



NATURE AND CHARACTERISTICS OF LABOR DISCRIMINATION: A COMPREHENSIVE ANALYSIS

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Abstract:

This paper discusses the problems of discrimination in labor relations and reveals their essence and features. The purpose of this article is to protect employees from discriminatory acts of employers, to increase legal awareness, legal culture of employees and employers, as well as to prevent violations of the rights, freedoms and legitimate interests of citizens in the field of labor. The author underlines the urgency to fight gender discrimination, explaining the essence of this phenomenon in life situations. Also, all necessary regulatory legal acts were applied in the work to protect the rights of employees and to prevent discrimination in the field of labor.

Keywords: Discrimination at work, gender discrimination, discriminatory act, direct discrimination, indirect discrimination, employee, employer

Discrimination issues are becoming more acute, and there are often cases of infringement on the rights, freedoms, and legitimate interests of citizens in labor relations. However, due to a lack of knowledge about discrimination in labor relations, both employees and employers often make mistakes and do not understand the essence of this concept. As a result, they become victims of discrimination and cannot protect their rights guaranteed by the Constitution and laws of the Republic of Uzbekistan.

In this article, we will attempt to reveal the essence and features of discrimination in labor relations and explore real-life situations through the application of the Labor Code provisions, other legislative acts of the Republic of Uzbekistan, and international documents.

According to foreign legal scholar V.N. Skobelkin, one of the key principles of labor law is the prohibition of discrimination. The concept of discrimination is reflected in various regulatory legal acts of Uzbekistan and some international conventions. It is essential to note the principle of equality before the law, which is enshrined in the Constitution of the state. According to Article 19 of the Constitution, all citizens of the Republic of Uzbekistan have the same rights and freedoms; they are equal before the law regardless of gender, race, nationality, language, religion, beliefs, social origin, and public status. This principle establishes equal rights and freedoms for all citizens, which are guaranteed by the state and its bodies. Article 4 of the Labor Code also sets out the principle of equality of labor rights and prohibits discrimination in the field of labor and occupations.

The concept of the term "discrimination" is primarily expressed in the Labor Code of the Republic of

Uzbekistan. The second part of Article 4 of this code stipulates that discrimination involves the establishment of direct or indirect restrictions or the provision of advantages in the field of labor and employment based on gender, age, race, nationality, language, social origin, property and official status, place of residence, attitude to religion, beliefs, affiliation with public associations, and other circumstances not related to the business qualities of workers and the results of their labor. This principle is also reflected in the Convention on Discrimination in the Field of Labor and Occupations. According to Article 1 of this convention, discrimination includes:

- a) distinction, exclusion, or preference made on the basis of race, skin color, gender, religion, political beliefs, national origin, or social affiliation, leading to the destruction or violation of equality of opportunity or treatment in the field of labor and occupations;
- b) distinction, exclusion, or preference leading to the destruction or violation of equality of opportunity or treatment in the field of labor and occupations, as determined by the relevant member in consultation with the representative organizations of employers and workers, where they exist, and with other relevant authorities.

In the national legislation of the Republic of Uzbekistan, special attention is paid to gender discrimination. For example, Article 3 of the Law of the Republic of Uzbekistan "On Guarantees of Equal Rights and Opportunities for Women and Men" establishes two types of discrimination based on gender: direct and indirect. Direct gender discrimination refers to any distinction, exclusion, or restriction aimed at denying the rights and freedoms of women and men in all areas



of social activity, including discrimination based on marital status, pregnancy, family duties, as well as sexual harassment and differing pay for equal work and qualifications. Indirect gender discrimination involves creating situations or conditions that put individuals of one gender in a less favorable position compared to individuals of another gender. This can include the promotion of gender inequality through media, education, culture, as well as the establishment of conditions or requirements that may have negative consequences for individuals of a specific gender.

Discrimination in labor relations occurs between the employer and the employee. When examining this phenomenon through real-life examples, it becomes evident that many employees who are unaware of labor legislation suffer from discriminatory actions by employers. Below are some examples:

Case 1. Citizen A, a mother of a one-year-old child, applied to the "IELTS ZONE" training center for a position as a manager. The administration of the training center refused her, even though she fully met the qualifications for the position. When she asked for the reason for the refusal, the administration pointed to her having a one-year-old child, stating that she should stay home and take care of the child.

Case 2. Citizen B, who was five months pregnant, worked at a private university as an English teacher. The rector of the university, upon learning of her pregnancy, decided to reduce her salary by 25%. When she approached the rector to inquire about the reason for the pay cut, he cited her pregnancy, claiming that it would hinder her effective performance at the university, and ultimately dismissed her with this explanation.

In these situations, we can observe signs of discrimination. Employers unlawfully refuse to hire women, reduce their salaries, and dismiss them. The lawmakers of the Republic of Uzbekistan have addressed this issue in national legislation, which guarantees women's rights and establishes the principle of the prohibition of discrimination. For example, Article 42 of the Constitution of the Republic of Uzbekistan prohibits denying women employment, dismissing them, or reducing their salaries based on pregnancy or having a child. Additionally, the Labor Code of the Republic of Uzbekistan contains a provision that forbids the establishment of any direct or indirect restrictions and discrimination in the field of labor and employment based on gender, age, and other circumstances not related to the professional qualities of workers and the results of their labor, as stated in Article 119 of the Labor Code. It should also be noted that Article 11 of the Convention on the Elimination of All Forms of

Discrimination Against Women establishes the right to equal remuneration and equal working conditions, while Article 8 of the Convention on Equal Treatment and Equal Opportunities for Working Men and Women: Workers with Family Responsibilities prohibits termination of labor relations based solely on family responsibilities.

Considering these real-life examples, we can see violations not only of the legislation of the Republic of Uzbekistan but also of certain international acts governing labor relations by employers, along with clear cases of discrimination against women.

In summary, it can be concluded that discrimination in labor relations represents a limitation of the rights and freedoms of workers or their unfair treatment based on various attributes and factors.

Sometimes, people misunderstand the concept of discrimination, not realizing that certain professions may require work of a specific gender. The legislation of the Republic of Uzbekistan provides for exceptions and preferences in labor relations, which are not considered discrimination. For instance, Article 4 of the Labor Code of the Republic of Uzbekistan states: "Reasonable distinctions, exceptions, preferences, as well as restrictions on the rights of workers in the field of labor and employment, which are conditioned by the requirements inherent to this type of labor or by special concern for individuals who require increased social protection (persons responsible for family duties, minors, persons with disabilities, pregnant women, and others) shall not be considered discrimination." This provision aligns with the principles of social justice enshrined in the Constitution. Thus, it can be said that the Republic of Uzbekistan, as a social state, cares for the protection of vulnerable groups by providing them with various opportunities and benefits. In this context, it is appropriate to consider the application of these norms in real situations:

Case 3. A 29-year-old citizen, A., became interested in a job (in mines) at "Uzbekneftgaz" and applied for the vacancy. The administration of the organization denied her application, stating that according to the legislation of the Republic of Uzbekistan, she is not allowed to work in such a position. Citizen A. filed a complaint in court, claiming that the administration of "Uzbekneftgaz" discriminated against her and violated her constitutional rights.

Case 4. The "Wushu Sanshou" gym announced vacancies for coaches, requiring professionalism only from adult men to train a group consisting of male representatives. The announcement specified particular requirements, including gender, professional skills, and others. A few days later, a 35-year-old woman, a



champion in the women's category of this sport, approached the gym administration, claiming that she could occupy the specified position. However, the administration denied her, citing the announcement's requirements that the candidate must be a man. Unhappy with this response, the woman contacted law enforcement, asserting that the gym administration discriminated against her.

These cases directly highlight the application of the aforementioned regulatory legal acts in practice. In the third case, one might hastily conclude that the citizen cannot be employed in such a position because the relevant profession falls within the list of labor professions that adversely affect women's health and are recommended for male workers. According to the resolution of the Ministry of Employment and Labor Relations of the Republic of Uzbekistan and the Ministry of Health of the Republic of Uzbekistan "On Approving the List of Professions and Works that Adversely Affect Women's Health and for Which the Labor of Women is Not Recommended," there are several professions available only to men. This category includes jobs related to loading, unloading, drying, sorting, and packaging raw materials containing radioactive substances, as well as those constantly involved in repairing equipment in mines contaminated with radioactive substances, as well as jobs including engineering and technical work with constant engagement in underground oil extraction.

It should be noted that, according to Article 2 of the International Labour Organization Convention No. 45 "On the Employment of Women on Underground Work in Mines of Any Kind," no female individual, regardless of age, can be employed in underground work in mines. Based on the legislation of the Republic of Uzbekistan and the aforementioned ILO convention, we can conclude that the rights of the citizen are not violated, as work in mines may negatively affect her health. Therefore, the rights of the citizen were not infringed, and the actions of the administration of "Uzbekneftgaz" are lawful.

In regard to the fourth case, the announcement listing requirements for candidates reflects the preferences of the gym administration. The administration established these requirements due to the necessity of having a male candidate to conduct specialized sessions for a group consisting solely of men. Therefore, in this case, there are no signs of discrimination. In our view, in such instances, employers may set gender-related requirements since the nature of the job demands a candidate of a specific gender. This is permissible, and it demonstrates that differences, preferences, and restrictions on workers' rights in the field of labor and

occupations, dictated by the requirements particular to that type of work, do not constitute discrimination. Thus, we can conclude that not all differences, exceptions, preferences, and restrictions on workers' rights in the field of labor and occupations are classified as discrimination.

It is important to note that responsibility for acts of discrimination is established by the regulatory legal acts of the Republic of Uzbekistan. The Constitution, the Labor Code, and the Law of the Republic of Uzbekistan "On Guarantees of Equal Rights and Opportunities for Women and Men" prohibit discrimination. For example, Article 119 of the Labor Code stipulates the inadmissibility of unlawful refusal to hire. According to the second part of this article, refusal to hire that violates the requirements prohibiting discrimination in labor and occupations is considered unlawful.

Responsibility for discriminatory acts by employers is governed by the Code of Administrative Responsibility and the Criminal Code of the Republic of Uzbekistan. Article 49 of the Code of Administrative Responsibility establishes administrative responsibility for violations of labor legislation. According to the first part of this article, a violation of labor legislation by an official results in a fine of five to ten base calculation amounts. Moreover, Article 148 of the Criminal Code of the Republic of Uzbekistan stipulates that a knowingly unlawful refusal to hire a woman due to her pregnancy or to dismiss a person caring for a child is punishable by a fine of up to twenty-five base calculation amounts, deprivation of a specific right for up to three years, or corrective labor for up to three years.

It is well known that the Constitution of the Republic of Uzbekistan guarantees judicial protection for every individual, their rights and freedoms, as well as the right to appeal against illegal decisions, actions, and inactions of state bodies and other organizations, including their officials. The Labor Code outlines provisions that enable citizens to approach state bodies in instances of labor rights violations. For instance, the last part of Article 4 of the Labor Code guarantees every individual who believes they have been subjected to discrimination in labor and/or occupations the right to challenge the act of discrimination in the established manner, including filing a lawsuit to eliminate discrimination and to seek compensation for material damages and moral harm. In our opinion, citizens should reach out not only to civil courts but also to the Prosecutor's Office of the Republic of Uzbekistan, as the main tasks of the Prosecutor's Office include ensuring the rule of law, strengthening legality, and protecting the rights and freedoms of citizens by the Law "On the Prosecutor's Office." Additionally, Article 143 of the Constitution establishes



that oversight over the accurate and uniform implementation of laws throughout the Republic of Uzbekistan is carried out by the Attorney General of the Republic of Uzbekistan and subordinate prosecutors.

In summary, we can conclude that discrimination in labor relations represents a limitation of the rights and freedoms of workers based on various grounds. The Republic of Uzbekistan ensures and guarantees the rights of workers and protects them from discrimination in the field of labor and employment by establishing appropriate responsibility for individuals who commit discriminatory acts.

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