

No.10 Development of Employment Relationship (1)—Human Resources (text 135-151)

1 Promotion, Elevation of Status, Demotion

1.1 Personnel Management System and Employee Performance Evaluation (Appraisal)

- Post and vocational qualification
- Employee performance evaluation (appraisal) and legal claim
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1.2 Promotion, Elevation of Status

- Claim for promotion and elevation of status, and pros and cons of a claim for damages
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1.3 Demotion

- Illegality of demotion
 - Case of demotion being just a decline in post
 - Case of demotion being accompanied by a decline in vocational qualification
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*How should the two types of demotion be distinguished, i.e., a decline in post as an execution of authority over personnel issues and another as disciplinary action?

2 Reshuffle

2.1 Significance of Reshuffle

- Excessive frequency of reshuffle in Japanese companies

2.2 Legislative Control Over Reshuffle

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- Contractual grounds and restriction
- Restriction due to an abuse of right

*What are cases that are specifically regarded as an abuse of right?

*What sort of meanings do the following regulations have?; Article 26 of Child and Family Care Leave Law and Article 3, paragraph (3) of Labor Contract Law.

RESEARCH Regarding a reshuffle accompanied by the change of a abode, should some legal restrictions be imposed? If so, what kind of restrictions is conceivable?

3 Temporary Transfer, Permanent Transfer

3.1 Significance of Temporary and Permanent Transfers

- Increase in temporary and permanent transfers

3.2 Requisites for Temporary and Permanent Transfers

- Does general stipulations, such as work regulations (comprehensive permission), sufficiently cover consent of workers required for a temporary transfer (Article 625, paragraph (1) of Civil Law Act)?

Case of Nippon Steel Corporation (Nippon Steel Transportation Co., No.2): Verdict by 2nd Petty Bench of the Supreme Court dated Apr. 18, 2005, included in *Law Reports on Labor*, Vol.847, p.14

<http://www.courts.go.jp/hanrei/pdf/4C51EA356545F09F492570DE00063F0F.pdf>

- What about a permanent-transfer case?

3.3 Employment Relation During Temporary Transfer and After Permanent Transfer

- Relation during a temporary transfer
 - Which party bears rights and duties under the labor contract?
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 - Which party bears compliance with the labor-related laws and regulations?
- Relation after a permanent transfer

4 Changes In Enterprise Organization—Merger, Business Transfer, Corporate Split-Up

- Merger
 - General succession
- Corporate Split-Up
 - Partial general succession ← company law, labor contract succession law
- Business Transfer
 - Specific succession ← individual agreement
 - * Is it possible for a worker, who does not want to move, to reject?
 - * Is it possible for a worker, who wants to move, to request the move?
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5 Leave of Absence

- Wages during a leave of absence
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 - Determination of “recovery” at the expiration of the medical-leave term, and termination of a labor contract
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