

## SIXTEENTH DIVISION

[ CA-G.R. SP NO. 91011, August 11, 2006 ]

**MAKATI SPORTS CLUB, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION (NLRC) AND ROMULO GONZALES, RESPONDENTS.**

### D E C I S I O N

**DE LOS SANTOS, J.:**

Assailed in the instant petition are the –

1. Decision rendered by the National Labor Relations Commission (NLRC) on December 23, 2003 (pp. 14-21, *rollo*) which reversed and set aside the judgment issued by the Labor Arbiter; and the
2. Resolution (pp. 23-26, *rollo*) of the NLRC which denied petitioner's motion for reconsideration.

Private respondent was hired by the petitioner sometime in March 2000 with a daily salary of P250.00 per day which the former received on a weekly basis. He performed various job assignments, such as being a waiter in different outlets of the sports club, gym attendant, pool attendant and locker attendant. On a regular schedule, respondent would work from 6:00 o'clock in the morning to 8:00 o'clock in the evening.

On September 18, 2002, respondent was no longer allowed to enter the premises of petitioner. He was only escorted by a guard inside petitioner's premises upon his request to retrieve his personal belongings (p. 52, *rollo*).

Thus, on October 9, 2002, respondent filed a complaint for illegal dismissal, non-payment of holiday pay and 13th month pay against petitioner. After the parties' submission of position papers, the Labor Arbiter rendered his Decision, the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered DISMISSING the complaint for illegal dismissal for lack of merit. Respondent Makati Sports Club is ordered to pay complainant Romulo Gonzales his 13th month pay in the amount of P6,500.00 for the year 2001 proportionate to the actual period of his employment.

"All other claims are DISMISSED for lack of merit.

"SO ORDERED." (p. 37 *rollo*)

Said Decision of the Labor Arbiter was appealed by private respondent to the National Labor Relations Commission (NLRC), which reversed the above-quoted

ruling, the salient portions of which are hereunder quoted:

"WHEREFORE, the assailed decision of 21 March 2003 is REVERSED and SET ASIDE. Accordingly, respondent Makati Sports Club is ordered to immediately reinstate the complainant Romulo Gonzales to his former position without loss of other benefits and to pay him his full backwages from the time he was illegally dismissed up to the time of his reinstatement, whether actual or in the payroll, as well as his proportionate 13th month pay for the years 2001 and 2002, the computations of which are as follows:

A) Backwages

a. Basic Salary - from Sept. 18, 2002 to Dec. 11, 2003 = 14.77	
P250 x 26 x 14.77	P96, 005.00
b. 13th Mo. Pay	P96,005 / 12
	8, 000.42
c. SILP	P 250 x 5 x 14.77 / 12
	<u>1,538.54</u>

P105, 543.96

d. ECOLA From Sept. 18, 2002 to Dec. 11, 2003 = 14.10	
P30 x 26 x 14.10	<u>P10,998.00</u>

P116,541.96

B) Unpaid 13th Mo. Pay for the year 2001	6,500.00
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C) Proportionate 13th Mo. Pay for the year from Jan. 1, 2002 to Sept. 17, 2002	<u>4,620.00</u>
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**GRAND TOTAL      P127,661.96**

"SO ORDERED." (pp. 20-21, rollo)