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Exploration of the Path of Labor Dispute Resolution

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Abstract

According to the traditional view, the main ways to handle labor disputes include: workers and employers resolve disputes through consultation, apply for mediation to the Labor Dispute Mediation Committee, submit to the Labor Dispute Arbitration Committee to apply for arbitration in accordance with the law, and file labor lawsuits with the court. Each of these ways has its own advantages and disadvantages, but they are also closely related and interconnected. In practice, the parties may not know which route is more conducive to resolving a dispute, nor are they clear about the specific functions of the various institutional themes and the differences in the advantages and disadvantages of resolving specific issues. And in the legislative system, the functions of the various institutional subjects also have cross and blank areas. This article will focus on the labor security supervision system and the labor dispute arbitration system, as well as the relationship and interface between the labor dispute arbitration system and the labor litigation system to do a brief analysis and put forward proposals.

Keywords

Labor security supervision system, Labor dispute arbitration system, Labor litigation system

1 Exploration of the Relationship Between the Labor Security Supervision System and the Labor Dispute Arbitration System

1.1 Brief Analysis of the Labor Security Inspection System

The labour security supervision system refers to the administrative law enforcement activities of the administrative organs of labour security in supervising and inspecting, in accordance with the law, employers, workers or other social organizations with whom there is a labour relationship in terms of their compliance with the laws and regulations on labour security, in order to detect and rectify violations of the law, and to carry out administrative treatment or impose administrative penalties for such violations in accordance with the law. The system bears the responsibility for state intervention and is an important compulsory means of safeguarding the rights and interests of workers. Labour security supervision is the supervision and inspection of the implementation of labour security laws and regulations carried out by a specialized statutory organ, the subject of which carries out the supervision on behalf of the Government, and thus has State coercive power, which the subject of the supervision may not refuse or resist.

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1.2 Brief Analysis of the Labor Dispute Arbitration System

Arbitration of labor disputes refers to the legal system whereby the Arbitration Committee for Labor Disputes makes judgments on facts and makes rulings on rights and obligations of labor disputes in accordance with the application of the parties concerned in accordance with the law. Based on the facts, the process of lawful, fair, timely and conciliation-oriented, it achieves the purpose of protecting the legitimate rights and interests of the parties and promoting harmonious and stable labor relations.

The main process of labor dispute arbitration includes: the parties submit a written application to the Labor Dispute Arbitration Committee, the Arbitration Committee makes a decision to accept or reject the application, conducts an investigation and obtains evidence, conducts conciliation, produces an arbitration conciliation letter if an agreement is reached, the arbitration tribunal makes a decision based on the principle of majority rule after a hearing, produces an award, and the parties carry out the award in accordance with the results of the decision.

1.3 Links and Differences Between Labor Security Supervision and Labor Dispute Arbitration

1.3.1 Links Between Labor Security Supervision and Labor Dispute Arbitration

First, they were established to solve problems within a similar scope. Both labor security supervision and labor dispute arbitration are designed to further the implementation of laws and regulations on labor and social security, to maintain social and labor order and relations by sanctioning and punishing illegal acts, and to protect the legitimate rights and interests of both laborers. Secondly, they both use coercive means to force the wrongdoing or infringing party to stop the behavior and impose penalties to make it compensate for the loss. Finally, the cases accepted by the two have overlapping areas. Labor dispute arbitration and labor security supervision agencies in the process of accepting cases show the phenomenon of cross-scope, that is to say, in most cases the parties can apply for arbitration, but also through the report and other ways to apply for labor security supervision. Therefore, clarifying the functions and division of labor dispute arbitration and labor security supervision and linking them together effectively can better enable workers to protect their rights and enterprises to regulate the employment of labor issues to be resolved, forming a one-piece mechanism of arbitration and supervision linkage, and giving full play to the strengths and advantages of each agency and each department and contributing to harmonious labor relations.

1.3.2 The Difference Between Labor Security Supervision and Labor Dispute Arbitration

First of all, there is a difference between the two in terms of competence. Labor security supervision is administrative, active and compulsory. The arbitration of labor disputes, on the other hand, is based on the application of the parties and the judgment of the arbitration committee. Because of labor disputes does not mean that the parties have illegal behavior, but only may be due to the two sides for the rights and obligations of the knowledge and understanding of the different disputes, so labor dispute arbitration can not only use simple compulsory administrative measures, but should be forced to solve the problem as far as possible through negotiation and mediation, and thus has the characteristics of quasi-judicial and passive. Secondly, the two have

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differences in attributes. Laws and regulations related to labor security has both public law and private law attributes. Problems in the field of public law mainly include those that cannot be changed by agreement of the parties in accordance with the law. Supervisory agencies belong to the government, with obvious administrative nature, through the use of state administrative power to eliminate illegal behavior in labor relations, these issues are more appropriate to be dealt with by the government agencies with the guarantee of public power according to the labor security supervision system. And the private law field mainly involves the two parties equal consultation part of the problem, often by the consensus of the two sides of the labor enterprises can be solved, has the collegiality, and the arbitration institution belongs to the third party to establish, has the obvious social, advocating the use of social power to solve the problems in the labor disputes, so through the arbitration or judicial process to solve more reasonable. Again, there are differences in their positions. The duties of labor security supervision departments are mainly to protect the legitimate rights and interests of workers, while the supervision and management of employers and penalties. While the labor dispute arbitration court party belongs to the intermediary status, to protect the legitimate rights of both parties, so there are differences between the two in the position of the case. Not only that, the two sides of the evidence collection methods, time limit and other aspects of the requirements are not the same.

1.4 Possible Bases for the Convergence of Labor Security Supervision and Arbitration of Labor Disputes

First, there is a basis for their convergence. First, there is a possibility of convergence between the two in law. Although the two are two different systems and forms, but both for the maintenance of labor relations and the legitimate rights and interests of both sides of the labor force, the scope of the two provisions of the case in most cases there is a cross and overlap in the law on the legitimate rights and interests of workers are given the right to choose, that is, can be through one of the two ways to seek redress, get protection.

Secondly, there is the possibility of linkage between the two in terms of organization. The reality of legal practice, labor security supervision agencies and labor dispute arbitration agencies around the staff also exist in the case of mixed staff, unified deployment. That is to say, most of the staff have the same knowledge and legal skills, in different institutions only apply, refer to the provisions of the laws and regulations are different, but not to each other's field of all knowledge. Secondly, both of them have their own advantages in maintaining the harmonious development of labor relations, and once they are effectively connected, they will greatly promote the adjustment and better development of labor relations. Labor security supervision as an administrative act can take the initiative to correct illegal acts in a timely manner, while labor arbitration can be more harmonious through mediation and other ways to maintain the rights of both parties; labor security supervision can efficiently deal with simple and clear cases, while arbitration of labor disputes is more advantageous in more complex cases that require clarification of the dispute between the two sides; labor security supervision has a series of legal means to pursue responsibility, which has a strong deterrent effect on labor units, while labor dispute arbitration is more advantageous; labor security supervision has a series of legal means to pursue responsibility. Labor security supervision has a series of legal means to pursue responsibility, which has a strong deterrent effect on labor units, while labor dispute arbitration can avoid the complexity and lengthy, time-consuming and labor-consuming administrative procedures; labor

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security supervision can directly check with the relevant departments and retrieve evidence, while labor dispute arbitration can balance the burden of proof of the two parties, and has the advantage of dealing with cases that are difficult to investigate.

Therefore, the effective linkage of the two is of great significance. The effective linkage of the two can not only quickly enable the parties concerned to choose the best way to defend their rights and seek remedies, and realize the effective allocation of quasi-judicial and administrative law enforcement resources, but also give full play to the respective strengths of the two, thus forming a synergy to build harmonious, stable and positive labour relations. In addition, the establishment of a joint mechanism can also realize the all-round protection of workers' rights and employers' norms of employment by the three major legal procedures of civil, administrative and criminal law, avoiding the two institutions shirking their responsibilities and giving play to the positive effect of "one plus one is greater than two".

1.5 Problems in the Interface Between Labor Security Supervision and Labor Dispute Arbitration

The first is that the division of labor between the two agencies with regard to the acceptance of cases is not clear. Even though the scope of their cases is highly overlapping, the law does not provide for a further division of labor between the two in cases within the scope of the overlap, which leads to the practical phenomenon that both institutions are unwilling to take care of more than one thing, and each has its own vacuum. Secondly, the statute of limitations for the two remedies is inconsistent, resulting in the relevant persons sometimes not being able to make a well-considered choice within the same period of time. Thirdly, there are barriers to the convergence of institutional personnel and procedures. Even though the personnel on both sides have similar academic qualifications and knowledge, they have different establishments and are under the management of different institutions, so that when there is a divergence of views, there is a need for more senior leaders and institutions to coordinate, which leads to a waste of resources and time. In the procedure, labor dispute arbitration must be applied for by the parties to start the case process, and its subsequent series of procedures are within the scope of civil litigation, while the labor security supervision work is carried out on its own initiative in accordance with the statutory powers and functions, and its subsequent procedures are within the scope of administrative reconsideration and administrative litigation. Finally, the two have not established an effective system of cooperation, such as the transfer of discovered problems to each other, the coordination of methods of dealing with each other, and channels for sharing information and the ability to interconnect, which also prevents the two from communicating actively and effectively in a timely manner.

1.6 Suggestions and Countermeasures for the Convergence of Labor Security Supervision and Labor Dispute Arbitration

First of all, we should optimize the case acceptance of the convergence of the process, the two should be a clear division of labor for specific cases, exclusive jurisdiction. For different types of cases to make a more specific and clearer division of labor, can make the parties more targeted to seek legal remedies. When the two in the acceptance of different opinions, the two institutions can be negotiated to determine the final

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jurisdiction, if they can not reach agreement, then to a higher level of leadership institutions to make decisions. After the division of labor is carried out, the results of subsequent cases can also be compared and analyzed through dynamic evaluation and other mechanisms, so as to make constant adjustments and learn from each other in order to unify the acceptance process and standards for all types of cases. Secondly, the two sides should carry out regular exchanges and seminars to unify the handling and caliber of difficult cases and avoid undue influence due to different standards. If it is difficult to find out the facts and judge the application of law in the cases accepted by the labor security supervision agencies, the cases can be transferred to the arbitration agencies, and if there are major violations in the arbitration of labor disputes, the supervision agencies can also be provided with corresponding clues and experience. Again, personnel collaboration and integration as well as information sharing should be strengthened. The improvement of personnel's comprehensive ability and standardization of training can be achieved through joint training and regular exchanges. The personnel of the two institutions can realize the convergence of personnel and business level through exchange and rotation, etc. In the context of technological development, the case handling systems of the two institutions should also form an interconnection mechanism to realize information sharing and sharing, so as to promote the enhancement of the efficiency of case processing. To sum up, it is necessary to synchronize the mechanism and system construction between the supervision and arbitration agencies in case acceptance, processing, personnel and information, etc., so as to break the ideological, institutional and procedural barriers between the two, and to realize the effective convergence between the labor security supervision and labor dispute arbitration, so as to better safeguard the rights of both parties to the labor dispute.

2 Exploration of the Relationship Between the Labor Dispute Arbitration System and the Labor Dispute Litigation System

2.1 A Brief Analysis of the Labor Dispute Litigation System

Labor dispute litigation is a procedure that ensures the final and complete settlement of labor disputes through judicial proceedings. The procedure involves the participation of the people's courts in dealing with labor disputes and controversies, thus fundamentally bringing the handling of labor disputes into the legal system. Compared with other systems, it is more conducive to safeguarding the litigation rights of the parties, helping to supervise the rulings of arbitration committees, and facilitating the enforcement of conciliation agreements, arbitration awards and court judgments that have come into effect. According to China's labor law, the arbitration procedure is a prelude to labor dispute cases. That is to say, cases that have not gone through arbitration cannot enter into litigation procedures. Litigation procedures for labor disputes mainly include the submission of a complaint to the people's court by the plaintiff who has the requisites for filing a complaint; the parties to the litigation shall, in accordance with the law, adduce evidence and exercise their litigation rights; the judge may conciliate the case according to the opinions of the two parties after the hearing of the court debate in the courtroom, and if no conciliation agreement can be reached, the judge shall make a judgment in the courtroom or pronounce a regular verdict; and the parties concerned shall, in accordance with the verdict, consider whether or not to appeal or to apply for a retrial and file a complaint.

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2.2 Possibility and Status of Connecting Labor Dispute Arbitration and Labor Dispute Litigation

According to our country labor law existing relevant provisions, at present in the labor dispute after the occurrence of labor disputes, the parties to choose the order of labor dispute arbitration or litigation is mainly as follows: it can apply to the unit of labor conciliation committee for conciliation, if the conciliation is unsuccessful, one party can request to carry out arbitration of labor disputes to the labor dispute committee to submit arbitration application. It can also directly submit the arbitration application to the arbitration committee. After the arbitration, if not satisfied with the arbitration award, can directly to the people's court to file the relevant lawsuit.

Therefore, labor dispute arbitration in a sense and procedure can be regarded as a labor dispute litigation as a pre-procedure, that is, labor dispute cases must have been based on labor dispute arbitration before applying for civil litigation. At the same time, labor dispute arbitration and civil litigation in the scope of the trial has a high degree of overlap, which provides a good opportunity for the connection between the two. The stable operation of the mechanism of connecting labor dispute arbitration and litigation can not only reduce the trial pressure of the judicial institutions, especially the court, but also reduce the litigation cost of the labor parties, and at the same time, it also provides a guarantee for the enhancement of the authority of the labor dispute arbitration and litigation.

2.3 Difficulties and Obstacles in the Interface Between Labor Dispute Arbitration and Labor Dispute Litigation

2.3.1 Statute of Limitations and Jurisdiction of Arbitration and Litigation of Labor Disputes

Generally speaking, the statute of limitations for labor arbitration is one year according to the Labor Dispute Adjustment and Arbitration Law. The statute of limitations for the court to hear labor litigation cases is two years according to the Civil Procedure Law. In other words, there are a large number of labor disputes that have passed the statute of limitations for arbitration but have not yet reached the statute of limitations for litigation, and the labor dispute litigation cannot be filed with the court. Secondly, the connection between labor dispute arbitration and litigation has the problem of jurisdiction and jurisdiction mode. If the award of labor dispute arbitration is made in one place and the basic court for labor dispute litigation is in another place, it will be very costly for workers to defend their rights, and it will also make it difficult to connect arbitration and litigation.

2.3.2 Differences in Standards and Outcomes Between Arbitration and Litigation of Labor Disputes

With regard to labor affiliation, the subject of employment, labor protection, assumption of responsibility and other focal points common in labor litigation, arbitration committees and people's courts sometimes make different rulings in accordance with different laws and regulations. At the same time, due to the current legal system in the labor dispute arbitration and litigation for their independent operation of the legal process, and the current civil litigation law has not been submitted to the arbitration committee and cross-examination of the evidence found to be resubmitted, public cross-examination, and other elements of

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a clear description, resulting in the two in the process of convergence of the two are prone to a great waste of judicial resources.

2.3.3 Differences in Acceptance of Admissibility and Examination of Specific Cases

In some dispute cases, local arbitration committees and people's courts have different practices as to whether to accept specific cases. Typical of these is the case of disputes over labor social insurance premiums, which are often accepted by arbitration committees on the basis of the provisions of the Law on Mediation and Arbitration of Labor Disputes, while local people's courts do not accept such cases on the basis of judicial interpretations issued by the Supreme People's Court. The same is true of disputes over labor social insurance, where local arbitration committees will make awards such as retroactive payments, while the people's courts will claim that such issues should be dealt with by the social insurance agency, and reject the case or dismiss the lawsuit.

2.3.4 Disconnect Between Labor Dispute Arbitration and Litigation

In the Supreme People's Court's response to the Ministry of Labor's Letter on Several Issues Concerning the Trial of Labor Dispute Cases by the People's Courts, it is stipulated that decisions, conciliation and rulings should not include the revocation or affirmation of arbitral awards. This means that the courts do not include a link to determine the accuracy of arbitral awards or review them when hearing labor dispute litigation. Therefore, even though arbitration is procedural a precursor to litigation, in practice, the two are relatively isolated from each other. In other words, once litigation has begun, it is independent of arbitration, and there is no need to take into account the outcome of arbitration. This has led to the effectiveness and authority of arbitration being undermined to a certain extent, so that disputes are often dealt with in litigation, while arbitration hearings become a mere formality, serving only as a springboard without substantively solving the problem.

2.4 Recommendations and Countermeasures for the Convergence of Labor Dispute Arbitration and Labor Dispute Litigation

2.4.1 Improving Legal Safeguards and Jurisdictional Issues

It is recommended that a special law based on the Labour Code be drafted in a timely manner, within which the specific mechanisms for the settlement of labour disputes and the question of the relationship between the various institutions, organizations and systems should be regulated. The procedures of conciliation, mediation, arbitration and litigation should be systematically organized together, and the division of labour among departments should be refined, so that a standardized procedure for self-help can be gradually formed. Establish the normative content of public relief that includes labor security supervision, complaint, reconsideration and administrative litigation. Formulate a unified system of limitation and jurisdiction for labor dispute arbitration and labor dispute litigation, and extend the limitation period for arbitration to two years, in order to better protect labor parties to apply for labor arbitration and litigation within the validity period, and to form an effective convergence in time. At the same time, the jurisdiction system also needs to be further improved. At present, no clear and perfect jurisdiction system will let the applicant is at a loss,

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do not know where to apply for relief. Reference can be made to the Civil Procedure Law to formulate a unified and standardized jurisdiction system, and make provisions for the jurisdiction of typical cases, such as the jurisdiction of the place where the accident occurred in the case of work-related injury insurance, and the jurisdiction of the place where the labor contract is actually performed in the dispute over the payment of wages, etc., and then further connect the local arbitration committees and the People's Courts, in order to better achieve the effect of connecting the evidence and materials and safeguarding the results of the implementation.

2.4.2 Adjustment of the Relationship Between Local Arbitration Commissions and People's Courts

Although the arbitration committee and the people's court are independent of each other, with different functions, but in labor disputes in the work of the two information and jurisdiction of the case is very closely linked, if the two do not communicate with each other, there is no information interaction, then it is likely to lead to the arbitration and litigation between the fracture and the disconnect, and further lead to the information blockage and waste of resources. Therefore, the local arbitration committee and the people's court can regularly organize joint meetings and talent exchange activities, typical cases and difficult issues in-depth joint discussions, to determine the unified and effective ruling standards. At the same time, the two should also establish a system of information sharing and platform system, record the case, trial or adjudication basis and results, etc., and at the same time, establish a linkage mechanism, so that the court can access to the content of the arbitration stage, the evidence material and the results of the trial, in order to reduce the cost of duplication of declaration and trial. Finally, the two can establish a common talent training mechanism. Although the talents required by arbitration committees and courts differ slightly in the scope of knowledge and mode of thinking, they can exchange experiences and insights in handling cases and discussing difficult cases, so as to improve the overall level of hearing labor dispute cases.

2.4.3 Strengthening Oversight

The People's Court's system for investigating mistakes in the trial of cases is a good template, and local arbitration committees should also establish corresponding laws and regulations to hold relevant personnel accountable if they make major errors or mistakes in the arbitration process, so as to ensure that arbitration organizations exercise their powers prudently and seriously. At the same time, labor dispute arbitration can also ensure the reasonable exercise of power through the acceptance of industry supervision and periodic spot checks.

2.4.4 Strengthening the Interface Between Arbitration and Litigation in Labor Disputes in terms of Defining Responsibilities and Compensation Systems

Whether it is labor dispute arbitration or litigation, it is indispensable for employers, workers, labor dispatch units and other participating subjects. Employers and workers may apply for arbitration, and the arbitration committee will decide whether to accept the application and how to rule on it in accordance with the statute of limitations and the specific facts and scope of the case. Subjects may also file lawsuits with the people's courts in accordance with the law. This requires each subject to carry out clear definition of respon-

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sibility and compensation amount in the process of case filing and trial, in order to deepen the effective connection and active linkage between labor dispute arbitration and labor dispute litigation. At the same time, according to the enterprise labor employment relationship, labor responsibility and other disputes to develop a unified standardized judicial litigation and arbitration system, strengthen labor disputes, arbitration and litigation in the process of system coordination, including evidence docking, procedural interoperability, etc., in order to maximize the play and ensure that the arbitration agency's ruling effect, reduce the process of linkage between the two in the process of resource consumption and to ensure that the final decision of the labor dispute cases.

3 Conclusion and Outlook

This section should present your findings objectively, explaining them largely, concisely, precisely in the text. You should show how your results contribute to the scientific knowledge in academic community clearly and logically. Results and Discussion may be divided by subheadings, concluding equations, figures, tables, etc.

As China's economy continues to develop, the number and types of labor dispute cases arising in various regions are increasing. Labor security supervision system, labor dispute arbitration system and labor dispute litigation system are the same as the main ways to solve labor disputes, and undertake their respective tasks: labor security supervision system tends to directly find out the problems and order rectification or make penalties through the mandatory and active examination of relevant departments, which directly urges the employers to comply with the labor laws and regulations, and reasonably deal with the labor relations; labor dispute arbitration, which is initiated by the parties themselves The arbitration of labor disputes is initiated by the parties concerned, which can timely and efficiently make conciliation and decision on the disputed facts in the capacity of a third party, protect the legitimate rights and interests of both the workers and the employers, and promote the harmony and stability of the labor relations; the litigation system of the labor disputes further gives the parties concerned a role as the bottom of the pocket, and the parties concerned apply for the initiation of litigation procedures to the court after refusing to obey the arbitration award, which further guarantees the litigation rights of the parties, and is conducive to the supervision and examination of the arbitration committee's decision and the enforcement of conciliation agreements, arbitration awards and court decisions that have entered into force.

It is not difficult to find that the three are set up with the intention of combining them into a flexible mode of orderly and diversified dispute resolution before and after, but in practice they are faced with problems such as non-uniformity of the system, waste of resources, overlapping of functions, and disconnection of each other. In order to solve these existing problems, we must continuously improve the existing laws and regulations system, do a good job in dealing with specific typical disputes for labor disputes and articulation, to achieve the development of the interoperability and integration of the procedures. The goal should be to protect the labor parties in the scope of legal protection, the implementation of the principles of fairness, effectiveness, timeliness and rigor, sorting out and implementation of the demand for labor disputes with the settlement of cases of supervision, arbitration, litigation mode of linkage, and at the same time,

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draw on domestic and foreign labor legislation and similar cases of tripartite procedures to connect the appropriate legislative experience, to the introduction of China's legislation to provide a valuable, practice-based help. The improvement of the system is never on paper, let alone out of nothing, we need to constantly try and learn from the theory and practice. The improvement of the system is not an overnight work, nor is it an overnight success, but requires a long period of patient experimentation and research.

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