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**SUPREME COURT  
SECOND DIVISION**

**ANGEL JARDIN, DEMETRIO  
CALAGOS, URBANO MARCOS,  
ROSENDO MARCOS, LUIS DE LOS  
ANGELES, JOEL ORDENIZA and  
AMADO CENTENO,**

***Petitioners,***

***-versus-***

**G.R. No. 119268  
February 23, 2000**

**NATIONAL LABOR RELATIONS  
COMMISSION (NLRC) and GOODMAN  
TAXI (PHILJAMA INTERNATIONAL,  
INC.),**

***Respondents.***

X-----X

**DECISION**

**QUISUMBING, J.:**

This special civil action for certiorari seeks to annul the Decision<sup>[1]</sup> of public respondent promulgated on October 28, 1994, in NLRC NCR CA No. 003883-92, and its Resolution<sup>[2]</sup> dated December 13, 1994 which denied petitioners motion for reconsideration.

Petitioners were drivers of private respondent, Philjama International Inc., a domestic corporation engaged in the operation of “Goodman Taxi.” Petitioners used to drive private respondent’s taxicabs every other day on a 24-hour work schedule under the boundary system. Under this arrangement, the petitioners earned an average of P400.00 daily. Nevertheless, private respondent admittedly regularly deducts from petitioners’ daily earnings the amount of P30.00 supposedly for the washing of the taxi units. Believing that the deduction is illegal, petitioners decided to form a labor union to protect their rights and interests.

Upon learning about the plan of petitioners, private respondent refused to let petitioners drive their taxicabs when they reported for work on August 6, 1991, and on succeeding days. Petitioners suspected that they were singled out because they were the leaders and active members of the proposed union. Aggrieved, petitioners filed with the labor arbiter a complaint against private respondent for unfair labor practice, illegal dismissal and illegal deduction of washing fees. In a decision<sup>[3]</sup> dated August 31, 1992, the labor arbiter dismissed said complaint for lack of merit.

On appeal, the NLRC (public respondent herein), in a decision dated April 28, 1994, reversed and set aside the judgment of the labor arbiter. The labor tribunal declared that petitioners are employees of private respondent, and as such, their dismissal must be for just cause and after due process. It disposed of the case as follows:

“WHEREFORE, in view of all the foregoing considerations, the decision of the Labor Arbiter appealed from is hereby SET ASIDE and another one entered:

1. Declaring the respondent company guilty of illegal dismissal and accordingly it is directed to reinstate the complainants, namely, Alberto A. Gonzales, Joel T. Morato, Gavino Panahon, Demetrio L. Calagos, Sonny M. Lustado, Romeo Q. Clariza, Luis de los Angeles, Amado Centino, Angel Jardin, Rosendo Marcos, Urbano Marcos, Jr., and Joel Ordeniza, to their former positions without loss of seniority and other privileges appertaining thereto; to pay the complainants full

backwages and other benefits, less earnings elsewhere, and to reimburse the drivers the amount paid as washing charges; and

2. Dismissing the charge of unfair labor practice for insufficiency of evidence.

SO ORDERED.”<sup>[4]</sup>

Private respondent’s first motion for reconsideration was denied. Remaining hopeful, private respondent filed another motion for reconsideration. This time, public respondent, in its decision<sup>[5]</sup> dated October 28, 1994, granted aforesaid second motion for reconsideration. It ruled that it lacks jurisdiction over the case as petitioners and private respondent have no employer-employee relationship. It held that the relationship of the parties is leasehold which is covered by the Civil Code rather than the Labor Code, and disposed of the case as follows:

“VIEWED IN THE LIGHT OF ALL THE FOREGOING, the Motion under reconsideration is hereby given due course.

Accordingly, the Resolution of August 10, 1994, and the Decision of April 28, 1994 are hereby SET ASIDE. The Decision of the Labor Arbiter subject of the appeal is likewise SET ASIDE and a NEW ONE ENTERED dismissing the complaint for lack of jurisdiction.

No costs.

SO ORDERED.”<sup>[6]</sup>

Expectedly, petitioners sought reconsideration of the labor tribunal’s latest decision which was denied. Hence, the instant petition.

In this recourse, petitioners allege that public respondent acted without or in excess of jurisdiction, or with grave abuse of discretion in rendering the assailed decision, arguing that:

“I

THE NLRC HAS NO JURISDICTION TO ENTERTAIN RESPONDENT’S SECOND MOTION FOR RECONSIDERATION WHICH IS ADMITTEDLY A PLEADING PROHIBITED UNDER THE NLRC RULES, AND TO GRANT THE SAME ON GROUNDS NOT EVEN INVOKED THEREIN.

II

THE EXISTENCE OF AN EMPLOYER-EMPLOYEE RELATIONSHIP BETWEEN THE PARTIES IS ALREADY A SETTLED ISSUE CONSTITUTING RES JUDICATA, WHICH THE NLRC HAS NO MORE JURISDICTION TO REVERSE, ALTER OR MODIFY.

III

IN ANY CASE, EXISTING JURISPRUDENCE ON THE MATTER SUPPORTS THE VIEW THAT PETITIONERS-TAXI DRIVERS ARE EMPLOYEES OF RESPONDENT TAXI COMPANY.”<sup>[7]</sup>

The petition is impressed with merit.

The phrase “grave abuse of discretion amounting to lack or excess of jurisdiction” has settled meaning in the jurisprudence of procedure. It means such capricious and whimsical exercise of judgment by the tribunal exercising judicial or quasi-judicial power as to amount to lack of power.<sup>[8]</sup> In labor cases, this Court has declared in several instances that disregarding rules it is bound to observe constitutes grave abuse of discretion on the part of labor tribunal.

In Garcia vs. NLRC,<sup>[9]</sup> private respondent therein, after receiving a copy of the labor arbiter’s decision, wrote the labor arbiter who rendered the decision and expressed dismay over the judgment. Neither notice of appeal was filed nor cash or surety bond was posted by private respondent. Nevertheless, the labor tribunal took cognizance of the letter from private respondent and treated said letter as private respondent’s appeal. In a certiorari action before this

Court, we ruled that the labor tribunal acted with grave abuse of discretion in treating a mere letter from private respondent as private respondent's appeal in clear violation of the rules on appeal prescribed under Section 3(a), Rule VI of the New Rules of Procedure of NLRC.

In *Philippine Airlines Inc. vs. NLRC*,<sup>[10]</sup> we held that the labor arbiter committed grave abuse of discretion when he failed to resolve immediately by written order a motion to dismiss on the ground of lack of jurisdiction and the supplemental motion to dismiss as mandated by Section 15 of Rule V of the New Rules of Procedure of the NLRC.

In *Unicane Workers Union-CLUP vs. NLRC*,<sup>[11]</sup> we held that the NLRC gravely abused its discretion by allowing and deciding an appeal without an appeal bond having been filed as required under Article 223 of the Labor Code.

In *Mañebo vs. NLRC*,<sup>[12]</sup> we declared that the labor arbiter gravely abused its discretion in disregarding the rule governing position papers. In this case, the parties have already filed their position papers and even agreed to consider the case submitted for decision, yet the labor arbiter still admitted a supplemental position paper and memorandum, and by taking into consideration, as basis for his decision, the alleged facts adduced therein and the documents attached thereto.

In *Gesulgon vs. NLRC*,<sup>[13]</sup> we held that public respondent gravely abused its discretion in treating the motion to set aside judgment and writ of execution as a petition for relief of judgment. In doing so, public respondent had, without sufficient basis, extended the reglementary period for filing petition for relief from judgment contrary to prevailing rule and case law.

In this case before us, private respondent exhausted administrative remedy available to it by seeking reconsideration of public respondent's decision dated April 28, 1994, which public respondent denied. With this motion for reconsideration, the labor tribunal had ample opportunity to rectify errors or mistakes it may have committed before resort to courts of justice can be had.<sup>[14]</sup> Thus, when

private respondent filed a second motion for reconsideration, public respondent should have forthwith denied it in accordance with Rule 7, Section 14 of its New Rules of Procedure which allows only one motion for reconsideration from the same party, thus:

“SECTION 14. Motions for Reconsideration. — Motions for reconsideration of any order, resolution or decision of the Commission shall not be entertained except when based on palpable or patent errors, provided that the motion is under oath and filed within ten (10) calendar days from receipt of the order, resolution or decision with proof of service that a copy of the same has been furnished within the reglementary period the adverse party and provided further, that only one such motion from the same party shall be entertained.” (Emphasis supplied)

The rationale for allowing only one motion for reconsideration from the same party is to assist the parties in obtaining an expeditious and inexpensive settlement of labor cases. For obvious reasons, delays cannot be countenanced in the resolution of labor disputes. The dispute may involve no less than the livelihood of an employee and that of his loved ones who are dependent upon him for food, shelter, clothing, medicine, and education. It may as well involve the survival of a business or an industry.<sup>[15]</sup>

As correctly pointed out by petitioner, the second motion for reconsideration filed by private respondent is indubitably a prohibited pleading<sup>[16]</sup> which should have not been entertained at all. Public respondent cannot just disregard its own rules on the pretext of “satisfying the ends of justice”,<sup>[17]</sup> especially when its disposition of a legal controversy ran afoul with a clear and long standing jurisprudence in this jurisdiction as elucidated in the subsequent discussion. Clearly, disregarding a settled legal doctrine enunciated by this Court is not a way of rectifying an error or mistake. In our view, public respondent gravely abused its discretion in taking cognizance and granting private respondent’s second motion for reconsideration as it wrecks the orderly procedure in seeking reliefs in labor cases.

But, there is another compelling reason why we cannot leave untouched the flip-flopping decisions of the public respondent. As

mentioned earlier, its October 28, 1994 judgment is not in accord with the applicable decisions of this Court. The labor tribunal reasoned out as follows:

“On the issue of whether or not employer-employee relationship exists, admitted is the fact that complainants are taxi drivers purely on the ‘boundary system’. Under this system the driver takes out his unit and pays the owner/operator a fee commonly called ‘boundary’ for the use of the unit. Now, in the determination the existence of employer-employee relationship, the Supreme Court in the case of Sara, et al., vs. Agarrado, et al. (G.R. No. 73199, 26 October 1988) has applied the following four-fold test: ‘(1) the selection and engagement of the employee; (2) the payment of wages; (3) the power of dismissal; and (4) the power of control the employees conduct.’

‘Among the four (4) requisites’, the Supreme Court stresses that ‘control is deemed the most important that the other requisites may even be disregarded’. Under the control test, an employer-employee relationship exists if the ‘employer’ has reserved the right to control the ‘employee’ not only as to the result of the work done but also as to the means and methods by which the same is to be accomplished. Otherwise, no such relationship exists.’ (Ibid.)

Applying the foregoing parameters to the case herein obtaining, it is clear that the respondent does not pay the drivers, the complainants herein, their wages. Instead, the drivers pay a certain fee for the use of the vehicle. On the matter of control, the drivers, once they are out plying their trade, are free to choose whatever manner they conduct their trade and are beyond the physical control of the owner/operator; they themselves determine the amount of revenue they would want to earn in a day’s driving; and, more significantly aside from the fact that they pay for the gasoline they consume, they likewise shoulder the cost of repairs on damages sustained by the vehicles they are driving.

Verily, all the foregoing attributes signify that the relationship of the parties is more of a leasehold or one that is covered by a charter agreement under the Civil Code rather than the Labor Code.”<sup>[18]</sup>

The foregoing ratiocination goes against prevailing jurisprudence.

In a number of cases decided by this Court,<sup>[19]</sup> we ruled that 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. We explained that in the lease of chattels, the lessor loses complete control over the chattel leased although the lessee cannot be reckless in the use thereof, otherwise he would be responsible for the damages to the lessor. In the case of jeepney owners/operators and jeepney drivers, the former exercise supervision and control over the latter. The management of the business is in the owner’s hands. The owner as holder of the certificate of public convenience must see to it that the driver follows the route prescribed by the franchising authority and the rules promulgated as regards its operation. Now, the fact that the drivers do not receive fixed wages but get only that in excess of the so-called “boundary” they pay to the owner/operator is not sufficient to withdraw the relationship between them from that of employer and employee. We have applied by analogy the abovestated doctrine to the relationships between bus owner/operator and bus conductor,<sup>[20]</sup> auto-calesa owner/operator and driver,<sup>[21]</sup> and recently between taxi owners/operators and taxi drivers.<sup>[22]</sup> Hence, petitioners are undoubtedly employees of private respondent because as taxi drivers they perform activities which are usually necessary or desirable in the usual business or trade of their employer.

As consistently held by this Court, termination of employment must be effected in accordance with law. The just and authorized causes for termination of employment are enumerated under Articles 282, 283 and 284 of the Labor Code. The requirement of notice and hearing is set-out in Article 277 (b) of the said Code. Hence, petitioners, being employees of private respondent, can be dismissed only for just and authorized cause, and after affording them notice and hearing prior to termination. In the instant case, private respondent had no valid cause to terminate the employment of petitioners. Neither were there two (2) written notices sent by private respondent informing each of

the petitioners that they had been dismissed from work. These lack of valid cause and failure on the part of private respondent to comply with the twin-notice requirement underscored the illegality surrounding petitioners' dismissal.

Under the law, an employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation was withheld from him up to the time of his actual reinstatement.<sup>[23]</sup> It must be emphasized, though, that recent judicial pronouncements<sup>[24]</sup> distinguish between employees illegally dismissed prior to the effectivity of Republic Act No. 6715 on March 21, 1989, and those whose illegal dismissals were effected after such date. Thus, employees illegally dismissed prior to March 21, 1989, are entitled to backwages up to three (3) years without deduction or qualification, while those illegally dismissed after that date are granted full backwages inclusive of allowances and other benefits or their monetary equivalent from the time their actual compensation was withheld from them up to the time of their actual reinstatement. The legislative policy behind Republic Act No. 6715 points to "full backwages" as meaning exactly that, i.e., without deducting from backwages the earnings derived elsewhere by the concerned employee during the period of his illegal dismissal. Considering that petitioners were terminated from work on August 1, 1991, they are entitled to full backwages on the basis of their last daily earnings.

With regard to the amount deducted daily by private respondent from petitioners for washing of the taxi units, we view the same as not illegal in the context of the law. We note that after a tour of duty, it is incumbent upon the driver to restore the unit he has driven to the same clean condition when he took it out. Car washing after a tour of duty is indeed a practice in the taxi industry and is in fact dictated by fair play.<sup>[25]</sup> Hence, the drivers are not entitled to reimbursement of washing charges.

**WHEREFORE**, the instant petition is **GRANTED**. The assailed **DECISION** of public respondent dated October 28, 1994, is hereby **SET ASIDE**. The **DECISION** of public respondent dated April 28,

1994, and its RESOLUTION dated December 13, 1994, are hereby **REINSTATED** subject to **MODIFICATION**. Private respondent is directed to reinstate petitioners to their positions held at the time of the complained dismissal. Private respondent is likewise ordered to pay petitioners their full backwages, to be computed from the date of dismissal until their actual reinstatement. However, the order of public respondent that petitioners be reimbursed the amount paid as washing charges is deleted. Costs against private respondents.

**SO ORDERED.**

**Bellosillo, Mendoza, Buena and De Leon, Jr., JJ., concur.**

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[1] Rollo, pp. 16-22.

[2] Id. at 23.

[3] Id. at 25-32

[4] Id. at 41.

[5] Id. at 16-22.

[6] Id. at 21.

[7] Id. at 3.

[8] Arroyo vs. De Venecia, 277 SCRA 268, 294 (1997).

[9] 264 SCRA 261, 267 (1996).

[10] 263 SCRA 638, 657 (1996).

[11] 261 SCRA 573, 583-584 (1996).

[12] 229 SCRA 240, 248 (1994).

[13] 219 SCRA 561, 566 (1993).

[14] Biogenerics Marketing and Research Corp. vs. NLRC, 122725, September 8, 1999, p. 6.

[15] Mañebo vs. NLRC, 229 SCRA 240, 248 (1994).

[16] Rollo, p. 8.

[17] Id. at 17.

[18] Rollo, pp. 18-20.

[19] National Labor Union vs. Dinglasan, 98 Phil. 649, 652 (1956); Magboo vs. Bernardo, 7 SCRA 952, 954 (1963); Lantaco, Sr. vs. Llamas, 108 SCRA 502, 514 (1981).

[20] Doce vs. Workmen's Compensation Commission, 104 Phil. 946, 948 (1958).

[21] Citizen's League of Freeworkers vs. Abbas, 18 SCRA 71, 73 (1966).

[22] Martinez vs. NLRC, 272 SCRA 793, 800 (1997).

[23] Article 279, Labor Code.

[24] Bustamante vs. NLRC, 265 SCRA 61, 69-70 (1996); Highway Copra Traders vs. NLRC, 293 SCRA 350, 356 (1998); Jardine Davies Inc. vs. NLRC, GR-76272, July 28, 1999, p. 8; Pepsi-Cola Products Philippines Inc. vs. NLRC, GR-121324, September 30, 1999, p. 9.

[25] Five J Taxi vs. NLRC, 235 SCRA 556, 562 (1994).

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