

SECOND DIVISION

[G.R. No. 116352, March 13, 1997]

**J. D.O. AGUILAR CORPORATION, PETITIONER, VS. NATIONAL
LABOR RELATIONS COMMISSION AND ROMEO ACEDILLO,
RESPONDENTS.**

DECISION

ROMERO, J.:

This petition for *certiorari* is questioning the decision of respondent National Labor Relations Commission dated March 30, 1994, as well as its resolution of June 20, 1994, denying for lack of merit petitioner's motion for reconsideration of said decision.

Private respondent Romeo Acedillo began working for petitioner in February 1989 as a helper-electrician. On January 16, 1992, he received a letter from petitioner informing him of his severance from the company allegedly due to lack of available projects and excess in the number of workers needed. He decided to file a case for illegal dismissal before the NLRC after learning that new workers were being hired by petitioner while his request to return to work was being ignored. In reply, petitioner maintained that its need for workers varied, depending on contracts procured in the course of its business of contracting refrigeration and other related works. It contended that its workers are hired on a contractual or project basis, and their employment is deemed terminated upon completion of the project for which they were hired. Finally, petitioner argued that Acedillo was not a regular employee because his employment was for a definite period and apparently made only to augment the regular work force.

On June 17, 1993, Labor Arbiter Arthur L. Amansec rendered judgment declaring Acedillo's dismissal to be illegal, finding him to be a member of the regular work pool, and ordering petitioner to pay him a total of P71,906.00 representing backwages, 13th month pay, separation pay in lieu of reinstatement, service incentive leave pay and underpayment of wages.

On appeal, the NLRC affirmed Labor Arbiter Amansec's decision after making the following observations:

"While respondent (herein petitioner) strongly maintains that complainant (Acedillo) was not a regular worker, however, the nature of his job as a helper and the length of service that he had been with respondent are clear proof(s) that he was a regular employee. For what determines whether a certain employment is regular or casual is not the will and word of the employer, to which the desperate worker often accedes, much less the procedure of hiring the employee or the manner of paying (sic) his salary. It is the nature of the activities performed in