeals affirmed the dismissal of the complaint and held that the adverse consequence of failing to submit to a post-employment medical examination by a company-designated physician is non-entitlement to the benefits. The seafarer elevated the case to the High Court.

The Supreme Court ruling:

The issue boils down to whether seafarer failed to comply with the requirement pertaining to the rule on mandatory reporting thus rendering his illness non-compensable. As with all other kinds of workers, the terms and conditions of a seafarer's employment are governed by the provisions of the contract he signs at the time he is hired. But unlike that of others, deemed written in the seafarer's contract is a set of standard provisions set and implemented by the POEA called the 2000 Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels, which is considered to be the minimum requirement acceptable to the government for the employment of Filipino seafarers on board foreign ocean-going vessels.

Section 20 (B), paragraph (3) of the POEA SEC states:

“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. Failure of the seafarer to comply with the mandatory reporting requirement shall result in his forfeiture of the right to claim the above benefits.”

Applying the above provision of Section 20(B), paragraph (3), seafarer is required to undergo post-employment medical examination by a company-designated physician within three working days from arrival, except when he is physically incapacitated to do so, in which case, a written notice to the agency within the same period would suffice.

In *Maunlad Transport, Inc. v. Manigo, Jr.* this Court explicitly declared that it is mandatory for a claimant to be examined by a company-designated physician within three days from his repatriation. The unexplained omission of this requirement will bar the filing of a claim for disability benefits.

The Supreme Court further ruled: “The Court is surely saddened by the plight of the petitioner (seafarer), but we are constrained to deny his claim for compensation benefits absent proof of compliance with the requirements set forth in Section 20 (B), paragraph (3) of the 2000 Amended Standard Terms and Conditions Governing the Employment of Filipino Seafarers on Board Ocean-Going Vessels. Awards of compensation cannot rest on speculations and presumptions as the claimant must prove a positive proposition.”

Alex Cootauco vs. MMS Phil. Maritime Services, Inc., Ms. Mary C. Maquilan and/or MMS Co., Ltd. ; G.R. No. 184722; Second Division; March 15,2010, Supreme Court Associate Justice Jose Portugal Perez, Ponente.

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from Asia-Pacific, The Legal 500, 2009-2010, p. 341

This publication aims to provide commentary on issues affecting the manning industry, analysis of recent cases and updates on legislation. It is meant to be brief and is not intended to be legal advice. For further information, please email ruben.delrosario@delrosario-pandiphil.com.

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