Reconstruction of Labor Relations for Internet Platform Employees

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Abstract: The Internet platform has created many employment opportunities, but the employment model is different from the traditional model, and the characteristics of the labor relationship of employed Internet platform workers have changed. However, the current law has limitations on the definition of labor relations for Internet platform employees, and it is difficult to provide standards for defining new types of employment. This article considers the construction of labor subject and subordinate attributes to realize the reconstruction of labor relationship.

Due to the maturity of information technology, the employment of Internet platforms has become possible. Internet platform employment has thus created a new type of labor relationship. As a new type of employment mode that is different from the traditional one, the definition of labor relations is accompanied by disputes. It is difficult for workers to protect their own interests like the traditional employment mode. Therefore, it is necessary to study the definition of labor relations.

1. Define the Meaning of Labor Relations

To resolve the labor dispute cases, we must first define the labor relationship. If there is no labor relationship, it also shows that it is not applicable to the protection of labor lawful rights and interests. No matter what kind of labor relationship, the workers are mostly in a disadvantaged position. The remuneration of workers is related to the protection of workers' rights and interests, especially the compensation for work injury cases reflects the protection of workers' right to life. In the event of labor rights claims, employers will take a negative attitude toward labor relations in order to reduce economic expenditure, so defining labor relations is the basis for the protection of vulnerable laborers. The "Labor Law" shows a certain tilt to vulnerable workers. In addition, defining labor relations and protecting the legitimate rights and interests of workers are of great significance for maintaining normal labor relations.

2. Characteristics of Labor Relations on the Internet Platform

Due to the development of society, the advancement of science and technology, and the diversification of social division of labor, the labor relations have become more complicated. Judicial practice has difficulty in defining labor relations. Labor relations are manifested as equality, subordination, and personality. Equality is based on the willingness to cooperate established by the contract. Workers provide labor to the employer according to their own wishes, and the employer selects labor according to their wishes. Personality, laborers provide labor, but labor ownership and use rights are separated, but labor cannot be separated from laborers themselves. Laborers embody personal specificity in labor relations. Personal specificity does not change with the employment mode. From the attribute expression to the essential characteristics of labor relations. The judgment of labor relations is through the subordinate attributes. There are subordinate relationships in the large-scale social production, the division of labor, and the labor-employment relationship. "Subordinate" is divided into "personal subordination" and "economic subordination". Personality is reflected in the fact that the employer can incorporate labor into the organization and agree on the method, amount and scope of labor payment. The laborer is placed under control, the laborer's body is controlled, and labor dominance is expressed as the laborer's personal control. Workers are penalized when they hinder business operations.
subordinate nature of the economy indicates that workers do not have productive capital, and that income is earned by labor payment. The economy depends on the employer. The new employment mode established by the Internet platform has changed the traditional personality subordination and economic dependency. The personality subordination is blurred, which promotes the freedom and independence of workers. The economy has become vague in nature, and laborers provide services based on platform information, and become economically interdependent instead of the traditional simple dependence. The change of attribute characteristics makes it difficult to define labor relations, and labor relations are limited in judicial practice.

3. The Current Theory of Defining Labor Relations

The definition of labor relations should be combined with the subject and characteristics of labor. However, the current domestic law lacks clear provisions on labor relations. From the Labor Law and the Labor Contract Law, it can be seen that labor law only uses labor subjects to indicate labor relations. The definition of labor subjects is based on the employer. Combining with the characteristics of labor relations, laborers also lack definition standards. The definition of labor relations is a bit vague. It is difficult to accurately define labor relations by applying laws, and it is difficult to handle labor disputes. China's judicial interpretation of labor relations is more in line with the nature of labor relations and more operable. For example, the "Notice on Establishing Labor Relations" has been generally followed by judicial practice, but the subject of labor still lacks a clear definition. Although the nature of labor relations is reflected, there are still difficulties in practice. For example, whether workers with a high degree of freedom are included in the ranks of workers involves issues of attributes and under what conditions are considered workers. It is also difficult to define the business scope of the employer, if the service of the laborer is not the main business of the employer. For example, in order to relax the employees, they hire entertainment workers to perform specifically for the employees. Although they are bound by the employees, are they considered as lack of defined standards for the workers. The subordinate nature of labor relations is to facilitate judicial operations. It is necessary to reflect the nature of labor relations. The defined labor relations have limitations and are difficult to meet the current social development. The new mode of employment produced by the Internet platform has legislative ambiguity and its limitations are difficult to apply to judicial practice. The definition of labor relations must be made clear. It is difficult to refuse the adjudication in judicial practice, and it is necessary to use the legal interpretation to clarify the defining standards. The trial of new cases has the difficulty of applying laws. Domestic academic circles mostly define the theory of labor relations based on the civil law system. But the Anglo-American legal system is of significance for the definition of labor relations. The labor relations in Anglo-American law countries are expressed as employment relations, and a method of defining labor relations is formed based on following the jurisprudence. In the jurisprudence, the United States has formed the "economic reality standard", which confirms the identity of the employer and employee to define the employment relationship. The United States recognizes the status of employers and employees as a comprehensive consideration, combining employers' control over employees. The definition model has strong practical value in practice.

Therefore, labor disputes on China's network platform have the following characteristics:

Mostly in the first, the judge in the case does not accept employment of labor relationship in the network platform, only part of the case is clear of labor relations, only individual case decided that the two sides have taken place in the employment relationship, part of the case the judge denied labor relations, does not admit the existence of employment relationship, some judges have shied away from the legal relationship between platform with the workers.
Fig1. The emergence of labor disputes

Second, there may be different judgments in similar cases according to the processing results. For example, the plaintiffs are both acting drivers, and although the business model of the defendants is basically the same, due to different legal relations in different cases, the results are different. Third, when the driver provider causes damage to a third party, the court tends to hold the platform company liable, that is, "the result of damage is related to the determination of labor relations". The legal basis for the platform company to assume liability, the court, in accordance with the rules of tort liability law, determines the existence of an employment relationship, and sometimes avoids the nature of the legal relationship between the parties. It is noteworthy that in some cases, the court has held that there is an employment relationship between platform workers and platform companies, which is worth rethinking.

4. Restructuring Labor Relations Based on Internet Platforms

Chinese law lacks clear standards for the definition of labor relations. The employment on the Internet platform is different from the traditional one. Not only the personality subordinates are weakened, but the economic subordinates are blurred. Labor relations are in the middle of traditionally defined standards and non-standards. Whether labor groups are applicable to the scope of protection of the Labor Law, on the one hand, it is necessary to consider how to protect the basic rights and interests of employees under the new model, and also consider the burden bearing capacity of the enterprise. Harmonious labor relations. Defining the attributes of labor relations should be accurately constructed according to standards, and the original coverage of the law should be expanded. In combination with the definition of labor relations abroad, in the context of the rapid development of information technology, the following issues must be considered when defining new labor relations: defining labor subjects, as the social division of labor becomes more and more fine, and due to the development of emerging industries, the types of work become more and more complex. In response to changes in employment methods, the definition of the scope of laborers should include the main body of the new employment model, and the definition should be precise, such as whether the Internet platform is based on shared or assigned. The Internet platform is based on information sharing. The service of employees depends on the individual's willingness. This type does not need to be included in the scope of the labor subject, and the designated enterprise platform must be included. Second, the definition must be combined with the essential attributes of labor relations. The theoretical community uses the "personality subordination" and also takes into account the "economic subordination", but there are limitations in the Internet connection. At the legal level, there is a lack of clearly defined subordinate attributes. Subordinate properties should be carefully constructed. Under the new employment conditions, the personality of traditional employment is weakened from the attributes, and the original boundaries of the economic attributes are blurred. There is a certain degree of difficulty in judicial practice, and it is necessary to practice...
operations with the help of operational definitions. For the subordinate attribute standard, you can refer to the US control standard. For the subordinate personality, the internet platform controls the degree of independent practitioners. For example, the platform’s daily control of labor assignments, the scope of control, etc. These indicators should be accurately judged. The economic subordinate attribute not only combines the business nature of the Internet platform, but also the income source of the employees. The definition can use diversified models, comprehensively consider multiple influencing factors, and use cases to analyze, define labor relations in practice, quantify from attributes, and have clear standards in a certain range. Considering the ambiguity of domestic labor laws, the judges used discretion in defining labor relations under the new employment mode. Therefore, the phenomenon of different cases in the same case occurred. It is also necessary to define new types of labor relations from the perspective of legislation. Therefore, the elimination of the prevention of abuse of judicial power, the better resolution of disputes, and the reasonable settlement of labor relations disputes are of great significance to social development.

Considering the ambiguity in the definition of labor relations and the complex diversity of employment on network platforms, the current recognition of labor relations and the labor law protection for workers on network platforms are ex post, individual and scattered. By signing a "cooperation agreement" or contract with the service provider, the platform enterprise presumes that the relationship between the two parties is a civil contractual relationship, and only some workers obtain labor protection through arbitration or litigation. The identity of many platform service providers is in a vague state, and it is difficult to be protected by the labor law. Therefore, it is not enough to protect the rights and interests of workers on the network platform only by the labor law, but to protect such subjects through social insurance and other systems. In addition, the economic law and the civil and commercial law should also supervise the network platform enterprises themselves, and urge them to provide corresponding protection to service providers.

**Conclusion**

The realization of employment on the Internet platform has greatly changed the labor relationship. For the definition of new labor relations, we must combine the characteristics of the Internet platform, adopt an open and tolerant attitude towards new labor relations, and combine the provisions of laws to ensure that the legitimate rights and interests of workers in new labor relations are guaranteed.

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