

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
FIRST DIVISION**

**VALLACAR TRANSIT, INC.,  
*Petitioner,***

***-versus-***

**G.R. No. 109809  
July 17, 1995**

**NATIONAL LABOR RELATIONS  
COMMISSION and VIRGILIO  
BALDEZAMO,  
*Respondents.***

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**D E C I S I O N**

**QUIASON, J.:**

This is a Petition for *Certiorari* under Rule 65 of the Revised Rules of Court to reverse the Decision of the National Labor Relations Commission (NLRC) and its Resolution dated January 26, 1993 in NLRC Case No. V-0312-92. In said decision, NLRC set aside the Decision of the Labor Arbiter finding that private respondent was illegally dismissed and ordering petitioner to reinstate private respondent without loss of seniority rights, to pay P31,933.20 as back wages for one year and P3,000.00 as attorney's fees (Rollo, p. 113).

Private respondent was employed on March 25, 1984 as a bus driver by petitioner to drive its "Ceres" bus plying the route from Bacolod City to San Carlos City. On March 30, 1984, he figured in an incident. On April 22, 1985, he again got involved in a vehicular accident resulting in injuries to a passenger of the bus. In April 8, 1988, the bus was bumped by a tractor, resulting in the death of two passengers and injuries to others. The bus was heavily damaged (Rollo, p. 75). As the bus had to be repaired, private respondent was left with no driving assignment. On several occasions, he tried to inquire as to when he would be allowed to resume his work, and each time he was told to simply wait until he would be called back to work. On February 28, 1989, private respondent was told that he could not be allowed to drive while the case involving the April 8, 1988 accident was still pending. After so many months had passed and still he had not heard from petitioner, he decided to file a complaint for illegal dismissal and nonpayment of his thirteenth-month pay with a prayer for the payment of separation pay or reinstatement (Rollo, pp. 16-17).

The Labor Arbiter decided in a favor of private respondent and awarded him separation pay and attorney's fees. The dispositive portion of the decision reads:

"WHEREFORE, premises considered, judgment is hereby rendered in favor of complainant by ordering respondent to pay the separation pay of Virgilio Baldezamo in the amount of TWENTY SEVEN THOUSAND AND SIX HUNDRED FOUR PESOS & 50/100 (P27,634.50) and the additional amount of TWO THOUSAND SEVEN HUNDRED SIXTY THREE PESOS & 45/100 (P2,763.45) equivalent to ten percent (10%) of the award for attorney's fees, or in the total sum of THIRTY THOUSAND AND THREE HUNDRED NINETY SEVEN PESOS & 95/100 (P30,397.95), which amount must be deposited with the Cashier, this Arbitration Branch within a period of ten (10) days from receipt hereof. The other claims of complainants are dismissed with prejudice" (Rollo, pp. 87-88).

Private respondents appealed to NLRC. In its Decision dated December 9, 1992, NLRC disposed as follows:

“WHEREFORE, in view of all foregoing, the decision appealed from is VACATED and SET ASIDE and a new one entered ordering respondent Vallacar Transit Corporation to reinstate complainant Virgilio Baldezamo as driver without loss of seniority rights; and to pay his back wages for one (1) year without qualification or deduction in the amount of THIRTY ONE THOUSAND NINE HUNDRED THIRTY THREE & 20/100 (P31,933.20) PESOS and Attorney’s Fees in the sum of THREE THOUSAND (P3,000.00) PESOS” (Rollo, p. 113).

Petitioner’s motion for reconsideration having been denied by NLRC in its Resolution dated January 26, 1993, petitioner filed this petition. This Court resolved to issue a temporary restraining order (Rollo, p. 168-A).

## II

The petition lacks merit.

We find no abuse of discretion, much less grave, committed by NLRC in ordering the reinstatement of private respondent and awarding him back wages and attorney’s fees.

Article 279 of the Labor Code of the Philippines, as amended, provides:

“Security of Tenure. — In cases of regular employment, the employer shall not terminate the service of an employee except for a just cause or when authorized by this Title. 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 back wages, 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” (Emphasis supplied).

There having been a finding of illegal dismissal, the Labor Arbiter should have applied this provision of the Labor Code and ordered

private respondent's reinstatement and payment of his back wages. Instead, he only awarded private respondent separation pay.

Under the law, separation pay can be awarded in lieu of reinstatement only if reinstatement can no longer be made, as when the position previously held by the employee no longer exists or when there is strained relations as a result of loss of trust and confidence. In *Globe-Mackay Cable and Radio Corporation vs. National Labor Relations Commission*, 206 SCRA 701 (1992), we ruled:

“Over time, the following reasons have been advanced by the Court for denying reinstatement under the facts of the case and the law applicable thereto; That reinstatement can no longer be affected in view of the long passage of time (22 years of litigation) or because of the realities of the situation; or that it would be ‘inimical to the employer’s interest;’ or that reinstatement may no longer be feasible; or that it will not serve the best interests of the parties involved; or that the company would be prejudiced by the worker’s continued employment; or that it will not serve the prudent purpose as when the supervening facts have transpired which make execution on that score unjust or inequitable or, to an increasing extent, due to the resultant atmosphere of ‘antipathy and antagonism’ or ‘strained relation’ or ‘irretrievable estrangement’ between the employer and employee” (at pp. 709-710).

Furthermore, we held:

“In such cases, it should be proved that the employee concerned occupies a position where he enjoys the trust and confidence of his employer; and that it is likely that if reinstated, an atmosphere of antipathy and antagonism may be generated as to adversely effect the efficiency and productivity of the employee concerned (at p. 711).

In *Maranaw Hotels and Resorts Corp. vs. Court of Appeals*, 215 SCRA (1992), we explained:

“‘Strained relations’ may be invoked only against employees whose positions demand trust and confidence, or whose

differences with their employer are of such nature or degree as to preclude reinstatement. In the instant case, however, the relationship between private respondent, a roomboy and management was clearly on an impersonal level.” (at p. 507).

The case at bench does not fall within any of the exceptions as to warrant the grant of separation pay in lieu or reinstatement. Private respondent, as a bus driver, did not hold a position of trust and confidence. That he figured in several accidents prejudicial to petitioner cannot serve as the basis for the loss of trust and confidence. While the accidents may justify an inquiry of the conduct of private respondent, the procedure required by law for said purpose should be followed. Moreover, there are no conclusive findings that the accidents were caused by private respondent. In fact even the Labor Arbiter, in his decision, found that the accident on April 8, 1988 was caused by the driver of the tractor.

Clearly, the NLRC did not commit grave abuse of discretion in its findings.

**WHEREFORE**, the Decision of the National Labor Relations Commission is **AFFIRMED**.

**SO ORDERED.**

**Padilla, Davide, Jr., Bellosillo and Kapunan, JJ., concur.**