

### Title: Digital Telecommunications Philippines, Inc. vs. Neilson M. Ayapana

### Facts:

1. **Employment Background**: Neilson M. Ayapana was hired by Digital Telecommunications Philippines, Inc. (DIGITEL) as a Key Accounts Manager for telecommunication products and services in Quezon, Marinduque, and Laguna provinces with a monthly basic pay of PHP 13,100.00.
2. **Transaction Incident**: On September 6, 2006, Ayapana offered two Foreign Exchange (FEX) lines to Estela Lim, owner of Star Lala Group of Companies, in Atimonan, Quezon, for PHP 7,000.00, issuing two official receipts without knowing the technical unavailability of the FEX line in that area.
3. **Subsequent Actions**:
  - Upon learning there was no available FEX line for Atimonan on September 7, 2006, Ayapana retrieved the official receipts and replaced them with an acknowledgment receipt.
  - On November 23, 2006, Lim's secretary, Teresita Cielo, went to DIGITEL's office to request a refund. This led to Ayapana finally refunding the amount on November 28, 2006.
4. **Notice to Explain**: DIGITEL issued a notice to Ayapana on November 29, 2006, requiring explanations for offering an inexistent FEX line, not remitting the PHP 7,000.00, and retaining the amount for 84 days. Ayapana responded on November 30, 2006, explaining his belief in the availability of the FEX line and detailing his steps taken subsequently.
5. **Administrative Hearing**: A notice of offense was sent on December 4, 2006, followed by an administrative hearing.
6. **Dismissal**: On January 19, 2007, DIGITEL dismissed Ayapana for breach of trust and confidence.
7. **Labor Arbiter Ruling**: Ayapana filed a complaint for illegal dismissal. The Labor Arbiter dismissed the complaint, finding substantial evidence of a justified loss of trust and confidence.
8. **NLRC Appeal**: Ayapana appealed to the NLRC, which ruled in his favor, finding dismissal too harsh and ordering the payment of PHP 78,600.00 as separation pay.
9. **CA Appeal**: Ayapana appealed to the CA, which further awarded back wages in

addition to the NLRC's order.

10. **Petition for Review**: DIGITEL filed a petition for review on certiorari under Rule 45 of the Rules of Court assailing the CA's Decision and Resolution.

### ### Issues:

1. **Validity of Dismissal**: Whether Ayapana's dismissal was valid under the grounds of breaching trust and confidence.
2. **Entitlement to Separation Pay & Back Wages**: Whether Ayapana is entitled to separation pay and back wages.

### ### Court's Decision:

#### **Validity of Dismissal**:

1. **Position of Trust and Confidence**: Ayapana's role involved handling company funds, which constituted a position of trust and confidence.
2. **Willful Breach**:
  - Ayapana offered an inexistent FEX line and failed to verify its availability.
  - He did not remit the PHP 7,000.00 promptly and issued an acknowledgment receipt without informing management.
  - Retained the amount for 84 days and returned it only after pressure from the customer representative.
3. **Conclusion**: The Supreme Court found substantial evidence supporting DIGITEL's loss of trust and confidence, validating the dismissal.

#### **Entitlement to Separation Pay & Back Wages**:

1. **Separation Pay**: Granted as a measure of social justice considering Ayapana's service record and lack of malicious intent.
2. **Back Wages**: Denied, given the valid dismissal.

### ### Doctrine:

1. **Positions of Trust and Confidence**: Employers have wider discretion in dismissing employees in positions of trust and confidence upon a breach.
2. **Substantial Evidence Requirement**: Dismissals based on trust and confidence must be supported by substantial evidence.

### ### Class Notes:

#### - **Key Elements**:

1. **Position of Trust**: Defined by responsibility over employer's funds.

2. **Breach of Trust**: Must be willful and backed by substantial evidence.
3. **Management Prerogative**: Employers' discretion in dismissal is respected if within legal bounds.
4. **Social Justice in Separation Pay**: Granted in certain dismissals devoid of moral depravity.

- **Statute**:

1. **Labor Code of the Philippines, Art. 297**: Just causes for termination include willful breach of trust.

**### Historical Background:**

This case reflects issues of corporate governance and labor policies highlighting the balancing act between employer prerogatives and employee rights. It underscores the courts' role in ensuring just and equitable applications of labor laws, promoting fair treatment despite managerial discretion.