**RECRUITMENT AND PLACEMENT**

Under Section 64 of the Omnibus Rules and Regulations Implementing the Migrant Workers and Overseas Filipinos Act of1995 (RA 8024), the liability of the principal/employer and the recruitment placement agency on any and all claims under this Rule shall be joint and solidary. If the recruitment/placement agency is a juridical being, the corporate officers and directors and partners as the case may be, shall themselves be jointly and solidarily liable with the corporation or partnership for the aforesaid claims and damages. Hence, Petra Agency/Royal Dream International Services/Consolacion "Marla" Nahas were held jointly and severally ordered to pay complainant Olarte her unpaid salaries. **MA. CONSOLACION M. NAHAS, doing business under the name and style PERSONNEL EMPLOYMENT AND TECHNICAL RECRUITMENT AGENCY vs. JUANITA L. OLARTE**, **G.R. No. 169247, June 2, 2014, J. Del Castillo**

The contract was already perfected on the date of its execution, which occurred when Abosta and Hilario agreed on the object and the cause, as well as on the rest of the terms and conditions therein. Naturally, contemporaneous with the perfection of the employment contract was the birth of certain rights and obligations, a breach of which may give rise to a cause of action against the erring party. Also, the POEA Standard Contract must be recognized and respected. Thus, neither the manning agent nor the employer can simply prevent a seafarer from being deployed without a valid reason. **ABOSTA SHIP MANAGEMENT and/or ARTEMIO CORBILLA vs. WILHILM M. HILARIO, G.R. No. 195792, November 24, 2014, C.J. Sereno**

**LABOR STANDARDS**

**WAGES**

The employer’s’ argument is a vain attempt to circumvent the minimum wage law by trying to create a distinction where none exists. There is no substantial distinction between deducting and charging a facility’s value from the employee’s wage. Hence, the legal requirements for creditability apply to both. These requirements are (a) proof must be shown that such facilities are customarily furnished by the trade; (b) the provision of deductible facilities must be voluntarily accepted in writing by the employee; and (c) the facilities must be charged at fair and reasonable value. **OUR HAUS REALTY DEVELOPMENT CORPORATION vs.** **ALEXANDER PARIAN, JAY C. ERINCO, ALEXANDER CANLAS, BERNARD TENEDERO AND JERRY SABULAO, G.R. No. 204651, August 6, 2014, J. Brion**

An employer is allowed to withhold terminal pay and benefits pending the employee’s return of its properties. The return of the property owned by their employer Solid Mills became an obligation or liability on the part of the employees when the employer-employee relationship ceased.  Thus, respondent Solid Mills has the right to withhold petitioners’ wages and benefits because of this existing debt or liability. **EMER MILAN, RANDY MASANGKAY, WILFREDO JAVIER, RONALDO DAVID, BONIFACIO MATUNDAN, NORA MENDOZA, ET AL. vs.** **NATIONAL LABOR RELATIONS COMMISSION, SOLID MILLS, INC., AND/OR PHILIP ANG**, **G.R. No. 202961, February 04, 2015**, **J. Leonen**

**BENEFITS**

When an employee’s injury was the result of the accidental slippage in handling of the 200-kilogram globe valve, such employee is eligible for disability benefits under the Collective Bargaining Agreement executed between his employer and its union. **CARLO F. SUNGA *vs.* VIRJEN SHIPPING CORPORATION, NISSHO ODYSSEY SHIP MANAGEMENT PTE. LTD., and/or CAPT. ANGEL ZAMBRANO, G.R. No. 198640, April 23, 2014, J. Brion**

The records would reveal that Remedios Yap failed to prove by substantial evidence that the death of her husband occurred during the term of his employment contract and that the cause of death was work-related. There is no established link connecting Dovee Yap’s accidental slip to the lung cancer and pneumonia that killed him. Neither can it be said that Dovee Yap’s working conditions increased the risk of contracting the disease for which he died. In order for the beneficiaries of a seafarer to be entitled to death compensation from the employer, it must be proven that the death of the seafarer (1) is work-related; and (2) occurred during the term of his contract. **REMEDIOS O. YAP vs. ROVER MARITIME SERVICES CORPORATION, MR. RUEL BENISANO and/or UCO MARINE CONTRACTING W.L.L., G.R. No. 198342, August 13, 2014, J. Peralta**

The nature of employment can possibly aggravate a pre-existing illness. However, the causation between the nature of employment and the aggravation of the illness must still be proven before compensation may be granted. For illness to be compensable, it is not necessary that the nature of the employment be the sole and only reason for the illness suffered by the seafarer. It is sufficient that there is 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. **FLOR G. DAYO vs. STATUS MARITIME CORPORATION, ET AL., G.R. No. 210660, January 21, 2015, J. Leonen**

As in Dumadag, Gepanaga failed to observe the prescribed procedure of having the conflicting assessments on his disability referred to a third doctor for a binding opinion. Consequently, the Court applies the following pronouncements laid down in Vergara: The POEA Standard Employment Contract and the CBA clearly provide that when a seafarer sustains a work-related illness or injury while on board the vessel, his fitness or unfitness for work shall be determined by the company-designated physician. If the physician appointed by the seafarer disagrees with the company-designated physician’s assessment, the opinion of a third doctor may be agreed jointly between the employer and the seafarer to be the decision final and binding on them. Thus, while petitioner had the right to seek a second and even a third opinion, the final determination of whose decision must prevail must be done in accordance with an agreed procedure. Unfortunately, the petitioner did not avail of this procedure; hence, we have no option but to declare that the company-designated doctor’s certification is the final determination that must prevail**. VERITAS MARITIME CORPORATION AND/OR ERICKSON MARQUEZ vs. RAMON A. GEPANAGA JR., G.R. No. 206285, February 04, 2015, J. Mendoza**

The law does not require that the illness should be incurable. What is important is that he was unable to perform his customary work for more than 120 days which constitutes permanent total disability. An award of a total and permanent disability benefit would be germane to the purpose of the benefit, which is to help the employee in making ends meet at the time when he is unable to work. **MAUNLAD TRANS., INC./CARNIV AL CRUISE LINES, INC., and MR. AMADO L. CASTRO, JR. vs. RODOLFO CAMORAL, G.R. No. 211454, February 11, 2015, J. Reyes**

**SERVICE CHARGE**

PPHI did not violate Article 96 of the Labor Code when they refused the Union’s claim for service charges on the specified entries/transactions. Article 96 of the Labor Code provides for the minimum percentage distribution between the employer and the employees of the collected service charges, and its integration in the covered employees’ wages in the event the employer terminates its policy of providing for its collection. This last paragraph of Article 96 of the Labor Code presumes the practice of collecting service charges and the employer’s termination of this practice. When this happens, Article 96 requires the employer to incorporate the amount that the employees had been receiving as share of the collected service charges into their wages. In cases where no service charges had previously been collected (as where the employer never had any policy providing for collection of service charges or had never imposed the collection of service charges on certain specified transactions), Article 96 will not operate. **NATIONAL UNION OF WORKERS IN HOTEL RESTAURANT AND ALLIED INDUSTRIES, PHILIPPINE PLAZA CHAPTER vs. PHILIPPINES PLAZA INC., G.R. No. 177524, July 23, 2014, J. Brion**

**SEPARATION PAY**

Pursuant to the aforementioned rulings, Camilon is clearly not entitled to separation pay. Camilon was holding a position which involves a high degree of responsibility requiring trust and confidence as it involves financial interests of the school. She was guilty of gross and habitual negligence in failing to regularly pre-audit the report of the school cashier, check the entries therein and keep custody of the petty cash fund. Had she been assiduously doing her job, the unaccounted school funds would have been discovered right away. Hence, she should not be granted separation pay. To rule otherwise would be to reward Camilon for her negligent acts instead of punishing her for her offense. This is in line with the Court’s ruling in Reno Foods, Inc. vs. Nagkakaisang Lakas ng Manggagawa-Katipunan that separation pay is only warranted when the cause for termination is not attributable to the employee’s fault, such as those provided in Articles 283 and 284 of the Labor Code, as well as in cases of illegal dismissal in which reinstatement is no longer feasible. It is not allowed when an employee is dismissed for just cause. **IMMACULATE CONCEPCION ACADEMY/DR. JOSE PAULO E. CAMPOS vs. EVELYN E. CAMILON, G.R. No. 188035, July 2, 2014, J. Villarama, Jr.**

In the absence of a specific provision in the CBA prohibiting recovery of separation pay on top of the retirement pay, the employee is entitled to both. Retirement benefits and separation pay are not mutually exclusive. Retirement benefits are a form of reward for an employee's loyalty and service to an employer and are earned under existing laws, CBAs, employment contracts and company policies. On the other hand, separation pay is that amount which an employee receives at the time of his severance from employment. Moreover, the release and quitclaim signed by the employee cannot be used by the employer to legalize the denial of the former's rightful claims. Under prevailing jurisprudence, a quitclaim cannot bar an employee from demanding benefits to which he is legally entitled. **GOODYEAR PHILIPPINES, INC. AND REMEGIO M. RAMOS vs. MARINA L. ANGUS, G.R. No. 185449, November 12, 2014, J. Del Castillo**

**RETIREMENT PAY**

Filipinas was separated from service due to the compulsory retirement as stated in the GCHS Retirement Plan. Filipinas felt aggrieved, hence she filed a complaint for illegal dismissal. The Courts below and the Supreme Court upheld the validity of her dismissal. The only dispute is the proper computation of her retirement pay. In this regard, the Supreme Court ruled that for the computation of retirement benefits, "one-half (1/2) month salary means 22.5 days: 15 days plus 2.5 days representing one-twelfth (1/12) of the 13th month pay and the remaining 5 days for SIL. **GRACE CHRISTIAN HIGH SCHOOL, represented by its Principal, DR. JAMES TAN vs. FILIPINAS A. LAVANDERA, G.R. No. 177845, August 20, 2014, J. Perlas-Bernabe**

The Court is not unaware of its rulings wherein it pronounced that retirement pay and separation pay are not mutually exclusive (unless there is a specific prohibition in the collective bargaining agreement or retirement plan against the payment of both benefits); however, with Villena’s entitlement to retirement pay not included as an issue in an illegal dismissal case which had already been finally decided, it is quite absurd for Villena to submit a “contemporaneous” claim for retirement pay on the execution phase of these proceedings. On the other hand, with the award of the “other benefits pertaining to the position of Finance Manager” made by the CA in its August 31, 2001 Decision lapsing into finality, the same had already become immutable and unalterable; this means that they may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law.  Thus, it was an error on the part of the CA to still consider, rule upon, and vary the previous CA Ruling, i.e., August 31, 2001 CA Decision, on the entitlement of Villena to the benefits of representation, transportation, and cellular phone usage allowances. **CONCEPCION A. VILLENA vs. BATANGAS II ELECTRIC COOPERATIVE, INC. AND GEORGE A. DIN, G.R. No. 205735, February 04, 2015, J. Perlas-Bernabe**

**TERMINATION OF EMPLOYMENT**

**EMPLOYER-EMPLOYEE RELATIONSHIP**

Tenazas, Endraca and Francisco filed an illegal dismissal complaint against the respondents R. Villegas Taxi Transport and Romualdo Villegas. In their answer, the respondents claims that Francisco is not their employee and denied having illegally dismissed Tenazas and Endraca. When the case reached the Supreme Court, it was held that the employer-employee relationship between respondents and Francisco was not proven because upon the respondents’ denial of employer employee relationship, it behooved Francisco to present substantial evidence to prove that he is an employee before any question on the legality of his supposed dismissal becomes appropriate for discussion. Francisco, however, did not offer evidence to substantiate his claim of employment with the respondents. Also, the court ruled that the complainants should be reinstated instead of being awarded of separation pay because it is only where reinstatement is no longer viable as an option that separation pay equivalent to one (1) month salary for every year of service should be awarded as an alternative. **BERNARD A. TENAZAS, JAIME M. FRANCISCO and ISIDRO G. ENDRACA vs. R. VILLEGAS TAXI TRANSPORT and ROMUALDO VILLEGAS, G.R. No. 192998, April 2, 2014, J. Reyes**

Under Article 82 “Field personnel” shall refer to non-agricultural employees who regularly perform their duties away from the principal place of business or branch office of the employer and whose actual hours of work in the field cannot be determined with reasonable certainty. Based on the definition of field personnel under Article 82, Macasio does not fall under the definition of “field personnel.” First, Macasio regularly performed his duties at David’s principal place of business; second, his actual hours of work could be determined with reasonable certainty; and, third, David supervised his time and performance of duties. Since Macasio cannot be considered a “field personnel,” then he is not exempted from the grant of holiday, SIL pay even as he was engaged on “pakyaw” or task basis. Not being a “field personnel,” The SC found the CA to be legally correct when it reversed the NLRC’s ruling dismissing Macasio’s complaint for holiday and SIL pay for having been rendered with grave abuse of discretion. With respect to the payment of 13th month pay however, the SC found that the CA legally erred in finding that the NLRC gravely abused its discretion in denying this benefit to Macasio.

The totality of the surrounding circumstances of the present case sufficiently points to an employer-employee relationship existing between David and Macasio. First, David engaged the services of Macasio. Second, David paid Macasio’s wages. Third, David had been setting the day and time when Macasio should report for work. And fourth, David had the right and power to control and supervise Macasio’s work as to the means and methods of performing it. **ARIEL L. DAVID, DOING BUSINESS UNDER THE NAME AND STYLE “YIELS HOG DEALER” vs. JOHN G. MACASIO, G.R. No. 195466,July 02, 2014, J. Brion**

In concluding that Alcantara is an employee of Royale Homes, the CA ratiocinated that since the performance of his tasks is subject to company rules, regulations, code of ethics, and periodic evaluation, the element of control is present. The Court disagrees. Not every form of control is indicative of employer-employee relationship. A person who performs work for another and is subjected to its rules, regulations, and code of ethics does not necessarily become an employee. As long as the level of control does not interfere with the means and methods of accomplishing the assigned tasks, the rules imposed by the hiring party on the hired party do not amount to the labor law concept of control that is indicative of employer-employee relationship. In Insular Life Assurance Co., Ltd. v. National Labor Relations Commission it was pronounced that the line should be drawn between rules that merely serve as guidelines towards the achievement of the mutually desired result without dictating the means or methods to be employed in attaining it, and those that control or fix the methodology and bind or restrict the party hired to the use of such means. The first, which aim only to promote the result, create no employer-employee relationship unlike the second, which address both the result and the means used to achieve it. **ROYAL HOMES MARKETING CORPORATION vs. FIDEL ALCANTARA, G.R. No. 195190, July 28, 2014, J. Del Castillo**

**KINDS OF EMPLOYMENT**

**PROBATIONARY**

A probationary employee is one who is on trial by the employer during which the employer determines whether or not said employee is qualified for permanent employment. It is well settled that the employer has the right or is at liberty to choose who will be hired and who will be denied employment. In that sense, it is within the exercise of the right to select his employees that the employer may set or fix a probationary period within which the latter may test and observe the conduct of the former before hiring him permanently. While there is no statutory cap on the minimum term of probation, the law sets a maximum “trial period” during which the employer may test the fitness and efficiency of the employee. **UNIVERSIDAD DE STA. ISABEL vs. MARVIN-JULIAN L. SAMBAJON, JR., G.R. Nos. 196280 & 196286, April 2, 2014, J. Villarama, Jr.**

A probationary employee is one who is on trial by the employer during which the employer determines whether or not said employee is qualified for permanent employment. It is well settled that the employer has the right or is at liberty to choose who will be hired and who will be denied employment. In that sense, it is within the exercise of the right to select his employees that the employer may set or fix a probationary period within which the latter may test and observe the conduct of the former before hiring him permanently. While there is no statutory cap on the minimum term of probation, the law sets a maximum “trial period” during which the employer may test the fitness and efficiency of the employee. **UNIVERSIDAD DE STA. ISABEL vs. MARVIN-JULIAN L. SAMBAJON, JR., G.R. Nos. 196280 & 196286, April 2, 2014, J. Villarama, Jr.**

Alcaraz filed a complaint for illegal dismissal before the Labor Arbiter. It is the contention of the Aboott that the Alzaraz is merely a probationary employee. The Supreme Court ruled that if the probationary employee had been fully apprised by his employer of these duties and responsibilities, then basic knowledge and common sense dictate that he must adequately perform the same, else he fails to pass the probationary trial and may therefore be subject to termination. **ABBOTT LABORATORIES, PHILIPPINES, CECILLE A. TERRIBLE, EDWIN D. FEIST, MARIA OLIVIA T. YABUT-MISA, TERESITA C. BERNARDO, AND ALLAN G. ALMAZAR vs**.  
**PEARLIE ANN F. ALCARAZ, , G.R. No. 192571, April 22, 2014, J. Perlas-Bernabe**

The issue in this case is whether or not Mahilum, VP for sales and Marketing, is considered as probationary employee. The court ruled that probationary employment shall not exceed six (6) months from the date the employee started working, unless it is covered by an apprenticeship agreement stipulating a longer period. The services of an employee who has been engaged on a probationary basis may be terminated for a just cause or when he fails to qualify as a regular employee in accordance with reasonable standards made known by the employer to the employee at the time of his engagement. An employee who is allowed to work after a probationary period shall be considered a regular employee. **PHILIPPINE SPRING WATER RESOURCES INC., DANILO Y. LUA vs**. **COURT OF APPEALS and JUVENSTEIN B. MAHILUM, G.R. No. 205278, June 11, 2014, J. Mendoza**

**REGULAR**

Fair evidentiary rule dictates that before employers are burdened to prove that they did not commit illegal dismissal, it is incumbent upon the employee to first establish by substantial evidence the fact of his or her dismissal. It is likewise incumbent upon the employees, however, that they should first establish by competent evidence the fact of their dismissal from employment. It is an age-old rule that the one who alleges a fact has the burden of proving it and the proof should be clear, positive and convincing. Mere allegation is not evidence. Let it be underscored that the fact of dismissal must be established by positive and overt acts of an employer indicating the intention to dismiss. In the case at bench, Noblejas was employed by IMAPI as a training instructor/assessor for a period of three (3) months effective May 20, 2009. After the end of the 3-month period, he was rehired by IMAPI for the same position and continued to work as such until March 16, 2010. There is no dispute that the work of Noblejas was necessary or desirable in the business or trade of IMAPI, a training and assessment center for seamen and officers of vessels. Moreover, such continuing need for his services is sufficient evidence of the necessity and indispensability of his services to IMAPI’s business. Taken in this light, Noblejas had indeed attained the status of a regular employee at the time he ceased to report for work on March 17, 2010.Aside from his mere assertion, no corroborative and competent evidence was adduced by Noblejas to substantiate his claim that he was dismissed from employment. On the contrary, it is rather the apparent disinterest of complainant to continue his employment with respondent company that may be considered a covert act that severed his employment when the latter did not grant the litany of his demands. **DIONARTO Q. NOBLEJAS vs. ITALIAN MARITIME ACADEMY PHILS., INC., CAPT. NICOLO S. TERREI, RACELI B. FERREZ and MA. TERESA R. MENDOZA,** **G.R. No. 207888, June 9, 2014, J. Mendoza**

To repeat, Lopez is a regular and not a project employee. Hence, the continuation of his engagement with Irvine, either in Cavite, or possibly, in any of its business locations, should not have been affected by the culmination of the Cavite project alone. As the records would show, it merely completed one of its numerous construction projects which does not, by and of itself, amount to a bona fide suspension of business operations or undertaking. **CRISPIN B. LOPEZ vs. IRVINE CONSTRUCTION CORP. and TOMAS SY SANTOS, G.R. No. 207253, August 20, 2014, J. Perlas-Bernabe**

A regular employee is one who is either engaged to perform activities which are necessary or desirable in the usual business or trade of the employer; or those casual employees who have rendered at least one year of service, whether continuous or broken, with respect to the activity in which he is employed. **HACIENDA LEDDY/ RICARDO GAMBOA, JR. vs. PAQUITO VILLEGAS, G.R. No. 179654, September 22, 2014, J. Peralta**

The respondents contend that the petitioners are temporary employees who are employed merely for a fixed term and not regular employees. The Supreme Court ruled that there are two kinds of regular employees, namely: (1) those who are engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer; and (2) those who have rendered at least one year of service, whether continuous or broken, with respect to the activities in which they are employed. While fixed term employment is not per se illegal or against public policy, the criteria above must first be established to the satisfaction of this Court. **ROMEO BASAN, DANILO DIZON, JAIME L. TUMABIAO, JR., ROBERTO DELA RAMA, JR., RICKY S. NICOLAS, CRISPULO D. DONOR, GALO FALGUERA, AND NATIONAL LABOR RELATIONS COMMISSION vs**. **COCA-COLA BOTTLERS PHILIPPINES,** **G.R. Nos. 174365-66, February 04, 2015, J. Peralta**

**PROJECT EMPLOYMENT**

In order to safeguard the rights of workers against the arbitrary use of the word “project” to prevent employees from attaining a regular status, employers claiming that their workers are project employees should not only prove that the duration and scope of the employment was specified at the time they were engaged, but also that there was indeed a project. Thus, if a garbage contractor terminates the employment of its garbage truck drivers and paleros, which the former alleges were project employees yet the contractor failed to show evidence to prove such assertion, the presumption under Art. 280 of the labor code that the garbage truck drivers and paleros are regular employees, and that their refusal to sign employment contract stating that they were “’rehired’ for the duration of the renewed service contract” is not a valid ground for dismissal. **OMNI HAULING SERVICES, INC., LOLITA FRANCO and ANICETO FRANCO vs. BERNARDO BON, et al., G.R. No. 199388, September 3, 2014, J. Perlas-Bernabe**

A careful look at the factual circumstances of this case leads us to the legal conclusion that the respondents are regular and not project employees. The primary standard in determining regular employment is the reasonable connection between the particular activity performed by the employee and the employer's business or trade. This connection can be ascertained by considering the nature of the work performed and its relation to the scheme of the particular business, or the trade in its entirety. Guided by this test, the Court concludes that the respondents' work as janitors, service crews and sanitation aides, are necessary or desirable to the petitioner's business of providing janitorial and manpower services to its clients as an independent contractor. To be valid, an employee's dismissal must comply with the substantive and procedural requirements of due process. Substantively, a dismissal should be supported by a just or authorized cause. Procedurally, the employer must observe the twin notice and hearing requirements in carrying out an employee's dismissal. Having already determined that the respondents are regular employees and not project employees, and that the respondents' belated employment contracts could not be given any binding effect for being signed under duress, the Court holds that illegal dismissal took place when the petitioner failed to comply with the substantive and procedural due process requirements of the law. **FVR SKILLS AND SERVICES EXPONENTS, INC. (SKILLEX), FULGENCIO V. RANA and MONINA R. BURGOS vs.** **JOVERT SEVA, et al., G.R. No. 200857, October 22, 2014, J. Brion**

Once a project or work pool employee has been: (1) continuously, as opposed to intermittently, rehired by the same employer for the same tasks or nature of tasks; and (2) these tasks are vital, necessary and indispensable to the usual business or trade of the employer, then the employee must be deemed a regular employee. Petitioners’ successive re-engagement in order to perform the same kind of work firmly manifested the necessity and desirability of their work in the usual business of TNS as a market research facility. Undisputed also is the fact that the petitioners were assigned office-based tasks from 9:00 o’clock in the morning up to 6:00 o’clock in the evening, at the earliest, without any corresponding remuneration. In addition, the phrase “because we need further time to determine your competence on the job” in the supposed project employment contract would refer to a probationary employment. Such phrase changes the tenor of the contract and runs counter to the very nature of a project employment. **JEANETTE V. MANALO, et al. vs. TNS PHILIPPINES and GARY OCAMPO, G.R. No. 208567, November 26, 2014, J. Mendoza**

Sykes Asia terminated the services of the complainants. Hence, the latter filed complaints for illegal dismissal. In ruling for Sykes Asia, the Supreme Court held that complainant were just mere project employees, hence, their dismissal upon the termination of the project is proper. Accordingly,, for an employee to be considered project-based, the employer must show compliance with two (2) requisites, namely that: (a) the employee was assigned to carry out a specific project or undertaking; and (b) the duration and scope of which were specified at the time they were engaged for such project.  **MA. CHARITO C. GADIA, et al. vs.  SYKES ASIA, INC./ CHUCK SYKES/ MIKE HINDS/ MICHAEL HENDERSON, G.R. No. 209499 , January 28, 2015, J. Perlas-Bernabe**

**SEASONAL**

Petitioners failed to dispute the allegation that the respondent performed hacienda work, such as planting sugarcane point and fertilizing. They merely alleged that respondent was a very casual worker because she only rendered work for 16 months. Farm workers generally fall under the definition of seasonal employees. It was also consistently held that seasonal employees may be considered as regular employees when they are called to work from time to time. They are in regular employment because of the nature of the job, and not because of the length of time they have worked. However, seasonal workers who have worked for one season only may not be considered regular employees. Thus, respondent is considered a regular seasonal worker and not a casual worker as the petitioners alleged. **HACIENDA CATAYWA/MANUEL VILLANUEVA, et al. vs. ROSARIO LOREZO, G.R. No. 179640, March 18, 2015, J. Peralta**

**JOB CONTRACTING**

The CA correctly found that A.C. Sicat is engaged in legitimate job contracting. It duly noted that A.C. Sicat was able to prove its status as a legitimate job contractor for having presented the following evidence, to wit: a) Certificate of Business Registration; b) Certificate of Registration with the Bureau of Internal Revenue; c) Mayor’s Permit; wd) Certificate of Membership with the Social Security System; e)Certificate of Registration with the Department of Labor and Employment; f) Company Profile; g) Certifications issued by its clients. Furthermore, A.C. Sicat has substantial capital, having assets totaling P5,926,155.76. Too, its Agreement with Fonterra clearly sets forth that A.C. Sicat shall be liable for the wages and salaries of its employees or workers, including benefits, premiums, and protection due them, as well as remittance to the proper government entities of all withholding taxes, Social Security Service, and Medicare premiums, in accordance with relevant laws. **FONTERRA BRANDS PHILS., INC. vs. LEONARDO LARGADO AND TEOTIMO ESTRELLADO, G.R. No. 205300, March 18, 2015, J. Velasco Jr**

**LABOR-ONLY CONTRACTING**

Generally, the contractor is presumed to be a labor-only contractor, unless such contractor overcomes the burden of proving that it has the substantial capital, investment, tools and the like. However, where the principal is the one claiming that the contractor is a legitimate contractor, said principal has the burden of proving that supposed status. Thus, where the company insists that its service contractor is a legitimate contractor, it is the company and not the workers, which must prove the same. The company fails to overcome such presumption when it presents financial documents which shows the financial capability of the contractor covering the period when the company and the contractor executed a service contract, and not to the decades prior to the contract, during which the contractor had already provided workers to the company. In addition, the workers are employees of the company when the latter exercises the power of control over the workers as manifested by the power to transfer employees from one work assignment to another. The workers’ performance of work necessary and related to the company’s business operations for a long period of time also proves the existence of an employer-employee relationship. **AVELINO S. ALILIN, et al. vs. PETRON CORPORATION, G.R. No. 177592, June 9, 2014, J. Del Castillo**

**DISMISSAL FROM EMPLOYMENT**

**JUST CAUSES**

It is not the job title but the actual work that the employee performs that determines whether he or she occupies a position of trust and confidence." In this case, while Esteban's position was denominated as Sales Clerk, the nature of her work included inventory and cashiering, a function that clearly falls within the sphere of rank-and-file positions imbued with trust and confidence. Loss of trust and confidence to be a valid cause for dismissal must be work related such as would show the employee concerned to be unfit to continue working for the employer and it must be based on a willful breach of trust and founded on clearly established facts. Such breach is willful if it is done intentionally, knowingly, and purposely, without justifiable excuse as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently. In this case, the Court finds that the acts committed by Esteban do not amount to a willful breach of trust. She admitted that she accessed the POS system with the use of the unauthorized "123456" password. She did so, however, out of curiosity and without any obvious intention of defrauding the petitioner. As professed by Esteban, "she was acting in good faith in verifying what her co-staff told her about the opening of the computer by the use of the "123456" password, x xx. She even told her co-staff not to open again said computer, and that was the first and last time she opened said computer. **BLUER THAN BLUE JOINT VENTURES COMPANY/MARY ANN DELA VEGA,** **vs. GLYZA ESTEBAN,** **G.R. No. 192582, April 7, 2014**, **J. Reyes**

Serious dishonesty is punishable by dismissal. Less serious dishonesty is punishable by suspension for six months and one day to one year for the first offense and dismissal for the second offense. Simple dishonesty is punishable by suspension of one month and one day to six months for the first offense, six months and one day to one year for the second offense, and dismissal for the third offense. Falsification of a document cannot be classified as serious since the information falsified had no direct relation to her employment. Whether or not she was suffering from hypertension is a matter that has no relation to the functions of her office. **LIGHT RAIL TRANSIT AUTHORITY, represented by its Administrator MELQUIADES A. ROBLES vs. AURORA A. SALVAÑA, G.R. No. 192074, June 10, 2014, J. Leonen**

The Court has held that the enumeration in Section 32-A does not preclude other illnesses/diseases not so listed from being compensable. The POEA-SEC cannot be presumed to contain all the possible injuries that render a seafarer unfit for further sea duties. This is in view of Section 20(B)(4) of the POEA-SEC which states that "(t)hose illnesses not listed in Section 32 of this Contract are disputably presumed as work-related." Concomitant with such presumption is the burden placed upon the claimant to present substantial evidence that his working conditions caused or at least increased the risk of contracting the disease. In the case at bar, Jarin was able to prove that his rheumatoid arthritis was contracted out of his daily duties as Chief Cook onboard M.T. Erik Spirit where he was also tasked to carry heavy things. **TEEKAY SHIPPING PHILIPPINES, INC., TEEKA Y SHIPPING LIMITED and ALEX VERCHEZ vs. EXEQUIEL O. JARIN, G.R. No. 195598, June 25, 2014, J. Reyes**

Misconduct is defined as improper and wrongful conduct. It is the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies wrongful intent and not mere error in judgment. To be a just cause for terminating an employee, the employer must prove the following: 1) it is of a grave and aggravated character; (2) it relates to the performance of the employee’s duties; and (3) show that the employee has become unfit to continue working for the employer. As such, there must be substantial evidence to prove that the employee acted in malicious and contemptuous manner with the intent to cause damage to the employer. Otherwise, the penalty imposed, albeit a suspension, is illegal. **COLEGIO DE SAN JUAN DE LETRAN-CALAMBA vs. ENGR. DEBORAH P. TARDEO, G.R. No. 190303, July 9, 2014, J. Perez**

In order to sustain the respondents’ dismissal, FLPE must show, by substantial evidence, that the following are extant: 1) the existence of the subject company policy;2) the dismissed employee must have been properly informed of said policy; 3) actions or omissions on the part of the dismissed employee manifesting deliberate refusal or wilful disregard of said company policy; and 4) such actions or omissions have occurred repeatedly. However, FLPE failed to establish that such a company policy actually exists, and if it does truly exist, that it was, in fact, posted and/or disseminated accordingly. Neither is there anything in the records which reveals that the dismissed respondents were informed of said policy. The company vehemently insists that it posted, announced, and implemented the subject Safekeeping Policy in all its retail stores, especially the one in Alabang Town Center. It, however, failed to substantiate said claim. It could have easily produced a copy of said memorandum bearing the signatures of Dela Cruz and Malunes to show that, indeed, they have been notified of the existence of said company rule and that they have received, read, and understood the same. FLPE could likewise have simply called some of its employees to testify on the rule’s existence, dissemination, and strict implementation. But aside from its self-serving and uncorroborated declaration, and a copy of the supposed policy as contained in the October 23, 2003 Memorandum, FLPE adduced nothing more. **FLP ENTERPRISES, INC. - FRANCESCO SHOES /EMILIO FRANCISCO FAJARO vs. MA JOERALYN DELA CRUS AND VILMA MALUNES, G.R. No. 198388, July 28, 2014, J. Peralta**

There is a difference between the criteria for determining the validity of invoking loss of trust and confidence as a ground for terminating a managerial employee on the one hand and a rank-and-file employee on the other. However the question of whether she was a managerial or rank-and file employee does not matter if not only is there basis for believing that she breached the trust of her employer, her involvement in the irregularities attending to petitioner’s finances has also been proved. **WESLEYAN UNIVERSITY PHILIPPINES vs. NOWELLA REYES, G.R. No. 208321, July 30, 2014, J. Velasco, Jr.**

The failure of the school physician to perform his duties such as failure to conduct medical examination on all students for two (2) to five (5) consecutive years, lack of medical records on all students; and students having medical records prior to their enrollment constitute gross neglect, hence his dismissal is legal. **DR. PHYLIS C. RIO vs. COLEGIO DE STA. ROSAMAKATI and/or SR. MARILYN B. GUSTILO, G.R. No. 189629, August 6, 2014, J. Perez**

Misconduct or improper behavior, to be a just cause for termination of employment, must: (a) be serious; (b) relate to the performance of the employee’s duties; and (c) show that the employee has become unfit to continue working for the employer. In this case, even assuming arguendo that the incident was the kind of fight between Del Rosario and Gamboa is prohibited by Northwest's Rules of Conduct, the same could not be considered as of such seriousness as to warrant Del Rosario's dismissal from the service. The gravity of the fight, which was not more than a verbal argument between them, was not enough to tarnish or diminish Northwest's public image. **NORTHWEST AIRLINES, INC. vs. MA. CONCEPCION M. DEL ROSARIO, G.R. No. 157633, September 10, 2014, J. Bersamin**

The principle in employee dismissals that it is the employer’s burden to prove that the dismissal was for a just or authorized cause. Temic failed to discharge this burden of proof in Cantos’ case. **TEMIC AUTOMOTIVE (PHILIPPINES), INC.vs. RENATO M. CANTOS, G.R. No. 200729, September 29, 2014, J. Brion**

The respondent contends that she was illegally dismissed by the petitioner. The Supreme Court ruled that Article 282 of the Labor Code allows an employer to dismiss an employee for willful breach of trust or loss of confidence. It has been held that a special and unique employment relationship exists between a corporation and its cashier. Truly, more than most key positions, that of a cashier calls for utmost trust and confidence, and it is the breach of this trust that results in an employer’s loss of confidence in the employee. **P.J. LHUILLIER, INC. and MARIO RAMON LUDENA vs. FLORDELIZ VELAYO, G.R. No. 198620, November 12, 2014, J. Reyes**

To terminate the employment of workers simply because they asserted their legal rights by filing a complaint is illegal.  It violates their right to security of tenure and should not be tolerated.

In this case, Elena failed to pinpoint the overt acts of respondents that show they had abandoned their work.  There was a mere allegation that she was “forced to declare them dismissed due to their failure to report back to work for a considerable length of time” but no evidence to prove the intent to abandon work.  It is the burden of the employer to prove that the employee was not dismissed or, if dismissed, that such dismissal was not illegal. Unfortunately for Elena, she failed to do so. **STANLEY FINE FURNITURE, ELENA AND CARLOS WANG** **vs.** **VICTOR T. GALLANO AND ENRIQUITO SIAREZ**, **G.R. No. 190486, November 26, 2014, J. Leonen**

Alcon and Papa were dismissed by Imasen Philippine Manufacturing Corporation for allegedly having sexual intercourse inside company premises during work hours. In upholding that their dismissal is valid, the Court held that whether aroused by lust or inflamed by sincere affection, sexual acts should be carried out at such place, time and circumstance that, by the generally accepted norms of conduct, will not offend public decency nor disturb the generally held or accepted social morals.  Under these parameters, sexual acts between two consenting adults do not have a place in the work environment. These circumstances, by themselves, are already punishable misconduct. **IMASEN PHILIPPINE MANUFACTURING CORPORATION vs. RAMONCHITO T. ALCON and JOANN S. PAPA, G .R. No. 194884, October 22, 2014, J. Brion**

The refusal of an employee to issue a public apology to his superior due to a pendency of criminal action arising therefrom shall not constitute insubordination if the employee honestly believed that the public apology shall incriminate him. **JOEL N. MONTALLANA vs. LA CONSOLACION COLLEGE MANILA, SR. IMELDA A. MORA, and ALBERT D. MANALILI, G.R. No. 208890, December 08, 2014, J. Perlas-Bernabe**

Abandonment is the deliberate and unjustified refusal of an employee to resume his employment. It is a form of neglect of duty, hence, a just cause for termination of employment by the employer. For a valid finding of abandonment, these two factors should be present: 1) the failure to report for work or absence without valid or justifiable reason; and 2) a clear intention to sever employer-employee relationship. There is no abandonment in this case. The intervening period when Fuentes failed to report for work, from his prison release to the time he actually reported for work, was justified. Since there was a justifiable reason for Fuentes's absence, the first element of abandonment was not established. **PROTECTIVE MAXIMUM SECURITY AGENCY, INC. vs. CELSO E. FUENTES, G.R. No. 169303, February 11, 2015, J. Leonen**

It is well-settled that the burden of proving that the termination of an employee was for a just or authorized cause lies with the employer. Maersk, A.P. Moller, and Agbayani maintain that Avestruz was dismissed on the ground of insubordination, consisting of his repeated failure to obey his superior’s order to maintain cleanliness in the galley of the vessel as well as his act of insulting a superior officer by words or deeds. Insubordination, as a just cause for the dismissal of an employee, necessitates the concurrence of at least two requisites: (1) the employee’s assailed conduct must have been willful, that is, characterized by a wrongful and perverse attitude; and (2) the order violated must have been reasonable, lawful, made known to the employee, and must pertain to the duties which he had been engaged to discharge. In this case, the contents of Captain Woodward’s e-mails do not establish that Avestruz’s conduct had been willful, or characterized by a wrongful and perverse attitude. Conversely, apart from Captain Woodward’s e-mails, no other evidence was presented by the petitioners to support their claims. **MAERSK-FILIPINAS CREWING, INC., A.P. MOLLER SINGAPORE PTE.LIMITED, AND JESUS AGBAYANI vs. TORIBIO C. AVESTRUZ, G.R. No. 207010, February 18, 2015, J. Perlas-Bernabe**

Dismissals based on just causes contemplate acts or omissions attributable to the employee while dismissals based on authorized causes involve grounds under the Labor Code which allow the employer to terminate employees. A termination for an authorized cause requires payment of separation pay. When the termination of employment is declared illegal, reinstatement and full backwages are mandated under Article 279. If reinstatement is no longer possible where the dismissal was unjust, separation pay may be granted. **ZENAIDA PAZ vs. NORTHERN TOBACCO REDRYING CO., INC., AND/OR ANGELO ANG, G.R. No. 199554, February 18, 2015, J. Leonen**

Sanchez was dismissed due to theft. She alleged that she was illegal dismissed for there was not intent to gain on her part. The court ruled that Court finds that Sanchez was validly dismissed by SLMC for her willful disregard and disobedience of Section 1, Rule I of the SLMC Code of Discipline, which reasonably punishes acts of dishonesty, i.e., “theft, pilferage of hospital or co-employee property, x xx or its attempt in any form or manner from the hospital, co-employees, doctors, visitors, [and] customers (external and internal)” with termination from employment. Such act is obviously connected with Sanchez’s work, who, as a staff nurse, is tasked with the proper stewardship of medical supplies. **ST. LUKE’S MEDICAL CENTER, INC. vs.** **MARIA THERESA V. SANCHEZ, G.R. No. 212054, March 11, 2015, J. Perlas-Bernabe**

Based on the mystery guest shopper and duty manager’s reports, respondent was dismissed from employment. The Court held that infractions which respondent committed do not justify the severe penalty of termination from service. For willful disobedience to be a valid cause for dismissal, the employee’s assailed conduct must have been willful, that is, characterized by a wrongful and perverse attitude; and the order violated must have been reasonable, lawful, made known to the employee, and must pertain to the duties which he had been engaged to discharge. The Court ruled that alleged infractions do not amount to such a wrongful and perverse attitude. **THE COFFEE BEAN and TEA LEAF PHILIPPINES, INC. and WALDEN CHU vs. ROLLY P. ARENAS, G.R. No. 208908, March 11, 2015, J. Brion**

Theft committed by an employee against a person other than his employer, if proven by substantial evidence, is a cause analogous to serious misconduct. The misconduct to be serious must be of such grave and aggravated character and not merely trivial or unimportant. Such misconduct, however serious, must, nevertheless, be in connection with the employee’s work to constitute just cause for his separation. But where there is no showing of a clear, valid and legal cause for termination of employment, the law considers the case a matter of illegal dismissal. **HOCHENG PHILIPPINES CORPORATION** **vs.** **ANTONIO M. FARRALES, G.R. No. 211497, March 18, 2015, J. Reyes**

**AUTHORIZED CAUSES**

The Court does not agree with the rationalization of the NLRC that if it were true that her position was not redundant and indispensable, then the company must have already hired a new one to replace her in order not to jeopardize its business operations. The fact that there is none only proves that her position was not necessary and therefore superfluous. What the above reasoning of the NLRC failed to perceive is that of primordial consideration is not the nomenclature or title given to the employee, but the nature of his functions. It is not the job title but the actual work that the employee performs. Also, change in the job title is not synonymous to a change in the functions. A position cannot be abolished by a mere change of job title. In cases of redundancy, the management should adduce evidence and prove that a position which was created in place of a previous one should pertain to functions which are dissimilar and incongruous to the abolished office. For a valid implementation of a redundancy program, the employer must comply with the following requisites: (1) written notice served on both the employee and the DOLE at least one month prior to the intended date of termination; (2) payment of separation pay equivalent to at least one month pay or at least one month pay for every year of service, whichever is higher; (3) good faith in abolishing the redundant position; and,(4) fair and reasonable criteria in ascertaining what positions are to be declared redundant. **SPI TECHNOLOGIES INC., ET AL VS VICTORIA MAPUA, G.R. No. 191154, April 7, 2014, J. REYES**

Redundancy does not need to be always triggered by a decline in the business. Primarily, employers resort to redundancy when the functions of an employee have already become superfluous or in excess of what the business requires. Thus, even if a business is doing well, an employer can still validly dismiss an employee from the service due to redundancy if that employee’s position has already become in excess of what the employer’s enterprise requires. From this perspective, it is illogical for employer to terminate the petitioners’ employment and replace them with contractual employees. The replacement effectively belies employer’s claim that the petitioners’ positions were abolished due to superfluity. Redundancy could have been justified if the functions of the petitioners were transferred to other existing employees of the company. **EUGENE S. ARABIT, et al.,** **vs. JARDINE PACIFIC FINANCE, INC. (FORMERLY MB FINANCE), G.R. No. 181719, April 21, 2014, J. Brion**

The separation of NPC employees affected by its reorganization and privatization was a foregone conclusion. In recognition of this, the EPIRA gave the assurance that these employees shall receive the separation pay and other benefits due them under existing laws, rules or regulations or be able to avail of the privileges under a separation plan which shall be one and one-half month salary for every year of service in the government. The employees’ separation being an unavoidable consequence of the mandated restructuring and privatization of the NPC, the liability to pay for their separation benefits should be deemed existing as of the EPIRA’s effectivity, and were thus transferred to PSALM pursuant to Section 49 of the law. **NPC DRIVERS AND MECHANICS ASSOCIATION (NPC DAMA), represented by its President ROGER S. SAN JUAN, SR., NPC EMPLOYEES & WORKERS UNION (NEWU) - NORTHERN LUZON, REGIONAL CENTER, ZOL D. MEDINA, NARCISO M. MAGANTE, VICENTE B. CIRIO, JR., and NECITAS B. CAMAMA, in their individual capacities as employees of National Power Corporation vs. THE NATIONAL POWER CORPORATION (NPC), NATIONAL POWER BOARD OF DIRECTORS (NPB), JOSE ISIDRO N. CAMACHO as Chairman of the National Power Board of Directors (NPB), ROLANDO S. QUILALA, as President - Officer-in-charge/CEO of National Power Corporation and Member of National Power Board, and VINCENT S. PEREZ, JR., EMILIA T. BONCODIN, MARIUS P. CORPUS, RUBEN S. REINOSO, JR., GREGORY L. DOMINGO, NIEVES L. OSORIO and POWER SECTOR ASSETS and LIABILITIES MANAGEMENT (PSALM), G.R. No. 156208, June 30, 2014, J. Brion**

The burden of proving that the termination of services is for a valid or authorized cause rests upon the employer. In termination by retrenchment, not every loss incurred or expected to be incurred by an employer can justify retrenchment. The employer must prove, among others, that the losses are substantial and that the retrenchment is reasonably necessary to avert such losses. In this case, while [MCCI] may have presented its Financial Statements, [MCCI], nevertheless, failed to establish with reasonable certainty that the proportion of its revenues are largely expended for its elementary and high school personnel salaries, wages and other benefits. **MOUNT CARMEL COLLEGE EMPLOYEES UNION (MCCEU)/RUMOLO S. BASCAR, et al., vs. MOUNT CARMEL COLLEGE, INCORPORATED, G.R. No. 187621, September 24, 2014, J. Reyes**

It is well-settled that the filing by an employee of a complaint, such as the petitioner Manarpi is, for illegal dismissal with a prayer for reinstatement is proof enough of his desire to return to work, thus, negating the employer’s charge of abandonment.  An employee who takes steps to protest his dismissal cannot logically be said to have abandoned his work. In this case, petitioner did not abandon her work but was told not to report for work anymore after being served a written notice of termination of company closure on July 27, 2000. Further, if the business closure is due to serious losses or financial reverses, the employer must present sufficient proof of its actual or imminent losses; it must show proof that the cessation of or withdrawal from business operations was bona fide in character.  A written notice to the DOLE thirty days before the intended date of closure is also required and must be served upon each and every employee of the company one month before the date of effectivity to give them sufficient time to make the necessary arrangement. Such requirements were not complied with by the respondent company thereby proving that the petitioner was illegally dismissed. **ESSENCIA Q. MANARPIIS vs. TEXAN PHILIPPINES, INC., RICHARD TAN and CATHERINE P. RIALUBIN-TAN, G.R. No. 197011, January 28, 2015 J. Villarama, Jr.**

The notice requirement was also complied with by PEPSI-COLA when it served notice of the corporate rightsizing program to the DOLE and to the fourteen (14) employees who will be affected thereby at least one (1) month prior to the date of retrenchment. **PURISIMO M. CABAOBAS, et al. vs. PEPSI-COLA PRODUCTS, PHILIPPINES, INC.**, **G.R. No. 176908, March 25, 2015, J. Peralta**

**DUE PROCESS**

The Labor Code and its IRR are silent on the procedural due process required in terminations due to disease. Despite the seeming gap in the law, Section 2, Rule 1, Book VI of the IRR expressly states that the employee should be afforded procedural due process in all cases of dismissals. **MARIO A. DEFERIO vs. INTEL TECHNOLOGY PHILIPPINES, INC. and/or MIKE WENTLING, G.R. No. 202996, June 18, 2014, J. Brion**

By pre-judging respondent’s case, petitioners clearly violated her right to due process from the very beginning, and from then on it could not be expected that she would obtain a fair resolution of her case. In a democratic system, the infliction of punishment before trial is fundamentally abhorred. What petitioners did was clearly illegal and improper. **MARIO A. DEFERIO vs. INTEL TECHNOLOGY PHILIPPINES, INC. and/or MIKE WENTLING LIBCAP MARKETING CORP., JOHANNA J. CELIZ, and MA. LUCIA G. MONDRAGON vs. LANNY JEAN B. BAQUIAL, G.R. No. 192011, June 30, 2014, J. Del Castillo**

The petitioner alleges that the respondent was not illegally dismissed. The Supreme Court ruled that a valid dismissal requires both a valid cause and adherence to the valid procedure of dismissal. The employer is required to give the charged employee at least two written notices before termination. One of the written notices must inform the employee of the particular acts that may cause his or her dismissal. The other notice must "[inform] the employee of the employer’s decision." Aside from the notice requirement, the employee must also be given "an opportunity to be heard." **SAMEER OVERSEAS PLACEMENT AGENCY, INC. vs. JOY C. CABILES, G.R. No. 170139, August 5, 2014, J. Leonen**

Illegally suspended employees, similar to illegally dismissed employees, are entitled to moral damages when their suspension was attended by bad faith or fraud, oppressive to labor, or done in a manner contrary to morals, good customs, or public policy.

In this case, PAL complied with procedural due process as laid out in Article 277, paragraph (b) of the Labor Code. PAL issued a written notice of administrative charge, conducted a clarificatory hearing, and rendered a written decision suspending Montinola. However, we emphasize that the written notice of administrative charge did not serve the purpose required under due process. PAL did not deny her allegation that there would be a waiver of the clarificatory hearing if she insisted on a specific notice of administrative charge. With Montinola unable to clarify the contents of the notice of administrative charge, there were irregularities in the procedural due process accorded to her. Moreover, PAL denied Montinola substantial due process. **NANCY S. MONTINOLA vs. PHILIPPINE AIRLINES**, **G.R. No. 198656, September 8, 2014**, **J. Leonen**

**RELIEF FOR ILLEGAL DISMISSAL**

Since the decision is immediately executory, it is the duty of the employer to comply with the order of reinstatement, which can be done either actually or through payroll reinstatement. As provided under Article 223 of the Labor Code, this immediately executory nature of an order of reinstatement is not affected by the existence of an ongoing appeal. The employer has the duty to reinstate the employee in the interim period until a reversal is decreed by a higher court or tribunal.

The Court points out that reinstatement and backwages are two separate reliefs available to an illegally dismissed employee. The normal consequences of a finding that an employee has been illegally dismissed are: first, that the employee becomes entitled to reinstatement to his former position without loss of seniority rights; and second, the payment of backwages covers the period running from his illegal dismissal up to his actual reinstatement. These two reliefs are not inconsistent with one another and the labor arbiter can award both simultaneously.

In the instant case, the grant of separation pay was a substitute for immediate and continued re-employment with the private respondent Bank. The grant of separation pay did not redress the injury that is intended to be relieved by the second remedy of backwages, that is, the loss of earnings that would have accrued to the dismissed employee during the period between dismissal and reinstatement. Put a little differently, payment of backwages is a form of relief that restores the income that was lost by reason of unlawful dismissal; separation pay, in contrast, is oriented towards the immediate future, the transitional period the dismissed employee must undergo before locating a replacement job. **WENPHIL CORPORATION** **vs.ALMER R. ABING and ANABELLE M. TUAZON, G.R. No. 207983, April 7, 2014, J. Brion**

An employee refusing a valid management prerogative cannot file a complaint for illegal dismissal and shall not be entitled to monetary awards. **RUBEN C. JORDAN** **vs. GRANDEUR SECURITY & SERVICES, INC.**, **G.R. No. 206716, June 18, 2014, J. Brion**

The employer is obliged to reinstate and to pay the wages of the dismissed employee during the period of appeal until its reversal by the higher Court; and that because he was not reinstated either actually or by payroll, he should be held entitled to the accrued salaries. Hence, petitioner is entitled for accrued salaries from the time of the issuance of the order of reinstatement by LA Quinones until such order was reversed*.* **CRISANTO F. CASTRO, JR. vs. ATENEO DE NAGA UNIVERSITY, FR. JOEL TABORA, and MR. EDWIN BERNAL, G.R. No. 175293, July 23, 2014, J. Bersamin**

Not all quitclaims are per se in valid or against public policy. A quitclaim is invalid or contrary to public policy only: (1) where there is clear proof that the waiver was wrangled from an unsuspecting or gullible person; or (2) where the terms of settlement are unconscionable on their face. In instances of invalid quitclaims, the law steps in to annul the questionable waiver.

Indeed, there are legitimate waivers that represent the voluntary and reasonable settlements of laborers’ claims that should be respected by the Court as the law between the parties. Where the party has voluntarily made the waiver, with a full understanding of its terms as well as its consequences, and the consideration for the quitclaim is credible and reasonable, the transaction must be recognized as a valid and binding undertaking, and may not later be disowned simply because of a change of mind. A waiver is essentially contractual.

In the Court’s view, the requisites for the validity of Michael’s quitclaim were satisfied. Firstly, Michael acknowledged in his quitclaim that he had read and thoroughly understood the terms of his quitclaim and signed it of his own volition. Secondly, the settlement pay was credible and reasonable considering that Michael did not even assail such amount as unconscionably low, or even state that he was entitled to a higher amount. Thirdly, that he was required to sign the quitclaim as a condition to the release of the settlement pay did not prove that its execution was coerced. And, lastly, that he signed the quitclaim out of fear of not being able to provide for the needs of his family and for the schooling of his children did not immediately indicate that he had been forced to sign the same. **RADIO MINDANAO NETWORK, INC. vs. MICHAEL MAXIMO R. AMURAO III, G.R. No. 167225, October 22, 2014, J. Bersamin**

Paragraph 3, Article 223 of the Labor Code provides that in any event, the decision of the Labor Arbiter reinstating a dismissed or separated employee, insofar as the reinstatement aspect is concerned, shall immediately be executory, pending appeal. The employee shall either be admitted back to work under the same terms and conditions prevailing prior to his dismissal or separation or, at the option of the employer, merely reinstated in the payroll. The posting of a bond by the employer shall not stay the execution for reinstatement provided herein.

Case law recognizes that unless there is a restraining order, the implementation of the order of reinstatement is ministerial and mandatory.

In the instant case, Paz obtained a favorable ruling from the LA in the complaint for illegal dismissal case he filed against PAL but the same was reversed on appeal by the NLRC. Also, PAL was under rehabilitation receivership during the entire period that the illegal dismissal case was being heard. A similar question is now being raised, i.e., whether the Paz may collect reinstatement salaries which he is supposed to have received from the time PAL received the LA decision, ordering his reinstatement, until the same was overturned by the NLRC. It is clear from the records that PAL failed to reinstate the Paz pending appeal of the LA decision to the NLRC. A scrutiny of the circumstances, however, will show that the delay in reinstating the Paz was not due to the unjustified refusal of PAL to abide by the order but because of the constraints of corporate rehabilitation. **PHILIPPINE AIRLINES, INC.** ***vs.*** **REYNALDO V. PAZ, G.R. No. 192924, November 26, 2014, J. Reyes**

The re-computation of the consequences of illegal dismissal upon execution of the decision does not constitute an alteration or amendment of the final decision being implemented. The illegal dismissal ruling stands; only the computation of monetary consequences of this dismissal is affected, and this is not a violation of the principle of immutability of final judgments.

However, in this case, the CA incorrectly concluded that the April 30, 2010 Decision of the Labor Arbiter became final on June 11, 2013, contrary to its own finding that it became final and executory on April 26, 2013. This led to its erroneous computation of the additional back wages and separation pay of Hilongo, as well as reckoning the date of the 12% legal interest. Following the teaching of Nacar v. Gallery Frames that the computation of the monetary consequences (back wages and separation pay) of the illegal dismissal decision should be reckoned from its finality, the additional back wages and separation pay of Hilongo should be computed from May 1, 2010 to April 26, 2013. Further, the payment of legal interest of 12% per annum should also be from April 26, 2013 up to June 30, 2013. Thereafter, in accordance with Bangko Sentral ng Pilipinas Monetary Board’s Circular No. 799, series of 2013, the legal interest computed from July 1, 2013 until the monetary awards were fully satisfied will be 6% per annum. **METROGUARDS SECURITY AGENCY CORPORATION (FORMERLY KNOWN AS BEEGUARDS CORPORATION) AND MS. MILAGROS T. CHAN** **vs.** **ALBERTO N. HILONGO, G.R. No. 215630, March 09, 2015, J. Villarama, Jr.**

**BACKWAGES**

The re-computation of the consequences of illegal dismissal upon execution of the decision does not constitute an alteration or amendment of the final decision being implemented. The illegal dismissal ruling stands; only the computation of monetary consequences of this dismissal is affected and this is not a violation of the principle of immutability of final judgments. Thus, in the present case, a re- computation of backwages until actual reinstatement is not a violation of the principle of immutability of final judgments. **CONRADO A. LIM vs.** **HMR PHILIPPINES, INC., TERESA SANTOS-CASTRO, HENRY BUNAG AND NELSON CAMILLER, G.R. No. 201483, August 4, 2014**, **J. Mendoza**

The Labor Arbiter, finding that illegal dismissal has been committed by the petitioner (the decision being affirmed by the Supreme Court), ordered the re-computation of the award in favor of the respondents. The Supreme Court ruled that re-computation of awards issued by the Labor Arbiter is only a necessary consequence of illegal dismissal cases and it does not violate the principle of immutability of judgement. The illegal dismissal ruling stands; only the computation of monetary consequences of this dismissal is affected and this is not a violation of the principle of immutability of final judgments. **UNIVERSITY OF PANGASINAN, INC., CESAR DUQUE/JUAN LLAMAS AMOR/DOMINADOR REYES vs.** **FLORENTINO FERNANDEZ AND HEIRS OF NILDA FERNANDEZ, G.R. No. 211228, November 12, 2014, J. Reyes**

**CONSTRUCTIVE DISMISSAL**

The temporary inactivity or “floating status” of security guards should continue only for six months. Otherwise, the security agency concerned could be liable for constructive dismissal. The failure of the security agency to give the security guard a work assignment beyond the reasonable six-month period makes it liable for constructive dismissal. Moreover, Article 279 of the Labor Code mandates the reinstatement of an illegally dismissed employee. Reinstatement is the general rule, while the award of separation pay is the exception. **EMERITUS SECURITY AND MAINTENANCE SYSTEMS, INC. vs. JANRIE C. DAILIG, G.R. No. 204761, April 2, 2014, J. Carpio**

Respondent Torres was employed by Chiang Kai Shek College as a grade school teacher. She was found guilty of leaking a copy of a quiz given to Grade 5 students. As a result, the school terminated her employment. Respondent then pleaded that she instead be suspended and allowed to finish the school year and thereafter she will voluntarily resign. The school acceded to her request. After the school year, however, the respondent filed a case of illegal dismissal against the school. She argues that the situation she was put through amounts to constructive dismissal. In ruling in favor of the school, the Supreme Court held that academic dishonesty is the worst offense a teacher can make because teachers caught committing academic dishonesty lose their credibility as educators and cease to be role models for their students. More so that under Chiang Kai Shek College Faculty Manual, leaking and selling of test questions is classified as a grave offense punishable by dismissal/ter​mination. The school gave due investigation and the respondent was given a chance to defend herself, hence her termination is proper. The school should not be punished for being compassionate and granting respondent’s request for a lower penalty. **CHIANG KAI SHEK COLLEGE and CARMELITA ESPINO vs. ROSALINDA M. TORRES, G.R. No. 189456, April 2, 2014, J. Perez**

Petitioner questions the decision of the CA holding that private respondent was constructively dismissed. The SC however ruled that constructive dismissal have been defined as a cessation of work because continued employment is rendered impossible, unreasonable or unlikely; when there is a demotion in rank or diminution in pay or both; or when a clear discrimination, insensibility, or disdain by an employer becomes unbearable to the employee. The test of constructive dismissal is whether a reasonable person in the employee’s position would have felt compelled to give up his position under the circumstances. It is an act amounting to dismissal but made to appear as if it were not. Constructive dismissal is, therefore, a dismissal in disguise.

As may gleaned from the records, what transpired on July 20, 2007 was not merely an isolated outburst on the part of petitioner. The latter’s behavior towards his employees shows a clear insensibility rendering the working condition of private respondent unbearable. Private respondent had reason to dawdle and refuse to comply with the summons of petitioner out of severe fear that he will be physically harmed. In fact, the same was clearly manifested by his immediate reaction to the situation by going to the Valenzuela Police to report the incident. **MCMER CORPORATION, INC., MACARIO D. ROQUE, JR. AND CECILIA R. ALVESTIR vs. NATIONAL LABOR RELATIONS COMMISSION and FELICIANO C. LIBUNAO, JR., G.R. No. 193421, June 4, 2014, J. Peralta**

When another employee is soon after appointed to a position which the employer claims has been abolished, while the employee who had to vacate the same is transferred against her will to a position which does not exist in the corporate structure, there is evidently a case of illegal constructive dismissal. **GIRLY G. ICO vs.** **SYSTEMS TECHNOLOGY INSTITUTE, INC., MONICO V. JACOB and PETER K. FERNANDEZ, G.R. No. 185100, July 9, 2014, J. DEL CASTILLO**

It is manifestly unfair and unacceptable to immediately declare the mere lapse of the six-month period of floating status as a case of constructive dismissal, without looking into the peculiar circumstances that resulted in the security guard’s failure to assume another post. This is especially true in the present case where the security guard’s own refusal to accept a non-VIP detail was the reason that he was not given an assignment within the six-month period. The security agency, Exocet, should not then be held liable. **EXOCET SECURITY AND ALLIED SERVICES CORPORATION AND/OR MA. TERESA MARCELO *vs.* ARMANDO D. SERRANO, G.R. No. 198538, September 29, 2014, J. Velasco, Jr.**

The Court subscribes to the uniform rulings of the Labor Arbiter, the NLRC and the CA that Villareal was constructively and illegally dismissed. When Villareal was relieved from duty, he was placed on floating status, thus, the employer should prove that there are no posts available to which the employee temporarily out of work can be assigned. Peak failed to discharge the burden of proving that there were no other posts available for Villareal after his recall from his last assignment. Worse, no sufficient reason was given for his relief and continued denial of a new assignment. **PEAK VENTURES CORPORATION and/or EL TIGRE SECURITY and INVESTIGATION AGENCY   
vs. HEIRS OF NESTOR B. VILLAREAL, G.R. No. 184618, November 19, 2014, J. Del Castillo**

Under Article 279 of the Labor Code, as amended by Republic Act No. 6715, an employee who is unjustly dismissed shall be entitled to (1) reinstatement without loss of seniority rights and other privileges; and, (2) full backwages, inclusive of allowances, and to other benefits or their monetary equivalent computed from the time his compensation was withheld up to the time of actual reinstatement. The award of separation pay must be deleted because, separation pay is only granted as an alternative to reinstatement. Villareal’s backwages must be computed from the time of his unjustified relief from duty up to his actual reinstatement. **PEAK VENTURES CORPORATION and/or EL TIGRE SECURITY and INVESTIGATION AGENCY vs. HEIRS OF NESTOR B. VILLAREAL, G.R. No. 184618, November 19, 2014, J. Del Castillo**

Respondent’s contract was not renewed after she was diagnosed with cancer. The Court held that she was a regular employee and was illegally dismissed. She was entitled to security of tenure and could be dismissed only for just or authorized causes and after the observance of due process. Under the four-fold test, the “control test” is the most important. The line should be drawn between rules that merely serve as guidelines towards the achievement of the mutually desired result without dictating the means or methods to be employed in attaining it, and those that control or fix the methodology and bind or restrict the party hired to the use of such means. Respondent proved that petitioner had control over her work as indicated in her contract. The manner of petitioner, informing respondent that her contract would no longer be renewed, is tantamount to constructive dismissal. **FUJI TELEVISION NETWORK, INC. vs. ARLENE s. ESPIRITU, G.R. No. 204944-45, December 03, 2014, J. Leonen**

Temporary "off-detail" or "floating status" is the period of time when security guards are in between assignments or when they are made to wait after being relieved from a previous post until they are transferred to a new one. It takes place when the security agency's clients decide not to renew their contracts with the agency, resulting in a situation where the available posts under its existing contracts are less than the number of guards in its roster. It also happens in instances where contracts for security services stipulate that the client may request the agency for the replacement of the guards assigned to it even for want of cause, such that the replaced security guard may be placed on temporary "off-detail" if there are no available posts under the agency's existing contracts. During such time, the security guard does not receive any salary or any financial assistance provided by law. It does not constitute a dismissal, as the assignments primarily depend on the contracts entered into by the security agencies with third parties, so long as such status does not continue beyond a reasonable time. When such a "floating status" lasts for more than six (6) months, the employee may be considered to have been constructively dismissed.

In this case, respondents themselves claimed that after having removed Tatel from his post at Bagger Werken on August 24, 2009 due to several infractions committed thereat, they subsequently reassigned him to SKI from September 16, 2009 to October 12, 2009 and then to IPVG from October 21 to 23, 2009. Thereafter, and until Tatel filed the instant complaint for illegal dismissal six (6) months later, or on May 4, 2010, he was not given any other postings or assignments. While it may be true that respondents summoned him back to work through the November 26, 2009 Memorandum, which Tatel acknowledged to have received on December 11, 2009, records are bereft of evidence to show that he was given another detail or assignment. As the "off-detail" period had already lasted for more than six (6) months, Tatel is therefore deemed to have been constructively dismissed. **VICENTE C. TATEL** **vs.** **JLFP INVESTIGATION SECURITY AGENCY, INC., JOSE LUIS F. PAMINTUAN, AND/OR PAOLO C. TURNO, G.R. No. 206942, February 25, 2015**, **J. Perlas-Bernabe**

**MANAGEMENT PREROGATIVE**

While the adoption and enforcement by Mirant of its Anti-Drugs Policy is recognized as a valid exercise of its management prerogative as an employer, such exercise is not absolute and unbridled. In the exercise of its management prerogative, an employer must therefore ensure that the policies, rules and regulations on work-related activities of the employees must always be fair and reasonable and the corresponding penalties, when prescribed, commensurate to the offense involved and to the degree of the infraction. The Anti-Drugs Policy of Mirant fell short of these requirements. **MIRANT (PHILIPPINES) CORPORATION AND EDGARDO A. BAUTISTA vs. JOSELITO A. CARO, G.R. No. 181490, April 23, 2014, J. Villarama, Jr.**

Respondent proposed year-end commissions for herself and special incentive plan. At the end of the year, however, she resigned and filed complaint for payment of bonus and incentive compensation as proposed. The Court ruled that she was entitled to such. By its very definition, bonus is a gratuity or act of liberality of the giver and thus, is not demandable. However, in this case, petitioners had already exercised the management prerogative to grant the bonus or special incentive since there was no refusal of her proposal and the management even bargained with the respondent. **MEGA MAGAZINE PUBLICATIONS, INC., JERRY TIU, AND SARITA vs. YAPvs.MARGARET A. DEFENSOR, G.R. No. 162021, June 16, 2014, J. Bersamin**

It is the employer’s prerogative to prescribe reasonable rules and regulations necessary or proper for the conduct of its business or concern, to provide certain disciplinary measures to implement said rules and to assure that the same be complied with. At the same time, it is one of the fundamental duties of the employee to yield obedience to all reasonable rules, orders, and instructions of the employer, and willful or intentional disobedience thereof, as a general rule, justifies rescission of the contract of service and the peremptory dismissal of the employee. Quebral cannot feign ignorance of the policy limiting to patients the privilege of the use of validated parking tickets. First, it is written on the parking ticket itself. Having used said parking tickets many times, it was incumbent upon him to read the terms and conditions stated thereon. And second, even assuming he was not able to read said policy, the Court agrees with petitioner that this only serves as a testament of his inefficiency in his job as he is not aware of his employer’s policies despite being employed for 7 years. **ST. LUKE'S MEDICAL CENTER vs. DANIEL QUEBRAL and ST. LUKE'S MEDICAL CENTER EMPLOYEES ASSOCIATION-ALLIANCE OF FILIPINO WORKERS (SLMCEA-AFW), G.R. No. 193324, July 23, 2014, J. Villarama Jr.**

Article 283 of the Labor Code allows an employer to dismiss an employee due to the cessation of operation or closure of its establishment or undertaking. The decision to close one’s business is a management prerogative that courts cannot interfere with.  However, despite this management prerogative, employers closing their businesses must pay the affected workers separation pay equivalent to one-month pay or to at least one-half-month pay for every year of service, whichever is higher.

G.J.T. Rebuilders’ decision to close its establishment is a valid exercise of its management prerogative.  G.J.T. Rebuilders closed its machine shop, believing that its former customers seriously doubted its capacity to perform the same quality of service after the fire had partially damaged the building where it was renting space.

Nevertheless, G.J.T. Rebuilders failed to sufficiently prove its alleged serious business losses. Thus, it must pay respondents their separation pay equivalent to one-month pay or at least one-half-month pay for every year of service, whichever is higher. **G.J.T. REBUILDERS MACHINE SHOP, GODOFREDO TRILLANA, AND JULIANA TRILLANA, vs. RICARDO AMBOS, BENJAMIN PUTIAN, AND RUSSELL AMBOS, G.R. No. 174184, January 28, 2015, J. Leonen**

The petitioner’s pregnancy out of wedlock is not a disgraceful or immoral conduct since she and the father of her child have no impediment to marry each other. There is no law which penalizes an unmarried mother by reason of her sexual conduct or proscribes the consensual sexual activity between two unmarried persons; that neither does such situation contravene any fundamental state policy enshrined in the Constitution.  Further, the petitioner’s dismissal is not a valid exercise of SSCW’s management prerogative. SSCW, as employer, undeniably has the right to discipline its employees and, if need be, dismiss them if there is a valid cause to do so. However, as already explained, there is no cause to dismiss the petitioner. There being no valid basis in law or even in SSCW’s policy and rules, SSCW’s dismissal of the petitioner is despotic and arbitrary and, thus, not a valid exercise of management prerogative. **CHERYLL SANTOS LEUS vs. ST. SCHOLASTICA'S COLLEGE WESTGROVE and/or SR. EDNA QUIAMBAO, OSB, G.R. No. 187226, January 28, 2015, J. Reyes**

**SOCIAL WELFARE LEGISLATION (P.D. 626)**

**SSS LAW (R.A. 8282)**

The company­designated physician must arrive at a definite assessment of the seafarer’s fitness to work or permanent disability within the period of 120 or 240 days, pursuant to Article 192 (c)(1) of the Labor Code and Rule X, Section 2 of the Amended Rules on Employees Compensation. If he fails to do so and the seafarer’s medical condition remains unresolved, the latter shall be deemed totally and permanently disabled. This definite assessment of the seaman’s permanent disability must include the degree of his disability, as required by Section 20­B of the POEA­SEC. **UNITED PHILIPPINE LINES, INC. and HOLLAND AMERICA LINE vs. GENEROSO E. SIBUG, G.R. No. 201072, April 2, 2014, J. Villarama, Jr.**

"It is not the job title but the actual work that the employee performs that determines whether he or she occupies a position of trust and confidence." In this case, while Esteban's position was denominated as Sales Clerk, the nature of her work included inventory and cashiering, a function that clearly falls within the sphere of rank-and-file positions imbued with trust and confidence.

Loss of trust and confidence to be a valid cause for dismissal must be work related such as would show the employee concerned to be unfit to continue working for the employer and it must be based on a willful breach of trust and founded on clearly established facts. Such breach is willful if it is done intentionally, knowingly, and purposely, without justifiable excuse as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently

In this case, the Court finds that the acts committed by Esteban do not amount to a willful breach of trust. She admitted that she accessed the POS system with the use of the unauthorized "123456" password. She did so, however, out of curiosity and without any obvious intention of defrauding the petitioner. As professed by Esteban, "she was acting in good faith in verifying what her co-staff told her about the opening of the computer by the use of the "123456" password, x xx. She even told her co-staff not to open again said computer, and that was the first and last time she opened said computer." **BLUER THAN BLUE JOINT VENTURES COMPANY/MARY ANN DELA VEGA,** **vs. GLYZA ESTEBAN**, **G.R. No. 192582, April 7, 2014**, **J. Bienvenido L. Reyes**

Definitely, the Labor Arbiter’s award of loss of earning is unwarranted since Chin had already been given disability compensation for loss of earning capacity. An additional award for loss of earnings will result in double recovery. In a catena of cases, the Court has consistently ruled that disability should not be understood more on its medical significance but on the loss of earning capacity. Permanent total disability means disablement of an employee to earn wages in the same kind of work, or work of similar nature that he was trained for or accustomed to perform, or any kind of work which a person of his mentality and attainment could do. Disability, therefore, is not synonymous with "sickness" or "illness." What is compensated is one’s incapacity to work resulting in the impairment of his earning capacity. **MAGSAYSAY MARITIME CORPORATION vs. OSCAR D. CHIN, JR.,**, **G.R. No. 199022, April 7, 2014, J. Roberto A. Abad**

In resolving the issue of whether the COLA and/or the BEP should be paid separately from the basic salary to the employees of LBP as of July 1, 1989, Court should look into the very provisions of the SSL. From the foregoing provision, it is immediately apparent that the SSL mandates the integration of all allowances except for the following:

1. Representation and transportation allowances;

2. Clothing and laundry allowances;

3. Subsistence allowance of marine officers and crew on board government vessels;

4. Subsistence allowance of hospital personnel;

5. Hazard pay;

6. Allowances of foreign service personnel stationed abroad;

7. And such other additional compensation not otherwise specified herein as may be determined by the DBM.

Since the COLA and the BEP are among those expressly excluded by the SSL from integration, they should be considered as deemed integrated in the standardized salaries of LBP employees under the general rule of integration.

Thus, there’s no other conclusion than to deny the payment of the COLA on top of the LBP employees’ basic salary from July 1, 1989 because (1) it has not been expressly excluded from the general rule on integration by the first sentence of Sec. 12 of the SSL and (2) as explained, the COLA is not granted in order to reimburse employees for the expenses incurred in the performance of their official duties. **LAND BANK OF THE PHILIPPINES vs. DAVID G. NAVAL, JR., G.R. No. 195687, April 7, 2014**, **J. Velasco**

What is important is that the employee was unable to perform his customary work for more than 120 days which constitutes permanent total disability, and not the actual injury itself. Undoubtedly, the illness of the employee which incapacitated him to work more than 120 days after repatriation is considered as work-related which entitles him to disability benefits. Indeed, the fact that a certification declaring the employee as fit to work contrary to a prior finding of tuberculosis can be considered as a ploy to circumvent the law intended to defeat the employee’s right to be compensated for a disability which the law considers as permanent and total. **BARKO INTERNATIONAL, INC./CAPT. TEODORO B. QUIJANO AND/OR FUYO KAIUN CO. LTD. vs. EBERLY S. ALCAYNO, G.R. No. 188190, April 21, 2014, J. Reyes**

The Court has held that the enumeration in Section 32-A does not preclude other illnesses/diseases not so listed from being compensable. The POEA-SEC cannot be presumed to contain all the possible injuries that render a seafarer unfit for further sea duties. This is in view of Section 20(B)(4) of the POEA-SEC which states that "(t)hose illnesses not listed in Section 32 of this Contract are disputably presumed as work-related." Concomitant with such presumption is the burden placed upon the claimant to present substantial evidence that his working conditions caused or at least increased the risk of contracting the disease. In the case at bar, Jarin was able to prove that his rheumatoid arthritis was contracted out of his daily duties as Chief Cook onboard M.T. Erik Spirit where he was also tasked to carry heavy things. **TEEKAY SHIPPING PHILIPPINES, INC., TEEKA Y SHIPPING LIMITED and ALEX VERCHEZ vs. EXEQUIEL O. JARIN, G.R. No. 195598, June 25, 2014, J. Reyes**

Alberto suffered hypertension and filed claim for disability benefit, sickness allowance, and reimbursement for medical expenses. The Labor Arbiter granted his claims except for the reimbursement. Certification acknowledging receipt of sickness allowance equivalent and payment in full of his medical treatment was made by petitioner. The NLRC ordered the deduction of the expenses paid from the peso equivalent of the total monetary award. The Court held that there was abuse of discretion on the part of NLRC. As a matter of law, the benefit of medical treatment at the employer’s expense is separate and distinct from the disability benefits and sickness allowance to which the seafarer is additionally entitled. Accordingly, any amount that the respondents may have expended for Alberto’s medical treatment should not be deducted from the monetary award that consisted only of the disability benefits and attorney’s fees. **THE LATE ALBERTO B. JAVIER, as substituted by his surviving wife, MA. THERESA M. JAVIER, and children, KLADINE M. JAVIER, CHRISTIE M. JAVIER, JALYN M. JAVIER, CANDY GRACE M. JAVIER and GLIZELDA M.JAVIER vs. PHILIPPINE TRANSMARINE CARRIERS, INC. and/or NORTHERN MARINE MANAGEMENT, LTD., G.R. No. 204101, July 02, 2014, J. Brion**

A seafarer may have basis to pursue an action for total and permanent disability benefits only if any of the following conditions are present: (a) The company-designated physician failed to issue a declaration as to his fitness to engage in sea duty or disability even after the lapse of the 120-day period and there is no indication that further medical treatment would address his temporary total disability, hence, justify an extension of the period to 240 days; (b) 240 days had lapsed without any certification issued by the company designated physician; (c) The company-designated physician declared that he is fit for sea duty within the 120-day or 240-day period, as the case may be, but his physician of choice and the doctor chosen under Section 20-B(3) of the POEA-SEC are of a contrary opinion; (d) The company-designated physician acknowledged that he is partially permanently disabled but other doctors who he consulted, on his own and jointly with his employer, believed that his disability is not only permanent but total as well; (e) The company-designated physician recognized that he is totally and permanently disabled but there is a dispute on the disability grading; (f) The company-designated physician determined that his medical condition is not compensable or work-related under the POEA-SEC but his doctor-of-choice and the third doctor selected under Section 20-B(3) of the POEA-SEC found otherwise and declared him unfit to work; (g) The company-designated physician declared him totally and permanently disabled but the employer refuses to pay him the corresponding benefits; and (h) The company-designated physician declared him partially and permanently disabled within the 120-day or 240-day period but he remains incapacitated to perform his usual sea duties after the lapse of said periods. Furthermore, the onus probandi falls on the seafarer to establish or substantiate his claim that he is entitled to disability benefits by the requisite quantum of evidence. He has to prove causation between the nature of his employment and his illness, or that the risk of contracting the illness was increased by his working condition. Otherwise, for lack of factual and legal basis, he will not be entitled to any claim. **ALONE AMAR P. TAGLE vs. ANGLO-EASTERN CREW MANAGEMENT, PHILS., INC., ANGLO-EASTERN CREW MANAGEMENT (ASIA) and CAPT. GREGORIO B. SIALSA**, **G.R. No. 209302, July 9, 2014**, **J. Mendoza**

Under Section 32-A of the POEA-SEC, for an occupational disease and the resulting disability or death from it to be compensable, all of the following conditions must first be satisfied: 1) The seafarer’s work must involve the risks described herein; 2) The disease was contracted as a result of the seafarer’s exposure to the described risks; 3) The disease was contracted within a period of exposure and under such other factors necessary to contract it; and 4) There was no notorious negligence on the part of the seafarer. In the case at bar, the third condition is absent. Hence, the claim of previous contracts with the same employer as long enough to expose the employee to work-related risks to trigger a disease, in the absence of the respective dates and durations of those, created a possibility that he acquired his disease at some other time when he was not on board and working in any of the employer’s vessels. Moreover, while it is provided for in the law that it is the company-designated physician who declares the fitness to work of a seafarer who sustains a work-related injury/illness or the degree of the seafarer’s disability, a finding by the doctor of choice of the employee in contrast with that made of the company-designated physician, necessitates the appointment of a third doctor whose decision shall be final and binding. Otherwise, the assessment of the company-designated physician as to the seafarer’s health should stand. Also, for work-related illnesses acquired by seafarers from the time the 2010 amendment to the POEA-SEC took effect, the declaration of disability should no longer be based on the number of days the seafarer was treated or paid his sickness allowance, but rather on the disability grading he received, whether from the company-designated physician or from the third independent physician, if the medical findings of the physician chosen by the seafarer conflicts with that of the company-designated doctor. **MAGSAYSAY MARITIME CORPORATION, EDUARDO U. MANESE and NORWEGIAN CRUISE LINE vs. HENRY M. SIMBAJON, G.R. No. 203472, July 9, 2014, J. Brion**

Under the POEA-SEC, it is the company-designated physician who declares the fitness to work of a seafarer who sustains a work-related injury/illness or the degree of the seafarer’s disability. While a seafarer is not precluded from seeking a second opinion on his medical condition or disability, a finding by his doctor of choice in contrast with that made of the company-designated physician, necessitates the appointment of a third doctor whose decision shall be final and binding. Such disagreement should have been referred to a third doctor jointly by the employer and the seafarer. In the case at bar, the non-referral cannot be blamed on the employer. Since it was the seafarer who consulted another doctor without informing his employer, he should have actively requested that the disagreement be referred to a final and binding third opinion. In the absence of any request from him, the employer-company cannot be expected to respond. As such, in the absence of a third doctor resolution of the conflicting assessments between the doctors, the assessment of the company-designated physician as to the seafarer’s health should stand. **BAHIA SHIPPING SERVICES, INC. and FRED OLSEN CRUISE LINES LIMITED vs. CRISANTE C. CONSTANTINO, G.R. No. 180343, July 9, 2014, J. Brion**

Rosemarie Esmarialino filed an application for the Employees’ Compensation Death Benefits before the SSS. She contends there is a causal connection between Leukemia to her late husband’s job as a security guard. SSS denied her claim. Such denial was affirmed by ECC and CA. In affirming the ruling of the CA, the Supreme Court held that the principles of presumption of compensability” and “aggravation” found in the old Workmen’s Compensation Act is expressly discarded under the present compensation scheme. The new principle being applied is a system based on social security principle; thus, the introduction of “proof of increased risk”. Since Rosemarie failed to present evidence which would indicate the connection between Leukemia and her husband’s job, her application necessarily fails. **ROSEMARIE ESMARIALINO vs. EMPLOYEES’ COMPENSATION COMMISSION, SOCIAL SECURITY SYSTEM and JIMENEZ PROTECTIVE and SECURITY AGENCY**, **G.R. No. 192352,July 23, 2014, J. Reyes**

In Quizora v. Denholm Crew Management (Phils.), Inc., this Court categorically declared that the petitioner cannot simply rely on the disputable presumption provision mentioned in Section 20(B)(4) of the 2000 POEA-SEC. As he did so without solid proof of work-relation and work-causation or work-aggravation of his illness, the Court cannot provide him relief. 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. On that note, we emphasize that making factual findings based only on presumptions and absent the quantum of evidence required in labor cases is an erroneous application of the law on compensation proceedings. This Court has ruled in Gabunas, Sr. v. Scanmar Maritime Services, Inc., citing Government Service Insurance System v. Cuntapay, that claimants in compensation proceedings must show credible information that there is probably a relation between the illness and the work. Probability, and not mere possibility, is required; otherwise, the resulting conclusion would proceed from deficient proof. **JORAINA DRAGON TALOSIG vs. UNITED PHILIPPINES LINES, INC, ET AL, G.R. No. 198388, July 28, 2014, CJ. Sereno**

Section 20(E) of the POEA-SEC is clearly states that 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 shall disqualify him from any compensation and benefits. This may also be a valid ground for termination of employment and imposition of the appropriate administrative and legal sanctions. Thus, for knowingly concealing his diabetes during the PEME, petitioner committed fraudulent misrepresentation which under the POEA-SEC unconditionally barred his right to receive any disability compensation or illness benefit. **STATUS MARITIME CORPORATION, MS. LOMA B. AGUIMAN, FAIRDEAL GROUP MANAGEMENT S.A., and MT FAIR JOLLY vs. SPOUSES MARGARITO B. DELALAMON and PRISCILA A. DELALAMO., G.R. No. 198097, July 30, 2014, J. Reyes**

The mere lapse of the 120-day period itself does not automatically warrant the payment of permanent total disability benefits. Hence, the NLRC could not have gravely abused its discretion in not granting Pellazar permanent total disability benefits based on this as the entitlement to disability is governed not by the period of disability per se but by the specific provisions of the law and contract.

Since there is a conflict in the assessment of the company-designated physicians and Dr. Sabado’s certification in relation to Pellazar’s fitness or unfitness to work, the matter should have been referred to a third doctor for final determination as required by the POEA-SEC and the parties’ CBA. Since Pellazar was responsible for the non-referral to the third doctor because of his failure to inform the manning agency that he would be consulting Dr. Sabado, he should suffer the consequences of the absence of a binding third opinion. Thus, the NLRC was well within the bounds of its jurisdiction, in upholding the disability assessment of Drs. De Guzman and Banaga as against Pellazar’s physician of choice.Since the company-designated physicians gave Pellazar only a Grade 10 disability - and not a permanent total disability - he cannot be entitled to the full disability benefits. **OSG SHIPMANAGEMENT MANILA, INC et al vs. JOSELITO B. PELLAZAR, G.R. No. 198367, August 6, 2014, J. Brion**

It is settled that when the death of a seaman resulted from a deliberate or willful act on his own life, and it is directly attributable to the seaman, such death is not compensable. The death of a seaman during the term of his employment makes the employer liable to the former's heirs for death compensation benefits. This rule, however, is not absolute. The employer may be exempt from liability if it can successfully prove that the seaman's death was caused by an injury directly attributable to his deliberate or willful act. Wallem were able to prove that Hernani committed suicide, Hernani’s death is not compensable and his heirs are not entitled to any compensation or benefits. **WALLEM MARITIME SERVICES, INC.et al vs. DONNABELLE PEDRAJAS et al, G.R. No. 192993, August 11, 2014, J. Peralta**

When a seafarer claims disability due to injuries incurred during work, and the findings of his physician disagrees with the assessment of the company-designated physician as to the degree of his injury, a third doctor may be agreed jointly between the employer and the seafarer and the third doctor’s decision shall be final and binding on both parties. However where there was no third doctor appointed by both parties whose decision would be binding on the parties, it is up to the labor tribunal and the courts to evaluate and weigh the merits of the medical reports of the company-designated doctor and the seafarer’s doctor. Clearly, the findings of the company-designated doctor, who, with his team of specialists which included an orthopedic surgeon and a physical therapist, periodically treated the seafarer Dalusong for months and monitored his condition, deserve greater evidentiary weight than the single medical report of Dalusong’s doctor, who appeared to have examined Dalusong only once.

In addition, just because the seafarer is unable to perform his job and is undergoing medical treatment for more than 120 days does not automatically entitle the seafarer to total and permanent disability compensation. If the 120 days initial period is exceeded and no such declaration is made because the seafarer requires further medical attention, then the temporary total disability period may be extended up to a maximum of 240 days, subject to the right of the employer to declare within this period that a permanent partial or total disability already exists. When the company-designated physician gave Dalusong a final, permanent partial disability grading beyond the 120-day period but before the 240 day maximum, then Dalusong is not entitled to permanent disability benefits. **RICARDO A. DALUSONG vs. EAGLE CLARC SHIPPING PHILIPPINES, INC., et al., G.R. No. 204233, September 3, 2014, Acting C.J. Carpio**

After the expiration of respondent’s contract, he informed the company of his illness but was not given any doctor’s referral. He was diagnosed initially with pneumonia and asthma then with tuberculosis. The Court denied his disability benefit claim for non-compliance with the three-day rule on post-employment medical examination and because respondent’s illness is not compensable. The Court held that POEA Contract’s provisions must be applied fairly, reasonably and liberally in favor of the seafarers, for it is only then that its beneficent provisions can be fully carried into effect. This exhortation cannot, however, be taken to sanction the award of disability benefits and sickness allowance based on flimsy evidence and/ or even in the face of an unjustified non-compliance with the mandatory reporting requirement under the POEA Contract. **INTERORIENT MARITIME ENTERPRISES, INC. vs. VICTOR M. CREER III, G.R. No. 181921, September 17, 2014, J. Del Castillo**

Libang was employed as Cook on board M/V Baltimar Orion. While on board, he experienced illness which was found to be due to high blood pressure and high blood sugar. He was repatriated. In the medical certificate of the company-designated physician, he was diagnosed to be suffering from hypertension which could be pre-existing. Another doctor diagnosed his illness as secondary Impediment Grade VI. The Court found him to be entitled to disability benefit. Given the failure of the first doctor to fully evaluate petitioner’s illness, he was justified in seeking the medical expertise of his physician of choice.The alleged concealment by petitioner of his hypertension during his pre-employment medical examination was also unsubstantiated, but was a mere hearsay. **PEDRO LIBANG, JR. vs. INDOCHINA SHIP MANAGEMENT INC., MR. MIGUEL SANTOS, and MAJESTIC CARRIERS, INC., G.R. No. 189863, September 17, 2014, J. Reyes**

A seafarer must prove that his illness is an occupational disease to claim disability benefits. He cannot merely cling to his allegations that the conditions in the engine room aggravated his illness but must present substantial evidence to prove the same. **JEBSEN MARITIME INC., APEX MARITIME SHIP MANAGEMENTCO. LLC., AND/OR ESTANISLAO SANTIAGO vs. WILFREDO E. RAVENA, G.R. No. 200566, September 17, 2014, J. Brion**

Vicmar’s officers initially failed to remit the SSS contributions and payments of respondents such that respondents were denied benefits under the SSS Law which they wanted to avail of. It was only under threat of criminal liability that Vicmar’s officers subsequently remitted what they had long deducted from the wages of respondents. Such officers are criminally liable under R.A. 8282. The elements of criminal liability under Section 22 (a) are: 1) The employer fails to register its employees with the SSS; 2) The employer fails to deduct monthly contributions from the salaries and/or wages of its employees; and 3) Having deducted the SSS contributions and/or loan payments to SSS, the employer fails to remit these to the SSS. **ROBERT KUA, CAROLINE N. KUA, and MA. TERESITA N. KUA vs. GREGORIO SACUPAYO and MAXIMINIANO PANERIO, G.R. No. 191237, September 24, 2014, J. Perez**

Dr. Cruz, the company physician, gave Rosales a partial permanent disability assessment but a private physician gave him a permanent total disability assessment. Under these circumstances, the assessment of the company-designated physician is more credible for having been arrived at after months of medical attendance and diagnosis, compared with the assessment of a private physician done in one day on the basis of an examination or existing medical records. **INC SHIPMANAGEMENT, INCORPORATED, et.al vs. BENJAMIN I. ROSALES, G.R. No. 195832, October 01, 2014, J. Brion**

Hipe failed to comply with the procedure laid down under Section 20 (B) (3) of the 2000 POEA-SEC with regard to the joint appointment by the parties of a third doctor whose decision shall be final and binding on them in case the seafarer’s personal doctor disagrees with the company-designated physician’s fit-to-work assessment. Jurisprudence provides 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. In light of the contrasting diagnoses of the company-designated physician and Hipe’s personal doctor, Hipe filed his complaint before the NLRC but prematurely did so without any regard to the conflict-resolution procedure under Section 20 (B) (3) of the 2000 POEA-SEC. Thus, consistent with Jurisprudence, the fit-to-work certification of the company designated physician ought to be upheld. **BAHIA SHIPPING SERVICES, INC., FRED OLSEN CRUISE LINE, and MS. CYNTHIA C. MENDOZA vs. JOEL P. HIPE, JR., G.R. No. 204699, November 12, 2014, J. Perlas- Bernabe**

The entitlement of a seafarer on overseas employment to disability benefits is governed by the medical findings, by law and by the parties’ contract.” Section 20-B19 of the POEA-SEC laid out the procedure to be followed in assessing the seafarer’s disability in addition to specifying the employer’s liabilities on account of such injury or illness. The same provision also provides that the seafarer is not irrevocably bound by the findings of the company-designated physician as he is allowed to seek a second opinion and consult a doctor of his choice. In case of disagreement between the findings of the company-designated physician and the seafarer’s private physician, the parties shall jointly agree to refer the matter to a third doctor whose findings shall be final and binding on both. The disagreement between the findings of the company-designated physician and Belmonte’s private doctor was never referred to a third doctor chosen by both CFSCMI and Belmonte, following the procedure spelled out in Section 20(B), paragraph 3 of the POEA-SEC. Considering the absence of findings coming from a third doctor, the Court holds that the certification of the company-designated physician should prevail. The Court does so for the following reasons: first, the records show that Belmonte only consulted the private physician after his complaint with the LA has been filed; second, the medical certificate was issued after a one-day consultation; and third, the medical certification was not supported by particular tests or medical procedures conducted on Belmonte that would sufficiently controvert the positive results of those administered to him by the company-designated physician. **CATALINO B. BELMONTE, JR vs. C.F. SHARP CREW MANAGEMENT, INC et al, G.R. No. 209202, November 19, 2014, J. Reyes**

There being no assessment, Michael’s condition cannot be considered a permanent total disability. Temporary total disability only becomes permanent when declared by the company physician within the period he is allowed to do so, or upon the expiration of the maximum 240-day medical treatment period without a declaration of either fitness to work or permanent disability.

A seafarer’s inability to work and the failure of the company-designated physician to determine fitness or unfitness to work despite the lapse of 120 days will not automatically bring about a shift in the seafarer’s state from total and temporary to total and permanent, considering that the condition of total and temporary disability may be extended up to a maximum of 240 days.

The Court agrees with New Filipino’s stance that Michael was indeed guilty of medical abandonment for his failure to complete his treatment even before the lapse of the 240 days period. Section 20(D) of the POEA-SEC instructs that no compensation and benefits shall be payable in respect of any injury, incapacity, disability or death of the seafarer resulting from his willful or criminal act or intentional breach of his duties. Michael was duty-bound to complete his medical treatment until declared fit to work or assessed with a permanent disability grading. **NEW FILIPINO MARITIME AGENCIES INC., ST. PAUL MARITIME CORP., and ANGELINA T. RIVERA vs. MICHAEL D. DESPABELADERAS, G.R. No. 209201, November 19, 2014, J. Mendoza**

Permanent disability is the inability of a worker to perform his job for more than 120 days, regardless of whether or not he loses the use of any part of his body. It is of no consequence that respondent was cured after a couple of years. The law does not require that the illness should be incurable. What is important is that he was unable to perform his customary work for more than 120 days which constitutes permanent total disability. In the instant petition, Dr. Alegre’s January 20, 2007 report addressed to PTCI clearly indicated that the petitioner’s persistent back pains remained unresolved. Hence, the continuation of physical therapy and an increased Gabapentin dose were recommended. Petitioner Garillo is therefore, entitled to permanent disability benefits. **ALO. EYANA vs. PHILIPPINE TRANSMARINE CARRIERS, INC., ALAIN A. GARILLOS, CELEBRITY CRUISES, INC. (U.S.A.), G.R. No. 193468, January 28, 2015, J. Reyes**

For the death of a seafarer to be compensable, the same must occur during the term of his contract of employment. Absent such fact, his death will not be compensable. **WALLEM SERVICES PHILIPPINES, INC. and WALLEM SHIP MANAGEMENT, LTD. vs. HEIRS OF THE LATE PETER PADRONES, G.R. No. 138212, March 16, 2015, J. Peralta**

The petitioner suffered stroke during the course of his employment. He then filed a complaint for payment of disability benefit. The Supreme Court ruled that Section 20(B) of the POEA contract provides that entitlement to disability benefits requires that the seafarer’s disability be work-related and that it occur during the contract’s term. The POEA contract defines “work-related illness” as “any sickness resulting to disability or death as a result of an occupational disease listed under Section 32-A of this contract with the conditions set therein satisfied.” The POEA contract also states that “illnesses not listed in Section 32 of this contract are disputably presumed as work related.” **JOEL B. MONANA vs**. **MEC GLOBAL SHIPMANAGEMENT AND MANNING CORPORATION AND HD HERM DAVELSBERG GMBH**, **G.R. No. 196122, November 12, 2014, J. Leonen**

There are three (3) requirements necessary for the complete termination of the employment contract: 1] termination due to expiration or other reasons/causes; 2] signing off from the vessel; and 3]arrival at the point of hire. In this case, there was no clear showing that Caseñas signed off from the vessel upon the expiration of his employment contract, which was in February or April 2005. He did not arrive either in Manila, his point of hire, because he was still on board the vessel MV Haitien Pride on the supposed date of expiration of his contract. It was only on August 14, 2006 that he signed off from MV Haitien Pride and arrived in Manila on August 30, 2006. **APQ SHIPMANAGEMENT CO., LTD., and APQ CREW MANAGEMENT USA, INC., vs. ANGELITO L. CASEÑAS, G.R. No. 197303, June 4, 2014, J. Mendoza**

It is recognized that any kind of work or labor produces stress and strain normally resulting in wear and tear of the human body. It is also settled that the cardiovascular disease, coronary artery disease, and other heart ailments are compensable. As such, when a seaman has long been in the employ on an employer, no other conclusion can be arrived at other than his years of service certainly taking a toll on his body. Hence, he could not have contracted his illness elsewhere except while working for such employer. **MAGSAYSAY MITSUI OSK MARINE, INC. and/or MOL TANKSHIP MANAGEMENT (ASIA) PTE LTD**. **vs. JUANITO G. BENGSON\***, **G.R. No. 198528, October 13, 2014**, **J. Del Castillo**

As stated in Section 20 of the 2000 POEA-SEC, the seafarer’s beneficiaries may successfully claim death benefits if they are able to establish that the seafarer’s death is (a) work-related and (b) had occurred during the term of his employment contract. The first requirement is complied with if the seafarer incurred an injury when he figured in an accident while performing his duties. In such case, the injury is the proximate cause of his death or disability for which compensation is sought, the previous physical condition of the employee is unimportant and recovery may be had for injury independent of any pre-existing weakness or disease. With respect to the second requirement, the Court takes this opportunity to clarify that while the general rule is that the seafarer’s death should occur during the term of his employment, the seafarer’s death occurring after the termination of his employment due to his medical repatriation on account of a work-related injury or illness constitutes an exception thereto. The basis of such is the liberal construction of the afore-mentioned law as impelled by the plight of the bereaved heirs who stand to be deprived of a just and reasonable compensation for the seafarer’s death, notwithstanding its evident work-connection. **ANITA N. CANUEL, for herself and on behalf of her minor children, namely: CHARMAINE, CHARLENE, and CHARL SMITH, all surnamed CANUEL vs.** **MAGSAYSAY MARITIME CORPORATION, EDUARDO U. MANESE, and KOTANI SHIPMANAGEMENT LIMITED**, **G.R. No. 190161, October 13, 2014, J. Perlas-Bernabe**

Even though parental authority is severed by virtue of adoption, the ties between the adoptee and the biological parents are not entirely eliminated. Thus, the biological mother of a deceased employee who was legally adopted and whose adopter had died during the adoptee’s minority, is entitled to the death benefits under R.A. No. 8282 or the Social Security System (SSS) of the Social Welfare Legislation (PD 626) as a secondary beneficiary being an independent parent The death of the adopter during the adoptee’s minority resulted in the restoration of the biological mother’s parental authority over the adopted child. **BERNARDINA P. BARTOLOME vs. SOCIAL SECURITY SYSTEM and SCANMAR MARITIME SERVICES, INC., G.R. No. 192531, November 12, 2014, J. Velasco**

Permanent total disability means disablement of an employee to earn wages in the same kind of work, or work of similar nature, that he was trained for or accustomed to perform, or any kind of work which a person of his mentality and attainment could do. In disability compensation, it is not the injury which is compensated, but rather the incapacity to work resulting in the impairment of one's earning capacity. As Daraug was never actually incapacitated, it would be highly unjust if he would be awarded the disability benefits which the law accords only to the deserving and utterly unfair to KGJS if they would be made to pay. **ROMMEL B. DARAUG vs. KGJSFLEET MANAGEMENT MANILA, INC., KRISTIAN GERHARDJEBSEN SKIPSREDER, MR. GUY DOMINO A. MACAPAYAG and/or M/V "IBIS ARROW,"**, **G.R. No. 211211, January 14, 2015, J. Mendoza**

It has been settled that in order to avail of death benefits, the death of the employee should occur during the effectivity of the employment contract. Once it is established that the seaman died during the effectivity of his employment contract, the employer is liable. However, if he died after he pre-terminated the contract of employment, pursuant to Section 20 (A) of the POEA Standard Employment Contract, the terms and conditions contained in the contract of employment ceased to have force and effect, including the payment of death compensation benefits to the heirs of a seafarer. Perforce, the same is true especially when there is no evidence to show that the illness was acquired during the term of his employment with petitioners and neither were there indications that he was already suffering from an ailment at the time he pre-terminated his employment contracts. Even more, granting that petitioners were made aware of the seaman’s prior heart ailment, the fact still remains that he died after the effectivity of his contract. **ONE SHIPPING CORP., AND/OR ONE SHIPPING KABUSHIKI KAISHA/JAPAN vs. IMELDA C. PEÑAFIEL**, **G.R. No. 192406, January 21, 2015, J. Peralta**

Section 20 of the POEA “Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Ships,” provides that the employer is liable to pay the heirs of the deceased seafarer for death benefits once it is established that he died during the effectivity of his employment contract. However, the employer may be exempt from liability if it can successfully prove that the seaman’s death was caused by an injury directly attributable to his deliberate or willful act. **UNICOL MANAGEMENT SERVICES, INC., LINK MARINE PTE. LTD. AND/OR VICTORIANO B. TIROL, III vs. DELIA MALIPOT, IN BEHALF OF GLICERIO MALIPOT**, **G.R. No. 206562, January 21, 2015, J. Peralta**

Accident is an unintended and unforeseen injurious occurrence; something that does not occur in the usual course of events or that could not be reasonably anticipated; an unforeseen and injurious occurrence not attributable to mistake, negligence, neglect or misconduct. Accident is that which happens by chance or fortuitously, without intention and design, and which is unexpected, unusual and unforeseen.To stress, to be entitled to the compensation under Section 21(a) of the CBA, a seafarer must suffer an injury as a result of an accident. But there is no proof that Perez met an accident and was injured, that he met an unintended and unforeseen injurious occurrence while on board the Rio Grande. **C.F. SHARP CREWMANAGEMENT, INC. AND REEDEREI CLAUS PETER OFFEN vs. CLEMENTE M. PEREZ, G.R. No. 194885, January 26, 2015, J. Villarama Jr.**

The Dela Torre was repatriated and immediately underwent treatment and rehabilitation at the company-designated facility, Marine Medical Services of the Metropolitan Medical Center, exceeding the 240 days allowed to declare him either fit to work or permanently disabled. Under Section 32 of the POEA SEC, only those injuries or disabilities classified as Grade 1 are considered total and permanent. . The Court held that the POEA SEC must be read in harmony with the Labor Code and the AREC. Although Dela Torre was given a Grade 11 disability rating the assessment may be deemed tentative because he continued his physical therapy sessions beyond 240 days. Yet, despite his long treatment and rehabilitation, he was eventually unable to go back to work as a seafarer, which fact entitled him under the Dutch CBA to maximum disability benefits. **SEALANES MARINE SERVICES, INC./ARKLOW SHIPPING NETHERLAND AND/OR CHRISTOPHER DUMATOL vs. ARNEL G. DELA TORRE, G.R. No. 214132, February 18, 2015, J. Reyes**

**GSIS LAW (R.A. 8291)**

It is true that under Annex "A" of the Amended Rules on Employees’ Compensation, lung cancer is occupational only with respect to vinyl chloride workers and plastic workers. However, this will not bar a claim for benefits under the law if the complainant can adduce substantial evidence that the risk of contracting the illness is increased or aggravated by the working conditions to which the employee is exposed to. In the case at bar, aside from Jose’s general allegations proving the stressful duties of his late wife, no reasonable proof exists to support the claim that her respiratory disease, which is similar to lung cancer, was aggravated by her working conditions. The records do not support the contention that she had been exposed to voluminous and dusty records, nor do they provide any definite picture of her working environment. **GOVERNMENT SERVICE INSURANCE SYSTEM vs. JOSE M. CAPACITE, G.R. No. 199780, September 24, 2014, J. Brion**

Petitioner filed the instant petition contending that respondent’s illnesses, hypertension and Glaucoma, not being work-connected, cannot entitle her to disability retirement benefit. The SC however ruled that hypertension is a listed occupational disease, such being the case it is not necessary that there be proof of causal relation between the work and the illness which resulted in the respondent’s disability. The open-ended Table of Occupational Diseases requires no proof of causation. In general, a covered claimant suffering from an occupational disease is automatically paid benefits. As to her glaucoma, the SC ruled that since there appears to be a link between blood pressure and the development of glaucoma, the Court concluded that respondent’s glaucoma developed as a result of her hypertension. Such being the case, the latter is likewise compensable under the New GSIS Act. **GOVERNMENT SERVICE INSURANCE SYSTEM vs. AURELIA Y. CALUMPIANO, G.R. No. 196102, November 26, 2014, J. Del Castillo**

**EMPLOYEE’S COMPENSATION**

Dennis willfully caused his death while Apolinario's evidence fell short of substantial evidence to establish its counter- defense of insanity. In other words, Apolinario's complaint must be dismissed not because of doubt but because of the insufficiency of his evidence to support his claim of insanity. POEA-SEC requires the employer to prove not only that the death is directly attributable to the seafarer himself but also that the seafarer willfully caused his death, evidence of insanity or mental sickness may be presented to negate the requirement of willfulness as a matter of counter-defense. Since the willfulness may be inferred from the physical act itself of the seafarer (his jump into the open sea), the insanity or mental illness required to be proven must be one that deprived him of the full control of his senses; in other words, there must be sufficient proof to negate voluntariness. **AGILE MARITIME RESOURCES INC., ATTY. IMELDA LIM BARCELONA and PRONAV SHIP MANAGEMENT, INC. vs. APOLINARIO N. SIADOR, G.R. No. 191034, October 01, 2014, J. Brion**

The CA correctly ruled that Montierro’s condition cannot be deemed a permanent total disability. The Court has already delineated the effectivity of the Crystal Shipping and Vergara rulings in the 2013 case Kestrel Shipping Co. Inc. v. Munar, by explaining: Nonetheless, Vergara was promulgated on October 6, 2008, or more than two (2) years from the time Munar filed his complaint and observance of the principle of prospectivity dictates that Vergara should not operate to strip Munar of his cause of action for total and permanent disability that had already accrued as a result of his continued inability to perform his customary work and the failure of the company-designated physician to issue a final assessment. Applying the 240-day rule to this case, we arrive at the same conclusion reached by the CA. Montierro’s treatment by the company doctor began on 4 June 2010. It ended on 3 January 2011, when the company doctor issued a “Grade 10” final disability assessment. Counting the days from 4 June 2010 to 3 January 2011, the assessment by the company doctor was made on the 213th day, well within the 240-day period. The extension of the period to 240 days is justified by the fact that Dr. Alegre issued an interim disability grade of “10” on 3 September 2010, the 91st day of Montierro’s treatment, which was within the 120-day period. **NORIEL R. MONTIERO vs. RICKMERS MARINE AGENCY PHILS. INC., G.R. No. 210634, January 14, 2015, C.J. Sereno**

**LABOR RELATIONS LAW**

**CERTIFICATION ELECTION**

Basic in the realm of labor union rights is that the certification election is the sole concern of the workers, and the employer is deemed an intruder as far as the certification election is concerned. Thus, the petitioner lacked the legal personality to assail the proceedings for the certification election, and should stand aside as a mere bystander who could not oppose the petition, or even appeal the Med-Arbiter’s orders relative to the conduct of the certification election. As the Court has explained in Republic v. Kawashima Textile Mfg., Philippines, Inc., except when it is requested to bargain collectively, an employer is a mere bystander to any petition for certification election; such proceeding is non-adversarial and merely investigative, for the purpose thereof is to determine which organization will represent the employees in their collective bargaining with the employer. The choice of their representative is the exclusive concern of the employees; the employer cannot have any partisan interest therein; it cannot interfere with, much less oppose, the process by filing a motion to dismiss or an appeal from it; not even a mere allegation that some employees participating in a petition for certification election are actually managerial employees will lend an employer legal personality to block the certification election. The employer’s only right in the proceeding is to be notified or informed thereof. **HERITAGE HOTEL MANILA vs. SECRETARY OF LABOR AND EMPLOYMENT, G.R. No. 176317, July 23, 2014, J. Bersamin**

**UNION REGISTRATION**

Arguing that respondent is guilty of fraud and misrepresentation with respect to the minimum requirement of the law as to union membership, petitioner prays for the reversal of the decision of the CA and the cancellation of respondent’s Union Certificate of Registration. The SC however ruled that it does not appear in Article 234 (b) of the Labor Code that the attendees in the organizational meeting must comprise 20% of the employees in the bargaining unit. In fact, even the Implementing Rules and Regulations of the Labor Code does not so provide. It is only under Article 234 (c) that requires the names of all its members comprising at least twenty percent (20%) of all the employees in the bargaining unit where it seeks to operate. Clearly, the 20% minimum requirement pertains to the employees’ membership in the union and not to the list of workers who participated in the organizational meeting. Here, considering that there are 119 union members which are more than 20% of all the employees of the bargaining unit, and since the law does not provide for the required number of members to attend the organizational meeting, the 68 attendees which comprised at least the majority of the 119 union members would already constitute a quorum for the meeting to proceed and to validly ratify the Constitution and By-laws of the union. There is, therefore, no basis for petitioner to contend that grounds exist for the cancellation of respondent's union registration. **TAKATA (PHILIPPINES) CORPORATION vs. BUREAU OF LABOR RELATIONS and SAMAHANG LAKAS MANGGAGAWA NG TAKATA (SALAMAT), G.R. No. 196276, June 4, 2014, J. Peralta**

**COLLECTIVE BARGAINING AGREEMENT**

Money-claim underpayment of retirement benefits involves an issue arising from the interpretation or implementation of a provision of the collective bargaining agreement which according to Article 261 of the Labor Code falls within the original and exclusive jurisdiction of the Voluntary Arbitrator or Panel of Voluntary Arbitrators, and not the Labor Arbiter. Said provision, however, excluded from this original and exclusive jurisdiction, gross violation of the CBA, which is defined as “flagrant and/or malicious refusal to comply with the economic provisions” of the CBA. **UNIVERSITY OF SANTO TOMAS FACULTY UNION vs. UNIVERSITY OF SANTO TOMAS, G.R. No. 203957, July 30, 2014, J. Carpio**

When the parties, however, agree to deviate there from, and unqualifiedly covenant the payment of separation benefits irrespective of the employer’s financial position, then the obligatory force of that contract prevails and its terms should be carried out to its full effect. If the terms of a CBA are clear and there is no doubt as to the intention of the contracting parties, the literal meaning of its stipulations shall prevail.

Clearly, the fact that the employer, with full knowledge of its financial situation, freely and voluntarily entered into such collective bargaining agreement with its employees, cannot be accepted as an excuse to clear itself of its liability to pay its employees of separation benefits under such agreement. **BENSON INDUSTRIES EMPLOYEES UNION-ALU-TUCP AND/OR VILMA GENON, et al. vs. BENSON INDUSTRIES, INC., G.R. No. 200746, August 06, 2014, J. Perlas-Bernabe**

The schedule of training allowance stated in the memoranda served on Lipio and Ignacio, Sr. did not conform to Article X, Section 4 of the June 1, 1997 collective bargaining agreement. A collective bargaining agreement is “a contract executed upon the request of either the employer or the exclusive bargaining representative of the employees incorporating the agreement reached after negotiations with respect to wages, hours of work and all other terms and conditions of employment, including proposals for adjusting any grievances or questions arising under such agreement.” In the case at bar, Lipio and Ignacio, Sr. were selected for training during the effectivity of the June 1, 1997 rank-and-file collective bargaining agreement. Therefore, Lipio’s and Ignacio, Sr.’s training allowance must be computed based on Article X, Section 4 and Article IX, Section 1(f) of the June 1, 1997 collective bargaining agreement. **PHILIPPINE ELECTRIC CORPORATION (PHILEC) vs*.* COURT OF APPEALS, G.R. No. 168612, December 10, 2014, J. Leonen**

**UNFAIR LABOR PRACTICE**

As there was no bad faith on the part of Shell in its bargaining with the union, deadlock was possible and did occur. Thus, because of the unresolved issue on wage increase, there was actually a complete stoppage of the ongoing negotiations between the parties and the union filed a Notice of Strike. A mutual declaration would neither add to nor subtract from the reality of the deadlock then existing between the parties. Thus, the absence of the parties’ mutual declaration of deadlock does not mean that there was no deadlock. At most, it would have been simply a recognition of the prevailing status quo between the parties. Further, there was already an actual existing deadlock between the parties. What was lacking was the formal recognition of the existence of such a deadlock because the union refused a declaration of deadlock. **TABANGAO SHELL REFINERY EMPLOYEES ASSOCIATION vs.** **PILIPINAS SHELL PETROLEUM CORPORATION, G.R. No. 170007, April 7, 2014, J. Leonardo-De Castro**

**PROCEDURE AND JURISDICTION**

The Court holds that as between the parties, Article 217 (a) (4) of the Labor Code is applicable. Said provision bestows upon the Labor Arbiter original and exclusive jurisdiction over claims for damages arising from employer-employee relations. The observation that the matter of SSS contributions necessarily flowed from the employer-employee relationship between the parties – shared by the lower courts and the CA – is correct; thus, petitioners’ claims should have been referred to the labor tribunals. In this connection, it noteworthy to state that the Labor Arbiter has jurisdiction to award not only the reliefs provided by labor laws, but also damages governed by the Civil Code.

At the same time, it cannot be assumed that since the dispute concerns the payment of SSS premiums, petitioners’ claim should be referred to the Social Security Commission (SSC) pursuant to Republic Act No. 1161, as amended by Republic Act No. 8282. As far as SSS is concerned, there is no longer a dispute with respect to petitioners’ accountability to the System; petitioners already settled their pecuniary obligations to it. Since there is no longer any dispute regarding coverage, benefits, contributions and penalties to speak of, the SSC need not be unnecessarily dragged into the picture. Besides, it cannot be made to act as a colleting agency for petitioners’ claims against [Lopez]; the Social Security Law should not be so interpreted, lest the SSC be swamped with cases of this sort. **AMECOS INNOVATIONS, INC. AND ANTONIO F. MATEO vs. ELIZA R. LOPEZ, G.R. No. 178055, July 2, 2014, J. Del Castillo**

The "reasonable causal connection rule," provides that if there is a reasonable causal connection between the claim asserted and the employer-employee relations, then the case is within the jurisdiction of the labor courts; and in the absence thereof, it is the regular courts that have jurisdiction. True, the maintenance of a safe and healthy workplace is ordinarily a subject of labor cases. More, the acts complained of appear to constitute matters involving employee-employer relations since Adviento used to be the Civil Engineer of Indophil. However, it should be stressed that Adviento’s claim for damages as can be gleaned in his complaint is specifically grounded on Indophil’s gross negligence to provide a safe, healthy and workable environment for its employees − a case of quasi-delict. Hence, the jurisdiction over the case is within the regular courts. **INDOPHIL TEXTILE MILLS, INC. vs. ENGR. SALVADOR ADVIENTO, G.R. No. 171212, August 4, 2014, J. Peralta**

The illegal dismissal case filed by Azuelo against Zameco II Electric Cooperative was dismissed on the ground of lack of interest of the complainant to prosecute the case. Azuelo then filed another case for illegal dismissal which contains the same allegations in the first complaint, hence, Azeco Cooperative filed a motion to dismiss on the ground of res judicata. In ruling against Azuelo the Court ruled that the dismissal of a case for failure to prosecute has the effect of adjudication on the merits, and is necessarily understood to be with prejudice to the filing of another action, unless otherwise provided in the order of dismissal. **RICARDO N. AZUELO vs. ZAMECO II ELECTRIC COOPERATIVE, INC., G.R. No. 192573, October 22, 2014, J. Peralta**

As a general rule, therefore, a claim only need to be sufficiently connected to the labor issue raised and must arise from an employer-employee relationship for the labor tribunals to have jurisdiction. In this case, respondent Solid Mills claims that its properties are in petitioners’ possession by virtue of their status as its employees.  Solid Mills allowed petitioners to use its property as an act of liberality.  Put in other words, it would not have allowed petitioners to use its property had they not been its employees.  The return of its properties in petitioners’ possession by virtue of their status as employees is an issue that must be resolved to determine whether benefits can be released immediately. **EMER MILAN, RANDY MASANGKAY, WILFREDO JAVIER, RONALDO DAVID, BONIFACIO MATUNDAN, NORA MENDOZA, ET AL. vs.** **NATIONAL LABOR RELATIONS COMMISSION, SOLID MILLS, INC., AND/OR PHILIP ANG, G.R. No. 202961, February 04, 2015**, **J. Leonen**

**EFFECT OF NLRC REVERSAL OF LABOR ARBITER’S ORDER OF REINSTATEMENT**

A dismissed employee whose case was favorably decided by the LA is entitled to receive wages pending appeal upon reinstatement, which reinstatement is immediately executory. After the LA’s decision is reversed by a higher tribunal, the employer’s duty to reinstate the dismissed employee is effectively terminated. The employee, in turn, is not required to return the wages that he had received prior to the reversal of the LA’s decision.

By way of exception, an employee may be barred from collecting the accrued wages if shown that the delay in enforcing the reinstatement pending appeal was without fault on the part of the employer and not when it was due to the employer’s unjustified act or omission by filling several pleadings to suspend the execution of the LA’s reinstatement order and not notifying the petitioners of their intent to actually reinstate them. **FROILAN M. BERGONIO, et al. vs. SOUTH EAST ASIAN AIRLINES and IRENE DORNIER, G.R. No. 195227, April 21, 2014, J. Brion**

**APPEAL**

Princess Joy questions the decision of the CA setting aside the decision of the NLRC on the ground that failure on the part of Petitioner to post a surety bond equal to the monetary award of the Labor Arbiter, its appeal was not deemed perfected. There being no perfected appeal, it opined, the labor arbiter’s judgment had become final and executory. Ruling in favor of the Petitioner the SC held that the Court takes a liberal approach on the appeal bond requirement in "the broader interest of justice and with the desired objective of deciding cases on the merits." Thus, the Court finds the initial bond posted by Petitioner reasonable, considering that it is questioning the unusually large amount of the awarded damages. **PRINCESS JOY PLACEMENT AND GENERAL SERVICES, INC. vs. GERMAN A. BINALLA, G.R. No. 197005, June 4, 2014, J. Brion**

While Article 223 of the Labor Code and Section 3(a), Rule VI of the then New Rules of Procedure of the NLRC require the party intending to appeal from the LA’s ruling to furnish the other party a copy of his memorandum of appeal, the Court has held that the mere failure to serve the same upon the opposing party does not bar the NLRC from giving due course to an appeal. Such failure is only treated as a formal lapse, an excusable neglect, and, hence, not a jurisdictional defect warranting the dismissal of an appeal. Instead, the NLRC should require the appellant to provide the opposing party copies of the notice of appeal and memorandum of appeal. **LEI SHERYLL FERNANDEZ vs. BOTICA CLAUDIO represented by GUADALUPE JOSE, G.R. No. 205870, August 13, 2014, J. Perlas-Bernabe**

While it has been settled that the posting of a cash or surety bond is indispensable to the perfection of an appeal in cases involving monetary awards from the decision of the LA, the Rules of Procedure of the NLRC nonetheless allows the reduction of the bond upon a showing of (a) the existence of a meritorious ground for reduction, and (b) the posting of a bond in a reasonable amount in relation to the monetary award. Thus, when the appellant employer prayed for the reduction of the bond in view of serious liquidity problems evidenced by audited financial statements, while simultaneously posting a surety bond which is more than 10% of the full judgment award, the bond may be reduced and the appeal is considered perfected. **PHILIPPINE TOURISTERS, INC. and/or ALEJANDRO R. YAGUE, JR. vs. MAS TRANSIT WORKERS UNION-ANGLO-KMU and is members, represented by ABRAHAM TUMALA, JR., G.R. No. 201237, September 3, 2014, J. Perlas-Bernabe**

In this case, it was not disputed that at the time CBIC issued the appeal bond, it was already blacklisted by the NLRC. The latter, however, opined that “MCCI should not be faulted if the Bacolod branch office of the bonding company issued the surety bond” and that “MCCI acted in good faith when they transacted with the bonding company for the issuance of the surety bond.”

Good faith, however, is not an excuse for setting aside the mandatory and jurisdictional requirement of the law. In Cawaling v. Menese, the Court categorically ruled that the defense of good faith does not render the issued bond valid.

The condition of posting a cash or surety bond is not a meaningless requirement – it is meant to assure the workers that if they prevail in the case, they will receive the money judgment in their favor upon the dismissal of the former’s appeal. Such aim is defeated if the bond issued turned out to be invalid due to the surety company’s expired accreditation. Much more in this case where the bonding company was blacklisted at the time it issued the appeal bond. The blacklisting of a bonding company is not a whimsical exercise. When a bonding company is blacklisted, it meant that it committed certain prohibited acts and/or violations of law, prescribed rules and regulations. Trivializing it would release a blacklisted bonding company from the effects sought to be achieved by the blacklisting and would make the entire process insignificant. **MOUNT CARMEL COLLEGE EMPLOYEES UNION (MCCEU)/RUMOLO S. BASCAR, et al., vs. MOUNT CARMEL COLLEGE, INCORPORATED, G.R. No. 187621, September 24, 2014, J. Reyes**

It is clear that the NLRC in due observance of its own procedural rules- had amply justified its dismissal of Ortiz's appeal in view of his numerous procedural infractions, namely: (a) his failure to attach to his Memorandum of Appeal a certificate of non-forum shopping in violation of Section 4, Rule VI of the NLRC Rules;(b) his filing of a motion for reconsideration of the NLRC's March 24, 2008 Resolution beyond the 10 day reglementary period in violation of Section 15, Rule VII of the NLRC Rules; and (c) his filing of a second motion for reconsideration in violation of Section 15, Rule VII of the NLRC Rules. Time and again, this Court has been emphatic in ruling that the seasonable filing of a motion for reconsideration within the 10-day reglementary period following the receipt by a party of any order, resolution or decision of the NLRC, is a mandatory requirement to forestall the finality of such order, resolution or decision. **MICHELIN ASIA APPLICATION CENTER, INC vs. MARIO J. ORTIZ, et al., G.R. No. 189861, November 19, 2014, J. Perlas-Bernabe**

Section 6, Rule VI of the NLRC Rules of Procedure provides that in case the decision of the Labor Arbiter, or the Regional Director involves a monetary award, an appeal by the employer shall be perfected only upon the posting of a bond, which shall either be in the form of cash deposit or surety bond equivalent in amount to the monetary award, exclusive of damages and attorney’s fees. However, in line with Sara Lee Case and the objective that the appeal on the merits to be threshed out soonest by the NLRC, the Court holds that the appeal bond posted by the respondents in the amount of P100,000.00 which is equivalent to around 20% of the total amount of monetary bond is sufficient to perfect an appeal. With the employer’s demonstrated good faith in filing the motion to reduce the bond on demonstrable grounds coupled with the posting of the appeal bond in the requested amount, as well as the filing of the memorandum of appeal, the right of the employer to appeal must be upheld. **ANDY D. BALITE, DELFIN M. ANZALDO AND MONALIZA DL. BIHASA vs.** **SS VENTURES INTERNATIONAL, INC., SUNG SIK LEE AND EVELYN RAYALA, G.R. No. 195109, February 04, 2015**, **J. Perez**

**COURT OF APPEALS**

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. The CA correctly granted respondents’ certiorari petition since the NLRC gravely abused its discretion when it held that respondents were project employees despite petitioners’ failure to establish their project employment status through substantial evidence. **OMNI HAULING SERVICES, INC., LOLITA FRANCO and ANICETO FRANCO vs. BERNARDO BON, et al., G.R. No. 199388, September 3, 2014, J. Perlas-Bernabe**

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. Tested against these considerations, the Court finds that the CA correctly granted respondents’ certiorari petition before it, since the NLRC gravely abused its discretion in ruling that petitioners were regular employees of Sykes Asia when the latter had established by substantial evidence that they were merely project-based. **MA. CHARITO C. GADIA, et al., vs.  SYKES ASIA, INC., CHUCK SYKES, MIKE HINDS, MICHAEL HENDERSON, G.R. No. 209499, January 28, 2015, J. Perlas-Bernabe**

**MOOT AND ACADEMIC CASES**

The Release, Waiver, and Quitclaim and the Addendum (to Release, Waiver and Quitclaim) executed has now therefore rendered this case moot and academic. **ANTONIO M. MAGTALAS vs. ISIDORO A. ANTE, RAUL CADDATU, NICANOR B.PADILLA, JR., DANTE Y.CENIDO, and RHAMIR C. DALIOAN, G.R. No. 187240, October 15, 2014, J.Villarama Jr.**

The issue in this case is whether or not the issue has become moot and academic due to payment of award which constituted as compromise agreement. The Court ruled that the petition for certiorari was not rendered moot despite petitioner’s satisfaction of the judgment award, as the respondent had obliged himself to return the payment if the petition would be granted. Verily in this case, petitioners satisfied the judgment award in strict compliance with a duly issued writ of execution and pursuant to terms fair to both parties. Thus, the equitable ruling in Career Philippines would certainly be unfair to petitioners in this case as they still have a remedy under the rules. The CA, therefore, was in error in dismissing the petition for being moot and academic. **SEACREST MARITIME MANAGEMENT, INC., ROLANDO B. MAGCALE, AND SEALION SHIPPING LIMITED – UNITED KINGDOM vs.** **MAURICIO G. PICAR, JR.**, **G.R. No. 209383, March 11, 2015, J. Mendoza**

**SUPERVENING CAUSE**

Due to a bargaining deadlock with PHIMCO, PILA staged a strike. PHIMCO served dismissal notices on the strikers for the alleged illegal acts they committed during the strike. Consequently, PILA filed a complaint for illegal dismissal. While it was still pending, PILA found that seven others were not included in the case and thus, filed another case for illegal dismissal. The Court held that the Court of Appeals validly nullified its final and executory decision on the ground that there was a supervening cause. The supervening cause was the decision of the Supreme Court in denying the complaint for illegal dismissal. **FLORENCIO LIBONGCOGON, FELIPE VILLAREAL and ALFONSO CLAUDIO vs. PHIMCO INDUSTRIES, INC., G.R. No. 203332, June 18, 2014, J. Brion**

**PRESCRIPTION OF ACTIONS**

The prescriptive period for filing an illegal dismissal complaint is four years from the time the cause of action accrued. This four-year prescriptive period, not the three-year period for filing money claims under Article 291 of the Labor Code, applies to claims for backwages and damages due to illegal dismissal. We find that Arriola’s claims for backwages, damages, and attorney’s fees arising from his claim of illegal dismissal have not yet prescribed when he filed his complaint with the NLRC. The prescriptive period for filing an illegal dismissal complaint is four years from the time the cause of action accrued. Since an award of backwages is merely consequent to a declaration of illegal dismissal, a claim for backwages likewise prescribes in four years. **GEORGE A. ARRIOLA vs. PILIPINO STAR NGAYON, INC. and/or MIGUEL G. BELMONTE, G.R. No. 175689, August 13, 2014, J. Leonen**

The filing of a complaint for illegal dismissal stops the running of the prescriptive period. However, when the complainant withdraws the case, he shall be considered to have not filed any case at all and the statute of limitations shall apply. **ONOFRE V. MONTERO, et al., vs. TIMES TRANSPORTATION CO., INC., and SANTIAGO RONDARIS, MENCORPTRANSPORT SYSTEMS, INC., VIRGINIA R. MENDOZA and REYNALDO MENDOZA, G .R. No. 190828, March 16, 2015, J. Reyes**