

# CA backs employer in probationary dismissal case

THE COURT of Appeals (CA) affirmed the dismissal of a former probationary employee of Ravago Equipment and Rental, Inc., ruling the dismissal to be valid on performance grounds.

The tribunal's Former Tenth Division, in a resolution released on Oct. 10, upheld its earlier ruling and that of the National Labor Relations Commission, saying that the probationary employee did not meet its standards.

"By the nature of probationary employment, an employee knows from the very start that he or she will be under close observation, and his or her performance of assigned duties and functions will be under continuous scrutiny by his/her superiors," Justice Emily L. San Gaspar-Gito wrote.

"It is in apprising him or her of the standards against which his/her performance shall be continuously assessed where due process lies and not in the notice and hearing," she added.

"Thus, petitioner's claim that he was deprived of due process has no legal leg to stand on."

The probationary employee was terminated for sleeping while on duty, arguing with the client's employees, and causing damage to property.

He had argued that his right to due process was violated when the company terminated his employment, but the appellate court in its Oct. 10 resolution reiterated that the employee was made aware of the stan-

dards he must meet before becoming a regular employee.

The tribunal cited an earlier ruling of the Supreme Court, which held that the usual two-notice rule for terminations does not govern.

"Here, petitioner was given a reasonable time before the effectivity date of his employment's termination. It was petitioner who requested to be relieved from work earlier," the resolution added.

It also rejected the employee's monetary claims. — **Chloe Mari A. Hufana**



WESLEY TINGEY-UNSPASH

## OPINION

### Issues against some discipline policies

**W**hat are the improper ways in which the human resource (HR) department and managers discipline employees? What can be done? — **Lemon Lime**

Not only HR people and line executives but their unprincipled lawyers as well. Some lawyers give only shallow advice to management and embolden them in the process while resorting to malicious means to defeat employee claims at the labor department and elsewhere.

That's more of an exception rather than the general rule. To fully appreciate the accuracy of the claim I am making, just spend one day talking to workers with pending complaints against their employer.

You'd be surprised at the kind of labor justice practiced by employers and the quality of HR personnel making appearances at labor proceedings.

So let's talk about the uneducated approaches taken by some HR people and line managers. On top of my list is the inadequacy or incompleteness of incident reports summarizing the alleged violations.

#### IN THE WORKPLACE REY ELBO

Many times, their Notice to Explain (NTE) lacks clearly worded specifics of particular provisions or provisions that have been violated, including the absence of the complainant's affidavit and their witnesses. HR people would simply allege wrongdoing without giving the bill of particulars.

Another issue is the stiff timelines for employees to submit a written reply, say within 24 to 48 hours. Some labor jurisprudence considers ample time to be at least five working days.

#### OTHER ISSUES

I've read, reviewed, and evaluated hundreds of company codes of conduct. About 70% of them lack guidance on how line executives should manage difficult employees. In addition to the three elements stated above, let's explore the following:

**Perceptions of HR as the hatchet department.** Employee discipline is job number one for team leaders, line supervi-

sors, and department managers. It cannot be delegated fully to HR. Their actions could prove to be too little, too late. HR's role must be understood as the internal expert and consultant on the matter.

**The code of conduct as a basic reference.** All employees must be given a printed copy of the code of conduct. It must also be posted in the company's intranet, giving all stakeholders instant access. Issuing a copy of the code is imperative as it contains an employee acknowledgement of receipt and affirmation that they understand its contents.

**Key elements of the code of conduct.** It must include the company's mission, vision, and value statements; management commitment to due process; a step-by-step flowchart starting from an incident report; definition of offenses; and the schedule of penalties ranging from oral reprimand, written reprimand, suspension from work, and termination of employment.

**Specific roles of HR and line executives.** It's not the job of HR to personally handle each employee case, regardless of its gravity. The line executives are the first line of defense of management.

However, the signature of the HR manager may be included in the NTE, if so desired by the line manager, and in case of termination of employment.

**Absence of an NTE template.** It's also advisable to include examples of a model incident report, the NTE and its contents, a Notice of Management Decision, and a memo template of a written reprimand, suspension, and dismissal notice. Note also, that there should be a template for a memo in case of an oral reprimand. This is for record purposes.

**Composition of management disciplinary committee.** Depending on the character or personality of an employee undergoing disciplinary proceedings, and in cases of dismissal from employment, an organization must gather all department heads to decide on difficult cases. Otherwise, their second-in-command may take on the job of handling cases of non-management employees.

**Open-door policy and whistleblower program.** This allows disgruntled parties the option of a back channel to share important information, particularly when the employee being investigated is a high-ranking official.

#### POSITIVE DISCIPLINE

Every organization must have a code of conduct that regulates its employees' behavior. This is important in instilling a culture of order and discipline. However, over several decades, the code of conduct has come to represent a narrow understanding of employee discipline, giving little importance to instilling good behavior through a two-way communication system.

Studies have shown that positive discipline is more effective in changing employee behavior. It starts by allowing everyone to build self-confidence and discipline with the help of proactive engagement approaches that must be initiated by line executives. Without them, it will be difficult to have positive discipline.

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## Cultivating Seeds Together

SN Aboitiz Power and Hedcor building strong and lasting relationships with IPs

The priceless Rice Terraces of the Philippine Cordilleras is a mark of the proud Ifugao people, bearing witness to 2,000 years of sustainable farming, culture, and people development.

Passed on from generation to generation, farmers still rely on the intricate irrigation network to this day, nurturing tradition, the ecosystem, as well as the community's livelihood.

Assessing the need to help the indigenous community preserve the rice terraces, SN Aboitiz Power (SNAP) came up with a watershed management program called "Partnership in Uplifting Upland Natural Resources, Livelihood, and Assets — Upper Magat Watershed Management Program" or PUNLA-Upper Magat in 2019 to help protect and restore critical watershed areas in Ifugao and boost agricultural productivity.

SNAP is a joint venture between Scatec of Norway and Aboitiz Power Corporation (AboitizPower) for the operation of large hydropower facilities in Luzon, including the 388 megawatt Magat Hydro in Ifugao.

Covering the Upper Magat Watershed and supporting integrated projects in adjacent municipalities, PUNLA has helped restore stonewalls, establish agroforestry and demonstration farms, provide agricultural and food processing equipment, build forest nurseries and greenhouses, and plant native tree species.

Under the banner of PUNLA, productivity has been reinstated in close to 28 hectares of rice terraces in Mayoyao and approximately six hectares of previously abandoned rice terraces have been rehabilitated. Moreover, over 48 hectares of forest was rehabilitated in Banaue, while a 52-hectare site in Hungduan was reforested.

Through the help of PUNLA in the Cordilleras, the Ifugao Rice Terraces — with its traditions, ecosystems, and livelihoods — can be passed on to the next generation.

"Maganda 'yung project dahil nakakapagtanim kami para rin sa kinabukasan; may aantayin 'yung mga bata o 'yung pamilya namin (This project is remarkable because it enables us to plant not only for the present but also for the future; something that our children and families can look forward to)," said IP farmer Juliano Diclihon.

#### COMMUNITY SHARES

Much like PUNLA — which is a Filipino word for "the cultivation of seeds" —



A beneficiary of SN Aboitiz Power's PUNLA watershed management program, Juliano Diclihon, proudly shows the Ifugao Rice Terraces.



Hedcor, together with the Aboitiz Foundation, also helps several IP groups in Bukidnon through upskilling and livelihood assistance. Pictured are women from the Guihean IP Women's Association undergoing a sewing skills training program to produce items such as curtains, school uniforms, and traditional garb.

AboitizPower hopes that IPs and other host communities will cultivate the seeds it has sown in local development initiatives.

SNAP has remitted over P167 million in community shares since 2018 to the host communities of SNAP-Magat and SNAP-Benguet in compliance with the Philippine government's Energy Regulations No. 1-94 (ER 1-94) policy.

ER 1-94 is meant to ensure that host communities get a reasonable share of the profit from power plants operating in their area. It states that these communities will receive one centavo for every kilowatt-hour (P0.01/kWh) of electricity generated.

The funds generated by SNAP were used by beneficiaries for the electrification of areas and households; reforestation, watershed management, health, and environment enhancement; and development and livelihood.

Likewise, Hedcor, an AboitizPower renewable energy asset manager, has rightfully allocated royalty shares to fund developmental projects that further the growth and sustainability of ancestral domains within the communities where it operates.

Hedcor has over 45 years of experience in operating renewable energy assets, mostly run-of-river hydropower systems, with facilities in

Ilocos Sur, Mountain Province, Benguet, Davao, and Bukidnon.

Since 2015, various IP communities in Benguet and Mountain Province have utilized over P30 million in royalty shares and other financial benefits to build infrastructure, support local livelihoods, and protect their ancestral domains and native forests. Projects that have significantly benefited them are the fencing of the watershed perimeter in Sabangan and the planting of indigenous tree species to improve water retention and contribute to watershed sustainability.

Similarly, in Sta. Cruz, Davao del Sur, IP communities have received over P45 million in royalty shares since 2010 which support education, healthcare, skills training, cultural preservation, and infrastructure, including the concreting of critical slopes and the development of water systems for the Bagobo-Tagabawa tribes.

"The financial support from Hedcor is more than just a contribution; it's an investment in our future," said Matanam Gideon Tolentino, an IP leader. "These funds will enable us to create sustainable programs that elevate our quality of life while preserving our cultural heritage. This partnership is essential to our community's growth and long-term sustainability."

#### IP YOUTH AND THEIR FUTURE

But beyond rightfully allocating community and royalty shares from the operation of its power plants in the area, AboitizPower is uplifting its social responsibility to IPs through its corporate social responsibility programs.



(L-R) Hedcor External Relations SouthMin Supervisor Christer Torres receives the "Champion for Indigenous Peoples" award from NCIP Region XI Director Atty. Geroncio Aguio.

Akin to this IP month's theme of "Valuing, Nurturing, and Honoring Indigenous Peoples and Indigenous Knowledge," SNAP and Hedcor are also supporting the future of the IPs through the education of their youth.

SNAP's BRIGHTS education program — an abbreviation for "Bridging Gaps in Higher Education through Tertiary Scholarships" — gives deserving students from its host communities, including IPs, opportunities to become well-rounded individuals through scholarships, financial aid, seminars, and volunteer outreach programs.

For the school year 2024, BRIGHTS saw 11 beneficiaries who graduated, six of whom are Latin honors and two are honorable mentions. Since its inception in 2018, a total of 115 college scholars have received educational assistance through the program. Three former BRIGHTS scholars are currently employed in SNAP.

"BRIGHTS gave me a solid foundation. *Salamat ja pasiya* (thank you so much)," said beneficiary Jasmin Montes, an Ibaloi who also recently joined SNAP-Benguet as a Corporate Social Responsibility Assistant. "I started building my future with SNAP, and to this day I continue to build it with them. Now I'm also helping them build their future, and, in turn, the future of the communities they serve."

Meanwhile, Hedcor's education initiatives also help provide IPs with access to higher education, giving the youth the opportunity to make meaningful contributions to their respective communities. Since offering scholarships in 2010, there have been 57 scholars from its host communities across Luzon and Mindanao, with the majority being IPs.

For its support to IP communities in the Davao region, Hedcor was even named "Champion for Indigenous Peoples" by the National Commission on Indigenous Peoples (NCIP) Region XI, cited as "uplifting the lives of IP communities, while respecting and preserving their cultural heritage" and setting "a standard for corporate responsibility."

AboitizPower believes that sustaining the business is about building strong and lasting relationships. By upholding social responsibility and being a good neighbor, it is looking beyond power generation and distribution to genuinely Transform Energy for a Better World for IPs and host communities.