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Press Release

Labor Court Region 6 ordering employers to provide 115 migrant workers from Myanmar over 17 million baht as compensation, finding the instruction issued by the Tak labor inspector final

On 28 February 2019, the Labor Court Region 6 gave a verdict on the case 115 migrant workers from Myanmar have filed complaint against their employers, Mae Sot P.A. Ltd. as defendant no. 1 and Ms. Supha Chakcharoensap, as defendant no. 2. The two defendants had allegedly failed to act in compliance with the instruction of the labor inspector of the Tak Office of Labour Protection and Welfare per the order no. 1/2561 which upholds the right of the 115 migrant workers to the protection prescribed in the Labor Protection Act. The Tak labor inspector has also ordered the employer to award the workers 25,357,993.04 baht plus interest cumulative from the day the breach has been made.

Another employer of the plaintiffs in this case is the Hun Bangkok Co. Ltd. This employer has previously filed the case to revoke the order no. 1/2561 issued by the Tak labor inspector. In this case, the Labor Court has mediated, and the 115 migrant workers agreed to accept eight million baht after which they could file the case against the Mae Sot P.A. Ltd. to recoup the remainder of the overdue payment. (For more detail please see <http://hrdfoundation.org/?p=2057>) As a result, the 115 migrant workers have taken Mae Sot P.A. Ltd. to the Labor Court Region 6 in the Black Case no. 230/2561.

Although an mediation has been initiated by the Court, both parties could not agree on the terms and the Court has set out the following issues for adjudication.

1. Is the order no. 1/2561 issued by the labor inspector of the Tak Office of Labour Protection and Welfare final or not?

The Court opines that based on the evidence, both defendants have been aware of the order of the labor inspector but have not challenged it in the Court within 30 days since they were aware of the order per the Labor Protection Act 1998's Section 125, first paragraph. Therefore, the Court considers the order no. 1/2561 issued by the labor inspector final.

2. Are both defendants employers of the plaintiffs?

The Court opines that according to the order no. 1/2561 issued by the labor inspector, defendant no. 1 and Hun Bangkok Co. Ltd. are indicated as employers of the 115 plaintiffs. The Court is thus convinced that defendant no.1 is an employer of the 115 plaintiffs, although defendant no.2 could not considered employer to the 115 plaintiffs.

3. Are both defendants obliged to offer compensation to the plaintiffs as instructed by the labor inspector, and how much?

The Court opines that according to the evidence, defendant no. 1 and Hun Bangkok Co. Ltd. are obliged by the order no. 1/2561 issued by the labor inspector to offer the 115 workers their outstanding wage, overtime payment, compensation, and a special severance pay in lieu of advance notice, for the total amount of 25,357,993.04 baht. And it appears Hun Bangkok Co. Ltd. has paid the 115 plaintiffs part of the amount or 8,000,000 baht. Therefore, defendant no.1 is obliged to pay 115 plaintiffs the remainder of the amount.

The defendant no.2 in this case is considered a partner of defendant no.1 which is an unlimited liability company. Therefore, defendant no. 2, as a partner of the company, is obliged to be held accountable to the 115 plaintiffs for the remainder of the liability plus interest as well.

The Labor Court Region 6 thus rules that both defendants, the Mae Sot P.A. Ltd. and Ms. Supha Chakcharoensap, must pay the 115 plaintiffs the amount plus incurred interest. Each plaintiff shall be awarded the amount proportionally to the amount they are entitled to per the order of the labor inspector, in total 17,357,993.04 baht.

Both defendants are able to appeal the verdict within 15 days since the day the verdict is read or issued. The appeal can only be made to challenge the legality of the verdict. If no appeal has been filed within the deadline, the case shall reach its final decision and the 115 plaintiffs can request for the legal execution officers to seize property of the defendants for public auction in order to reclaim money which can then be paid to the 115 plaintiffs

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