

## SECOND DIVISION

[ G.R. No. 167627, October 10, 2008 ]

**AGUSAN DEL NORTE ELECTRIC COOPERATIVE, INC. AND  
HORACIO T. SANTOS, PETITIONERS, VS. JOEL CAGAMPANG AND  
GLENN GARZON,**

### DECISION

**QUISUMBING, J.:**

This is a petition for review on certiorari to reverse and set aside the Decision <sup>[1]</sup> dated January 25, 2005 as well as the Resolution <sup>[2]</sup> dated March 10, 2005 of the Court of Appeals in CA-G.R. SP No. 76035. The appellate court reversed the October 14, 2002 and December 27, 2002 Resolutions <sup>[3]</sup> of the National Labor Relations Commission (NLRC), Fifth Division, in NLRC CA No. M-006466-2001 (RAB 13-01-00034-2001), which had set aside the Decision <sup>[4]</sup> of the Labor Arbiter declaring illegal the respondents' dismissal.

The facts, as found by the Court of Appeals, are as follows:

Respondents Joel Cagampang and Glenn Garzon started working as linemen for petitioner Agusan del Norte Electric Cooperative, Inc. (ANECO) on October 1, 1990, under an employment contract which was for a period not exceeding three months. They were both allegedly required to work eight hours a day and sometimes on Sundays, getting a daily salary of P122.00. When the contract expired, the two were laid-off for one to five days and then ordered to report back to work but on the basis of job orders.

After several renewals of their job contracts in the form of job orders for similar employment periods of about three months each, the said contracts eventually expired on April 31, 1998 and July 30, 1999. Respondents' contracts were no longer renewed, resulting in their loss of employment.

Thus, on January 11, 2001, respondents filed an illegal dismissal case against petitioners before the Honorable Labor Arbiter Alim D. Pangandaman, Regional Arbitration Branch No. XIII, Butuan City. They prayed for payment of backwages, salary differential, allowances, premium for alleged work during holidays and rest days, service incentive leave, and separation pay.

On June 22, 2001, the Labor Arbiter declared the dismissal illegal and directed petitioners to pay respondents the amount of P371,596.84 representing their money claims. The Labor Arbiter ruled as follows:

WHEREFORE, judgment is hereby rendered:

1. Declaring complainants' dismissal illegal;
2. Directing respondents to pay the complainants the total amount of P371,596.84 representing their money claims as computed above.

Complainants' other claims are dismissed for lack of merit.

SO ORDERED. [5]

Petitioners appealed the decision to the NLRC Fifth Division. On October 14, 2002, the NLRC set aside the decision of the Labor Arbiter except the portions granting service incentive leave pay; attorney's fees, fixed at ten percent (10%) of the total money award to both respondents; and salary differential to respondent Garzon. The NLRC decreed as follows:

WHEREFORE, foregoing premises considered, the appealed decision is Vacated and Set Aside, except the portions thereof granting service incentive leave pay and attorney's fees fixed at ten percent (10%) of the total monetary award to both complainants as well as salary differential to complainant Gar[z]on. In lieu thereof, a new judgment is rendered dismissing the above-entitled case for lack of merit, subject to the qualification stated above.

SO ORDERED. [6]

After their motion for reconsideration was denied, respondents filed a petition for certiorari with the Court of Appeals.

On January 25, 2005, the Court of Appeals granted the petition. The appellate court held:

PREMISES CONSIDERED, the Petition is GRANTED. The assailed Resolutions of the National Labor Relations Commission are SET ASIDE. The Decision of the Labor Arbiter dated 22 June 2001 is hereby reinstated. No pronouncement as to Costs.

SO ORDERED. [7]

Hence, the instant petition. Petitioners submit that the Court of Appeals erred:

I.

IN FINDING AND DECLARING THAT THE RESPONDENTS ARE (OR OUGHT TO BE CONSIDERED) "REGULAR" EMPLOYEES/WORKERS OF PETITIONER AGUSAN DEL NORTE ELECTRIC COOPERATIVE (ANECO), NOT "EMERGENCY WORKERS ON A CONTRACTUAL BASIS" HIRED FOR A FIXED PERIOD/TERM OF EMPLOYMENT, AND THAT SAID RESPONDENTS WERE "ILLEGALLY DISMISSED" BY PETITIONER ANECO THEREBY SUSTAINING OR AFFIRMING THE ALLEGED "FACTUAL FINDINGS" OF THE LABOR ARBITER IN THE LATTER'S DECISION IN NLRC CASE NO. RAB-13-01-00034-2001 ... AND ORDERING THE REINSTATEMENT OF THE SAID DECISION ....