

## **SPECIAL FIFTEENTH DIVISION**

**[ CA-G.R. SP NO. 122191, November 24, 2014 ]**

**UNION COLLEGE, POLEXIMA ADORADA AND LIRIO CORPUZ,  
PETITIONERS, VS. NATIONAL LABOR RELATIONS COMMISSION  
(NLRC) AND LORENA GAMAS, RESPONDENTS.**

### **DECISION**

**VILLON, J.:**

This Petition for Certiorari under *Rule 65* of the *1997 Rules of Civil Procedure, as amended*, seeks to reverse and set aside on ground of grave abuse of discretion, the Decision dated June 30, 2011<sup>[1]</sup> of the National Labor Relations Commission (NLRC) in NLRC LAC NO. 01-000265-11, which affirmed the Decision dated September 28, 2010 of Labor Arbiter Danna M. Castillo in NLRC Case No. RABIV-01-00253-10-L. Also assailed is the Resolution dated October 21, 2011<sup>[2]</sup> denying petitioners' for reconsideration of the assailed decision.

The facts of the case, as culled from the records, are as follows:

Respondent Lorena Gamas (or "private respondent") filed a Complaint for Illegal Dismissal with claim for payment of separation pay, damages and attorney's fees against herein petitioners Union College and Lirio Corpuz, and a certain Laila Adorada.<sup>[3]</sup>

Records show that private respondent started as helper at Union Country Canteen (or "UCC") on June 2005 until she was promoted later as assistant cook. She worked from 5:00 o'clock in the morning until 5:00 o'clock in the afternoon receiving a daily salary of ₱150.00.

Sometime in July 2009, she went on maternity leave. However, when she returned to UCC on October 2009, she was no longer allowed to work. Thus, she filed a complaint for illegal dismissal with claims for separation pay, damages and attorney's fees.

In their Answer, petitioners denied that private respondent was an employee of Union College although an Identification Card was issued to her, making it appear that she was employed thereat. This was, however, for the purpose of allowing her to enter the school premises. David Sobrepeña, Sr. (or "Sobrepeña"), as representative of Union College, asserted that respondent was an employee of UCC, which was operated by him inside the school premises, and not of the said school; she went on absence without official leave starting July 2009; sometime in August 2009, she reported to UCC and made a cash advance of ₱3,000.00; she was then advised to report to a new place of work, but failed to do so; and that because of private respondent's unauthorized absences, somebody was assigned in her position to perform her work.

On September 28, 2010, the Labor Arbiter rendered a decision, the dispositive portion of which states:

"WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. The complaint against respondent Union College is hereby dismissed for lack of employer-employee relationship.
2. The complainant was not dismissed by the respondent Union Country Canteen. Thus, she is ordered to report for work ten (10) days from receipt hereof and respondent Union Country Canteen and/or David A.Sobrepeña should accept back the complainant without loss of seniority rights.
3. Ordering respondent Union Country Canteen and/or David Sobrepeña to pay complainant her wage differentials in the total amount of P125,134.00.
4. Dismissing all other claims for lack of merit.

SO ORDERED."

On appeal to the NLRC, the Labor Arbiter's decision was affirmed, thus:

"**WHEREFORE**, finding the respondents-appellants' appeal to be without merit, the same is hereby ordered DISMISSED, and accordingly, the assailed Decision is AFFIRMED.

**SO ORDERED."**

On Sobrepeña's motion for reconsideration, the NLRC issued the assailed Resolution dated October 21, 2011, to wit:

"**WHEREFORE**, the motion for reconsideration is hereby DENIED for lack of merit. No further motion for reconsideration of the same tenor shall be entertained.

**SO ORDERED."**

Hence, the present petition for certiorari, petitioners raising the following issues:<sup>[4]</sup>