

No.11 Development of Employment Relationship (2) —Disciplinary Punishment (text151-160)

1 Right of Disciplinary Punishment

1.1 Corporate Order Theory Observed in Precedents

- Right to corporate order thesis

#73, #98, etc.

- Its grounds?
- Its range?

*What is significance of a theory that the right to corporate order thesis extends to physical facilities (right of facilities administration)?

1.2 Legal Ground for Right of Disciplinary Punishment

- Theory of inherent power and theory of social contract
- Footing of precedents?

· #73

- Case of Fuji Kosan: Verdict in 2nd Petty Bench of Supreme Court dated Oct, 102005, included in *Law Reports on Labor*, Vol.861, p.5

<http://www.courts.go.jp/hanrei/pdf/09480B279A91604A492570DE00063F19.pdf>

1.3 Legal Restrictions on Right of Disciplinary Punishment

- Supporting stipulations such as work regulations
- Abuse of right (Sec. 91 of labor standards law)
- Various fundamental rules of the synonymous principle of legality

2 Variety of Disciplinary Action

- Admonition, reprimand
- Pay reduction (Sec.91 of Labor Standards Law)
- Suspension
- Demotion
- Ronshi Kaiko* (resignation) [*Translation note: one being forced to voluntarily resign*]
- Disciplinary dismissal

3 Reasons for Disciplinary Punishment

- Falsification of background

#75

- Insubordination

#36, #77

Breach of workplace discipline

#76

Private use of company goods

Delinquent behavior in private life

#78

Regulation against dual employment, holding a side job

#19

RESEARCH A worker's' illegal conduct in his private life is given: Oone situation is that the relevant fact comes to be widely known to society via rumors and media reports, and another where no such social exposure takes place. Is a judgment on legitimacy of disciplinary measures different between the two situations? Is that appropriate?

