



Labor Update No.35 May 25, 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) MHWL considers extending the statute of limitations on claims for back pay

The Ministry of Health, Welfare and Labor is considering an extension of the period of the statute of limitations for claiming unpaid wages from an employer. Under the current Labor Standards Law, a worker can only claim up to two years' worth.

On the other hand, in cases of overpayment, an employer can claim up to 10 years' worth back.

For many years, there has been strong criticism of this as unfair from labor groups.

A proposal to extend it to 5 years seems likely to pass, but there is opposition from business owners.

(2) NHK poll shows those "opposed" to Work-Style Reform Bill outnumber those "in favor"

On being asked by an NHK poll whether they were for or against the Work-Style Reform Bill being debated in the House of Representatives, the number of people "against" outnumbered those "in favor" by about ten percentage points.

On the other hand, nearly half of respondents answered "not sure either way".

(3) Regarding mistaken survey data on working hours, Labor Minister says will "reflect and learn"

In a survey of working hours of typical workers, data from over 8 percent of surveyed workplaces was found highly likely to be in error.

Regarding this problem, Health, Welfare and Labor Minister Kato stated to reporters after a Cabinet meeting that "among the survey results we conveyed to you, some of

the data was not guaranteed to be accurate. We will be reflecting properly on what went wrong, and learn from this in the future when compiling statistics to convey to the public”.

He indicated a wish to make use of this reflection in the future when conducting surveys related to welfare and labor administration.

(4) LDP proposes “variable working-hours system” for teachers to guarantee days off all at once

Relating to the working style of teachers in public schools, the Liberal Democratic Party’s “Headquarters for the Revitalization of Education” has put together a proposal calling for the introduction of a “variable working-hours system”.

This would allow for work over 40 hours per week during busy periods, and, in exchange, would guarantee days off all together during such times as the schools’ summer holidays.

The aim is to give teachers a guarantee of time off during times when there are no lessons.

The proposal will be submitted to Prime Minister Shinzo Abe in the near future.

It has also been pointed out that there is a need to reconsider the pay structure whereby, in return for having an allowance added equal to 4% of base pay, teachers are not paid for their overtime hours.

However, in order to change this, a large amount of funds would be necessary.

For this among other reasons, the current proposal goes only so far as to say this “will be kept under consideration”.

(5) Candidate gender-equality law passes: encourages parties to make efforts to increase the number of women in the Diet

The “Law to Promote Joint Participation by Men and Women in the Political Field” (commonly known as the candidate gender-equality law), under which political parties will be responsible for making the numbers of male and female candidates as equal as they can, was passed unanimously by the Upper House on May 16 and became law.

It is the first law in Japan to encourage an increase in the number of women in the Diet.

Female lawmakers account for only 10.1 percent of Lower House members. According to an Inter-Parliamentary Union survey, this figure placed Japan at 158th among 193 countries as of April 1, belonging to the lowest group worldwide.

In the Lower House election held in 2017, female candidates accounted for 17.7 percent of those running.

The figure was 11.6 percent in prefectural assembly elections in 2015, which were part of the unified local elections held that year.

2. Legal Violations/Struggles

(1) 28-year-old working under discretionary labor system dies from overwork: worked 36 hours in a row immediately after started to have discretionary hours

It came to light on the 16th that a man who worked at a systems-development company (then 28 years old) had died in August of a subarachnoid hemorrhage about one month after changing to a discretionary work-hours system, and that the Ikebukuro Labor Standards Inspection Office had recognized this as a workplace injury.

According for a lawyer representing the man's surviving family, the man had, for example, worked 36 hours in a row immediately after changing to the discretionary system, and the LSO judged that overwork was the cause of his death.

The man was in charge of systems development for a real-estate company.

Beginning on July 1, 2017, when he was promoted to team leader, a discretionary labor system for specialized types of duties was applied to him, and he was at work from 1:00 P.M. on the 4th of that month to 1:00 A.M. on the 6th.

(2) Veteran worker dismissed after 19 renewals, objects to labor tribunal's offer of 3 million yen to quit; moves to lawsuit

A woman who claimed she had been unfairly dismissed from her job as an irregular employee at Melsmon Pharmaceutical, which makes and sells medicines among other things, and had filed for a labor tribunal at Tokyo District Court, has now filed an objection to the tribunal's decision.

From this point on, the case will move to a full-fledged civil trial at Tokyo District Court.

(3) Foreign nationals in distress after losing teaching jobs: "sudden dismissals" as Fukuoka City moves from school-by-school to consolidated outsourcing from a company

"Guest Teachers" (GTs), who, up until the end of last school year, were in charge of 5th and 6th grade "Foreign Language Activities" at Fukuoka City elementary schools, say they have "lost their main source of income" due to the City Board of Education having

switched to having teachers sent from a dispatch company starting this year.

On February 14, the City BoE announced their new plan to assign teachers outsourced from a dispatching company, called “Native Speakers (NSs)”, to the classes.

Five GTs who talked to reporters say they were informed of this by the principals of their schools between mid-February and early March.

Responding to GTs’ claim that this is “a sudden firing”, the BoE’s position is that “it never was an employment relationship in the first place”.

They explain that “GTs were guests after all, just like having someone who experienced the war come give a talk for a Peace Studies lesson.

The money was paid to them as a token of thanks”.

(6) Teacher at Kansai University-attached school sues after being “unfairly fired” for reporting the situation of illegal overtime

A teacher at the school attached to Kansai University, who reported the illegal situation of overtime work to the Labor Standards Inspection Office, has been dismissed from his job.

The teacher, claiming that “the firing is unfair”, filed a lawsuit on May 17.

Kansai University Elementary, Junior High, and High School has twice received citations from the Labor Standards Inspection Office over making teaching staff work overtime without the type of labor agreement that is necessary in order to have anyone work over eight hours in a day.

There are said to be some teachers whose overtime added up to more than 2,000 hours in a year.

This teacher reported the situation to the LSIO in march of last year, but was given a stay-at-home order after that, and then was dismissed in April.

Saying that “the punishment is in violation of the Labor Standards Law, which forbids firing someone on account of their making a report to the LSIO”, the teacher is demanding the University withdraw the dismissal.

3. Situation/Statistics

(1) At a junior-high in Matsue City, students without English lessons for one month due to teacher shortage

It has come to light that third-year students at a junior high school in Matsue City were unable to have English lessons for about one month starting in April due to a shortage of teachers.

The school has been dealing with the problem by having other English teachers in the same school take over these classes as well as their own, starting this month.

But the prefectural Board of Education, which handles personnel, says that the soonest they can employ new teachers is the middle of this month.

(2) Tokyo Prefecture releases outline proposal for ordinance aiming to eliminate LGBT discrimination

Saying it will realize the ideals of the Olympic Charter, the metropolitan prefecture of Tokyo has released a proposed outline for an ordinance that aims to eliminate discrimination against LGBT (sexual minorities) and eradicate hate speech.

According to the proposal that was released, in order to improve understanding of LGBT (sexual minorities), the prefecture will draw up a basic plan and open an office for consultations.

This will be the first time any prefecture in Japan has made an ordinance specifically about LGBT issues.

(3) Number of irregularly-employed continuing to rise: "Labor Force Survey (Detailed Totals) Heisei 30(2018) January - March Quarter Average (Preliminary) Results" released

The Statistics Bureau of the Prime Minister's Office has released the "Labor Force Survey (Detailed Totals) Heisei 30(2018) January - March Quarter Average (Preliminary) Results".

The total number of people employed is 58.4 million.

The number of those in regular employment is 34.23 million, an increase of 380,000 over the same period of the previous year.

That of people in irregular employment is 21.17 million, an increase of 1 million over the same period of last year.

The irregularly employed now account for 38.2% of the total.

Results linked below (in Japanese):

http://www.stat.go.jp/data/roudou/sokuhou/4hanki/dt/pdf/2018_1.pdf

(3) Diverse sexualities: “to disclose or not is the person’s own right”

An ordinance that forbids third parties from disclosing that someone is a sexual minority (such as gay, or having gender dysphoria etc.) without the person’s permission--the first ordinance of its kind in all Japan--took effect this spring in Kunitachi City, Tokyo Prefecture.

The municipal ordinance in Kunitachi aims to deepen the ideals of gender equality and realize equality between people of diverse sexualities. Included is a provision in regard to freedom of disclosure of one’s “sexual orientation” (whether one is attracted to those of the same sex, those of the opposite, etc.) and “gender identity” (the person’s own awareness regarding their own gender); this is said to be “guaranteed as a personal right”.

The ordinance forbids “outing”, disclosure by someone else against the will of the person in question, and also, in case someone should wish to disclose the information about themselves, forbids relatives or others from stopping them.

The ordinance does not impose any penalties.

“Kunitachi City Ordinance to Promote Gender Equality for Men, Women, and All People of Diverse Sexualities” linked below (in Japanese):

<http://www.city.kunitachi.tokyo.jp/ikkrwebBrowse/material/files/group/5/tayounasei.pdf>

(4) Real GDP down 0.2% from the previous quarter--first decrease in nine quarters

(2018-05-16)

https://digital.asahi.com/articles/ASL5H3C5JL5HULFA008.html?iref=comtop_8_01

The preliminary figure for gross domestic product (GDP) for January-March 2018 excluding the influence of fluctuation in prices, released by the Cabinet Office on the 16th, was 0.2% lower in real terms (seasonally adjusted figure) than the previous quarter.

If this situation should continue for a year, on an annualized basis this represents a 0.6% decrease.

This was the first negative growth in nine quarters, since October-December of 2015.

“January-March 2018: Preliminary Report (May 16, 2018)” linked below (in Japanese):

http://www.esri.cao.go.jp/jp/sna/data/data_list/sokuhou/gaiyou/gaiyou_top.html

(5) Amnesty demands legislation to ban LGBT discrimination

International human rights group Amnesty International made a demand to the Justice Ministry on May 17 in regard to legislation to ban discrimination against sexual minorities (LGBT etc.).

They also submitted a petition with 45,000 signatures to the Cabinet Office.

The demands include forbidding discrimination on the basis of sexual orientation or gender identity and guaranteeing the same rights to same-sex couples that opposite-sex couples have in marriage.

They began the campaign in May of last year.

The petition received 45,000 signatures from 116 countries, including 4,815 from within Japan.