

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

**GIL CAPILI and RICARDO CAPILI,
*Petitioners,***

-versus-

**G.R. No. 117378
March 26, 1997**

**NATIONAL LABOR RELATIONS
COMMISSION, National Capital Region
(First Division), BENIGNO SANTOS,
DELFIN YUSON, LUISITO SANTOS,
URSINO BASISTER, RICARDO REYES,
JOSELITO SANTOS, JORGE BINUYA
and NICOLAS MULINGBAYAN,
*Respondents.***

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DECISION

BELLOSILLO, J.:

Respondents Benigno Santos, Delfin Yuson, Luisito Santos, Ursino Basister, Ricardo Reyes, Joselito Santos, Jorge Binuya and Nicolas Mulingbayan are licensed drivers of public utility jeepneys plying the Libertad-Sta. Cruz route in Manila. The jeepneys were formerly owned by petitioner Gil Capili. For the use of the jeepney for twelve hours a driver would pay rent or so-called "boundary" of P280.00 and earn a net profit of P200.00 per day.

On 7 May 1991, at a time when petitioner Ricardo Capili jointly with his wife had assumed ownership and operation of the jeepneys driven by private respondents, the latter and the other drivers similarly situated were required by the jeepney operators to sign individually contracts of lease of the jeepneys to formalize their lessor-lessee relationship. However, having gathered the impression that the signing of the contracts of lease was a condition precedent before they could continue driving for petitioners, all the drivers stopped plying their assigned routes beginning 7 May 1991.

A week later or on 14 May 1991 the drivers, numbering twenty- two (22), filed a complaint for illegal dismissal before the Labor Arbiter praying not for reinstatement but for separation pay.^[1]

In the interim, fourteen (14) of the complainants desisted and resumed plying their routes. The remaining eight (8) complainants with their reckoning dates of employment follow: (a) Benigno Santos, 1972; (b) Jorge Binuya, 1965; (c) Luisito Santos, 1982; (d) Delfin Yuson, 1983; (e) Ursino Basister, 1980; (f) Ricardo Reyes, 1985, (g) Joselito Santos, 1989; and, (h) Nicolas Mulingbayan, 1978.

Petitioners opposed the claim of private respondents before the Labor Arbiter alleging that the latter voluntarily abandoned their respective jobs without any valid cause and thereafter refused and still continue to refuse to return to work despite repeated demands and/or notices given to them to return to work.

In resolving the dispute, the Labor Arbiter ruled —

On the issue of dismissal versus abandonment, we are inclined to believe that the latter scenario happened. It is not sound business practice to dismiss many employees at the same time since it would cripple the operations.

What was more likely was that the drivers, all 22 of them boycotted respondents on May 7, 1991 by not reporting for work on that day.

From the viewpoint of complainants, their signing of the lease contract was a condition sine qua non to the continuous driving of their respective drivers (jeepneys?). But from the point of view of respondent Capili and as shown in the aforequoted paragraph 5 of his affidavit, and as further shown in the notices (Exhibits “3-B” and “3-B-1”) which merely asked complainants to return to work without mentioning any condition like the signing of the contract, the signing of the lease contract by the drivers was merely intended as a confirmation of the original concept of a no employer-employee relationship, and to streamline the operation by indicating the amount of the boundary per driver, depending on the number of hours they drive and their obligation to check on the motor/engine, oil, tires, brakes and other routinary requirements in order to insure the vehicles’ roadworthiness. It was never meant to be that if a driver refuses to sign the contract, he would not be allowed to continue driving.

To our mind, both parties misappreciated the situation. Respondents’ erroneous insistence of a no employer-employee relationship even in the face of a well-established contrary doctrine as postulated in the Dinglasan case^[2] (98 Phil. 649) and complainants’ erroneous apprehension of the loss of such employer-employee relationship if they sign the lease contract propelled the complainants to file the instant complaint.

In short, this is merely a simple case of misunderstanding.

To remedy the situation, we feel that the most prudent approach would be to let the parties return to the relationship that existed between them prior to May 7, 1991.^[3]

The Labor Arbiter thus concluded —

WHEREFORE, decision is hereby rendered declaring the breakage (sic) of relationship between respondent Ricardo Capili and complainants Benigno T. Santos, Delfin Yuson, Luisito Santos, Ursino Basister, Ricardo Reyes, Joselito Santos, Jorge Binuya and Nicholas Mulingbayan, as a product of misunderstanding and misappreciation of the situation by both

parties and, therefore, respondents are hereby directed to reinstate them to their former position without loss of seniority rights and other benefits, but without back wages (p. 7, Annex “F,” Emphasis supplied).^[4]

Private respondents appealed to the National Labor Relations Commission. They reiterated their prayer for separation pay equivalent to one (1) month salary for every year of service and, in addition, three (3) years back wages.

Respondent NLRC upheld the finding of the Labor Arbiter that the case arose due to simple misunderstanding between the complaining drivers on one hand and their employers on the other. However, it took exception to the relief granted to private respondents and modified the appealed decision accordingly by holding that —

Since there was misunderstanding between the parties and this misunderstanding resulted in animosity and strained relationship between them, we deem it proper and most prudent approach to maintain industrial peace for respondents to pay the complainants their separation pay of one half (½) month for every year of service, based on their daily earnings of P200.00.^[5]

The petitioners moved to have the above disquisition of respondent NLRC reconsidered but the latter denied the motion. They now come to us arguing that since there was a clear finding of abandonment by the Labor Arbiter consisting in the failure of private respondents to report for work without justifiable reason, the award of separation pay could not be warranted.

The NLRC brushed aside the arguments of petitioners. It emphasized that if it were the finding of the Labor Arbiter that private respondents were guilty of abandonment he would not have ordered reinstatement but dismissal of the case. Thus on 9 August 1994 NLRC denied reconsideration.

Petitioners impute grave abuse of discretion on the part of respondent NLRC in awarding separation pay to private respondents.

We agree with petitioners. The legal basis for the award of separation pay is clearly provided by Art. 279 of the Labor Code which states that the remedy for illegal dismissal is reinstatement without loss of seniority rights plus back wages computed from the time compensation was withheld up to reinstatement. However there may be instances where reinstatement is not a viable remedy as where the relations between employer and employee have been so severely strained that it is no longer advisable to order reinstatement or where the employee decides not to be reinstated. In such events, the employer will instead be ordered to pay separation pay.^[6]

A reading of Art. 279 in relation to Art. 282 of the Labor Code reveals that an employee who is dismissed for cause after appropriate proceedings in compliance with the due process requirements is not entitled to an award of separation pay. Under Arts. 283 and 284 of the same Code, separation pay is authorized only in cases of dismissals due to any of these reasons: (a) installation of labor saving devices; (b) redundancy; (c) retrenchment; (d) cessation of the employer's business, and, (e) when the employee is suffering from a disease and his continued employment is prohibited by law or is prejudicial to his health and to the health of his co-employees.^[7] However, separation pay shall be allowed as a measure of social justice in those cases where the employee is validly dismissed for causes other than serious misconduct or those reflecting on his moral character, but only when he was illegally dismissed.

The common denominator of those instances where payment of separation pay is warranted is that the employee was dismissed by the employer. In the instant case there was no dismissal at all. Respondent NLRC affirmed the factual findings of the Labor Arbiter that there was only a misunderstanding between petitioners and private respondents which caused the latter to stop reporting for work. If the Labor Arbiter ordered reinstatement it should not be construed as relief proceeding from illegal dismissal; instead, it should be considered as a declaration or affirmation that private respondents may return to work because they were not dismissed in the first place, and they should be happy that their employers are accepting them back. This could be the reason why complainants asked only for separation pay — not for reinstatement — in their complaint before the Labor Arbiter.

The award of separation pay cannot be justified solely because of the existence of “strained relations” between the employer and the employee. It must be given to the employee only as an alternative to reinstatement emanating from illegal dismissal. When there is no illegal dismissal even if the relations are strained, separation pay has no legal basis. Besides, the doctrine on “strained relations” cannot be applied indiscriminately since every labor dispute almost invariably results in “strained relations;” otherwise, reinstatement can never be possible simply because some hostility is engendered between the parties as a result of their disagreement. That is human nature.^[8]

The constitutional policy of providing full protection to labor is not intended to oppress or destroy management. The commitment of this Court to the cause of labor does not prevent us from sustaining the employer when it is in the right, as in this case.^[9]

When respondents filed their complaint, and taking account of the allegations therein, they foreclosed reinstatement as a relief, since they prayed only for an award of separation pay. This is confirmed in their appeal to the NLRC where they prayed for a modification of the decision of the Labor Arbiter, from reinstatement without back wages to payment of three (3) years back wages and separation pay equivalent to one (1) month salary for every year of service.^[10] It is therefore clear that respondents never desired to be reinstated. This being so, the Court cannot order them to return to work.^[11] If private respondents voluntarily chose not to return to work anymore they must be considered as having resigned from their employment. This is without prejudice however to the willingness of both parties to continue with their former contract of employment or enter into a new one whenever they so desire.

WHEREFORE, the Petition is **GRANTED** and the employer-employee relationship between petitioners on one hand and each private respondent on the other is deemed voluntarily terminated. Consequently, the Decision of respondent National Labor Relations Commission dated 28 February 1994 is **REVERSED** and **SET ASIDE**.

SO ORDERED.

Padilla, Vitug, Kapunan and Hermosisima Jr., JJ., concur.

- [1] See Annex “C-1,” Petition; Rollo, p. 42 (at back).
- [2] Referring to National Labor Union vs. Dinglasan, 98 Phil. 649, which declared the existence of employer-employee relationship between public utility jeepney operators and their drivers.
- [3] Rollo, pp. 56-57.
- [4] Decision penned by Labor Arbiter Ernesto S. Dinopol; Rollo, p. 57.
- [5] NLRC Decision penned by Commissioner Alberto R. Quimpo with Presiding Commissioner Bartolome S. Carale and Commissioner Vicente S.E. Veloso, concurring. Rollo, p. 33.
- [6] Kingsize Manufacturing Corp. vs. NLRC, G.R. Nos. 110452-54, 24 November 1994, 238 SCRA 349.
- [7] Zenco Sales Inc. vs. NLRC, G.R. No. 111110, 2 August 1994, 234 SCRA 689.
- [8] Maranaw Hotel & Resorts Corp. vs. Court of Appeals, G.R. No. 103215, 6 November 1992, 215 SCRA 501.
- [9] Garcia vs. NLRC, G.R. No. 110518, 1 August 1994, 234 SCRA 632.
- [10] Appeal memorandum, annexed “G,” Petition; Rollo, p. 69.
- [11] See Note 5.