



Labor Update No.57 March 22, 2019

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.

Law/Policy

Justice and Labor ministries announce Cabinet and Ministerial ordinances relating to amended Immigration Act

http://www.moj.go.jp/nyuukokukanri/kouhou/nyuukokukanri05_00019.html

Ministry of Justice publication: About the Intake of Foreign Personnel

A comprehensive explanation of the new immigration system

<http://www.moj.go.jp/content/001287956.pdf>

Legal Violations/Struggles

U.S. women's soccer team sues federation seeking end to sex discrimination

The U.S. women's soccer team, who are aiming to win their second championship in a row at the FIFA Women's World Cup to be held in France three months from now, have filed suit against the United States Soccer Federation (USSF) in a court in Los Angeles (U.S.A.). All twenty-eight members of the team joined as plaintiffs seeking rectification of sex discrimination. Their suit, filed in a Los Angeles (U.S.A.) court on March 8, timed to coincide with International Women's Day, seeks equal pay and working conditions.

The players claim that "members of both the men's and women's teams work for the same single employer, the USSF, and are expected to carry out the same duties for the team and participate the same way in international tournaments; yet female players receive lower pay, across the board, than the men". They are seeking payment of back wages and several million dollars (several hundred million yen) in damages.

"Illegal to cut pay in half when re-employing after retirement": contract workers at Osaka paint company file suit

Two male contract employees have filed suit against their company in the Osaka District Court. They claim that having their base pay cut in half and no longer receiving any bonuses, despite doing the same work they did before reaching retirement age, is a violation of the Labor Contract Act, which forbids unreasonable disparity in treatment between regular and non-regular employees.

The two men retired on reaching the retirement age of 60 in Heisei 29 [2017]. They

were re-employed the next day as *shokutaku* contract employees. They were assigned the same duties as before, but their base pay, approximately 380,000 yen before retirement, was cut in half. They also stopped receiving bonuses. The two claimed that the pay cut and lack of bonuses were illegal. Based on past precedent, they say that pay after retirement should be 80% of what it was before, and are seeking payment of the difference.

“Working hours undercalculated” for industrial-accident recognition: repeated cases of non-payment, lawyers criticize government

Some lawyers and others have held a press conference in Tokyo to announce that, in considering industrial-accident recognition for cases of overwork, local Labor Commissions had been undercalculating workers’ working hours and not granting compensation. Such cases have been occurring one after another since the start of this year, they say. Although work outside of the employer’s premises--such as driving a car on a business trip, or entertaining customers at the company’s expense--ought to be included in working hours, it is difficult to have these hours recognized, they say.

Mercari contract employee files for labor tribunal over dismissal: claims was “treated as a throwaway pawn”

A woman in her 30s who worked as a contract employee for flea-market app company Mercari has filed for a labor tribunal at the Tokyo District Court, saying she was dismissed from the job unfairly.

The woman started the job as a three-month renewable-contract employee. Her employment contract was renewed multiple times, becoming six-month contracts from the second renewal onwards, but then the company gave her notice that her contract would not be renewed this time. She was dismissed from the job.

The woman feels distrustful, saying “my treatment by the company was inexplicable and sloppy. I was treated more like a disposable pawn than an individual”.

When she first started the job, there was no fixed limit on the length of employment. But then in May 2018, her new Notice of Working Conditions included a mention that “the period of employment is for a maximum of four years”. There was no other explanation, and those around her who had started as contract employees had all become *seishain* (regular employees) after 3 to 4 years. So she thought that “everyone becomes *seishain*, maybe I will too”.

In a face-to-face meeting after that, when she asked what would happen with her contract, she was given the evasive answer that “it is not impossible you might become *seishain*”.

However, in another interview held a few months later, she was suddenly informed that her contract renewal was canceled.

The woman angrily says that “the evaluation I was given when they fired me was practically slander, clearly written on purpose just for the evaluation interview. Their everyday personnel management was also sloppy, and I wondered how they could treat people so carelessly”.

Her lawyers view this dismissal as “done in order to evade the unlimited-term conversion rule”.

Japan Post Group to pay family allowance to non-regular workers too; regular employees to see spouse allowance halved

Japan Post Group has settled on a plan to pay family allowances, which they have so far paid only to regular employees, to some non-regular workers as well. This measure is being taken with an eye to the laws relating to “equal pay for equal work” that will be coming into effect in April of next year. But on the other hand, their plan is to cut in half the amount of the spouse allowance, part of the existing family allowance. So it seems that some regular employees may see a cut in their yearly income.

Suit filed over assignment to “banishment room”: employee at Mitsubishi Tanabe Pharma

A male employee of Mitsubishi Tanabe Pharma has filed suit in the Osaka District Court against the company and his supervisors, claiming that, after developing depression due to his long working hours, he was assigned to a “banishment room” resulting in mental suffering. He is seeking compensation of a total of approximately 11 million yen.

Former TDL dancer who was approved for industrial-accident compensation sues: “parades gave me knee pain”

A man who worked as a dancer at Tokyo Disneyland has filed suit against the managing company Oriental Land, as well as against a man who was his former supervisor, seeking a total of approximately 154 million yen in compensation. The former dancer claims that the knee pain he suffered as a result of parades and other performances was ultimately caused by the company’s breach of their obligation to consider safety.

The man signed a performer contract with the company in June 1995; and performed in parades and shows. But in April of 1996 he developed pain in both his knees, and in September of the same year decided gave up on renewing the contract. In March 2005 the Labor Standards Inspection Office recognized the cause-and-effect link between his symptoms and overwork, granting him industrial-accident compensation.

Male former employee sues Autobacs: “Not granting leaves of absence to non-regular workers is discriminatory”

A man who formerly worked as part-time store staff for car-supply seller Autobacs has filed suit in Tokyo District Court against the managing company. The man says that, after suffering harassment from the regular full-time staff (*seishain*), he was forced to recuperate at home with anxiety disorder, but that he was not granted a leave of absence and instead was dismissed from the job. He is suing for confirmation that the dismissal was invalid, and for payment of back wages as well as consolation damages.

The man claims that refusing to grant non-regular workers the leaves of absence that are granted to *seishain* is an “unreasonable disparity” and therefore forbidden by Article 20 of the Labor Contract Act. At a press conference held that same day at the Ministry of Health, Welfare and Labor in Kasumigaseki, Tokyo, he stated, “I would like

to be evaluated fairly for my efforts. Just because I am non-regular, does not make it acceptable to treat me as disposable”.

Ninety-seven managers make demand all together: Dydo subsidiary “pay our overtime!”--Osaka

Ninety-seven employees in managerial posts (including managers and assistant managers) at nineteen prefectures’ branches of Dydo Drinco subsidiary Dydo Beverage Services (Osaka City) have filed for civil mediation at the Osaka Summary Court, saying that they received a large cut in overtime pay, and demanding back-payment of the overtime. The total amount demanded seems likely to be about four hundred million yen.

Also, two of them, both managers at branches in Shizuoka Prefecture have filed a suit at the Osaka District Court demanding back-payment of a total of approximately 9.9 million yen in unpaid overtime.

Situation/Statistics

In consideration for LGBT people, “sex” no longer to be indicated on forms: Kazo City, Saitama

Kazo City, Saitama Prefecture, has recently announced that, out of consideration for sexual-minority people (LGBT), the indication of “sex” on all sorts of documents used by the City (such as application forms, certificates and so forth) will gradually be phased out. As a first step, they will be abolishing it from 36 types of forms, including applications to use sports facilities and to attend seminars open to the public, etc., starting on April 1.

“Sex” field to be abolished on 200 types of official documents: Amagasaki shows consideration for LGBT people

Amagasaki City, Hyogo Prefecture, has announced that it will be proceeding to eliminate the field indicating sex from about 200 types of official documents, including application forms, issued documents and so forth. Out of consideration for sexual-minority (LGBT) people, sex will be disappearing from approximately one-third of the public documents it was previously shown on. There are other municipalities that have decided to eliminate the “sex” field from specific types of documents (such as applications for city government jobs, etc.) one at a time, but it is said to be rare for so many to be revised all at once.

Working over 11 hours increases risk of heart attack; office workers and those over 50 should take caution

The risk of myocardial infarction (heart attack) in middle-aged males who work 11 hours or more per day is 1.6 times that of those who have a more standard working shift of 7-9 hours a day, according to the results of a large-scale study recently released by a team from the National Cancer Center and Osaka University. It is said that office workers and those over age 50 are especially susceptible to the effects of long working hours.

Economy felt to have “grown worse” by 49%; 55% “opposed” to raising the consumption tax: Asahi Shimbun poll

When Asahi Shimbun Publishing Co. Recently conducted a poll by phone in which, when asked whether they felt the economy had worsened, 49% of respondents answered that it “[had] gotten worse”, higher than the 41% who said they “[did] not think so”. About increasing the consumption tax to 10%, which is planned to happen in October, 55% said they were “opposed” (compared to 50% in last year’s poll), while 38% said they were “in favor” (to last year’s 44%).

The survey asked about feelings of economic worsening in reaction to the Cabinet Office’s having revised their basic assessment of the diffusion index for January, announced this month, to “downward changes in situation”. This indicates a high possibility that the economy has already entered a recession. By age, there was a tendency for more people to say the economy was worsening the older the age group.

Economic assessment lowered for the first time in 3 years; “weakness in exports and some manufacturing”

In regard to the domestic economy, the government has lowered their assessment for the first time in three years. The Monthly Economic Report for March, showing the official position on the economy, has been released. The slowdown in China’s economy has reverberated, with exports to China weakening, as well as output by companies in Japan.

Based on the view that consumer spending and companies’ capital investment are still strong, the report keeps the expression “the economy is slowly recovering” as is, but adds a mention that “weaknesses can be seen in exports and in some manufacturing”. Therefore the overall economic assessment has been lowered.

On the 7th of this month, the Cabinet Office lowered their basic assessment of the diffusion index from “at a standstill” to “downward changes in situation”. This expression indicated a high possibility that the economic recession had already started several months before.

The change in the basic assessment of the diffusion index a mechanical one, based on the data. But this time, the official opinion of the whole government had to be lowered.

“Monthly Economic Report (March, Heisei 31[2019])” linked below (in Japanese):
<https://www5.cao.go.jp/keizai3/getsurei/2019/0320getsurei/main.pdf>