

On the Employment Security of Special Groups

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Abstract: Special employment groups in the sense of China's labor law refer to people in a weak position in the process of employment. In addition to the relevant provisions of the Labor Law, there are a number of separate laws and regulations and regulations to protect such groups. However, there are still some deficiencies in the current security system, which can promote its employment by improving the legislation, improving the social security mechanism and developing the employment assistance system.

Keywords: Special Groups; Employment Security; Employment Promotion

1. Meaning and content of special employment groups

Employment is the main way for workers to engage in labor, and realizing employment is crucial to every worker. Special employment groups in the Labor Law refer to those who are disadvantaged in the employment competition for special reasons. According to Article 14 of the Labor Law, China's special employment groups mainly include women, the disabled, ethnic minority personnel, ex-servicemen and other personnel who need attention, such as workers in old industrial bases, people with employment difficulties in their 40s and 50s, and people released after serving their sentences.

In reality, such groups are restricted by physical health, knowledge level and other aspects, with difficulties in employment and vulnerable to unreasonable exploitation or employment discrimination by employers. Therefore, the law, based on its physiological characteristics and special needs, imposes special measures on the basis of the same protection as ordinary workers.

2. Status quo of employment security for special employment groups

2.1 Women

The reason for women's employment difficulties is, first and all, psychological factors. Influenced by historical factors, women are in a weak position in the society for a long time. The traditional concept even holds that women should not work and women are virtuous. Therefore, women are vulnerable to discrimination by employers in employment. However, China is already a socialist country, and has realized reform and opening up, advocated democracy and equality, so women should have equal employment opportunities with men. The second are the physiological factors. On the one hand, women are generally weaker than men and more vulnerable to labor; on the other hand, women physiology change in some special periods, causing employers to prefer male workers.

China has always attached great importance to the protection of women's rights and interests, and has gradually formed a set of legal system for the special protection of female workers. Article 48 of the Constitution fundamentally establishes the legal status of equality between men and women.^[1] Article 13 of the Labor Law stipulates that women shall enjoy equal employment opportunities; Article 59 specifies taboo types of female workers; Article 60, 61, 62, 62 and 29 respectively stipulate the protection of female workers. In the Employment Promotion Law, a series of relief measures to protect fair employment, oppose employment discrimination and against employment discrimination, all include the protection of women's rights and interests. For example, Article 27 indicates that women enjoy equal labor rights, and the Labor Contract Law also has provisions on the protection of women's employment rights and interests. In addition, there is legislation specifically for the protection of women's employment rights and interests, such as the Law on the Protection of Women's

Rights and Interests and the Special Provisions on the Labor Protection of Female Workers.^[2]

To sum up, the legal guarantee of women's employment mainly includes: first, to guarantee equal employment opportunities for women; second, the employment standards of female workers shall not be raised; third, the employer shall not agree on restrictive clauses for female workers.

2.2 Disabled persons

According to the purpose of the United Nations Convention on the Rights of Persons with Disabilities, people with mental disabilities and physical disabilities, and their physical dysfunction may lead to employment discrimination. Some enterprises, considering the economic benefits, corporate image, employment safety and other factors, refuse to recruit the disabled or implement different pay for the same work. Some people use their physical defects to force them to work, which not only seriously destroys the right to equal employment, but also seriously destroys the physical and mental health of the disabled.

China has always attached great importance to the employment of the disabled, and has formed a relatively complete legal guarantee system. Article 45 of the Constitution clearly stipulates that the State helps disabled persons in employment; Articles 14, 29, 70 and 73 of the Labor Law protect the disabled; and Articles 3, 17, 18, 25, 25, 52 and 55 reflect the state assistance and care for the employment of the disabled. In addition, the laws and regulations of the Law on the Protection of Disabled Persons, the Regulations on the Employment of Disabled Persons, the Interim Regulations on the Employment of Disabled Persons and other social welfare enterprises have established a series of employment systems for the disabled.^[3] The Vocational Education Law, the Law on the Protection of Women's Rights and Interests, the Military Service Law, and the Individual Income Tax Law also reflect the state support and assistance to the disabled, thus playing a positive role in the employment of the disabled.

2.3 Ex-servicemen

Ex-servicemen who make contributions to the state and the people shall also enjoy the welfare benefits provided by the state after their retirement. However, some ex-soldiers do not have a high level of knowledge and culture, and their work in the army cannot improve their ability to apply for general social positions, which makes it often difficult for them to adapt to the rapid developing society after retirement. Some ex-servicemen were injured in the army and are not healthy enough to support them in certain manual labor. Therefore, the actual employment of ex-servicemen is difficult situation. China attaches great importance to the employment of ex-servicemen. Premier Li Keqiang has clearly pointed out in the Government Work Report that the employment of veterans should be guaranteed.

At present, China has formulated a series of laws and regulations, including the Military Service Law, the Regulations on the Resettlement of Retired conscripts, the Regulations on the Resettlement of Ex-Soldiers, the Interim Measures on the Resettlement of Non-commissioned Officers, and the Regulations on Pension and Preferential Treatment for Soldiers, to provide security for the employment of ex-servicemen. In general, there are four main ways to ensure the employment for veterans.^[4]

First, independent employment.^[5] The main methods are as follows: (1) one-time retirement fund; (2) employment services and training; (3) entrepreneurship and employment support; (4) continue to complete their studies. Second, arrange the work.^[6] Where units mainly target resettlement objects and receive ex-soldiers, priority shall be given to retaining ex-soldiers. Third, retirement placement. Fourth, lifelong support.^[7] These measures are the proper arrangements made for ex-servicemen, which effectively solve the employment problem of such groups.

2.4 Ethnic minority personnel

Most of the ethnic minority areas are located in China's border areas. Due to the unbalanced regional development in China, the economic development level of the border areas is relatively backward, while the industry, education and other fields in many ethnic minority areas are slower, so it is difficult for the employment of ethnic minority personnel. China is a unified multi-ethnic country. It adheres to equality and unity among all ethnic groups, respects the habits and culture of ethnic minorities, and actively promotes their development.

China promotes the employment of ethnic minorities in the Constitution, Labor Law, Employment Promotion Law, Regional Ethnic Autonomous Law and other laws and regulations, and some special policies are mainly formulated: first, regional ethnic autonomous areas give priority to recruiting ethnic minority personnel; second, to train ethnic minority talents. Thus, a set of employment security system for ethnic minority personnel has been formed.^[8]

2.5 Employment groups supported mainly by other state policies

In terms of the current situation of China's labor and employment, there are some groups in a weak position in employment due to economic and social development or some historical factors. At present, China has also carried out preferential policy protection for such special groups. There are three main key groups supported by the state.

First, the industrial workers in the old industrial base. As China's society is in transition, the economic structure is adjusted, the rapid development of high-tech, traditional industries are gradually eliminated and declining. Most workers in the old industrial base do not have a high cultural level or other skills, so it is difficult to do other jobs, and cannot adapt to the labor demands of the new situation and become unemployed groups in the economic revolution. In this regard, China's "employment promotion Law" article 57 stipulates the corresponding protection measures.

Second, the "4050" people with employment difficulties. On the one hand, people at this age have insufficient skill level, and their knowledge and concept are relatively backward, unable to work in some emerging labor industries, but it is relatively difficult to learn to improve themselves. On the other hand, the family burden of this age group is heavy. Once unemployment may affect the whole family life, and being not properly solved may cause serious social consequences. At present, the state's special protection for this group is mainly stipulated in Article 52-54 of the Employment Promotion Act.

Third, those released after serving their sentences. In terms of their own factors, on the one hand, these personnel due to the heavy psychological burden of prison experience, are prone to psychological barriers when job hunting. On the other hand, such groups have been decoupled from the society for a long time, and their education level is generally low before serving a sentence, and it is difficult to improve in prison, so they will inevitably not adapt to the employment requirements and environment after their release. In terms of social concept, there is often discrimination against this kind of group in the society. Employers not only worry that the recruitment of such people may have a negative impact on the image of the unit, but also fear that the crime will bring trouble to the unit, so they find various reasons to refuse to recruit. In order to avoid the waste of social labor resources, but also because of the basic values of human rights and equal employment rights, the state also preferentially protects such groups.^[9]

3. The conclusion

To sum up, the legal protection system for special groups in China is relatively complete, but there are still deficiencies. First, some legal provisions are general. For example, the employment security for women and the disabled, especially the judicial relief for the victims, there is a lack of operational legal procedure guarantee and substantive relief. This makes it difficult for workers to protect their rights in judicial practice, and gives judges greater discretion, leading to different judgments in the same case. Second, the lack of a unified law. At present, China's legislation for special groups is relatively scattered, and no unified legal documents are formed, which is not conducive to the centralized adjustment of the employment relationship of special groups. In addition, there are also problems such as legislative imbalance. Employment security for some special groups has been relatively perfect, but some legislation still pays little attention to it, and even some are not included in the scope of legislative protection.

In view of these problems, first of all, we can improve legislation, revise deficiencies, refine regulations, and balance protection efforts. Secondly, establish and improve the relevant social security mechanisms, such as improving the social welfare benefits and social security and medical insurance of special groups. Third, we will develop the employment assistance system to provide more public welfare jobs and free public employment services to promote full employment of workers. Only through the linkage of the state, employers and workers can we effectively solve the problem of marginalization of special groups and effectively ensure the full employment of special groups.

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