

## SIXTEENTH DIVISION

[ CA-G.R. SP NO. 93611, August 18, 2006 ]

**LYCEUM OF THE PHILIPPINES, INC., ROBERTO P. LAUREL AND POMPEYO B. ADAMOS, PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION, CARMELITA C. CRISOLOGO, NANCY M. POBLETE AND SHIRLEY ANN S. CODAMON, RESPONDENTS.**

### DECISION

#### DE LOS SANTOS, J.:

Petitioners seek to annul and set aside the Resolutions issued by public respondent National Labor Relations Commission (NLRC) in CA No. 044126-05 NCR 00-11-13661-03 and 00-12-14036-03. These Resolutions are the:

- a. Resolution issued on September 28, 2005 which denied petitioner's appeal (pp. 30-39, rollo); and
- b. Resolution of November 21, 2005 (pp. 41-42, rollo) which denied petitioner's motion for reconsideration.

Allegedly, said resolutions were issued with grave abuse of discretion amounting to excess or lack of jurisdiction.

Petitioners claim that private respondents were part-time physicians who worked on daily shifts of four and ½ hours each from Monday to Friday, and three (3) hours to three and a half hours (3.5) on Saturdays each week (p. 46, rollo). Respondent Carmelita Crisologo received a monthly salary of P15,937.15; respondent Nancy Poblete received a monthly salary of P15,067.85; while Shirley Ann Codamon was paid a monthly salary of P15,647.30 (pp. 47-48, rollo).

In the latter part of 2003, petitioner engaged the services of a job contractor to provide medical personnel for its students and employees effective February 1, 2004.

Consequently, on December 18, 2003, respondents received letters from petitioner (pp. 50-52, rollo) that their employment were to be terminated effective January 31, 2004 allegedly due to "redundancy", and offered to pay a separation pay of "one (1) month salary (proportionate) for every year of service", cash conversion of vacation/sick leave or 5-day service incentive leaves.

Respondents Crisologo and Poblete filed their complaint before the Labor Arbiter on November 28, 2003, while respondent Codamon filed her complaint on December 9, 2003.

On September 21, 2004, the Labor Arbiter rendered his Decision, the decretal portion of which is hereunder quoted:

"WHEREFORE, premises considered judgment is hereby rendered finding respondent Lyceum of the Philippines guilty of illegal dismissal. As such, it is hereby ordered to reinstate complainants, Carmelita C. Crisologo, Nancy Poblete and Shirley Ann Codamon to their former positions without loss of seniority rights and with full backwages reckoned from January 31, 2004 up to their actual or payroll reinstatement, which as of this date are in the amounts of P135,031.17, P127,779.92 and P135,735.88 respectively. Considering that complainant Codamon had received the amount of P100,109.69, she is only entitled to the payment of the amount of P35,626.19 by way of backwages as of the issuance of this decision.

Respondent Lyceum of the Philippines is further ordered to pay complainants their service incentive leave pay/vacation leave and sick leave pay as follows:

NAME	SERVICE INCENTIVE LEAVE PAY	VACATION LEAVE & SICK LEAVE
1. Carmelita Crisologo	P9,047.04	-
2. Nancy Poblete	P9,047.04	-
3. Shirley Ann Codamon	-	P22,536.40

"Finally, respondent Lyceum of the Philippines is ordered to pay the sum equivalent to ten percent (10%) of the judgment award as attorney's fees.

"All other claims are dismissed for lack of merit.

"SO ORDERED." (pp. 68-69, rollo)

Not contented with said ruling, petitioners appealed the same to the public respondent, which rendered the questioned decision on September 28, 2005, affirming the judgment of the Labor Arbiter and dismissing petitioners' appeal.

Alleging there was grave abuse of discretion amounting to lack or excess of jurisdiction committed in the issuance of said decision, petitioners filed the instant petition.

Petitioners raised the following issues in their petition:

"THE PUBLIC RESPONDENT ERRED AND IN FACT GRAVELY ABUSED HIS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN SUSTAINING THE LABOR ARBITER'S DECISION CONSIDERING THAT:

"A.

"PETITIONERS PRESENTED MORE THAN SUFFICIENT EVIDENCE TO PROVE THAT THE TERMINATION OF PRIVATE RESPONDENTS' EMPLOYMENTS WAS VALID AND JUSTIFIED;