

SECOND DIVISION

[G.R. No. 122440, February 12, 1998]

**PHILIPPINE NATIONAL CONSTRUCTION CORPORATION (PNCC),
PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION
(NLRC) AND FEDERICO DAGASDAS, RESPONDENTS.**

D E C I S I O N

PUNO, J.:

The core issue relates to the salary rate that should be applied in computing the backwages of private respondent Federico Dagasdass, who worked for a project of petitioner in the Middle East.

The facts show that private respondent, a carpenter, is a regular work pool employee of the petitioner. He was employed in 1971 and, from then on, worked in various construction projects of the petitioner within the Philippines.

In 1979, private respondent worked in petitioner's project in the Middle East, with a salary of \$2.20 per hour. The project was completed in 1984 and he returned to the Philippines. Petitioner then failed to give him work in its local projects. Consequently, on May 15, 1989, private respondent sued petitioner for illegal dismissal.^[1] The labor arbiter dismissed the complaint on the ground of prescription.^[2] On appeal, however, the National Labor Relations Commission (NLRC) reversed the labor arbiter.^[3] It ordered the reinstatement of private respondent to his former position and the payment of his backwages for three (3) years. Petitioner appealed to this Court but in G.R. No. 101468, we denied the petition and remanded the case to the labor arbiter for the computation of the backwages.

In computing the backwages, the Research and Information Unit of public respondent used private respondent's salary rate in the Middle East. Thus, private respondent's total backwages amounted to four hundred sixty eight thousand and seven hundred pesos (P468,700.00), viz:

"RE: COMPUTATION OF THREE (3) YEARS

BACKWAGES AS PER NLRC RESOLUTION

DATED APRIL 30, 1991

Backwages 3-years

Dollar: 2.20/hour = Dollar 17.60/day

Dollar: 17.60 x 26/days x 36/months = \$16,473.60

13th Month Pay:

1/12 of Dollar 16,473.60 = 1,372.80

\$17,846.40

Dollar conversion:

April 27, 1993 = \$1.00 = P26.263

In Pesos:

\$17,846.40 x P26,263 = P468,700.00

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Manila, Philippines, May 6, 1993."

Petitioner questioned the correctness of the above computation. It claimed that private respondent's backwages should not be based on his salary abroad since his overseas employment contract was for a definite term and that the project covered by the said contract had been completed in 1984. Petitioner then submitted its own computation of private respondent's backwages^[4] based on his local wage rate at the time of his transfer to the overseas project, thus:

"Re: Computation of Three (3) years

Backwages as per NLRC Resolution Dated

April 30, 1991

Backwages 3-year

Hourly Rate: 3.50/hr. = 28.00/day

28.00 x 26 days x 36 months = P26,208.00

13th Month Pay.

1/12 of 26,208.00 = 2,184.00

P28,392.00

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"Note: Rate was based on local rate at the time of his transfer to overseas project."

The labor arbiter ruled in favor of petitioner.^[5]

Private respondent appealed to the NLRC. On September 29, 1994, the NLRC set aside the labor arbiter's order,^[6] thus:

"WHEREFORE, the Order of Labor Arbiter Ricardo C. Nora dated May 26, 1994, to the extent that it reduced complainant's (private respondent) backwages, is hereby set aside. As prayed for by complainant, "the computation of the Research and Information Unit of the NLRC National Capital Region in the amount of