

Abstract

In general term, transferring position is a management power of employers to improve the organization, in some cases; it might be an employees' purpose. Transferring position can be occurred legally or illegally, with a variety of reasons.

The employees suppose that the transferring position is a managing power of employers for minimizes the employee rights which are the right of submitting demands or negotiation on the subject of the agreement on terms and conditions of employment. As a consequently, those rights is a significant mechanism to improve the condition of employment, wages, compensation, welfare and also the other employees' benefits. These mechanisms can affect or reduce the amount of profits. Employers also assume that they are the owner of their business thus they have power over the employees on the subject of the condition of employment, wages and employees welfare. Hence, they tend to obstruct the employees when submitted demands or negotiated. An illegal changing position comes to be an essential implement to prevent the employee from exercising the right of employees. Accordingly, Article 31 of the Labor Relation ACT B.E. 2518, and Article 34 and Article 37 of the State Enterprise Labor Relation ACT B.E. 2543 prohibited that the employers change the employees position, by the reason that they file a compliant or submitted demands, or negotiating. However, these regulations have contained some matters for objections. There can be described as follows;

1. In case of the employees, the regulations merely provided the protection only for the employees who are involved such demands. There is no provision to protect an employee in a general term. Thus, these provisions should be considered the meaning of expressions "Getting involved with demands". What is the action of "Getting involved with demands"? If the employees gained the benefits from such demands only and do nothing, can be interpreted as "Getting involved with demands"?
2. In case of the employers, the Supreme Court has been interpreted the expressions "the prohibition of changing position during the processing of demands" that means "getting a promotion". It seems like the employers

can not transfer employees to a different position except those transfers, by the reasons that the employees take action as the exemption of the employment regulation. This interpretation may take an affect to the employers if they have got necessities to transfer employees who involved such demands but do not be a legal exception.

From those objections, the author supposed that the Thai Labor Law protected the employees from transferring position only one case that is proceeding demands and also the employees get involved with such demands. In addition, Article 31 of the Labor Relation ACT B.E. 2518, and Article 34 and Article 37 of the State Enterprise Labor Relation ACT B.E. 2543 still do not cleared enough so there still have got some problems for exercising and interpreting regulations. The author would like to propose the resolution as follows:

Firstly, in general term, the regulation should empower the Employees Committee of Labor Relation Law and also the Enterprise Relation Committee of State Enterprise Labor Relation Law to consider the transferring of employees' position for the reason that the employees participated in the Employees Committee and also the Enterprise Relation Committee. This strategy intended for hold the balance of power between employees and employers as well as reduced the power of employers. The transferring position would be fairly considered and prevent the problem rather than the consideration was simply made by the employees.

Furthermore, the employees may feel as the one of the business whereas employees and employers are in an equal standing. The relationship between employees and employers would be improved. Thus, Article 50 of the Labor Relation ACT B.E. 2518, and Article 23 of the State Enterprise Labor Relation ACT B.E. 2543 by including the power of consideration to transfer position

Secondly, the author supposed the intention of this regulation is to prevent the transferring employee position who gets involved with the demands. These regulations supported the employees totally exercise their rights. One of the resolutions is a consideration case by case. There is means to interpretation in each case by considered the purpose of transfer. If the employers have a necessary

reason for their transfer, employers can transfer employees even though their get involved with the demands. Nevertheless, the interpretation of the regulation is a resolution in a short term only. For the long term, the author would like to assume a resolution that is provisions should be mended. Article 31 of the Labor Relation ACT B.E. 2518, and Article 34 and Article 37 of the State Enterprise Labor Relation ACT B.E. 2543 are exemption from employees' manners. In fact, the transfer may be taking place by necessity of employers so this necessity basis of transfer position should be enacted in those regulations.

As explained above, the amendment of regulation would be one of excellent resolutions. The transfer position should be considered by both parties, that is employees and employers. The employees may consider appropriately, the employers would be impartial to transfer their position.