

SECOND DIVISION

[G.R. NO. 140102, February 09, 2006]

**UNION INDUSTRIES, INC., PETITIONER, VS. GASPAR VALES
PRUDENCIO CERDENIA,^[1] RESPONDENTS.**

R E S O L U T I O N

CORONA, J.:

In this petition for review under Rule 45 of the Rules of Court, petitioner would have us annul and set aside the May 21, 1999 decision^[2] of the Court of Appeals finding no grave abuse of discretion on the part of the National Labor Relations Commission^[3] (NLRC) in holding petitioner liable to pay respondents, Gaspar Vales and Prudencio Cerdenia, separation benefits in the amounts of P27,885 and P21,450, respectively.

The facts are not disputed.

Respondents Vales and Cerdenia were agency workers of Gotamco & Sons, Inc. They were assigned to work for petitioner Union Industries, Inc. as carpenters since 1983 and 1986, respectively.

In 1995, grievance meetings were held for the regularization of several contractual employees, including respondents. This resulted in a compromise agreement,^[4] the pertinent portion of which read:

1.) On the remaining issues, the parties agreed on the following:

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(b) The following years of service of the remaining 8 complainants under Gotamco shall be tacked in into their length of service as regular employees of UII for purposes only of retirement or separation pay, to wit:

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|-----------------------|-----------|
| 2. GASPAR VALES | - 6 years |
| 3. PRUDENCIO CERDENIA | - 5 years |

2.) The complainants agree that this agreement embodies all their claims and that they waive any other claims against UII which [they] could have made or have made during the negotiations, but which are not embodied in this agreement.

3.) The parties agree to sign the formal memorandum of agreement at a later date to be agreed upon by them."^[5]

In 1995, respondents joined petitioner's mainstream of regular employees. They underwent medical examination and were both diagnosed to be positive for pulmonary tuberculosis (PTB). They were, however, allowed to continue working for another year subject to medical re-examination. If still found suffering from PTB, they were to take a leave to recuperate before reporting back to work.

On June 14, 1996, respondents were again found positive for PTB. They were required to go on sick leave. Instead, respondents filed a complaint for illegal dismissal against petitioner before the arbitration branch of the NLRC.

The labor arbiter^[6] dismissed the complaint for illegal dismissal but ordered the payment of separation benefits based on the following:

After a thorough analysis of the evidence adduced to the records of the case at bench, this Arbitration Branch finds that complainants^[7] were not illegally dismissed from employment much less dismissed at all. They were both [merely asked] to go on sick leave for further medical treatment of pulmonary tuberculosis (PTB).

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Considering that complainants [were] suffering from controlled PTB minimal since the [latter] part of 1995 and their continued employment would be prejudicial to their health and that of their co-workers and despite medication and treatment for over a year, their medical condition showed that they are still suffering from PTB minimal, the relief of separation pay of ½ month salary for every year of credited and actual service is in order. xxx

The basis in the computation of their separation benefits should be reckoned from the date that they were first hired/assigned at Union Industries, Inc. by Gotamco & Sons, Inc. and not from the agreement forged between labor and management as a result of the grievance hearing for the regularization of the affected service contractual workers (including complainants herein). This is based on the principle of equity since the record of employment is reckoned not from the date of his appointment as such, but from the very first time that he worked with the respondent establishment.

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WHEREFORE, judgment is hereby rendered ordering Respondent, Union Industries, Inc.^[8] to pay complainants, Gaspar Vales and Prudencio Cerdania separation benefits in the amounts of P27,885.00 and P21,450.00 respectively.

The complaint for illegal dismissal and other monetary claims are hereby disallowed for lack of merit.^[9]