

## FIRST DIVISION

[ G.R. No. 127979, March 11, 1998 ]

**AQUALINK MARITIME INC. AND WORLDER SHIPPING LTD.,  
PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION  
(4TH DIVISION) AND ANDREI BORGONIA, RESPONDENTS.**

### R E S O L U T I O N

**DAVIDE, JR., J.:**

In this special civil action for *certiorari* under Rule 65 of the Rules of Court, the petitioners assail the resolutions of 15 October 1996,<sup>[1]</sup> 20 November 1996,<sup>[2]</sup> and 28 January 1997<sup>[3]</sup> in NLRC Case No. V-003-96. The first dismissed petitioners' appeal from the decision of 19 July 1996 of Labor Arbiter Dominador A. Almirante in NLRC Case No. RAB-0006-96 (OCW) for having been filed "thirteen (13) days after they received the Labor Arbiter's Decision on July 30, 1996." The second denied petitioners' motion for reconsideration because the registry return receipt showed that the petitioners received a copy of the Labor Arbiter's decision on 30 July 1996 and not on 31 July 1996 as asserted by them. The third resolution denied petitioners' motion for the reconsideration of the resolution of 20 November 1996 on the ground that it partook of a second motion for reconsideration, which is not allowed under Rule VII, Section 14 of the NLRC New Rules of Procedure.

The petitioners contend that public respondent National Labor Relations Commission (NLRC) gravely abused its discretion in dismissing petitioners' appeal. They insist, just as they did in their motions for reconsideration before the NLRC, that they received a copy of the Labor Arbiter's decision on 31 July 1996 as evidenced by the certification dated 29 October 1996<sup>[4]</sup> issued by the Postmaster of the Central Post Office of Manila.

Only the Office of the Solicitor General (OSG) filed a Comment on the petition. It asserts that the NLRC acted correctly in dismissing the appeal of the petitioners, since the same was filed beyond the 10-day period provided for in Article 223 of the Labor Code. The petitioners received a copy of the Labor Arbiter's decision on 30 July 1996; hence, they had only until 9 August 1996 within which to appeal. The OSG further argues that even assuming that the petitioners received a copy of the Labor Arbiter's decision on 31 July 1996 as claimed by them, they had only until 10 August 1996 to file the appeal; and although that date was a Saturday, it was still a business day. Hence, the appeal should have been, at the latest, filed on that date per *Olacao v. NLRC*.<sup>[5]</sup>

After the filing by the petitioners of a Reply to the OSG's Comment, we gave due course to the petition and resolved to decide it even without the Comment of the private respondent.

The sole issue in this petition is the timeliness of the petitioners' appeal from the Labor Arbiter's decision.