A Glimpse into the Development of PRC Employment Law: Key Takeaways from the Newly Released Typical Cases of Labour Dispute

On 16 April 2025, the PRC Supreme People's Court and the Ministry of Human Resources and Social Security jointly released five typical cases of labour disputes, which give guidance on the trial of labour disputes national wide and can indicate to some extent the recent development of PRC employment law in judicial practice.

1. **Case 1: Extension of the medical treatment period of employees suffering from work-related injury must be subject to the assessment of the competent administrative authority**

   Under PRC law, an employee suffering from a work-related injury or an occupational disease is entitled to receive full salary while receiving medical treatment. Normally such medical treatment period shall not exceed 12 months except if the injury is severe or involves other special circumstances.

   In this case, an employee got a work-related injury and received medical treatment with full salaries. Upon expiration of the 12 months' medical treatment period, the employee applied for further extending the medical treatment period by submitting a medical diagnosis certificate without conducting a work capability assessment at the competent administrative authority according to law. Despite of being reminded by the employer for several times, the employee refused to conduct a work capability assessment. In response, the employer started to pay the employee the sick leave salary instead of full salary after the expiration of the 12 months' medical treatment period. The employee later filed a labour arbitration against the employer claiming for the salary balance between his sick leave salary and full salary. The labour arbitration commission rejected his claim, holding that the employee's medical treatment period for his work-related injury shall not be extended with a hospital-issued medical diagnosis certificate alone except if the employee could provide a certificate issued by the competent labour capacity assessment authority which justifies the extension.

   Takeaway for Employers: This case highlights the importance of strictly following statutory procedures as provided by law. When deciding the extension of medical treatment period of an employee for work-related injuries, the employee must provide a work capability assessment certificate issued by the competent labour capacity assessment authority which justifies the extension. This will help to ensure legal compliance and protect the employer from bearing unnecessary salary-related liabilities.

2. **Case 2: Employers are not allowed to change the work position and/or reduce the salary of pregnant employees without proper reasons**

Under PRC law, female employees enjoy special protection by law during the period of pregnancy, maternity leave and nursing period. The employer is prohibited from changing the work position and/or reducing the salary of a female employee during such special periods except if there are special circumstances.

In this case, the employee worked as an engineer in a technology company. According to her employment contract, her monthly salary consists of a base salary of RMB 3,000 plus a project allowance of RMB 14,000 during the period when she conducts projects. During the period when she is not assigned to a project, she will only receive the base salary of RMB 3,000 per month. After the employee notified the company of her pregnancy, the company unilaterally removed her from her current project without the employee's consent. Despite her objections, the employee was not reinstated to the project and therefore she stopped reporting to work. As a result, the company reduced her salary to RMB 3,000 per month during her pregnancy. The employee later filed a labour arbitration against the company to claim for the salary balance between the base salary and her original full salary. The labour arbitration commission upheld her claim and ordered the company to make up the shortfall.

Takeaway for Employers: The employer must be very cautious to change the work position and/or reduce the salary of female employees while they are during the period of pregnancy, maternity leave and nursing period, except if the employer consults with the employees and obtains their consents. Violations will not only lead to salary difference liabilities but may also expose the employer to administrative penalties or reputational risks.

3. Case 3: Employers failing to make social insurance contributions in full for employees shall be liable for shortfall in bereavement allowances.

Under PRC law, the employer is obliged to provide social insurance for the employees during their employment including basic pension, medical insurance, unemployment insurance, maternity insurance and work-related injury insurance. If an employee who has been enrolled in the basic pension insurance scheme passes away during his/her employment with the company, the employee's family members are entitled to receive funeral subsidies and bereavement allowances in the amount subject to the contribution years to the pension fund made for the employee.

In this case, an employee had worked as a driver in a taxi company for more than five years and passed away due to illness. The company had only made social insurance contributions for him for four years. Due to the one-year gap in social insurance contributions, the employee's family members received less bereavement allowances than what they should have been entitled to according to the years of employment of the employee at the company. As a result, the employee's family members filed a labour arbitration and litigation against the company to claim for the difference between what they have actual received and what they are entitled to in bereavement allowances. The court ruled in favour of the employee's family members and ordered the company to pay the shortfall in bereavement allowances.

Takeaway for Employers: Employers must ensure making statutory social insurance contributions for all of their employees during their entire employment period with the company and in full according to the statutory contribution standard. If an employer fails to do so and this results in the employee or his/her family members being unable to enjoy the full amount of social insurance benefits, the employer will be held liable for the losses incurred on the employee or his/her family members.

4. Case 4: Employer failing to make social insurance contributions for employees shall compensate for the employer's part of social insurance fees paid by the employees.

In this case, a company only provided work-related injury insurance for an employee. The employee paid by himself the social insurance contributions which are payable both by the employer and the employee for other kinds of social insurance. The employee later filed a labour arbitration and litigation against the company to claim the compensation for the part of the social insurance contributions which should have been paid by the company but were actually paid by himself. The court ruled in favour of the employee and ordered the company to compensate him for the part of contributions which should have been paid by the company.

Takeaway for Employers: This case re-emphasized the importance of making social insurance contributions by the employer for the employees strictly in compliance with statutory law. In case the employer fails to do so, the employee may still claim for the liabilities of the employer afterwards.

5. **Case 5: Non-competition obligations can only be imposed to employees with access to confidential information of the employer, otherwise relevant agreement will be deemed as invalid and unenforceable.**

Under PRC law, post-contractual non-compete obligations can be imposed by employers based on agreement on senior management employees, senior technical employees, or other personnel subject to confidentiality obligations.

In this case, an employee worked as a security guard for a security company and his daily work was to carry out daily patrol security work in a commercial building block. In the employment contract, the parties agreed on the post-contractual non-competition obligation of the employee for one year, and in case of breach, the employee would be liable for liquidated damages amounting to RMB 200,000. After the employee's employment contract expired, the employee joined another security company to work as a security guard. The company later filed a labour arbitration against the employee to claim the agreed liquidated damages. The employee argued that, as a security guard, he had no access to trade secrets of the company and should not be subject to the post-contractual non-competition obligation. As the company had no evidence to prove that the employee had access to the company's trade secrets, the labour arbitration commission ruled in favour of the employee and dismissed the company's claim for liquidated damages.

Takeaway for Employers: This case shows the tendency that the Chinese judicial practice rules more strictly on imposing post-contractual non-competition obligations on employees. When identifying whether an employee can be subject to post-contractual non-competition obligations, different from in the past only paying attention to whether a confidentiality obligation is provided for the employee, now, the judicial institute will also check whether the employee has access to the company's trade secrets or confidential information. If no evidence can be provided by the company in this regard, the validity of the post-contractual non-competition agreement can be challenged. To mitigate legal risks, companies may wish to only sign ae post-contractual non-competition agreement with the employees who are qualified and really need to be subject to post-contractual non-competition obligations.

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