



Labor Update No.43 September 28, 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) Expansion of eligibility for Welfare Pension (*Kosei Nenkin*): increased enrollment of part-timers to be discussed

The Ministry of Health, Welfare and Labor has begun discussion of expanding eligibility for employees' Welfare Pension (*Kosei Nenkin*) to short-time workers, such as part-timers at companies with fewer than 500 employees (which have not so far been required to enroll in the pension).

Currently, the requirement to enroll applies to those who work 30 hours or more a week, as well as to those who work at least 20 hours a week and fulfill other conditions, including earning a wage of at least 88,000 yen per month and being employed at a company with at least 501 employees.

By loosening the requirements on number of employees and on wages, thus increasing the number of people paying into the pension, the idea is to provide stability to the pension's financing, which is under pressure from the continuing decline in birthrate and aging of the population.

Beginning in September, conferences will be held intensively, and discussions will proceed, including hearing from businesses.

(2) MHWL presents draft guidelines on "equal pay for equal work": supplementary resolution, Supreme Court decision reflected

The Ministry of Health, Welfare and Labor has submitted draft guidelines aimed at implementing "equal pay for equal work", which forbids unreasonable disparities between regular and non-regular workers.

The proposed guidelines drawn up in 2016 have been made to reflect the supplemental resolution to the Work-Style Reform Bill, which passed in June, as well as a judgement by the Supreme Court.

“Equal pay for equal work” will apply to large companies beginning in April 2020, based on the passing of the Reform Bill.

MHWL will finalize the guidelines within this year, aiming for them to be reflected in debate at next year’s *Shunto*.

With reference to the supplementary resolution, the guidelines note that “to lower conditions for ordinary workers without agreement between employers and labor cannot be called a desirable measure”.

The goal of achieving equal treatment by raising the conditions of non-regular workers is thus made clear.

Also, in response to a decision taken by the Supreme Court in June regarding disparities in pay, the idea that re-employment after retirement can be a reason for differences in treatment from regular employees was added to the draft.

“9th Meeting of Labor Policy Council Occupational Security Subcommittee, employment and Environment Equality Subcommittee, Equal Pay for Equal Work Section” linked below (in Japanese):

https://www.mhlw.go.jp/stf/shingi2/0000176596_00002.html

<https://www.mhlw.go.jp/content/12602000/000348377.pdf>

(3) Government considers extending working age to 70

In order to enable elderly people who wish it to be able to keep working until age 70, the government has begun deliberation on revising the compulsory employment continuation age.

The core working productive-age population of ages 15-64 is decreasing rapidly, so the goal is to ensure the supply of labor by allowing elderly people who are still able and willing to work to do so.

Businesses that take initiative in hiring people aged 65 and over will be subsidized.

Amending the Elderly Persons Employment Stability Law is also in the range of possibilities.

Going forward, discussion will be held at the government’s Committee on Investment in the Future among other places.

However, there are likely to be worries that this will lead to raising the age of pension eligibility as well, so that people will be forced to work until 70 whether they want to or not.

(4) Budget request for 2019: total amount goes to 102 trillion, 765.8 billion yen

The total amount of budget requests submitted by all government ministries and agencies to the Finance Ministry for fiscal year 2019 has reached 102,765,800,000,000 yen.

This is higher than the previous high record in 2016 (102,409,900,000,000 yen).

The “special entries” for generous distribution to the Abe administration’s priority policies also set a new record at 4.3 trillion yen, approximately 460 billion yen higher than in 2018.

There is a chance that the General Account budget may go over 100 trillion for the first time.

“Heisei 31 [2019] General Account Budget Requests: Requested Amounts” linked below (in Japanese):

https://www.mof.go.jp/budget/budger_workflow/budget/fy2019/sy300907.pdf

2. Legal Violations/Struggles

(1) Attacked by a customer and suffering PTSD, saleswoman sues Sumitomo Life

A woman working in insurance sales for Sumitomo Life Insurance Company has filed suit against the company in Okayama District Court.

She claims that, having been directed by a supervisor to go to a customer’s home to collect a payment, she was attacked there by the customer, and became unable to work due to post-traumatic stress disorder (PTSD).

She is seeking damages of 4.4 million yen, including reparation for pain and suffering.

In May 2016, when the woman was employed at the company’s Okayama branch, while calling at the home of a male customer living alone (36 years old at the time), she was pushed to the ground and was the victim of an attempted sexual assault.

Suffering from PTSD and adjustment disorder, she was forced to take a leave of absence.

The man was arrested, charged with rape inflicting injury, and found guilty.

At the time, the man was refusing to pay his insurance premium, and the supervisor directed the woman to go alone to collect the bill.

There had been another case two months before this where a salesperson for the company had nearly been attacked at a customer's home, and the woman insists that the company should have had salespeople make the visits in a group.

(2) Employment of handicapped people: officials at central government offices testify to intentionally inflating numbers by "adding in deceased staff"

On the issue of government ministries and agencies inflating the numbers of handicapped people they employed, the Ministry of Health, Welfare and Labor has published their survey results of employment rates at 33 national administrative bodies as of June 1 of last year.

There were found to be persons inappropriately included in the count at 27 of these bodies, or approximately 80%, totaling 3,460 individuals.

Also, officials at some ministries testified to reporters that there had been cases in which past staff members who had died were added in as handicapped persons to intentionally raise the employment rate.

The government, along with setting up a verification team including lawyers to clarify the causes, will be putting together measures as soon as October to prevent a recurrence of the problem.

In previous MHWL reports, of the 33 agencies, only one of them was listed as not fulfilling the then legally-required handicapped employment rate of 2.3%.

However, there were actually only 6 agencies, including the National Police Agency, that did fulfill the requirement, and the average employment rate was only 1.19% instead of 2.49%.

The MHWL survey has not made clear whether there was any intentional inflating of numbers.

But an official at a certain ministry, responding to questions from a *Mainichi Shimbun* reporter, testified that "the numbers were padded in order to meet the legal quota.

As well as adding in deceased people, there were cases where nearsighted staff members were included, and where non-handicapped administrators gave directions [to the person in charge] to include themselves in the handicapped list".

(3) Foreign teachers who handed out protest leaflets not allowed to attend graduation ceremony: unfair labor practice judgement appropriate--Osaka Superior Court

Osaka Superior Court gave a decision on appeal in the Takatsuki City case on the 7th.

The Prefectural Labor Commission had decided it was an unfair labor practice for the City to forbid two foreign teachers (who were union members) to attend the elementary schools' graduation ceremonies.

The city, in Osaka Prefecture, then sued to void this decision.

Osaka District Court found in the City's favor, but the Superior Court has now overturned this on appeal, judging the Labor Commission's decision to be valid.

The verdict points out that "there was no concrete reason to worry the two teachers' attendance would throw the ceremonies into confusion; and it was a measure that risked having a chilling effect on union activity".

The court also sustained the decision of the Labor Commission that it was an unfair labor practice for leaders of the City Board of Education to criticize the union's activity to the City Council the day before the ceremonies.

According to the verdict, the two were Australian teachers of English.

Before the ceremonies, in February of Heisei 27 [2015], they distributed a protest leaflet calling for the City to withdraw their decision to abolish the ALT program.

The City refused to let them attend their schools' graduations, claiming "it would make the parents uneasy, and throw the ceremonies into confusion".

The initial decision (by the District Court) had said that "this cannot be called disadvantageous treatment due to union activity", and had granted Takatsuki City's demand to void the decision of the Labor Commission.

3. Situation/Statistics

(1) Osaka City eliminates gender field on application to take employment exam

Osaka City has done away with the field for entering one's gender on the application form for City employment exams (Office Administration, Technical/Social Welfare for University Graduate or Equivalent, Technical for People with Work Experience, Technical for Junior College/Technical College Graduate or Equivalent).

The measure was taken in consideration of sexual minorities such as LGBT. The judgement was made that, as employment exams are meant to test the abilities of each applicant regardless of their gender, information not relevant to testing each person's abilities should not be collected.

Due to personnel management needs such as listing information on public documents and making workplace environment arrangements, they say that those in charge will collect gender information from those who pass the test after they pass.

(2) Corporate internal reserves at 446 trillion yen, setting a new record for the sixth year in a row; capital investment, wage increases sluggish

The amount of internal reserves held by Japanese corporations in fiscal 2017 has set a new high record for the sixth year in a row.

This is because, with the worldwide economic recovery, corporate profits are at their highest levels ever, while the cautious attitude toward investing capital or raising wages continues.

According to the corporation statistics released by the Finance Ministry, the earned surplus (i.e., “internal reserves”) of companies in fiscal 2017 was 9.9% higher than the previous year, at 446 trillion, 484.4 billion yen.

It has increased by approximately 164 trillion yen since the end of fiscal 2011, before the second Abe administration took office.

In the background is the fact that capital investment and wage increases are low compared to profits.

Companies’ ordinary profits were 83 trillion, 554.3 billion yen, an increase of 11.4% compared to the previous year.

This is the largest figure since 1960, when comparison becomes possible.

However, domestic capital investment saw only an increase of 5.8%, to 45 trillion, 447.5 billion yen.

A Ministry of Health, Welfare and Labor survey shows the real wage index for fiscal 2017 declining by 0.2% from the previous year.

“Corporate Statistics Survey for Heisei 29 [2017]” linked below (in Japanese):

<https://www.mof.go.jp/pri/reference/ssc/results/h29.pdf>

(3) “If only I could speak English better”, wish 90% of high-school girls who feel weak in the subject

Nine-tenths of female high-school students who consider themselves weak at English wish they could get better at speaking the language, according to a results of a survey that was completed on September 5th by “GIRLS’ TREND Kenkyusho”.

Regardless of how good or bad they were at English, eight-tenths of high-school girls also reported coming in contact with a foreign language within the past month.

According to this, the number who answered “weak” to the question of whether they were strong or weak at English was 23.2%, while 33.0% answered “on the weak side”.

When these girls who considered themselves weak at English were asked “Do you feel you want to get better at speaking English?”, 39.7% answered “yes, strongly”, while another 49.2% answered “yes”, for a total of about 90% who aspired to have English speaking ability.

When asked to choose items to answer “What have you done in the last one month related to foreign countries or foreign languages?”, with multiple answers possible, the highest number chose “listen to songs with foreign-language lyrics” (67.9%).

Next in order was “watch foreign-language films (subtitled)”, followed by “read foreign-language posts on social media”, while 20.5% chose “nothing in particular”.