

SECOND DIVISION

[G.R. NO. 149985, May 05, 2006]

**PHILIPPINE LONG DISTANCE TELEPHONE COMPANY, INC.,
PETITIONER, VS. ROSALINA C. ARCEO,*** RESPONDENT.**

R E S O L U T I O N

CORONA, J.:

This is a petition for review under Rule 45 of the 1997 Rules of Civil Procedure assailing the decision^[1] of the Court of Appeals (CA) dismissing the petition for certiorari filed by petitioner.

In May 1990, respondent Rosalina Arceo (Arceo) applied for the position of telephone operator with petitioner Philippine Long Distance Telephone Company, Inc. - Tarlac Exchange (PLDT). She, however, failed the pre-employment qualifying examination. Having failed the test, Arceo requested PLDT to allow her to work at the latter's office even without pay. PLDT agreed and assigned her to its commercial section where she was made to perform various tasks like photocopying documents, sorting out telephone bills and notices of disconnection, and other minor assignments and activities. After two weeks, PLDT decided to pay her the minimum wage.

On February 15, 1991, PLDT saw no further need for Arceo's services and decided to fire her but, through the intervention of PLDT's commercial section supervisor, Mrs. Beatriz Mataguihan, she was recommended for an on-the-job training on minor traffic work. When she failed to assimilate traffic procedures, the company transferred her to auxiliary services, a minor facility.

Subsequently, Arceo took the pre-qualifying exams for the position of telephone operator two more times but again failed in both attempts.

Finally, on October 13, 1991, PLDT discharged Arceo from employment. She then filed a case for illegal dismissal before the labor arbiter.^[2] On May 11, 1993, the arbiter ruled in her favor. PLDT was ordered to reinstate Arceo to her "former position or to an equivalent position." This decision became final and executory.

On June 9, 1993, Arceo was reinstated as casual employee with a minimum wage of P106 per day. She was assigned to photocopy documents and sort out telephone bills.

On September 3, 1996 or more than three years after her reinstatement, Arceo filed a complaint for unfair labor practice, underpayment of salary, underpayment of overtime pay, holiday pay, rest day pay and other monetary claims. She alleged in her complaint that, since her reinstatement, she had yet to be regularized and had yet to receive the benefits due to a regular employee.

On August 18, 1997, labor arbiter Dominador B. Saldares ruled that Arceo was already qualified to become a regular employee. He also found that petitioner denied her all the benefits and privileges of a regular employee. The dispositive portion of his decision read:

WHEREFORE, premises considered, **judgment is hereby rendered declaring respondent guilty of wanton disregard of the right of herein complainant to become a regular employee.** Concomitantly, respondent is hereby ordered to pay complainant the following accrued benefits and privileges from May 11, 1993 up to the present:

1. Underpayment	- - - - -	P181,395.00
2. Overtime pay	- - - - -	2,598.00
3. Premium pay	- - - - -	753.00
4. Allowance for Uniform	- - - - -	20,000.00
5. Cash gift	- - - - -	9,000.00
6. 13th month pay	- - - - -	45,946.17
7. Mid-year bonus	- - - - -	14,884.57
8. Longevity pay	- - - - -	5,314.50
9. Sick leave	- - - - -	6,354.30
10. Rice Subsidy	- - - - -	27,250.00
11. Zero backlog	- - - - -	<u>2,000.00</u>
Total		P316,496.24

Likewise, respondent is hereby ordered to pay attorney's fees in the sum of P31,649.62 which is equivalent to ten [percent] (10%) of the amount awarded to complainant.

The claim for damages is dismissed for lack of merit.^[3] (emphasis supplied)

The National Labor Relations Commission (NLRC) took cognizance of the case on appeal. On November 28, 1997, it affirmed the decision of the labor arbiter only insofar as it found Arceo eligible to become a regular employee. With respect to her monetary claims, the NLRC remanded the case to the arbiter for reception of evidence.^[4] It held:

It is evidently a facetious averment emanating from the respondent that the complainant should forever remain a casual employee. Not only is such argument wanting in merit, it clearly goes against the principle that the conferment of regular status to an employee is by operation of law.
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With respect to the money claims, it is our opinion that the complainant is not entitled thereto insofar as her claims for 1993 is concerned for having been filed beyond the three year prescriptive period. However, as it concerns the claims for the period 1994 to 1996, it is Our view that the complainant is entitled, not only because it is within the prescriptive period but also on account of the continuous and unabated violation of the respondent in regard to the deprivation to the complainant not only