



Implications of Floating Status on Employees

By:

Leo Roswald Mangle Tugonon,

J.D.,DM, PALOMPON INSTITUTE OF TECHNOLOGY, COLLEGE OF ARTS AND SCIENCES, BUSINESS ADMINISTRATION, COLLEGE OF GRADUATE STUDIES,

Email: waldytugonon@gmail.com

Sansino Rian Cabugwas Guanzon,

M.M., PIT Faculty, Bachelor of Science in Business Administration

Email: srianguanzon@gmail.com

Corresponding author: waldytugonon@gmail.com

ABSTRACT:

Floating status is a prevalent problem among call centers and is the focus of this study. The fact that the Philippine Labor Code does not dwell on this issue is a challenge for managers of organizations involved. The objective of this study is to determine whether floating status as an uncertain employment condition is a moral prerogative of management or is an unlawful act to protect the business interest. Managers of every organization must be endowed with social responsibility, a mandate that leaders and managers must balance their concerns with their tasks and people. Successful managers are praised by the financial stakeholders and loved by their workers. Retrenchment also a tool for reduction may be a legal prerogative for management but the requirements set by the Department of Labor and Employment (DOLE) must be complied with. Otherwise, retrenchment is not an option. Floating status is tantamount to dismissal. Alternative solutions for this type of case are discussed. These are (1) endorsement to other accounts (2) retrenchment; and lastly, (3) agreement to wait without a guarantee of being reinstated or immediate resignation. Retrenchment is the best answer for this type of problem, as it benefits both the company and the people who are displaced. All these processes of worker reduction result in the loss of jobs and income of workers. Separation pay is a must to provide support for displaced employees. In addition, this will give readers an idea of how the management of Business Process Outsourcing (BPO) should consider things before making critical decisions.

KEYWORDS:

Employees, Floating Status, Job, Implications, Philippine Labor Code



I. INTRODUCTION

In the realm of employment, floating status represents a complex situation. While not a novel concept, its prominence has grown in recent years. This idea remains relatively underexplored and lacks comprehensive documentation. According to Godfrey (2018), amid ongoing and unstoppable changes, employment remains a focal point of considerable interest.

In the context of the Philippines, floating status, as defined in legal rulings, involves assigning an employee to a status where there is an imbalance between available workforce and available work. This situation is often associated with temporary retrenchment of business operations, leading affected employees to be placed on leave. This status is also referred to as "Temporary Off-detail" or "Off-detailing" and is recognized as a legitimate exercise of management prerogative, as clarified in several decisions of the Supreme Court.

Specifically, it is not written as such, but the Labor Code of the Philippines recognizes retrenchment as a right of the management to meet clear and continuing economic threats or during periods of economic downturn to prevent losses. (Retrenchment and Security of Tenure | DOLE-CAR, n.d.). This is like the idea of floating status of the employees.

Notably, similar circumstances were encountered during the COVID-19 pandemic when mobility restrictions led to challenging times for both employers and employees. Some companies responded by suspending operations, leaving workers uncertain about their return to work. The employment landscape became so dire that even business process outsourcing firms were significantly affected during these pandemic periods. These situations were not limited to that time alone but were also driven by economic conditions prompting companies to view exercising their management prerogatives as the most viable solution to address the challenges. The situation is a crucial exercise for management prerogative that requires a close analysis of how such should be considered. This prompted the researcher to come up with a study relatable to the current situation specifically on the employment of individuals in Business Process Outsourcing (BPO) companies, which play a significant role in socioeconomic development by improving employees' lifestyles and creating job opportunities. The BPO industry also demonstrates social responsibility by attracting investment in various sectors such as food and other services to support its growing workforce and population needs.

Particularly within this industry is the practice of telemarketing, which is one of the most widespread forms of employment in call centers (Kenton, 2022). Call centers serve various sectors, including telecommunications, banking, and healthcare, providing customer service through phone calls and message processing. The demand for call center jobs has been driven by technological advancements and consumer connectivity preferences.

However, despite its growth, the call center industry faces employment challenges, with many agents lacking job security, leading some to experience situations such as floating status—a term referring to being placed in an uncertain employment status without pay.

Given the legal provisions concerning the effects and consequences of floating status, the researcher undertakes this study to analyze a specific instance where numerous regular employees of a BPO company were placed on floating status without pay and no guarantee of reinstatement.

Objective of the Study

The objective of the study is to explore and propose viable alternative solutions that effectively address the issue of floating status among employees in the BPO sector, taking into account the specific circumstances that impact them. In addition, this will give readers an idea of how the management of Business Process Outsourcing (BPO) should consider things before making critical decisions.

Methodology

The researcher used a case analysis approach, demonstrating a systematic and analytical examination of the research problem. The real-world scenario was integrated into this study and as a main source of information needed in analyzing the problem. Data integration and analysis contribute to the methodological transparency of the study. Facts are presented narratively to expose what transpired in the recent problem.

RESULTS AND DISCUSSION

The central issue in this case study is about the management's action to put the employees into "floating status" for a certain period without pay and without the guarantee of being reinstated.

The phrase "floating status" is like that of "constructive dismissal" which occurs when work is stopped because continued employment is made impossible, unreasonable, or unlikely due to an offer involving a rank demotion or a reduction in pay and other benefits. Corollary, constructive dismissal may also exist if an employer's perceived discrimination, insensibility, or disdain has become so intolerable on the part of the employee that gave the management no choice but to forego their continued employment. A dismissal in disguise is an act that amounts to dismissal but is disguised as not being so." The case of the same dog with a different collar (Floating Status: Not Unlawful Per Se - Albuero Law. Albuero and Associates Law Offices, 2020).

This "floating status" has been discussed in House Bill No. 5754 of the 18th Congress of the Philippines on number 2, stating the "Lack of security of tenure. BPO workers do not enjoy the security of tenure even if they have served their companies for many years. When clients pull out, BPO workers are placed on "floating status" meaning they are still employed with no pay for as long as six months even if the companies continue to hire new agents for other clients. Because of this scheme, many BPO workers are forced to resign and transfer to other BPO companies. BPO companies also follow a systematic attrition scheme wherein workers who cannot keep up with the performance metrics are "managed out" (House Bill 5754 18th Congress, n.d.).

According to the labor code of the Philippines, it is within the employer's discretion to place a worker under "floating status" especially when there is no work to assign and temporarily laying off employees is deemed necessary (P.D. No. 442, 1974).

"Floating status" is defined as a stage for an outsourced staff who is not currently doing work for any paying client while still under the active employ of the company (Policy on Floating Status, n.d.).

There are at least three reasons why an outsourced staff is placed on floating status. These are (1) Let Go – the client was not happy with the performance of the staff either because of

attendance/punctuality issues or performance issues. (2) Contract Termination – the client did not renew the agreement after the six-month cycle. (3) Client Suspension or Termination due to Non-Payment – due to the client’s non-settlement of invoices, the company has decided to pull out all staff under the account. Each reason for being on floating status is to be handled differently (Policy on Floating Status, n.d.).

Even though the phrase "Floating Status" is nowhere to be found, courts have accepted it as the word for a transitory job suspension that lasts no more than six (6) months. The employer can grant an employee a “Floating Status” according to the provisions. If there is no job to assign them, temporarily laying off the workers is frequently necessary. Accordingly, should an employee's floating status or period of suspension of employment be about to reach six months, the employer should consider calling them back to work, laying them off, or asking them whether they would like to extend their floating status for another six months. Employees who have been summoned back to work keep their previous jobs and any other benefits they received before their employment was suspended (Loares, 2021).

Alternative Solutions

The case is a complex issue that demands full attention from the top management of XYZ company. However, it is very important to note the provisions of the law relating to the aspect of floating status that is detrimental to the employment status of call center agents.

After determining the facts of the case and considering the surrounding circumstances, the writer came up with three alternative solutions to address the problem.

First, is the endorsement of other accounts. The XYZ company will find other "accounts" for the employees to work with to keep their jobs and be compensated. This is part of the social responsibility of the management to ensure the economic status and well-being of its employees. Reprofile these employees with the same remunerations and position to a different "account" will give them the feeling of esprit de corps or make them feel valued and fix the problem of being on a "floating status."

As per Elton Mayo’s Human relations theory “employees are more motivated by personal attention and being part of a group than they are by money or even working conditions” (Birt, 2023).

The second solution is retrenchment. The management will inform the employees about the real situation that Z Mobile terminated their contract with XYZ company. Under the law, retrenchment reduces the cost of the company's employment of workers who do not have anything to work on. In this case, the company can relieve the employees' burden of waiting while avoiding future issues that may arise if the "floating status" is maintained. A retrenchment is an act of the employer dismissing employees because of losses in the operation of a business, lack of work, and considerable reduction in the volume of his business, a right consistently recognized and affirmed by this court (Eugene S. Arabit, et. Al vs. Jardine Pacific Finance, Inc., SC 2014). As long as the due process is observed, it will not create controversy. It is important to follow due process under the labor code and jurisprudence.

As can be gleaned in several court decisions, retrenchment can be availed of if: (1) the losses incurred are substantial and not de minimis; (2) the losses are actual or reasonably imminent; (3) the

retrenchment is reasonably necessary and is likely to be effective in preventing the expected losses; and (4) the alleged losses, if already incurred, or the expected imminent losses sought to be forestalled, are proven by sufficient and convincing evidence (Sanoh Fulton Phils., Inc. and Mr. Eddie Jose vs Emmanuel Bernardo and Samuel Taghoy, SC 2013).

In addition, the employer exercises its prerogative to retrench in good faith (Lambert Pawnbrokers and Jewelry Corporation and Lambert Lim vs Helen Binamira, SC 2010) and the employer uses fair and reasonable criteria in ascertaining who would be retrenched or retained (Lambert Pawnbrokers and Jewelry Corporation and Lambert Lim vs Helen Binamira, SC 2010).

In addition, this retrenchment can be considered a contingent plan for situations that may arise. As mentioned in Fred Fiedler's contingency management theory "there are leadership traits that apply to every kind of situation and that a leader must be flexible to adapt to a changing environment (Birt, 2023).

Agreement to wait without a guarantee of being reinstated or immediate resignation. The final option will be to get an agreement from the employees on whether they will continue to wait without a guarantee of being reinstated or leaving XYZ company outright. This can give both parties peace of mind and provide employees with a clear path if they need to find a new job to work on. This is the essence of communicating your direct reports as one of the important aspects of management functions.

This solution can be backed up by the principles of management which are leading in which you have to persuade and influence the decision of the employees to either wait without a guarantee of being reinstated or resign immediately (5 Principles of Great Management, 2021).

Decision

After weighing all the possibilities, the writer came up with the decision to adopt the second option.

It is challenging to let go of employees but putting them in a "floating status" does not give them an advantageous position. Retrenchment is the best possible decision that the management must arrive at. This course of action at the XYZ company is grounded in fairness and equity, it is the most logical decision taking into consideration the difficult situation of the employees because they have been deprived of what is due to them as workers. However, with retrenchment, they get paid the separation pay and all other benefits they are entitled to according to the law. In addition, it is a graceful exit for an employee with the possibility of getting hired by a different company.

This course of action will help employees find a new direction and a new job with a different company, putting both parties in a win-win situation without compromising any laws. The DOLE states, "The Labor Code of the Philippines recognizes retrenchment as a right of the management to meet clear and continuing economic threats or during periods of economic downturn to prevent losses." (Retrenchment and Security of Tenure, DOLE-CAR, n.d.).

This action will free the company from any legal hassle with the government agency, and employees placed on "floating status" will be paid separation pay and able to find new jobs and meet their needs in the process.

As a good manager, you must always consider the welfare of both the company and the employees. Thus, scoring 9.9 in Blake and Mouton's Managerial Grid makes you a good manager who thinks about the company and employees (Indeed Editorial Team, 2023). To maintain good relations with the aggrieved parties and the company you manage, a win-win decision should be the suggested course of action for this type of issue.

In addition, Pauline Macaraeg of Rappler claims that regular employees are being placed in limbo without pay in addition to contractual workers. "The coronavirus crisis causes BPO companies to lose clients, leaving employees to bear the brunt of the pandemic" (Macaraeg, 2020).

She also spoke with "Jackie," a BPO agent who has worked for a foreign BPO firm in Pasay City for ten years and who was placed on "floating status" for 90 days beginning on June 1, 2020, during which time she will not be paid her regular income (Macaraeg, 2020).

REFERENCES

- [1] Accelerator, O. (2022, November 16). What are the accounts that BPO companies have in the Philippines? Outsource Accelerator. <https://www.outsourceaccelerator.com/articles/what-are-the-accounts-that-bpo-companies-have-in-the-philippines/>
- [2] Birt, J. (2023, March 11). 7 Types of Workplace Management Theories. Indeed Career Guide. <https://www.indeed.com/career-advice/career-development/types-of-management-theories#:~:text=What%20are%20management%20theories%3F,perform%20at%20their%20highest%20ability.>
- [3] Department Order No. 174, Series of 2017: Rules Implementing Articles 106 to 109 of the Labor Code, as Amended Bureau of Labor Relations. (n.d.). <https://blr.dole.gov.ph/news/departament-order-no-174-series-of-2017-rules-implementing-articles-106-to-109-of-the-labor-code-as-amended/>
- [4] Five (5) Principles of Great Management. (2021, December 8). UAGC. <https://www.uagc.edu/blog/5-principles-of-great-management>
- [5] Godfrey, A. (2018). The influence and impact of long-term and short-term contracts on employee behavior - A study of Nigeria's banking industry. *International Journal of Economics, Commerce and Management*, 6(12), 1-13.
- [6] G.R. No. 163657. *International Management Services/Marilyn C. Pascual vs Roel P. Logarta SC*, 2012 https://lawphil.net/judjuris/juri2012/apr2012/gr_163657_2012.html
- [7] G.R. No. 169812. *Pido vs. NLRC*, 2007. https://lawphil.net/judjuris/juri2007/feb2007/gr_169812_2007.html
- [8] G.R. No. 206789 - *Team Pacific Corporation, Federico M. Fernandez, and Aurora Q. Garcia, Petitioners, vs. Layla M. Parente, Respondent. Decision - Supreme Court E-Library.* (n.d.-b). <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66895>
- [9] G.R. No. 207253. *Lopez vs. Irvine Construction Corp., SC*, 2014 https://lawphil.net/judjuris/juri2014/aug2014/gr_207253_2014.html
- [10] G.R. No. 214744 – *La Consolacion College of Manila, Sr. Imelda A. Mora, Osa, Albert D. Manalili, and Alicia Manabat, Petitioners, vs. Virginia Pascua, M.D., Respondent. Decision - Supreme Court E-Library.* (n.d.-b). <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64087>
- [11] House Bill No. 5754, 18th Congress of the Republic, Senate of the Philippines Legislative.
- [12] Guidance on the Protection of Personal Identifiable Information. (n.d.). DOL. [https://www.dol.gov/general/ppii#:~:text=Personal%20Identifiable%20Information%20\(PII\)%20is,either%20direct%20or%20indirect%20means.](https://www.dol.gov/general/ppii#:~:text=Personal%20Identifiable%20Information%20(PII)%20is,either%20direct%20or%20indirect%20means.)

- [13] Indeed Editorial Team. (2023, February 4). The Blake and Mouton Managerial Grid: Guide and Use. Indeed Career Guide. <https://www.indeed.com/career-advice/career-development/blake-and-mouton-managerial-grid>
- [14] Kenton, W. (2022, December 22). Telemarketing: Definition, What They Do, Example, and Types. Investopedia. <https://www.investopedia.com/terms/t/telemarketing.asp>
- [15] Loares, Vyron (May 1, 2021). Floating Status in the Philippines. <https://www.vyronloares.com/floating-status-in-the-philippines>
- [16] Macaraeg, P. (2020, June 17). In limbo: Regular BPO employees on ‘floating status’ left with no pay. RAPPLER. <https://www.rappler.com/business/263949-in-limbo-regular-bpo-employees-floating-status-left-no-pay/>
- [17] Not Attributed (NA). (2022). Assessing Vulnerability of Informal Floating Workers in Bangladesh before and during COVID-19 pandemic: A Multi-Method Analysis: Emerald Benchmarking: An International Journal.
- [18] Ofosuhene, D., & Sammo, Z. (2020). Does Contract Employment Affect the Behavior of Employees? International Journal of Academic Research in Business and Social Sciences, 10(5), 557–574.
- [19] P. (2018, June 11). Case Digest: Arabit vs. Jardine Pacific. <https://www.projectjurisprudence.com/2018/06/case-digest-arabit-v-jardine-pacific.html>
- [20] Policy on Floating Status. (n.d.). Scribd. <https://www.scribd.com/doc/16089467/Policy-on-Floating-Status#>
- [21] Presidential Decree No. 442, s. 1974 GOVPH. (1974, May 1). Official Gazette of the Republic of the Philippines. <https://www.officialgazette.gov.ph/1974/05/01/presidential-decree-no-442-s-1974/>
- [22] R. (2020b, July 2). Floating Status: Not Unlawful Per Se - Alburolaw. Alburolaw and Associates Law Offices - Committed to Assist Entrepreneurs to Succeed. <https://www.alburolaw.com/floating-status-not-unlawful-per-se/>
- [23] R. (n.d.-a). G.R. No. 170464 - Lambert Pawnbrokers and Jewelry corporation and Lambert Lim vs. Helen Binamira. <https://www.chanrobles.com/scdecisions/jurisprudence2010/july2010/170464.php>
- [24] R. (n.d.-a). G.R. No. 187214, August 14, 2013 - Sanoh Fulton Phils., Inc. and Mr. Eddie Jose, Petitioners, vs. Emmanuel Bernardo and Samuel Taghoy, Respondents. : August 2013 - Philippine Supreme Court Decisions. <https://www.chanrobles.com/cralaw/2013augustdecisions.php?id=673>

- [25] R. (n.d.-b). G.R. No. 211892 (December 06, 2017). Innodata Knowledge Services, Inc., Petitioner, vs. Socorro D'Marie T. Inting, Ismael R. Garaygay, Edson S. Solis, Michael A. Rebato, James Horace Balonda, Stephen C. Olingay, Dennis C. Rizon, Juneth A. Rentuma, Hernan Ed Noel I. De Leon, Jr., Jess Vincent A. Dela Peña, Ronan V. Alamillo, Ennoh Chentis R. Fernandez, Fritz J. Sembrino, Dax Matthew M. Quijano, Rodolfo M. Vasquez, Ma. Nazelle B. Miralles, Michael Ray B. Molde, Wendell B. Quiban, Aldrin O. Torrentira, and Carl Hermes Carskit, Respondents: December 2017 - Philippine Supreme Court Decisions. <https://www.chanrobles.com/cralaw/2017decemberdecisions.php?id=934>
- [26] Reference Bureau. (n.d.-b). <https://issuances-library.senate.gov.ph/bills/house-bill-no-5754-18th-congress-republic>
- [27] Retrenchment and Security of Tenure DOLE-CAR (n.d.). <https://car.dole.gov.ph/news/retrenchment-and-security-of-tenure/>
- [28] What Is a BPO Company? Learn How They Work | Upwork. (n.d.). <https://www.upwork.com/resources/what-is-a-bpo-company#:~:text=Essentially%2C%20BPO%20companies%20are%20outsourcing,quality%20control%2C%20and%20meeting%20targets.>