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DATE	SUBJECT	ISSUING HEADQUARTERS & INDORSEMENT
7 May 1948	Police Powers of Labor Standards Bureau Inspectors	SCAP
8 Sept. 1950	Unfair Labor Practice Case Before CLRC	CLRC
5 Feb. 1951	Rejected Claims on Workmen's Accident Compensation Insurance	CCAR

~~044~~
L-200

HEADQUARTERS
CHUGOKU CIVIL AFFAIRS REGION
ECONOMICS SECTION
Labor Division

1 extra copy needed

5 February 1951

MEMORANDUM FOR: Record

SUBJECT: Rejected Claims on Workmen's Accident Compensation Insurance

Claims for WAC insurance rejected during the month of December 1950 for each prefecture were as follows:

Okayama Labor Standard Bureau:

3 cases ¥109,353

Tottori Labor Standard Bureau:

17 cases ?

Shimane Labor Standard Bureau:

12 cases ¥8,015

Yamaguchi Labor Standard Bureau:

0 cases -

Hiroshima Labor Standard Bureau: (for year 1950)

1,212(illegal)	¥14,716,620
223(reiests)	¥ 2,635,868
Apr - Dec Total	¥17,352,488

WALTER P. DOMANOWSKI

EJ/hk

CHUGOKU

CUL-42
Subject: UNFAIR LABOR PRACTICE CASE BEFORE CLRC
From: CLRC
Date: August 29, 1950

Reference: CUL-32

Complainant: Management

Party charged: 2 workers, Tada and Komiyama

Hearings held on: June 13, 21 and July 3

Conference held on: August 19 and 23

Date of issuing order: August 23, 1950

Ruling of review: Dismissal

Recognized facts: The management planned to cut personnel of 1,303 employed as of June 30, 1949 in Horikawa plant of Toshiba. Met with the strong opposition by the Federation, the management unilaterally announced to discharge them, showing the following criteria of curtailment. (1) unskillful persons, (2) lazy persons, (3) persons who violate the company's regulations, (4) persons who are reluctant to cooperate with the management in operating business, (5) persons whose attendance is irregular, (6) persons who are too often absent by private reasons, (7) persons who are long absent due to disease, (8) persons who are difficult to change their job or workplace, (9) persons who can obtain no suitable job in the plant due to the reduction of business.

Komiyama and Tada in question together with about 300 employees rejected the dismissal warning instead of presenting resignation by the appointed date when they were urged voluntary resignation, so these 2 men were discharged on July 22, and 23, 1949. Tada was dismissed under the reasons of (8) and (9) of the said criteria and Komiyama under (1). While Komiyama and Tada were under examination by the Kanagawa LLRC, with which they had filed a complaint of unfair labor practice, they proposed voluntary resignation to the management respectively on August 24 and 31, and received the retirement allowance.

Later, on November 10, an agreement was concluded between Toshiba and Federation, settling all the dispute and was signed formally on November 16,

Legal foundation of ruling: When LRC intends to issue an order of remedy requested by the labor, not only does it need that there must exist a fact of unfair labor practice on the part of the management, but also there in reality must exist an object to be relieved at the time when the order of remedy is issued. Therefore, even if there exists an unfair labor practice by the management, when the labor have settled the case themselves with the management through procedures of compromise, voluntary retirement, reinstatement or by the management's compensating the labor for damages, and then have lost the object to be relieved, there is no measure for LRC to relieve the labor.

Komiyama and Tada requested reinstatement, regarding the discharge effected on July 22, 1949 and July 23 as unfair labor practice. Whereas Komiyama voluntarily negotiated on August 24 with the management in order to resign at his own request, presenting the written resignation under date of July 21 and received an retirement allowance. This fact must be regarded as compromise between he and the management indicating that (1) the management revokes his discharge dated July 22, 1949, that (2) he proposes a voluntary retirement dating back to July 21 and that (3) he does not dispute hereafter with the management about retirement. Tada also negotiated on August 31 through Komiyama with the management, presenting the written resignetation dated July 22 and received a retirement allowance. This likewise could be considered same as in the case of Komiyama.

Further investigation shall reply "no," to the question of whether or not the two men's resignation was an unavoidable counter-measure to the unilateral stopayge by the management of supply of pay. Because, as for Tada, he had been suspended from payment by the management since June 1, 1949 owing to his being a full-time union official, so he since then had been actually got paid from the union. Accordingly his discharge gave no change in his income, even after he was discharged on July 22. His resignation was entirely attributable to his domestic reason (shortage of money owing to his child's disease and death). As for Komiyama, if he, who had his pay stopped unilaterally by discharge, had merely received the retirement allowance due to discharge by business reason, his measure might have been considered an counter-measure taken unavoidably from his stand. However, while other dischargees were continuing their struggle, separating himself from others, he alone negotiated with the management concerning his voluntary retirement, which should be logically admitted that the retirement was volunteered.

In brief, granting that their unilateral discharge fell under unfair labor practice, he had already lost qualification for the relief of reinstatement because he had resigned on the agreement with the management. Thus, aside from other kinds of request, the two men's request for relief of reinstatement made in the first instance is impossible to be complied with by CLRC and should be dismissed.

Lastly, that Tada and Komiyama are still failing to find sutable job, though presumably owing to their own fault partly, seems to be responsible for the management which is lacking in sufficient will to discharge obligation promised solemnly in accordance with the agreement. In this respect, the management should strongly reflect that there is still an obligation to be discharged by itself.

This is a case in which the CLRB reversed the original decision made by the local LRB and dismissed the complaints of the (defendants) original plaintiff. In other words, the company appealed to the CLRB and the CLRB upheld the company's view

Reasons.

TK/YI 1. Even if the fact of unfair labor practice did existed, the labor relation committee will not ~~issue~~ an order of remedy ~~if~~ in case it is deemed that the object of remedy ceased to exist or ~~that~~ it the worker himself had removed such object of relief.

CUL-42 (3)

2.

L-200

GENERAL HEADQUARTERS
SUPREME COMMANDER FOR THE ALLIED POWERS
Economic and Scientific Section

APO 500
7 May 1948

004.06 (7 May 48) ESS

SUBJECT: Police Powers of Labor Standards Bureau Inspectors

TO: Military Government Team Labor Officers

Attached for information is a copy of procedures to be followed by Labor Standards Bureau inspectors in the exercise of police powers vested in them by virtue of Article 102 of the Labor Standards Law. These procedures have been approved by the Attorney General's Office of the Japanese Government.

W. F. MARQUAT
W. F. MARQUAT
Major General, U. S. Army
Chief, Economic and Scientific Section

1 Incl
"The Judicial Police Office of Labor Standard Inspection"

COPY

THE JUDICIAL POLICE OFFICE OF LABOR STANDARD INSPECTION

The Labor Standard Inspector is authorized, by Article 102 of the Labor Standard Law, to exercise the powers of the judicial police officer with regard to violation of this law by reason that the content of labor standard administration is exceedingly complex, the scope of its coverage is broad and thereby special knowledge and experience are needed to investigate the violation of this law. But there is inseparable delicate relation between the administration of the Labor Standard Inspection aiming at the executive relief of the laborers' rights authorized by this law and that of judicial police office regarding to punishment of the employer who violated the stipulation of this law. Therefore, when Labor Standard Inspector exercises the judicial police office, he should manage it correctly complying with the following instructions.

By the way, those officials who were engaged in judicial police had frequently abused their power in the old days. To prevent these evils, when Labor Standard Inspector exercises the judicial police office, he must always abide with the principle of new Constitution which lays stress on the protection of personal rights of the citizen, and comply with the competent Public Procurator's direction, lest he should take illegal steps.

This instruction is issued under complete understanding of the Procurator's Bureau of the Ministry of Chancellor. And item 5 and item 6 of the instruction of January 19th, 1948, titled as "Regarding to the Start of Inspection" are abolished by this instruction.

1. With regard to the Labor Standard Inspectors within the jurisdiction, the Chief of Prefectural Labor Standard Office should report their names, titles, and the names of the offices, to which they were attached, to the Chief of Public Procurators' Office at the time of appointment or removal without delay.

2. When the Labor Standard Inspector exercises the judicial police office, he must comply with Law and ordinances, judicial police office manual, the Special Procedure thereof and this notice.

3. With regard to the case of violation of the Labor Standard Law, the Labor Standard Inspector has the primary duty to transact it, but, if necessary, he can ask the assistance of general judicial policemen.

4. As the Inspector's rights stipulated in Article 101 of the Labor Standard Law are given only for the enforcement of the Law, he must not use them for prosecution procedure.

However, as the written promise to correct the violation or written explanation by employer and other documents written for the enforcement of the Law can be utilized as evidences in order to take judicial procedure, the Inspector should deal accurately with business in the course of executing the inspection administration, paying attention to that effect.

5. Even if the violation of the Labor Standard Law is flagrant offense, in most case, the name and address of the violators are clear and it is a rare case that the violator tries to escape. So, in principle, the inspector should not arrest the violator nor should put direct restraints on suspect's body.

6. When laborer, who is authorized to report by Article 104 of the Labor Standard Law, wants solely to obtain relief of his own rights, and his employer not to be punished, Labor Standard Inspector should take step to correct the violation by administrative method.

7. When laborer, who reports, obviously wishes his employer to be punished; his report is to be treated as complaint in the Criminal Procedure Law and then Labor Standard Inspector should deal with it as a judicial case.

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COPY

C O P Y

THE JUDICIAL POLICE OFFICE OF LABOR STANDARD INSPECTOR (Cont'd)

8. All such cases which come under the general Criminal Law as well as under the Labor Standard Law, such as Forced Labor or Intermediate Exploitation, should generally be dealt with as judicial case.

9. The violations of those stipulations which are related to safeguard the human rights, and which are enacted from humanitarian point of view as Minimum Age, Ban on Underground Labor and other important items to protect women and minors, should be dealt with as the judicial case, except in case they are first offenses and criminal intentions are slight, only the caution should be given.

10. Such cases which are difficult to be corrected substantially with regard to the laborer's rights by the administrative procedure after violation as Working Hours, Recess, Holidays, Annual Vacation with Pay and so on, should be dealt with as the judicial to a considerable degree.

11. Such cases which may be corrected substantially with regard to the laborer's rights by administrative procedure after violation, as Wages, Accident Compensation and so on, should be transacted as judicial case only in case it seems to be habitual or vicious.

12. Such violation which is related to the technical problem of Safety and Sanitation and which is caused by the deficit of material should be corrected by reprimand mainly, except in case an accident or disease on duty is caused by the violation.

Attention must be paid that in case an accident or disease on duty is caused by the violation, it corresponds in some case to the crime of injury by fault on duty under criminal code.

13. The case of violation, except those which should be dealt with as the judicial case according to the above-mentioned items of this instruction, should be dealt with in accordance with the foregoing principles.

14. When the employer refused, impeded, or evaded the inspection, medical examination or collection of sample by the Labor Standard Inspector, or refused to reply or did not offer records and documents, it should be dealt with as judicial case under the direction of Procurator because in such cases there is sufficient reason to doubt the existence of willful violation.

15. With regard to the violation which is related to more than two Prefectural Labor Standard Offices, it must be reported beforehand to the Chief of Labor Standard Bureau of Labor Ministry, as there is necessity for the adjustment of inspection standards.

16. Except those cases which were ordered by the procurator or those which are to be transacted as judicial cases under the foregoing items, other cases should be transacted as administrative cases, and with regard to the administrative cases, judicial procedure as petty crime is not required.

With regard to administrative cases, item 3 to item 5, inclusive, of the attached paper of the instruction of January 19, 1948, titled as "Regarding to the Start of Inspection" should be submitted every month to the Chief of Competent District Procurator's Office.

C O P Y