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SO ORDERED.

Narvasa, C.J. (Chairman), Kapunan, and *Purisima, JJ.*, concur.

FIRST DIVISION

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

PAGUIO TRANSPORT CORPORATION, *petitioner, vs.* **NATIONAL LABOR RELATIONS COMMISSION and WILFREDO MELCHOR,** *respondents.*

SYNOPSIS

The National Labor Relations Commission (NLRC) affirmed the decision of the labor arbiter that there was an existing employer-employee relationship between petitioner Paguio Transport Corporation and private respondent Wilfredo Melchor and that he was illegally dismissed. The findings of the NLRC were based on the facts that the private respondent was hired by the petitioner company as a taxi driver on 25 December 1992 under the "boundary system"; that 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 ₱500 to ₱700 per trip, exclusive of the ₱650.00 boundary and other deductions imposed on him; that on 24 November 1993, private respondent allegedly met a vehicular accident; that after he submitted the traffic accident report to the office of petitioner, he was advised to stop working and have a rest; that after several days, he reported for work only to be told that his service was no longer needed. Hence, private respondent filed the complaint for illegal dismissal. On the other hand, petitioner maintained that private respondent was not illegally dismissed, there being no employer-employee relationship between them. Petitioner then argued that even if

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an employer-employee relationship were to be presumed as present, still private respondent's termination arose out of a valid cause and after he refused to articulate his stand on the investigation being conducted on him. It also harped on the supposed three occasions of a vehicular accident involving the taxi unit private respondent was driving.

Hence, this petition.

The Court reiterated the ruling in *Martinez v. National Labor Relations Commission,* 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.

Petitioner did not submit any proof to support its allegations that private respondent's involvement in three vehicular accidents within a span of several months constitute just cause for his dismissal. 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. In this case, petitioner failed to prove any just or authorized cause for his dismissal. Private respondent, therefore, must be deemed illegally dismissed.

The petition is hereby DISMISSED.

SYLLABUS

1. **LABOR AND SOCIAL LEGISLATION; EMPLOYER-EMPLOYEE RELATIONSHIP; PRESENT BETWEEN TAXI OWNERS AND TAXI DRIVERS UNDER THE "BOUNDARY SYSTEM."**— In *Martinez v. National Labor Relations Commission*, 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.

2. **ID.; TERMINATION OF EMPLOYMENT; DISMISSAL; BURDEN OF PROOF RESTS ON THE EMPLOYER; NOT ESTABLISHED IN CASE AT BAR.**— Well-settled is the rule that the employer has the burden of proving that the dismissal

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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. In this case, petitioner failed to prove any just or authorized cause for his dismissal. Private respondent, therefore, must be deemed illegally dismissed.

3. **REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI*; CONFINED TO QUESTIONS OF JURISDICTION AND GRAVE ABUSE OF DISCRETION.—** The Supreme Court is not a trier of facts; as earlier stated, its jurisdiction in a petition for *certiorari*, like the present case, is confined to questions of jurisdiction and grave abuse of discretion. The unexplained failure of petitioner to present its evidence before the labor arbiter and the NLRC cannot compel this Court to expand the scope of its review. Indeed, petitioner has not proffered a sufficient reason for this Court to do so.

4. **LABOR AND SOCIAL LEGISLATION; TERMINATION OF EMPLOYMENT; DISMISSAL; MERE INVOLVEMENT IN AN ACCIDENT IS NOT A VALID GROUND THEREFOR.—** Private respondent's admission that he was involved in the November 4, 1993 accident did not give petitioner a just cause to dismiss him. Mere involvement in an accident, absent any showing of fault or recklessness on the part of an employee, is not a valid ground for dismissal.

5. **ID.; ID.; ID.; REQUISITES FOR VALIDITY THEREOF.—** The Court has consistently held that in the dismissal of employees, the twin requirements of notice and hearing are essential elements of due process. The employer must furnish the worker two written notices: (1) one to apprise him of the particular acts or omissions for which his dismissal is sought and (2) the other to inform him of his employer's decision to dismiss him. As to the requirement of a hearing, the essence of due process lies simply in an opportunity to be heard, and not always and indispensably in an actual hearing.

6. **ID.; ID.; ID.; ID.; NOT ESTABLISHED IN CASE AT BAR.—** In the present case, petitioner failed to present proof, other than its bare allegations, that it had complied with these requirements. We reiterate: the burden of proof rests on the employer. Private respondent, in fact, was not given notice that he was being dismissed. When ordered to explain the vehicular

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accident that happened on November 4, 1993, he was not informed that petitioner was contemplating his dismissal and that his involvement in said vehicular accident was the cause thereof. Private respondent was merely asked to explain the vehicular accident *per se*, not his defense against a charge of dismissal arising from the vehicular accident. He became aware of his employer's intention to dismiss him only when he was actually told not to report for work anymore.

7. **ID.; ID.; STRAINED RELATIONS MUST BE DEMONSTRATED AS A FACT; COMPLAINT FOR ILLEGAL DISMISSAL DOES NOT JUSTIFY INVOCATION OF DOCTRINE OF STRAINED RELATIONS.—** Strained relations must be demonstrated as a fact. Petitioner failed to do so. Its allegation that private respondent was incompetent and reckless in his manner of driving, which led to his involvement in three vehicular accidents, is not supported by the records. As earlier noted, no evidence was properly submitted by petitioner to prove or give credence to his assertions. x x x Moreover, the filing of the Complaint for illegal dismissal does not by itself justify the invocation of this doctrine.

8. **ID.; ID.; BACKWAGES TO BE COMPUTED FROM THE TIME OF ILLEGAL DISMISSAL WITHOUT ANY DEDUCTION OR QUALIFICATION.—** Accordingly, we sustain the award but stress that the backwages ought to be computed from the time of the illegal dismissal to the time of reinstatement, either actual or in the payroll, without any deduction or qualification.

APPEARANCES OF COUNSEL

Y. F. Busmente & Associates Law Offices for petitioner.

Raneses, Taquio, Domingo & Associates for private respondent.

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)

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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 ₱86,400.00 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.

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[1] Third Division composed of Comm. Joaquin A. Tanodra, *ponente*; Presiding Comm. Lourdes C. Javier and Comm. Ireneo B. Bernardo, concurring.

[2] *Rollo*, pp. 46-47.

[3] Potenciano S. Canizares, Jr.

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"The respondents are further ordered to pay him his 13th month pay in the amount of ₱5,600.00.

"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 - 6/28/94 = 7 mos.

₱800.00 x 3 days x 4 weeks = ₱9,600.00

₱9,600.00 x 7 mos. = ₱67,200.00

"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 ₱500 to ₱700 per trip, exclusive of the ₱650.00 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

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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 ₱150.00; On August 4, which again resulted [in] the damages to the respondent in the amount of ₱615.00; and again on 4 November 1993, the mishap costing the respondents this time ₱25,370.00 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

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[4] NLRC Decision, pp. 2-4; *rollo*, pp. 39-41.

[5] 104 Phil. 946, December 22, 1958.

[6] NLRC Decision, p. 6; *rollo*, p. 43.

[7] *Ibid*, p. 5; *rollo*, p. 42.

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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 ₱86,400, and not ₱67,200 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.

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[8] *Ibid.*

[9] This case was deemed submitted for resolution on January 14, 1998, when the Court noted and granted the solicitor general's Manifestation and Motion dated November 25, 1997.

[10] Memorandum for Petitioner, p. 6; *rollo*, p. 144. It should be noted that private respondent did not assail the NLRC Decision or any part thereof.

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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 ₱650. 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]

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[11] *Martinez v. National Labor Relations Commission,* 272 SCRA 793, May 29, 1997, per Bellosillo, *J.*

[12] *Ibid.*, pp. 799-800.

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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:

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[13] Memorandum for Petitioner, p. 8; *rollo,* p. 146.

[14] *Mabeza v. National Labor Relations Commission,* 271 SCRA 670, 680, April 18, 1997, per Kapunan, *J.*

[15] *See* Art. 282 and 283 of the Labor Code.

[16] Memorandum for Petitioner, p. 10; *rollo,* p. 148.

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"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

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[17] NLRC, Decision, p. 5; *rollo*, p. 42.

[18] G.R. No. 121466, August 15, 1997, per Romero, *J.*

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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.'

"x x x Our deference to the expertise acquired by quasi-judicial agencies and the limited scope granted us in the exercise of *certiorari* jurisdiction restrain us from going so far as to probe into the correctness of a tribunal's evaluation of evidence, unless there is a palpable mistake and complete disregard thereof in which case *certiorari* would be proper. In plain terms, in *certiorari* proceedings, we are concerned with mere errors of jurisdiction and not errors of judgment."

Equally devoid of correctness is petitioner's claim that the documents should be considered, pursuant to Article 221 of the Labor Code which states that technical rules are not binding in proceedings before the labor arbiters and the NLRC. The Supreme Court is not a trier of facts; as earlier stated, its jurisdiction in a petition for *certiorari*, like the present case, is confined to questions of jurisdiction and grave abuse of discretion. The unexplained failure of petitioner to present its evidence before the labor arbiter and the NLRC cannot compel this Court to expand the scope of its review. Indeed, petitioner has not proffered a sufficient reason for this Court to do so.

Petitioner's reliance on *Canete v. National Labor Relations Commission*[19] is misplaced. In that case, the documents were submitted to the NLRC before they were tackled by the Supreme Court.

Private respondent's admission that he was involved in the November 4, 1993 accident did not give petitioner a just cause

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[19] 250 SCRA 259, November 23, 1995.

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to dismiss him. Mere involvement in an accident, absent any showing of fault or recklessness on the part of an employee, is not a valid ground for dismissal.

Third Issue:

No Due Process

Petitioner insists that private respondent was accorded due process, because he was allowed to explain his side and to show cause why he should still be allowed to act as one of petitioner's drivers.

This does not persuade. The Court has consistently held that in the dismissal of employees, the twin requirements of notice and hearing are essential elements of due process. The employer must furnish the worker two written notices: (1) one to apprise him of the particular acts or omissions for which his dismissal is sought and (2) the other to inform him of his employer's decision to dismiss him. As to the requirement of a hearing, the essence of due process lies simply in an opportunity to be heard, and not always and indispensably in an actual hearing.[20]

In the present case, petitioner failed to present proof, other than its bare allegations, that it had complied with these requirements.[21] We reiterate: the burden of proof rests on the employer. Private respondent, in fact, was not given notice that he was being dismissed. When ordered to explain the vehicular accident that happened on November 4, 1993, he was not informed that petitioner was contemplating his dismissal and that his involvement in said vehicular accident was the cause thereof. Private respondent was merely asked to explain the vehicular accident *per se*, not his defense against a charge of dismissal arising from the vehicular accident. He became aware of his employer's intention to dismiss him only when he was actually told not to report for work anymore.

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[20] *Conti v. National Labor Relations Commission,* 271 SCRA 114, 118, April 10, 1997.

[21] NLRC Decision, p. 5; *rollo*, p. 42.

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Fourth Issue:

Strained Relations

Notwithstanding its failure to prove just cause and due process in the dismissal of private respondent, petitioner seeks to bar his reinstatement by invoking the doctrine of strained relations. It contends that as a result of private respondent's "reckless and incompetent manner of driving x x x, compounded by the damages suffered by petitioner in terms of repairs, related expenses, and the institution of the instant case, the relationship between the parties are so strained as to preclude a harmonious working atmosphere to the prejudice of the petitioner as well as private respondent."[22]

We are not persuaded. Strained relations must be demonstrated as a fact. Petitioner failed to do so. Its allegation that private respondent was incompetent and reckless in his manner of driving, which led to his involvement in three vehicular accidents, is not supported by the records. As earlier noted, no evidence was properly submitted by petitioner to prove or give credence to his assertions. Thus, Respondent NLRC ruled:

"Despite allegation on the matter, not an iota of proof was presented to establish the claim. This observation equally applies to the allegation that complainants, in three (3) occasions had figured in [a] vehicular accident due to his reckless driving x x x."[23]

Because the claim of petitioner has no factual basis, the doctrine on strained relations cannot be applied in this case. Moreover, the filing of the Complaint for illegal dismissal does not by itself justify the invocation of this doctrine. As the Court held in *Capili vs. NLRC*:[24]

"xxx [T]he doctrine on 'strained relations' cannot be applied indiscriminately since every labor dispute almost invariably results in 'strained relations'; otherwise, reinstatement can never be possible

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[22] Memorandum for Petitioner, pp. 9-10; *rollo*, pp. 147-148.

[23] NLRC Decision, p. 5; *rollo*, p. 42.

[24] 270 SCRA 488, 495, March 26, 1997, per Bellosillo, *J.*

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simply because some hostility is engendered between the parties as a result of their disagreement. That is human nature."

Fifth Issue:

Reinstatement and Back Wages

Because he was illegally dismissed, private respondent is entitled to reinstatement and back wages pursuant to Section 279 of the Labor Code, which reads:

"Art. 279. Security of Tenure. — In cases of regular employment, the employer shall not terminate the services 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 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."

Interpreting this provision, the Court held in *Bustamante v. NLRC*[25] that illegally dismissed employees are entitled to full back wages without conditions or limitations, *viz.*:

"xxx [A] closer adherence to the legislative policy behind Rep. 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. In other words, the provision calling for 'full backwages' to illegally dismissed employees is clear, plain and free from ambiguity and, therefore, must be applied without attempted or strained interpretation."

The labor arbiter awarded back wages in the sum of ₱67,200 based on the following computation:

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[25] 265 SCRA 61, November 28, 1996, per Padilla, *J.* See also *Highway Copra Traders v. NLRC,* G.R. No. 108889, July 30, 1998. *Bustamante* applies to illegal dismissal effected after March 21, 1989. In the present case, private respondent was hired on December 25, 1992 and illegally dismissed on November 28, 1993.

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"11/28/93 - 6/28/94 = 7 mos.

₱800.00 x 3 days x 4 weeks = ₱9,600.00

₱9,600 x 7 mos. = ₱67,200.00"[26]

In modifying the foregoing award, the NLRC relied on this other formula:

"11/28/93 - 11/28/94 = 12 months

₱600.00 x 3 days x 4 weeks = ₱7,200.00

₱7,200 x 12 months = ₱86,400.00."[27]

Although the NLRC adjusted the amount of private respondent's monthly income and the period during which back wages may be awarded, neither the petitioner nor the private respondent questioned the new computation. Accordingly, we sustain the award but stress that the back wages ought to be computed from the time of the illegal dismissal to the time of reinstatement, either actual or in the payroll, without any deduction or qualification.

WHEREFORE, the petition is hereby *DISMISSED* for utter lack of merit, and the assailed Decision and Resolution are hereby *AFFIRMED*. Costs against petitioners.

SO ORDERED.

Davide, Jr. (Chairman) and *Vitug, JJ.*, concur.

Quisumbing, J., in the result.

Bellosillo, J., No part. Did not participate in deliberation.

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[26] Labor arbiter's Decision, p. 4; *rollo*, p. 32.

[27] Assailed Decision, p. 7; *rollo*, p. 44.