The Labor Dispute in Private Enterprises

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Abstract. The labor relation has become a major challenge in Chinese private economy. This article not only made the analysis to the labor dispute present situation in privately enterprises, but also made a statement in the reason and the of the labor dispute, influence factor and so on. In the article, we discussed how to reduced the labor dispute in the privately enterprise and how to construct the harmonious labor relations, as well as the significance to the socialism modernization.

Key Words: private enterprise; labor dispute; harmonious; human-oriented

As an ideal state for labor relation, a unity of opposites, harmonious labor relation is a dramatic change in the history of labor relation and a brand-new, scientific and developing labor relation. The establishment of a harmonious labor relation is conducive to the enhancement of cohesive affinity and development of private enterprises.

1. The Cause of Labor Disputes in Private Enterprises

From the perspective of its development process, several major problems about labor dispute in private enterprises are summarized as follows:

(1) No labor contract is signed or the contract duration is too short. According to a nationwide inspection on the enforcement of Labor Law in 2005, the rate of signed labor contract among medium- and small-sized enterprises and non-public enterprises was below 20%. Due to low rate of signed contract and short-term contract duration, the labor relation between employees and enterprises is hard or impossible to get confirmed and relevant legal protection, together with the two parties’ responsibilities, rights and interests, fail to be defined as explicitly as possible. Therefore, labor dispute is not rarely seen in
Labor contracts are signed illegally and the execution of contracts is in bad condition. Palpably unfair and deceptive behaviors including mandatory terms, procurator endorsement and inconformity in the original and duplicate contracts, are prevalent when quite a number of private enterprises enter into labor contracts with labors. Afterwards, both parties to the contract take the labor contract slightly. For instance, the enterprises refuse to deliver contract-prescribed interests and rights for labors or the labors fail to fulfill their obligations consciously. All these problems tend to lay hidden dangers for labor dispute.

Issues regarding payment, social insurance, labor protection and working hours. The majority of Chinese private enterprises are still at the stage of capital primitive accumulation and some of them are still in the form of family-run management. In pursuit of a lower cost and the biggest profit, those private enterprises are tempted to mess up employees’ salary, allowance, social security and welfare, and working hours, lowering the safety and health standard in workplace and abolishing special protection for female employees. All these behaviors in violation of national stipulations would trigger labor dispute once some contradictions emerge in production.

Insufficient protection from the labor union leads to mounting labor dispute. Few private enterprises in China have installed labor unions. Most of the existent labor unions in some private enterprises are under direct control of the entrepreneurs and the working positions in this kind of unions are usually occupied by entrepreneur’s relatives or managers of medium or high levels. Unable to be economically and financially independent, labor unions in current private sectors are reduced to be the subordinate departments inside the enterprises, totally reliant on enterprises’ finance and ineffective in its role of protecting employees’ rights and interests.

2. The Need to Reduce Labor Disputes and Construct a Harmonious Labor Relation

As both the employer and employees in private enterprises are lawful entity in market economy, their legitimate rights and interests are protected by national laws and policies. Protection and checking would strike a balance between the two parties’ strength as well as their rights and interests, steering labor relation in the direction of harmony rather than confrontation.

Reducing labor dispute is conducive to the development of national economy and employment. As the 18th CPC National Congress Report has explicitly pointed out, more efforts should be made to achieve higher quality employment and elevate a higher rate of employment as an important objective
for the establishment of a moderately prosperous society in an all-round way. The Report has also made clear the fundamental policies and principles regarding employment promotion.

(2) It is beneficial to creating a favorable market order and optimizing the labor environment of socialist market economy. As the most fundamental and vital economic relations and the bedrocks for a harmonious society, labor relations in private enterprises are closely connected with China’s economic development and social stability.

(3) The ease of labor disputes will contribute to the optimal allocation of human resources and the enhancement of employees’ affinity for the company, and generate more economic returns for private enterprises. The elimination of labor disputes and the construction of harmonious labor relations will give impetus to the optimal allocation of human resources and galvanize employees into generating more economic returns for the enterprises.

(4) It helps to trim down unnecessary expenditures, maintain a positive reputation and image for private enterprises and enhance their competitive advantage.

3. Measures to Reduce Labor Dispute and Construct a Harmonious Labor Relation

(1) Give full play to the role of the government and strengthen its sense of responsibility. The construction of a harmonious and stable labor relation requires that the government must assume its responsibility. Firstly, the government should remain committed to broadening employment channels and striking a balance between the supply and demand of labor force. The government shall further shoulder its responsibility of employment facilitation, laying out appropriate employment policy and diversifying job forms under unified leadership and in a collaborative way, with a to delivering the long-term benefits of related policies in respect of career description, employment training, self-employment and employment assistance for as many as possible. Secondly, Great attention should be paid to shaping a sound legal environment and interpreting and implementing legal system correctly. Thirdly, the government shall make sure that laws must be abode by and enforced strictly, and that anyone in violation of the laws shall be brought to justice. Moreover, the government should strive to keep the enforcement of labor law under constant review and supervision to ensure employees’ legitimate rights and interests and intensify its collaboration with labor union, court of justice, industrial and commercial bureau and guest letter office to build a synchronous mechanism for the protection of labor’s legitimate rights and interests. Fourthly, great endeavors should be made to promote the publicity of related policies and regulations and organize training to improve labor’s awareness of rights protection.
The establishment of a harmonious “people-oriented” labor relation

1) Try to establish a “people-oriented” labor relation for modern enterprises. Enterprises should enhance their social responsibility, operate according to labor laws and regulations and try to shape a sound legal climate where labors are allowed to work in a pleasant mood. It is necessary for employers to implement “people-oriented” philosophy in their employment and raise the level of payment and bonus, welfare, vacation, labor insurance and protection to an extent consistent with the increase of economic benefits. A system of democratic management should be laid out in enterprises to construct a harmonious labor relation, in which employees are more likely to have a strong sense of ownership and belonging and willing to stay in the enterprise.

2) Private entrepreneurs should lead by examples proactively. It has become a gauge and a defining factor for the measurement of an entrepreneur or an enterprise’s success as to whether the entrepreneur could consciously comply with the stipulations of laws and regulations and observe code of ethics, disseminate the sense of fairness in enterprise, establish standardized enterprise and human resource systems, fulfill his/her social obligations while treating employees kindly, giving full consideration to their rights and interests and carrying forward teamwork spirit. Entrepreneurs should play the leading role in abiding by laws and striking a balance between enterprises’ and employees’ interests.

3) Private enterprises should set up internal regulatory mechanism, give full play to the role of labor union in rights protection, and establish three-party negotiation mechanism. The establishment of a Mediation Center for Labor Disputes in Private Enterprise shall follow three-party principle, where representatives of employees, enterprises and labor unions shall play their role as a three-party negotiation mechanism in eliminating labor disputes and promoting harmony for labor relations.

4) Great importance should be attached to culture construction, converging the cultural values of enterprises and employees. Private enterprises must pay special attention to the construction of enterprise culture, which drives employees to take pride in the accomplishments of the enterprises, thus easing confrontation and breeding common prosperity.

(3) Labor should learn on their own initiative, improve self-awareness, enhance professional quality and protect their own legitimate rights and interests.

1) Labors need to elevate their scientific and cultural quality and legal consciousness. Labors should take the initiative to study Labor Law, Labor Contract Law, laws and regulations regarding social security and protection for
migrant workers, and turn to colleagues or labor union for help whenever they encounter abstruse points. In doing so, a curb would be put on the root causes of labor disputes as employees are able to voluntarily abide by labor laws and internal regulations and they would protect their legitimate rights and interests by virtue of laws and regulations once they get embroiled in labor disputes.

2) Enterprises should unify their separate objectives to settle labor disputes. Their fundamental interests are highly congruent. In conclusion, the dispute between labor and capital is a relative conflict based on absolute cooperation. With the gradual improvement of China’s labor laws and systems, labors have every reason to be confident of our country and government. Not only will the laws protect their vested interests, but also will compensate for their lost rights and interests. Hence, labors should adjust their attitudes and respond to labor disputes actively.

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