

FIRST DIVISION

[G.R. No. 119500, August 28, 1998]

**PAGUIO TRANSPORT CORPORATION, PETITIONER, VS.
NATIONAL LABOR RELATIONS COMMISSION AND WILFREDO
MELCHOR, RESPONDENTS.**

D E C I S I O N

PANGANIBAN, J.:

In dismissing the petition, this Court reiterates the following doctrines: (1) the "boundary system" used in taxi (and jeepney) operations presupposes an employer-employee relation; (2) the employer must prove just (or authorized) cause and due process to justify dismissal of an employee; (3) strained relations must be demonstrated as a fact; and (4) back wages and reinstatement are necessary consequences of illegal dismissal.

The Case

Before us is a petition for certiorari and prohibition with preliminary injunction, assailing the December 16, 1994 Decision of the National Labor Relations Commission^[1] in NLRC NCR Case No. 00-02-01564-94 entitled "Wilfredo Melchor vs. Paguio Transport Corporation/Serafin Paguio." The dispositive portion of the challenged Decision reads:

"WHEREFORE, premises considered, the appeal insofar as it seeks reversal of the finding on illegal dismissal is denied for lack of merit. The decision declaring that complainant was illegally dismissed is affirmed. The decision is however partially modified insofar as liability therefor is concerned. The liability shall inure against PAGUIO TRANSPORT CORPORATION, subject to the provision of the Corporation Code and the Rules of Court on matters taken herein. The backwages as computed in the assailed decision is set aside, and a new one is hereby provided in the amount of P86,400.00 as computed in the immediately preceding paragraph."

Petitioner also impugns the February 21, 1995 NLRC Resolution^[2] denying the motion for reconsideration.

The June 28, 1994 Decision of the labor arbiter^[3] which the NLRC modified as to the amount of back wages, disposed as follows:

"WHEREFORE, the respondents are hereby ordered to reinstate the complainant with full backwages from the time his salaries were withheld from him until his actual reinstatement.

"The respondents are further ordered to pay him his 13th month pay in the amount of P5,600.00.

"Complainant's backwages up to the date of this Decision as computed by LEILANI E. CALALANG of the Commission's NLRC NCR Branch is:

11/28/93 - = 7 mos
6/28/94
P800.00 x = P9,600.00
3 days x 4
weeks
P9,600.00 = P67,200.00
x 7 mos.

"The aspect of reinstatement either in the job or payroll at the option of the employers being immediately executory pursuant to Article 223 of the Labor Code, the respondents are hereby directed to so reinstate him when he reports for work by virtue of this Decision.

"Other claims are hereby dismissed for lack of evidence."

The Facts

The facts, as summarized in the challenged Decision, are as follows:

"Complainant Wilfredo Melchor was hired by respondent company as a taxi driver on 25 December 1992 under the '[b]oundary [s]ystem.' He [was] engaged to drive the taxi unit assigned to him on a 24-hour schedule per trip every two (2) days, for which he used to earn an average income from P500 to P700 per trip, exclusive of the P650.00 boundary and other deductions imposed on him. On 24 [sic] November 1993, complainant allegedly met a vehicular accident along Quirino Avenue near the PNR Station and Plaza Dilao when he accidentally bumped a car which stopped at the intersection even when the traffic light was green and go. After he submitted the traffic accident report to the office of respondents, he was allegedly advised to stop working and have a rest. After several days[,] he allegedly reported for work only to be told that his service was no longer needed. Hence, the complaint for illegal dismissal, among others.

"Respondent[s] for their part maintained that complainant was not illegally dismissed, there being in the first place no employer-employee relationship between them. In amplification, it was argued that the element of control which [was] a paramount test to determine the existence of such a relationship [was] lacking. So too, it argued the element of the payment of compensation. Considering that in lieu of the latter, payment of boundary is instead made allegedly makes the relationship between them of a 'wase-agreement' [sic]. Respondents then argued that even if an employer-employee relationship were to be presumed as present, still complainant's termination arose out of a valid cause and after he refused to articulate his stand on the investigation being conducted on him. Respondents then harped on the supposed three occasions when complainant figured in a vehicular accident involving the taxi unit he was driving, viz: On August 3, which resulted in damages to the respondent in the amount of P150.00; On August 4 which again resulted [in] the damages to the respondent in the amount

of P615.00; and again on 4 November 1993, the mishap costing the respondents this time P25,370.00 in damages. As a result of the alleged compounded damages which the respondents had to shoulder on account of the supposed reckless driving of the complainant, the former was allegedly left with no alternative but to ask complainant's explanation why he should still be allowed to drive. Complainant, despite several chances, allegedly failed to do so."^[4]

Ruling of the NLRC

The NLRC held that private respondent was an illegally dismissed employee of petitioner. Upholding the existence of an employer-employee relationship, it cited *Doce v. WCC*,^[5] in which the Supreme Court ruled that "the relationship created between the parties operating under a 'boundary system' is one of an employer and employee, and not of a lessor and a lessee."^[6]

The NLRC sustained the ruling of the labor arbiter that the private respondent was illegally dismissed, for he "was not afforded the twin requirements of due process x x x."^[7] It rejected petitioner's claim that private respondent had figured in three vehicular incidents because of his reckless driving. It found that "except for petitioner's bare statements, no proof was presented to establish with particularity the circumstances being claimed. x x x The guilt and culpability of [private respondent] which would give [petitioner] valid ground to effect his dismissal cannot be established by a mere allegation of his reckless driving."^[8]

Public Respondent NLRC found petitioner liable for back wages in the amount of P86,400, and not P67,200 as computed by the labor arbiter. It found, however, that this liability should be imposed on Petitioner Corporation only, and not on its president who was also impleaded by private respondent.

Hence, this petition.^[9]

Issues

Petitioner raises the following issues:

"a. Whether or not public respondent Commission acted in excess of jurisdiction and/or with grave abuse of discretion amounting to lack of jurisdiction in ordering the reinstatement of private respondent with full backwages, despite its strained relations with the petitioner and the reinstatement would, in effect, be inimical to the interest of the latter in particular, and to the riding public in general;

"b. Whether or not public respondent acted in excess of jurisdiction and/or with grave abuse of discretion in refusing to reconsider its decision and resolution complained of despite the facts prevailing to support the reconsideration."^[10]

In resolving the petition, we shall address the following points: (1) employer-employee relation, (2) presence of just cause, (3) due process, (4) strained relationship, and (5) propriety of reinstatement and back wages.

The Court's Ruling

The petition is not meritorious.

First Issue:

Employer-Employee Relation

Under the "boundary system," private respondent was engaged to drive petitioner's taxi unit on a 24-hour schedule every two days. On each such trip, private respondent remitted to petitioner a "boundary" of P650. Whatever he earned in excess of that amount was considered his income.

Petitioner argues that under said arrangement, he had no control over the number of hours private respondent had to work and the routes he had to take. Therefore, he concludes that the employer-employee relationship cannot be deemed to exist.

Petitioner's contention is not novel. In *Martinez v. National Labor Relations Commission*,^[11] this Court already ruled that the relationship of taxi owners and taxi drivers is the same as that between jeepney owners and jeepney drivers under the "boundary system." In both cases, the employer-employee relationship was deemed to exist, viz.:

"The relationship between jeepney owners/operators on one hand and jeepney drivers on the other under the boundary system is that of employer-employee and not of lessor-lessee. x x x In the lease of chattels[,], the lessor loses complete control over the chattel leased x x x. In the case of jeepney owners/operators and jeepney drivers, the former exercise supervision and control over the latter. The fact that the drivers do not receive fixed wages but get only the excess of that so-called boundary they pay to the owner/operator is not sufficient to withdraw the relationship between them from that of employer and employee. The doctrine is applicable in the present case. Thus, private respondents were employees x x x because they had been engaged to perform activities which were usually necessary or desirable in the usual trade or business of the employer."^[12]

Second Issue:

Just Cause

Petitioner also asserts that private respondent's involvement in three vehicular accidents within a span of several months constitutes just cause for his dismissal. It alleges that, according to the police report concerning the most recent and serious vehicular mishap, it was private respondent who was at fault and that the "city prosecutor of Quezon City recommended that an Information for reckless imprudence resulting in damage to property be filed against him."^[13]

Petitioner, however, did not submit any proof to support these allegations. Well-settled is the rule that the employer has the burden of proving that the dismissal of an employee is for a just cause. The failure of the employer to discharge this burden means that the dismissal is not justified and that the employee is entitled to reinstatement and back wages.^[14] In this case, petitioner failed to prove any just or authorized cause for his dismissal. Private respondent, therefore, must be deemed illegally dismissed.^[15]

Petitioner contends that he "submitted and presented material and competent documentary evidence consisting of police reports of vehicular accidents of taxicab units owned by petitioner and driven by private respondent, the repairs and expenses suffered by the petitioner as a result thereof and the resolution of the [c]ity [p]rosecutor of Quezon City finding private respondent at fault for the November 4, 1993 vehicular accident caused by the latter."^[16] Adding that the submission of these documents only on appeal does not diminish their probative value, petitioner cites Article 221 of the Labor Code which reads:

"Article 221. *Technical rules not binding and prior resort to amicable settlement.* — In any proceeding before the Commission or any of the Labor Arbiters, the rules of procedure prevailing in courts of law and equity shall not be controlling and it is the spirit and intention of the Code that the Commission and its members and the Labor Arbiters shall use every and all reasonable means to ascertain the facts in each case speedily and objectively without regard to technicalities of law and procedure, all in the interest of due process. In any proceeding before the Commission or any Labor Arbiter, the parties may be represented by legal counsel but it shall be the duty of the Chairman, any Presiding Commissioner or Commissioner or any Labor Arbiter to exercise complete control of the proceedings at all stages.

"Any provision of law to the contrary notwithstanding, the Labor Arbiter shall exert all efforts towards [t]he amicable settlement of a labor dispute within his jurisdiction on or before the first hearing. The same rule shall apply to the Commission in the exercise of its original jurisdiction."

However, a careful examination of both the original Complaint and the Petitioner's Memorandum of Appeal from the labor arbiter's Decision reveals that said pieces of documentary evidence were not mentioned or included therein,^[17] but were submitted by petitioner only when he filed his present petition with this Court. These pieces of evidence were attached and referred to as Annexes "G", "H", "I", "J", "K" and "L" of the said petition. Such factual issues cannot be resolved in a petition for certiorari like the present case, because the Court's review of NLRC decisions is limited to questions of jurisdiction and grave abuse of discretion. In *PMI Colleges v. NLRC*,^[18] the Court held:

"This Court is definitely not the proper venue to consider this matter for it is not a trier of facts. x x x Certiorari is a remedy narrow in its scope and inflexible in character. It is not a general utility tool in the legal workshop. Factual issues are not a proper subject for certiorari, as the power of the Supreme Court to review labor cases is limited to the issue of jurisdiction and grave abuse of discretion. x x x.

"Of the same tenor was our disquisition in *Ilocos Sur Electric Cooperative, Inc. v. NLRC* where we made plain that:

'In *certiorari* proceedings under Rule 65 of the Rules of Court, judicial review by this Court does not go so far as to evaluate the sufficiency of evidence upon which the Labor Arbiter and the NLRC based their determinations, the inquiry being limited essentially to whether or not said public respondents had acted without or in excess of [their] jurisdiction or with grave abuse of discretion.'