



Ask Our Experts: Employee Relations Matters in the Philippines

Presenter: Romano Kris BELER
HR Service Delivery Consultant, Philippines

Organiser: **BIPO** | Make Life Easier.

Speakers



Mary Ann ANDA, CHRP **Deputy General Manager, Philippines**

- Mary Ann Anda is Deputy General Manager with BIPO, based in Philippines
- Over 10 years of HR experience specializing in Human Resources, Payroll, Outsourcing and Project Management
- Has Country Experience Processing Payroll for US, Australia – New Zealand, Singapore, Malaysia, Thailand and Philippines



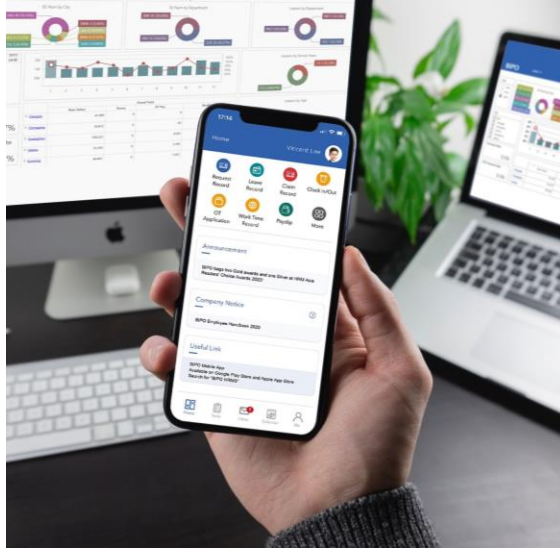
Romano Kris BELER, CHRP, SO2 **HR Service Delivery Consultant, Philippines**

- Certified Human Resource Professional with demonstrated history in financial, banking and outsourcing services. With evident experience in independently partnering with all levels of management to provide technical leadership, advice and recommendations on various aspects of Human Resources, including but not limited to, talent management, talent and rewards, employee and labor relations, culture management, compliance, performance management, etc.



About BIPO

Total HR Solutions for your Global Workforce



10+
Years of
experience

560,000
Users
globally

160+
Countries
covered for EOR

Payment in
200
Currencies

900+
Employees
worldwide

40+
International
offices

21
Payroll engines
across countries

More than
3,300
Clients

Leader in Asia

- Based in **Asia**, with **global reach**
- Helping global companies. expand **into and out of Asia**
- Core USP: 18 specialist **payroll engines** in Asia.

Recognised by Peers



Our Traction: Asia-based with Extensive Global Footprint

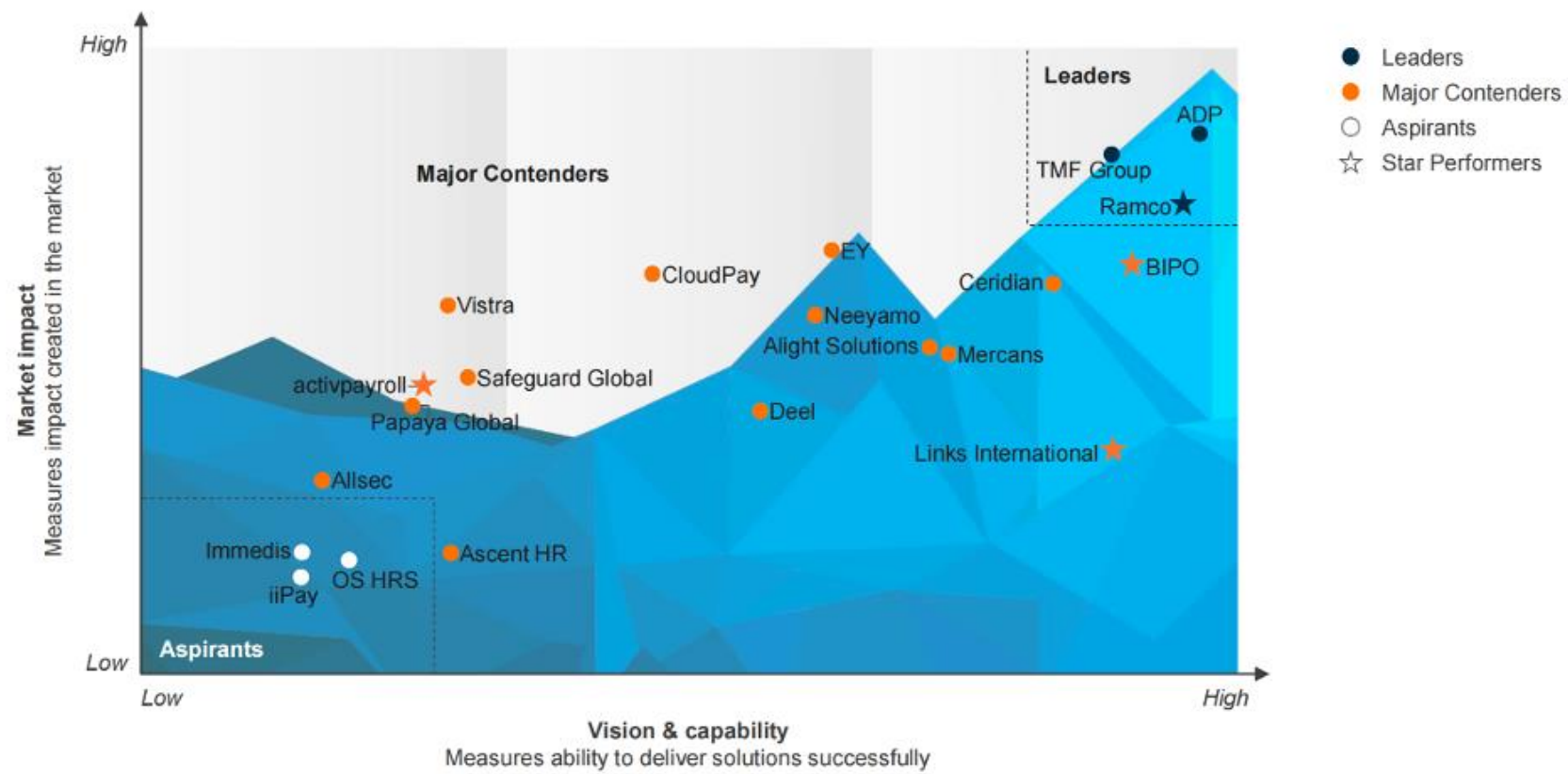


Everest Group PEAK Matrix®

Everest Group Multi-country Payroll (MCP) Solutions PEAK Matrix® Assessment 2023 – APAC | BIPO is positioned as a Major Contender and a Star Performer



Everest Group Multi-country Payroll (MCP) Solutions PEAK Matrix® Assessment 2023 – APAC^{1,2}



¹ Assessment for Allsec, Ascent HR, and Ceridian excludes service provider inputs and is based on Everest Group's proprietary Transaction Intelligence (TI) database, service provider public disclosures, and interactions with buyers
² Assessment for Deel includes its acquisition of PayGroup; Assessment for Vistra does not include its merger with Tricor, and for Immedis does not include its acquisition by UKG
Source: Everest Group (2023)

BIPO Tech Ecosystem, Engineered to Make Life Easier

BIPO Athena

HR Intelligence

An interactive HR dashboard allowing clients to understand their workforce better.

- Workforce Visibility
- Workforce Analytics
- Insights

BIPO HRMS

Personnel, Leave, Claims, Time and Attendance, Budget and Compensation

BIPO Payroll Engine

Singapore, China, Hong Kong, Taiwan, Macau, Malaysia, Indonesia, Thailand, Philippines, Vietnam, India, Japan, Cambodia, Australia, Myanmar, Korea, Bangladesh, Laos, New Zealand, and Brunei

BIPO Connectors

Custom API

BIPO Core HR

- On-off-boarding
- Employee Master
- Payroll Management
- Leave Management
- Time & Attendance
- Claims

BIPO Butter

Client Service for EOR and Payroll outsourcing

Allows Global HR teams to better manage their HR workflows and vendors.

- Order Management
- Payroll Calendar
- Global Payroll Portal

BIPO delivers services and scalable solutions that generate actionable insights.

BIPO

Awards & Accolades



Centuro INT-X Awards – UK

- Most Inspirational Global Expansion



Gold

- Best Payroll Software - **Singapore & Malaysia**
- Best HRMS (Enterprise) - **Singapore & Malaysia**
- Best HRMS (SMB) - **Malaysia**
- Best Employer of Record Service Provider - **Malaysia**



Human Capital & Performance Awards 2022 - Indonesia

- Best HC Technology Strategy (System Provider Industries)
- Best Overseas Strategy (System Provider Industries)



HRM Asia Readers' Choice Awards 2022 Best HR Tech

- Cloud Solution - **Gold**
- Time & Attendance Management System - **Gold**
- Human Resource Information System - **Silver**
- Payroll Solution - **Silver**



Best of the Best Awards – Indonesia

- HR Tech - HR Outsourcing

Strategies on Effective Employee Discipline and Dismissal in the Philippines

Romano Kris Beler, CHRP, S02
HR Service Delivery Consultant, Philippines



Objectives

01

Mandatory Requirements

02

Overview of Due Process

03

Graceful Exit

04

Poor Performance

05

Case Study

06

Q&A



Mandatory Requirements

Mandatory Requirements



Substantive

Procedural



Substantive

Lawful grounds for terminating an employee

Arts. 297-299, Labor Code



JUST CAUSE



AUTHORIZED CAUSE



DISEASES



JUST CAUSE (Art 297 of the Philippine Labor code)

- Serious Misconduct
- Willful Disobedience or Insubordination
- Gross and Habitual Neglect of Duties
- Fraud or Willful Breach of Trust
(Loss of Confidence)
- Commission of a Crime or Offense
- Analogous Cases



AUTHORIZED CAUSE (Art 298 of the Philippine Labor code)

- Installation of labor-saving devices
- Redundancy
- Retrenchment
- Closing or cessation of operation



AUTHORIZED CAUSE (Art 298 of the Philippine Labor code)

- Installation of labor-saving devices
- Redundancy
- Retrenchment
- Closing or cessation of operation



DISEASES (Art 299 of the Philippine Labor code)

- An employer may terminate the services of an employee who has been found to be suffering from any disease and whose continued employment is prohibited by law or is prejudicial to his health as well as to the health of his co-employees

Procedural

Procedural



1

Twin Notice

2

Admin Hearing



Overview of Due Process

Overview of Due Process



Preliminary Investigation

01

Creation of Incident Report

- Must contain the sequence of events.
- Gather evidences documentary and or testimony.

02

Identify Allege Violation

- Specific rules or regulations that allegedly violated.

03

Identify Is Prevent Suspension Necessary?

- Employment poses a **serious and imminent threat to the life or property of the employer or of his co-workers.**

04

Issuance of Notice to Explain

- Contains details of committed offense and allege violation(s) and possible consequence(s).

05

Issuance of Admin Hearing

- Includes date, time and location.

Reminders



Study the 201 file of the employee to be charged

- Is this his 1st offense
- Previously found guilty of another offense
- Years in service
- Personal background and/or profile of the employee



Notice to Explain

- Specific Cause/Ground
- Detailed Narration of the Facts
- Directive: Employee to submit a written Explanation (5 days)
- Inclusion of the admin hearing schedule



Administrative Hearing

- Calendar and compliance to due notice
- Venue, time and recording system



Preventive suspension is only available in case there is a threat to the life or property of the company and co-employee.

Preventive Suspension



Temporary removal of an employee who was charged of violating company policies from his present position.

The employer may place the worker concerned under preventive suspension **ONLY** if his continued employment **poses a serious and imminent threat to the life or property of the employer or of his co-workers.**

Investigation Proper



Reminders

Establish rapport.

Create an impression of impartiality.

Never be afraid of lawyers.

Mandatory question. Confirm if the employee received the 1st notice.

Set parameters and process flow of questioning.

Never forget the minutes of the admin hearing and screenshot of the CCTV.

Post Investigation



Reminders

Narration of the due process requirements.

Summarize the findings and admissions.

Never forget the doctrine of “Dismissal Too Harsh a Penalty”.

Make a firm decision.

Screenshot of the CCTV footage.

Transcripts of the recording.

Effective service of the notice of decision.

Brain Teaser



**What if the EE wishes to resign
during the conduct of Admin Hearing?**

Graceful Exit



Be mindful of the dates and its effectivity.



Resignation can still **result to Illegal Dismissal.**



An appreciative parting words.



There is nothing in the law or case law that declares the act of an employer allowing the employee the opportunity to resign instead of going through an admin case as illegal.

Brain Teaser



What if the EE does not meet the expected performance (Poor Performance)?

**Additional Condition:
Is employee under Probation?**

Poor Performance

Should be anchored on “other causes analogous to the foregoing” under Article 297 (letter e) of the Labor Code in relation to paragraph (b).

Requires proper documentation.

Dismissal through poor performance requires a certain period of time and NOT a “one time” deal.

If an employee being dismissed is still on probationary period of employment, the ground is failure to pass proby requirement and not under Article 297.

Poor Performance + Probation



Observe 180 days rule.



The non-applicability of the twin notice rule.



Importance of performance review, **“Read, Understood and Accepted”**.



Make sure employee signed all documents from day 1 including but not limited to Contract, JD, NDA, Non-Compete.

Case Study

CAVITE APPAREL versus MARQUEZ February 06, 2013, GR172044

FACTS

Michelle has an employment tenure of six (6) years.

- 1st offense (Dec 1999) – one day AWOL = written warning
- 2nd offense (Jan 2000) – one day AWOL = written warning with 3 days suspension
- 3rd offense (Apr 2000) - one day AWOL = six (days) suspension
- 4th offense (May 8, 2000) – one day due to sickness
- 5th offense (May 15-27) due to sickness

After serving the 6 days suspension (for her 3rd offense), she was met with a penalty of dismissal for gross and habitual neglect of duty for her supposed AWOL last May 8, 2000.

Case Rulings

Labor Arbiter

In a decision dated April 28, 2001, LA Ramos dismissed the complaint. He noted that punctuality and good attendance are required of employees in the company's Finishing Department. For this reason, LA Ramos considered Michelle's four absences without official leave as habitual and constitutive of gross neglect of duty, a just ground for termination of employment.

LA Ramos also declared that due process had been observed in Michelle's dismissal, noting that in each of her absences, Cavite Apparel afforded Michelle an opportunity to explain her side and dismissed her only after her fourth absence. LA Ramos concluded that Michelle's dismissal was valid.

Case Rulings

National Labor Relations Commission

The NLRC noted that for Michelle's first three absences, she had already been penalized ranging from a written warning to six days suspension. These, the NLRC declared, should have precluded Cavite Apparel from using Michelle's past absences as bases to impose on her the penalty of dismissal, considering her six years of service with the company. It likewise considered the penalty of dismissal too severe.

The NLRC thus concluded that Michelle had been illegally dismissed and ordered her reinstatement with backwages. When the NLRC denied Cavite Apparels motion for reconsideration in a resolution dated March 30, 2005, Cavite Apparel filed a petition for *certiorari* with the CA to assail the NLRC ruling.

Case Rulings

Court of Appeals

The CA agreed with the NLRC that since Cavite Apparel had already penalized Michelle for her three prior absences, to dismiss her for the same infractions and for her May 8, 2000 absence was unjust.

Citing jurisprudence, The CA concluded that her **dismissal was too harsh**, considering her six years of employment with Cavite Apparel; it was also a disproportionate penalty as her fourth infraction appeared excusable.

Ruling

We resolve the petition for review on *certiorari* filed by petitioners Cavite Apparel, Incorporated (*Cavite Apparel*) and Adriano Timoteo to nullify the decision dated January 23, 2006 and the resolution dated March 23, 2006 of the Court of Appeals (CA) in C.A.-G.R. SP No. 89819 insofar as it affirmed the disposition of the National Labor Relations Commission (NLRC) in NLRC CA No. 029726-01.

The NLRC set aside the decision⁵ of Labor Arbiter (LA) Cresencio G. Ramos in NLRC NCR Case No. RAB-IV-7-12613-00-C dismissing the complaint for illegal dismissal filed by respondent Michelle Marquez against the petitioners.

Ruling

As a final point, we reiterate that while we recognize managements prerogative to discipline its employees, the exercise of this prerogative should at all times be reasonable and should be tempered with compassion and understanding. **Dismissal is the ultimate penalty that can be imposed on an employee.**

Where a penalty less punitive may suffice, whatever missteps may be committed by labor ought not to be visited with a consequence so severe for what is at stake is not merely the employees' position but his very livelihood and perhaps the life and subsistence of his family.

Reminder



Do not panic. Review the Complaint. First Step is Single Entry Approach (SENA).
If concern is a delay in the non-payment of last pay, just try to ensure that you can release the last pay on the day of the hearing.



Review the case and do not immediately secure a lawyer.



Offer and be open to amicable settlement.

A photograph of the Supreme Court building facade. The building is white with a classical architectural style, featuring a portico with columns and a row of arched windows above. The words "SUPREME COURT" are inscribed on the upper part of the facade. A tree is visible on the right side of the image.

• SUPREME COURT •

The State is bound under the Constitution to afford full protection to labor and when conflicting interests of labor and capital are to be weighed on the scales of social justice the heavier influence of the latter should be counterbalanced with the sympathy and compassion the law accords the less privileged workingman.

Fuentes vs. NLRC, 266 SCRA 24, January 02, 1997

Ensure that you
**document
everything!**



**The weakest ink
is stronger
than the
strongest
memory**

Key Takeaways

1. The State is bound under the Constitution to afford full protection to labor and when conflicting interests of labor and capital are to be weighed on the scales of social justice the heavier influence of the latter should be counterbalanced with the sympathy and compassion the law accords the less privileged workingman.

(Fuentes vs. NLRC, 266 SCRA 24, January 02, 1997)

2. Observe Mandatory Requirement

- a. Substantative
(Art 297-299 of the Philippine Labor code)
- b. Procedural
(Twin Notice Rule and Admin Hearing)

3. Termination/Dismissal Too Harsh Penalty:

Penalties must be commensurate to the offense involved and degree of infraction.

4. Secure a Strong Documentation

Q&A

THANKS



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