

Characteristics of Judicial Relief for Dismissal Compensation in China

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ABSTRACT

This article explores the challenges faced by the Chinese labor market, particularly the exacerbation of labor-capital contradictions due to technological development and economic downward pressure. Using an empirical research method, the article analyzes 1,000 judgment documents from labor dispute cases with the subject of dismissal compensation between 2020 and 2022. It finds that the applicants for dismissal compensation tend to be older, have longer service years, and often have multiple disputes. The article further analyzes the relationship between economic compensation and the applicants' years of service and finds that they are in an exponential relationship, i.e., the longer the years of service, the higher the amount of compensation required by the applicants, and the more compensation they eventually receive. The article argues that this reflects the tilt of China's labor law towards protecting long-serving employees and encouraging stable employment relationships.

KEYWORDS: Dismissal Compensation, Judicial Relief, Labor Disputes, Labor Relations

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I. INTRODUCTION

Currently, the Chinese labor market is facing unprecedented challenges. On the one hand, the rapid development of new technologies such as artificial intelligence and big data has led to changes in the structure of the labor market, with traditional occupations gradually disappearing and emerging occupations emerging in an endless stream. This requires workers to constantly learn new skills to meet the needs of the market. However, not all workers can master new skills in time, which may lead to unemployment for some workers. On the other hand, factors such as economic downward pressure have led to a decline in the profitability of enterprises, and layoffs occur from time to time, impacting the stability of workers' employment and exacerbating labor-capital contradictions, affecting social harmony and stability.

In related research on judicial relief for dismissal compensation, Botha, MM and Siebert, CM (2011) and Li Xinfang (2019) believe that the dismissal compensation system needs to be continuously improved to cope with new forms of labor relations

and challenges. They argue that the calculation of dismissal compensation should consider not only years of service and salary levels but also factors such as work ability and age for adjustment of dismissal compensation. They believe that in addition to economic compensation, other alternative measures for dismissal compensation, such as reinstatement and public announcement, can also be considered[1][2]. Mischke, C (2005) believes that unfair dismissal compensation should consider factors such as years of service, salary level, work ability, age, health condition, and career development prospects to ensure the rationality and fairness of unfair dismissal compensation. He explores various methods for calculating unfair dismissal compensation, such as fixed compensation method, income loss compensation method, and salary replacement method[3]. Xiong Hui (2010) and Ding Ting (2013) also believe that various factors should be considered in the calculation of dismissal compensation[4].[5] Shen Tongxian (2017) believes that the scope of application of dismissal compensation should be

expanded, the standards for dismissal compensation should be improved, and the supervision of employers' dismissal behavior should be strengthened[6].

In summary, previous studies have insufficiently researched the judicial relief for dismissal compensation in situations such as labor relations, factual labor relations, and oral agreements. Domestic research mainly discusses economic compensation and compensation for labor remuneration, and there is little research on corrective measures such as "reinstatement" and "public announcement" in foreign laws. Relevant research mainly focuses on case analysis and legal analysis, and lacks the combination of empirical research and qualitative research, making it difficult to deeply explore the laws and deep-seated problems of judicial relief for dismissal compensation. This study will adopt an empirical research method to explore the characteristics and laws of judicial relief for dismissal compensation in China, helping us better understand China's labor relations and making contributions to optimizing China's labor market environment and improving China's labor legal system.

II. EMPIRICAL RESEARCH

This study conducts empirical research based on 1,000 judgment documents from labor dispute cases with the subject of dismissal compensation between 2020 and 2022.

A. Sample Description

The average age of the applicants for dismissal compensation is 45.55, and the average length of service is 7.14 years. The data can infer: Enterprises prefer young labor, and older employees are at greater risk of age discrimination and dismissal due to higher labor costs than young employees and weaker pace of knowledge and skill renewal compared to young employees.

The average number of applications for dismissal compensation lawsuits is 1.98, meaning that most applicants have 1-2 applications. The skewness is 3.6, indicating that there is a considerable proportion of cases with multiple disputes, which involve not only

dismissal compensation but also other applications such as overtime pay, social security, and compensation. This suggests that there are a considerable number of labor infringement cases in China's dismissal compensation cases.

From the amount of litigation and judgment for dismissal compensation, it can be seen: (1) The main disputes accompanying dismissal compensation are the pursuit of monetary remuneration such as wages, overtime pay, and allowances. (2) In addition to economic compensation, the judgment amounts for overtime pay, subsidies, and wages are significantly lower than the application standards. This indicates a tendency of judicial relief to reduce the amount of compensation for enterprises. Among them, the judgment amount for overtime pay is significantly lower than the target amount, meaning that a considerable proportion of applicants have failed to effectively prove, and the courts are very strict in handling such cases; the judgment amounts for subsidies, wages, economic compensation, and compensation are also significantly lower than the target amount, reflecting that most of the time, judicial institutions will comprehensively consider the actual payment capacity of enterprises and the normative use of legal standards. (3) The skewness of the target amount of overtime pay, subsidies, wages, economic compensation, and compensation is generally higher than the skewness of the judgment amount. This means that the distribution of judgment amounts in judicial relief is more symmetrical with fewer extreme values, i.e., judges or arbitration institutions tend to make more moderate judgments, making the compensation amount closer to the average level, thus reducing the occurrence of extreme high compensation. This reflects the conservatism of the legal system in handling compensation cases or the suppression of extreme high compensation amounts, and the practice direction of China's judicial relief system for dismissal compensation is to avoid excessive compensation leading to unfair or unreasonable economic burdens.

Table 1: Descriptive Statistics

	Mean (Yuan)	Absolute Gap (Yuan)	Relative Gap (%)	Skewness
Overtime Pay Target	73,519.34	0	0	6.137
Overtime Pay Judgment Amount	4,563.59	-68,955.75	-93.79	3.217
Subsidy Target	94,868.49	0	0	9.203
Subsidy Judgment Amount	32,284.60	-62,583.89	-65.97	4.737
Wage Target	43,728.47	0	0	11.462
Wage Judgment Amount	23,930.48	-19,798.99	-45.27	11.032
Economic Compensation Target	44,656.71	0	0	5.738
Economic Compensation Judgment Amount	24,570.43	-20,086.28	-44.98	3.830
Compensation Target	112,701.17	0	0	8.585
Compensation Judgment Amount	43,700.76	-68,900.41	-61.22	8.806

B. Regression Analysis

The regression analysis reveals several laws (Table 2).

1. Exponential Relationship Between Economic Compensation and Years of Service

Both the amount of economic compensation claimed by the applicant and the final judgment amount of economic compensation are in an exponential relationship with the applicant's years of service. In other words, the longer the years of service, the higher the amount of compensation required by the applicant, and the more compensation they eventually receive. This exponential relationship indicates that long-serving employees have higher demands for economic compensation, which is consistent with the design concept of the economic compensation system, i.e., the judicial relief for dismissal compensation in China believes that exponential compensation should be imposed on the labor contribution compensation of long-serving employees.

2. Significant Impact of Years of Service on Economic Compensation

The exponential relationship between dismissal compensation and years of service is a strong correction for the age discrimination of long-serving employees by enterprises. The longer the working years, the better the protection of the rights and interests of employees in dismissal compensation, which reflects the tilt of China's labor law towards protecting long-serving employees and encouraging stable employment relationships.

Table 2: Regression Coefficients

Variable	B	t	Sig.
Based on Target of Application: Constant	4.419	83.511	.000
Based on Target of Application: Applicant's Service Years (sqrt)	.076	13.673	.000
Based on the Amount of the Judgment: Constant	4.419	83.511	.000
Based on the Amount of the Judgment: Applicant's Service Years (sqrt)	.076	13.673	.000

a. Dependent Variable: Logarithm of Economic Compensation Target

CONCLUSION

This study, based on an empirical analysis of 1000 dismissal compensation awards, reveals several key characteristics of the judicial relief for dismissal compensation in China.

Firstly, Chinese enterprises tend to employ young labor, leading to greater dismissal risks for older employees. Employees with approximately 7 years of service are more likely to have disputes with the enterprise regarding dismissal compensation.

Secondly, dismissal compensation cases often accompany other labor infringement situations, such as overtime pay and social security. A certain proportion of dismissal compensation cases involve unfair dismissal, which may carry the risk of double compensation for unfair dismissal.

Thirdly, the economic compensation is not linearly positively correlated with the applicant's service years, but rather shows an exponential relationship. The longer the service years, the more exponentially the compensation increases. Enterprises should weigh the risks of dismissal costs.

Fourthly, the judicial relief for dismissal compensation in China tends to reduce the amount of compensation for enterprises, especially in terms of overtime pay, allowances, and subsidies. Judges or arbitration institutions tend to make moderate judgments to avoid excessively high compensation.

The important implications of this study are:

1. When improving the dismissal compensation system in China, more factors such as work ability and age need to be considered. Efforts

should be made to incorporate these factors into the calculation or adjustment basis of dismissal compensation.

2. It is necessary to establish and improve the labor security system, strengthen the supervision of employers' dismissal behavior, and effectively prevent behaviors that infringe on the legitimate rights and interests of workers through dismissal.

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