



DEL ROSARIO PANDIPHIL Inc.

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By: Ruben Del Rosario, President, Del Rosario Pandiphil Inc., July 22, 2013 (Issue 2013/11)

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The seafarer was engaged as Steward on-board the vessel. After about one month into employment, the seafarer started to feel unusual itchiness all over his body followed by the appearance of small spots on his skin. He deferred seeking medical attention until October 2005. He was subjected to medical check-up on board and after considering the extent of the rashes on his upper torso and the fact that he engaged in food preparation and service, he was medically repatriated on October 7, 2005. He was referred to the company-designated physician and was diagnosed to be afflicted with psoriasis. The illness was declared by the company-designated to be not work-related. Aggrieved, seafarer sought the opinion of a dermatologist at the Seaman's Hospital who declared him to be suffering from psoriasis vulgaris, a disease aggravated by work but is not contagious. Seafarer then filed a case for payment of full disability benefits, damages, and attorney's fees before the LA.

The Labor Arbiter ruled in favor of the respondent and awarded USD75,000.00 plus attorney's fees. It was ruled that seafarer's illness was connected to his work and thus compensable. The NLRC differed with the conclusion of the Labor Arbiter and held that there is actually no substantial evidence to prove that the nature of and the stress relating to seafarer's work aggravated his psoriasis. The NLRC observed that the only evidence substantiating the claim that seafarer's illness is work-related was the certification of his dermatologist who examined him only once. The NLRC accorded more weight to the company doctor's certification who was in a better position to assess seafarer's condition after having treated him for 8 months. The Court of Appeals reinstated the Labor Arbiter's decision.

The Supreme Court affirmed the decision of the Court of Appeals.

The Court, after evaluating the findings of both the company doctors and the seafarer's physician, found that serious doubts pervade in the former. **While both doctors gave a brief description of psoriasis, it was only the seafarer's physician who categorically stated the factors that may trigger the illness of the seafarer. On the other hand, the company doctor immediately concluded that it is not work-related on the basis merely on the absence of psoriasis in the schedule of compensable diseases in Sections 32 and 32-A of the POEA Contract. The company doctor failed to consider the varied factors the seafarer could have been exposed to while on board the vessel.** The Court noted that as a Steward, the seafarer used strong detergent, fabric conditioner, special soap and chemicals in performing his duties. Also stress and climate changes likewise permeate his working environment as with that of any other seafarer. These factors, taken together with the certification of seafarer's doctor would establish a causal connection between the illness and seafarer's employment.

The Supreme Court also noted that seaman was unable to work for more than 120 days as in fact, the company

doctor's certification was issued only after 259 days with the seafarer still needing further medical treatments thus rendering him unable to pursue his customary work. This makes his condition a permanent and total disability.

Author's Note: The Supreme Court would now appear to be requiring detailed explanations from medical experts as to the reason why an illness should be considered as not work-related. It is not enough for the company-designated doctor to state that the illness is not work-related, there must also be a detailed explanation as to such conclusion. Another point noted in this case is that the Supreme Court appeared to have gone back to the 120 days reasoning in considering a seafarer permanently and totally disabled. While the seafarer's treatment in this case lasted for more than 240 days (which is reason to consider him totally and permanently disabled), the Supreme Court cited the case of Fil-Star Maritime v. Rosete that if a seafarer is unable to work for more than 120 days, he is considered to be totally and permanently disabled.

Maersk Filipinas Crewing Inc./Maersk Services Ltd., and/or Mr. Jerome Delos Angeles vs. Nelson E. Mesina; G.R. No. 200837; First Division; June 5, 2013; Associate Justice Bienvenido Reyes, Ponente

Del Rosario New Hires

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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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