



Labor Update No.31 April 9, 2018

This bulletin contains information on law changes that have either passed, or are being discussed, in parliament, court decisions, and other labor issues in Japan that are of interest to activists.

1. LAW/POLICY

(1) Transport Ministry working on truck guidelines to make work easier for women drivers

To deal with the shortage of truck drivers, the Ministry of Land, Infrastructure, Transport and Tourism is encouraging the employment of women as drivers. As part of this plan, they will be drawing up guidelines for trucks to make it easier for women to drive.

Truck-driving work is an important part of the foundation that supports industrial activity and people's lives. But with the effective opening-to-application ratio at 2.76, the labor shortage in this field is severe. Meanwhile the percentage of women truck drivers is low, only 2.5%, and with the percentage of older drivers high while that of younger drivers is lower, the average age of drivers is also increasing.

The Transport Ministry is carrying on discussions together with the Japan Trucking Association regarding how trucks should be from women's and other drivers' point of view. By compiling these "guidelines"(working title) and making them widely known, the Ministry hopes to create a labor environment easier for women to work in, and encourage the securing and training of women as truck drivers.

Ministry of Land, Infrastructure, Transport and Tourism: First Meeting of "Council on Ways to Make Trucks Easier for Women, etc., to Drive" linked below (in Japanese):

http://www.mlit.go.jp/jidosha/jidosha_tk4_000028.html

(2) MHWL proposes legislating the prevention of power harassment: malicious complaints mentioned clearly for the first time as "customer harassment" (*kasu-hara*)

On March 16, the Ministry of Health, Welfare and Labor presented a proposed report, aimed at prevention and solutions, to their panel of experts on stopping power harassment. Based on considering power harassment as "unforgivable", suggestions were made such as legally requiring employers to take management measures or publishing clear guidelines. The proposals will be discussed later at the Labor Policy

Council.

The proposed report also for the first time clearly mentioned malicious complaints from customers as “in a situation that cannot be ignored, and an important problem for the whole of society”.

Among the measures proposed were imposing criminal penalties and making a legal basis for claiming damages. However, it was also pointed out as a weakness that “the effects and effectiveness of these are unclear”. The proposed legislation would require employers to take management measures, and stipulate administrative guidance, etc., in the case of infractions.

2. LEGAL VIOLATIONS/STRUGGLES

(1) Consultations over losing jobs rise rapidly: possible avoidance of unlimited-term contracts, including egregious cases

The number of consultations regarding termination of employment, both dismissals and contract non-renewals, is rising rapidly ahead of the “unlimited-term conversion rule” coming into full effect in April. The Labor Lawyers’ Association of Japan heard 103 free telephone consultations on this in the 3rd of this month, while RENGO’s telephone consultations centering on dismissal totaled 752 over three days in February. Cases included egregious examples, such as where companies dismissed employees and switched them to outsourcing to avoid permanent contracts.

Among the consultations heard from workers by the Labor Lawyers’ Association of Japan, many were cases of limited-term contract working rules being amended to prevent working longer than five years, thus avoiding switching to unlimited term.

There were also more than a few cases of such practices as offering worsened working conditions, then dismissing those who didn’t accept; and suddenly introducing a test in order to not renew people’s contracts.

(2) Tohoku University “terminations” issues

a) “New contracts after six months”: Union objects

Tohoku University has explained that “those whose employment is cut off will get new contracts as limited-term contract employees after six months”. The faculty union has stated that “this does not solve the problem”.

b) Of 18 public universities in Tohoku, only Tohoku U. fails to follow unlimited-conversion rule

A survey carried out on the 21st by Kahoku Shimpo Corporation has made it clear that,

of the eighteen public universities in the Tohoku region, it is only Tohoku University that is not *de-facto* carrying out conversion to unlimited-term contracts. Tohoku University is introducing a new personnel system for limited-term staff in the new school year, but the national government has expressed the position that this is “a separate issue from unlimited-term conversion”, so Tohoku University’s case has come to stick out in sharp relief.

(3) Vietnamese intern doing decontamination work: “no explanation beforehand”

Saying that a Vietnamese man who came to Japan under the Technical Intern system was made to do decontamination work within Fukushima Prefecture, a support organization is claiming this violates the intent of the system.

The claim is that there was no prior explanation from the company regarding the decontamination work, nor was the special education specified by government rules ever carried out.

Regarding this claim, the Immigration Office of the Justice Ministry, which oversees the internship system, has stated “we cannot respond concerning individual cases, but as a general matter, if there is considerable difference from the contents of work described in the Technical Internship Plan submitted beforehand, this would be a dishonest practice and could possibly be subject to penalties”.

(4) Former teacher files suit in Mie Prefecture for fake subcontracting

An American former teacher who worked at Yokkaichi Maryknoll School has filed suit in Tsu District Court against the school and Global Partners, an intermediary agency, for 10.9 million yen in compensation. The suit claims that the teacher’s contract was “fake outsourcing”: while being on paper an outsourcing contract, it was *de facto* a labor dispatch contract. The teacher had filed for a labor tribunal at the same district court in November of last year, but since the defendant lodged an objection to the tribunal, the case will move to a civil trial.

Tsu District Court judged that the school and Global Partners had a duty to pay 500,000 yen. Global Partners and the school lodged an objection to this.

(5) “Withdraw the dismissal”: female staff member applies for mediation at Shizuoka Prefectural Labor Commission

A woman doing office work as a limited-term employee in the junior-college department of Shizuoka Prefectural University has applied for mediation by the Shizuoka Prefectural Labor Relations Commission, seeking withdrawal of her end-of-March dismissal, according to involved persons interviewed before the 20th.

Dismissed just as she was about to return to full-time work now that her two children were old enough for her to be done with child-care, the woman claims that “I want an environment where I can have peace of mind in continuing to work at the same workplace”.

The woman began working in April 2013 as an irregular staff member working part-time hours. Then in April 2017, she became a limited-term employee with longer working hours. But the “notification of working conditions” given with this limited-term contract stated “no renewals”.

When she asked the University for an explanation of this, she was shown an “Outline Regarding Renewal of Contract, etc., for Limited-Term Employees” which set the upper limit on contract renewals at “five years, calculated from the date of first hiring”, and notified that she would be dismissed at the end of the fiscal year.

(6) 20 percent of doctors and nurses not requesting overtime pay: “told by superiors”, “atmosphere making it impossible”

Two-tenths of nurses and doctors do not request overtime pay from their workplaces--this is a survey result that has been released. It is becoming necessary to strengthen educational measures and make sure hospitals, etc., do more thorough management of working hours.

The number of those who worked overtime on the survey day was 61%. On the other hand, only 36% said they “requested all” of the pay for the overtime. Another 36% said they “requested some” of it, while 20% “did not request” any. “The atmosphere makes it impossible to request it”, “I was told [not to] by a superior”, and “I didn’t think I was able to request it” were given as reasons. There appears to be a tendency for younger individuals to find it harder to request, and to be less likely to be aware that non-payment of overtime is illegal.

3. SITUATION/STATISTICS

(1) “Basic tasks at nursery schools being performed outside of work hours”: survey results released

Nursery teachers and others employed at nursery schools in Nagoya City are unhappy with their standards of pay and workload, according to survey results published by a group of researchers in that area.

According to the results, the most common complaint was of low pay. Nearly 30 percent answered that overtime was not paid. In particular, it became clear that fundamental nursery-school tasks, such as preparation and office work, were being performed outside of hours as overtime work, and that this has become normal. The research group states that “we must re-think the nationally-set standards for assigning

staff and change the work-style of nursery-school teachers in order to recruit teachers”, and that they would like to make an appeal to Nagoya City and Aichi Prefecture in the near future.

(2) All contract employees to get unlimited employment: Shizuoka Isetan, starting in April

Starting in April, Shizuoka Isetan will be switching all its limited-term contract employees to unlimited-term employment. Amid worsening labor shortages, they will proceed with building an easier-to-work environment to enable employment stability and recruitment of personnel. The plan has already been agreed on between labor and management.

Under the company’s system, all will be given unlimited employment with no need for the workers themselves to apply for it. With these conditions even better than the government’s standard, the aim is to prevent loss of personnel with customer-service skills and experience. The plan covers all 226 limited-term contract employees (as of March 1).

The vacation system will also be expanded, allowing employees to take a one-week holiday four times a year.

As well as changing the closing time in April 2016 to 7 P.M., 30 minutes earlier than it had been before, the company has put effort into improving their work environment in other ways as well, including expanding the maternity and childcare leave system for women, who make up 80% of their employees.

Company president Kiyosho Amamiya says “If your own working conditions are not in order, you cannot give service with a smile in the store. We aim to make our company the best one to work at in all of Japan”.

(3) Japan Post: zero base-pay raise for third year in a row; irregular workers get New Year work allowance

Japan Post reached a compromise agreement on March 15 with the Japan Post Group Union (JP Roso) over the 2018 *Shunto* demands. The agreement puts off making any raise in base pay. This will be the third year in a row with zero raise in pay. On the other hand, in order to improve conditions for irregular employees, a New Year work allowance of 4,000 yen per day will be introduced.

(4) In Japan, only 28% optimistic about their children’s future--lowest out of 29 countries

British educational group the Varkey Foundation has published the results of a survey

of parents' attitudes toward their children's education conducted in 29 countries up until the 19th. The number of parents who answered that they were optimistic about their children's future was 28% in Japan. This was far lower than the average among all the countries surveyed, which was 60%, and was the lowest of all.

The highest number of optimistic parents was in Peru, at 83%. Developing countries tend to rank higher, but Finland, with 73%, and the U.S., with 68%, were both above average. France, South Korea, Germany and Italy all had percentages in the 30s.

(5) In France, fines for gender pay gaps: promoting equality by legislation

The French government has recently announced that, as part of their policy to promote gender equality in the workplace, they will be imposing fines on companies where there are wage disparities between men and women doing the same job. A cabinet decision will be taken as soon as the end of April with an eye to making legislation.

Companies with 250 or more employees will be required to install free software to detect gender disparities in pay starting in 2019, while companies with over 50 and under 250 workers will have to do so starting in 2020. When a difference in pay is found between men and women in the same post and with the same abilities, if this is not corrected within three years, the company will be subject to a fine of up to 1% of their total wage bill.

(6) Nationwide CPI for February up by 1.0%, the 14th month in a row of increases

The overall national Consumer Price Index (CPI) for February, excluding perishables, announced by the Ministry for Internal Affairs and Communications on March 23, was 100.6, a 1.0% increase over the same month of the previous year. This is the 14th month in a row of increases.

The overall CPI excluding perishables and energy was 100.8, an increase of 0.5%, while the overall CPI including perishables increased by 1.5%.

"2015-Base Consumer Price Index, Japan, February, Heisei 30 (2018)" linked below (English version):

<http://www.stat.go.jp/english/data/cpi/1581-z.html>