

Research on Some Problems of the Subject of Collective Labor Dispute

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Abstract: In recent years, with the continuous improvement of the socialist legal system in China and the relative improvement in people's awareness of the legal system, the maintenance of the legitimate rights and interests of individuals through legal means has become a universal consensus under the whole social context. Among them, in order to better regulate labor relations and resolve related disputes within the framework of labor relations, the Chinese government has issued a series of laws and regulations to guide relevant work. This article takes the subject of the collective labor dispute as the research content. While introducing the types of collective labor disputes, it analyzes the different forms of the subject, so as to specify the direction for resolving the related issues in the collective labor dispute subject.

Key words: collective labor disputes; subject; problems; research

Since the reform and opening up, the labor relations under the socialist market economy system have been established, and the number of labor dispute cases has increased year by year. In such cases, the number of collective labor dispute cases has grown rapidly. Due to the large number of people involved in collective labor dispute cases and the wide range of influence, it has aroused great concern from all walks of life. In the process of dealing with collective labor disputes, attention to the confirmation of disputed subjects directly affects the final outcome of the dispute. Therefore, at the judicial level, the confirmation of collective labor dispute subject should be institutionalized to meet the current number of collective labor dispute cases. Increasing needs.

1 Summary of collective labor disputes

Based on the principle of multi-parties of the subject of disputes, employers and laborers belong to the main body of collective labor disputes. In this regard, the relevant laws in China have been differentiated. What needs to be noted here is that for the characteristics of the employer of the employer, the relevant laws are clearly defined, but they do not clarify the legal content of the worker. Therefore, the confirmation of the identity of the laborer in the collective labor dispute requires more in-depth and extensive discussion.

The so-called collective labor dispute refers to a certain kind of contradiction between laborers with more than 10 employees and laborers. Conflicts are mostly caused by collective negotiation, signing, and implementation of relevant agreements. In this process, a certain number of laborers are involved. If there is an object of dispute between the employer and the employer, all employees will eventually elect representatives to make a dispute. Generally speaking, the core of the collective labor dispute lies in the protection of the rights and interests of all parties, which means the friction between two different interest groups is inevitable.

2 the characteristics and types of collective labor disputes

2.1 Characteristics of collective labor disputes

According to the relevant legal content, the collective labor dispute has four characteristics: First, the parties related to disputes must have a real labor relationship; otherwise, it does not constitute a real dispute; Secondly, the relevant dispute must be established within the scope of national laws and regulations. In the process of signing, performing, altering, rescinding and terminating the internal terms; thirdly, the number of laborers as prosecutors in collective labor disputes shall exceed 10; otherwise, there will be no requirement for collective labor disputes for the number of laborers; Finally, according to the difference in the signing of collective labor contracts, in the application of relevant legal provisions, it is necessary to carry out targeted treatment process selection based on actual conditions.

2.2 Types of collective labor disputes

According to the specific types of disputes, the collective labor disputes can be classified according to stages, whether there are collective contracts, whether there is participation of labor unions, subjects, objects, and nature,

as shown in Table 1:

Table 1 Types of Collective Labor Dispute Types

Classification Basis	Types
Stages	Labor disputes from signing collective contracts
	Labor disputes from performing collective contracts
whether there are collective contracts	Labor disputes with collective contracts
	Labor disputes without collective contracts
whether there is participation of labor unions	Collective labor disputes with trade union participation
	Collective labor disputes without trade union participation

It can be seen that the purpose of distinguishing between collective labor disputes and individual labor disputes is to determine the legal provisions applicable to different labor dispute types. For example, in the process of signing a collective contract, disputes arising from related content may be settled through mediation through administrative procedures; however, if there is a dispute in the process of implementing the collective contract, taking into account the protection of rights and interests of the parties, etc. Take arbitration, litigation and other procedures to resolve. Therefore, the division of types of collective labor disputes will help strengthen the scientific and effective handling of collective labor disputes and avoid the applicability of relevant legal provisions.

According to the facts of collective labor disputes in the past, the subject of collective labor disputes may be either a union or a laborer, or a community of the two. The specific types include the following:

First, collective labor disputes with unions as the main body are the differences that unions have in the process of signing and classifying collective contracts with employers. As a representative elected by many laborers, trade unions are obliged to assume the role of the collective labor dispute subject.

Second, when laborers are the subject of collective labor disputes, due to the laborers' contradiction between the different phases of the signing and implementation of collective contracts and employers, and through elections, representatives are dispatched to negotiate with the employers and have choices. Legal means to resolve related issues.

Thirdly, labor unions and laborers form the main body of collective labor disputes. Among them, trade unions are the formal subjects in the process of collective labor disputes, and laborers are the subject of will because they have a direct interest relationship. The trade unions as the formal subjects should take the initiative to perform Its obligation to protect the rights of the subject will not be infringed.

In collective labor disputes, trade unions and laborers are interdependent, and the intrinsic relationship between the nature of trade unions and their own attributes determines the inevitability of the two as the subject of collective labor disputes.

3 The legal basis for the qualifications of collective labor disputes

China's law clearly stipulates that trade unions are the right-protectors of laborers in the process of signing, performing, and dismissing labor relations. This is the power conferred by law on trade unions, and it is also an obligation that trade unions should perform. Therefore, the trade unions also have the same collective contract with the workers as agreed, signed and other rights, and assume certain responsibilities. The main reason why labor unions can become the main body of collective labor disputes lies in the support of the law. The specific contents are as follows:

First of all, the confirmation of the subject of collective labor disputes needs to satisfy the premise of the number of persons stipulated by law. Otherwise, it will not be possible to define this dispute as a collective labor dispute. Based on the particularity of the main body of the trade union, when the laborer gives its power to the trade union, the trade union has the right to sign a collective labor contract instead of the laborer. However, after this, the trade union also needs to fulfill the qualifications of the legal representative. In the process of related

labor disputes, it should stand on the position of the laborer and protect the lawful rights and interests of workers from infringement.

Secondly, in view of the common subject, laborers and trade unions have the same status in collective labor disputes. As direct participants, laborers are undoubtedly qualified as the subject of collective labor disputes. However, can trade unions participate as independent subjects? The disposal of collective labor disputes still requires the vote of all workers. Therefore, a series of behaviors of labor unions in the process of handling collective labor disputes shall be subject to the content of the authorization between laborers and labor unions, however, whoever shall not be protected and supported by the law for trade unions without the authorization of laborers. Trade unions also have to be punished for their violations. What needs to be specifically pointed out here is that trade unions need to obtain the specific authorization of all laborers in accordance with the procedures prescribed by law. This is both an inevitable requirement for the protection of workers and a major means of regulating the conduct of trade unions. Therefore, there is also a trade union between labor unions and laborers. In delicate relations, whether the trade unions can fulfill their obligations will directly affect the protection of the vital interests of workers and the maintenance of the mutual relations between labor unions and workers.

Third, even if the collective labor agreement signed by the trade union and the employer has the same binding force on the workers. This is because the workers give the union the power to dispose of their labor agreements. Under this legal relationship, the collective labor agreement is effective. However, when the union violated the relevant agreement with the labor, the relationship was immediately cancelled and the union could not continue to fulfill its obligations. In this case, any agreement signed by the union could not restrain the labor.

Finally, for some employers, with the absence of a trade union organization, the collective labor dispute subject can be shared by the laborer or participate as a representative to negotiate and mediate with the employer, and the higher union should give support and help. Although higher-level trade union organizations cannot directly engage in collective labor disputes, higher-level trade unions can scientifically guide laborers to properly safeguard individual rights and interests. They can even participate in collective labor disputes as agents through higher-level commissions.

Basing on the actual situation of the current establishment of trade union organizations in China, the handling of collective labor disputes still requires labors to complete their own tasks. However, even if an employer has established a union, its trade unions may not necessarily receive the unanimous approval of all laborers. Not only that, in the handling of certain collective labor disputes, there has even been conflicts between labors and labor unions. The appearance of this situation has greatly reduced the status of trade unions in the minds of labors and has affected trade unions' image of protecting labors' legal rights. Trade unions are unable to protect the legitimate rights and interests of workers in collective labor disputes, which indicates the lack of national compulsory intervention and is the most intuitive manifestation of the weakening of control ability at the current stage. The contradiction between labors and employers will continue to brewing, and even cause inconsiderable opposition form. This not only violates the original intention of the establishment of trade union organizations, but also increases the difficulty of dealing with collective labor disputes.

4 The legal recognition of the subject of collective labor disputes

Judging from the current handling of collective labor disputes in China, its forms mainly include two kinds: one is all kinds of disputes that arise during the signing or performance of collective labor agreements, and the trade unions participate in the treatment as the representatives of laborers. In the case of control, labor unions and employers are coordinated by labor unions, which avoids the solution of labor disputes through legal means; the other situation is more common, which is the main cause of collective labor disputes. That is, in the absence of a collective labor agreement between the laborer and the worker, once a labor dispute arises, the lawful rights and interests of the laborer cannot be maintained through normal channels. Therefore, for such cases, the trade unions can still rely on labor relations to prosecute related actions by the employer and advocate the lawful rights and

interests of workers.

According to the relevant provisions of the "Labor Dispute Mediation and Arbitration Law," if the number of labors on the labor dispute side exceeds 10, and the labors have common demands for disputes, they can negotiate between the representatives and the employers by selecting representatives, mediation, arbitration and other activities. The establishment of the system simplifies the situation in which the demands of the laborers on the side of collective labor disputes cannot be completely unified. In order to protect the legitimate rights and interests of the vast majority of laborers, representatives must strictly carry out activities in accordance with the agreement, in the case of legitimate behavior. The representative's decision, the relevant trustee (worker) should be unconditionally obedient.

5 Matters needing attention in the process of the production of collective labor dispute subject

In the actual collective labor dispute, all the labors related to the subject matter of the dispute are the subject of the dispute. To improve the efficiency of solving the collective labor dispute, the employees formulate a labor related to the subject matter of the dispute by selecting the representative or the labor union, as representative, negotiates with the employer about the disputes and seeks legal solutions to the situation if the negotiation is invalid. It can thus be seen that the emergence of the collective labor dispute subject has extremely important significance for the protection of the interests of the broad masses of workers. Therefore, in the course of confirming this subject, special attention should be paid to the following issues.

5.1 Consistency of dispute claims

Regardless of whether the collective labor dispute subject is a member of many labors or a local trade union organization, the subject must have the same controversial appeal as the vast majority of laborers. Otherwise, even if the collective labor dispute is resolved, it will hurt most people and generate new controversy. Take the labor union as an example, before representing a large number of labors to sign a collective labor contract, it needs to conduct an objective analysis of the contents of the contract from the perspective of the labor, and revise the clauses that infringe upon the rights and interests of labors. Otherwise, in the absence of common appeals, any form of collective labor dispute subject cannot resolve the relevant disputes, therefore, the consistency of dispute claims is the fundamental principle to determine the subject of collective labor disputes.

5.2 Social support for collective labor disputes

Compared with the employer, workers are vulnerable groups. Once a collective labor dispute arises, especially when the legitimate rights and interests of labors are infringed, labor arbitration institutions and all sectors of society will support them, including selection of subjects in collective labor disputes. From the perspective of workers, the selection of the subject of collective labor disputes needs to be able to represent the interests of the largest number of laborers. However, based on certain special reasons, when the labor cannot choose the right representative, it can be chosen by the dispute arbitration authority that a certain number of workers are represented. Especially for disputes involving labor disputes, in order to effectively protect the rights and interests of all parties, the relevant departments need to give correct guidance to all parties in order to speed up the handling of disputes.

From the perspective of social stability, if a controversial referee does not question this issue, it may be possible to expand the issue of its own civil category and even have a more serious social impact. In addition, this practice of the controversial magistrates also violates the basic principles of consultation, coordination, legality, impartiality, and promptness in dealing with collective labor disputes.

5.3 Dispute processing channels under the participation of the collective labor dispute subject

In the past, for a relatively long period of time, the representative system of collective labor disputes has rarely been used. However, considering the situation of social stability, the dispute arbitration organs are accustomed to breaking down collective labor dispute cases and making them become independent labor dispute cases, and process single independent case, trial on this basis. Even worse, some of the disputed magistrates

refused to accept collective labor dispute cases. The appearance of this kind of situation can lead to cases that should have been dealt with at the same time. This not only increases the amount of labor for the disputed arbitrators, but also increases the difficulty and cycle of handling the cases. The labors will also pay more for this.

Practice has proved that the establishment of obstacles based on legal procedures does not effectively address disputes that have already emerged. On the contrary, accelerating the scientific and standardized changes in the acceptance and review of disputes is the key to resolving such disputes. As the subject of collective labor disputes, it is necessary to carry out rights protection through legitimate channels in accordance with the requirements of the controversial magistrates, and to resolve disputes within the scope permitted by law. Under this circumstance, the efficiency of solving collective labor disputes will be significantly improved, and the effects of the collective labor entities will also be affirmed by the laborers, thus reducing the possibility of collective incidents causing group events.

6 Summary

At present, the issue of labor and capital is the main type of collective labor dispute, and it is also an inevitable phenomenon in the labor-capital relationship under the market economic system. Therefore, accelerating the standardization of collective labor dispute systems and procedures will become an important means for workers to safeguard their own rights and interests. The collective labor dispute representative system is the legal basis for the election of collectively-disputed laborers. Based on uniform interest claims, the disputes are solved in a timely, effective, and fair manner through scientific means. While safeguarding their own rights and interests, they also realize society stability, providing a solid environmental foundation for the building of a harmonious society.

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