

Original Paper

Research on the Collaborative Guarantee of Labor Rights and Interests of New Employment Forms in Chengdu and Chongqing

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Abstract

Supporting and standardizing the development of new employment forms and effectively protecting the labor rights and interests of flexible employment groups in Chengdu and Chongqing are important measures to achieve “stabilizing employment” and “protecting people’s livelihood”, which is also an important embodiment of the “Planning Outline for Circle Construction”. Based on the analysis of the main problems faced by the rights and interests’ protection of laborers in the new employment form in Chengdu and Chongqing, put forward relevant suggestions for building a collaborative protection mechanism is the foundation to solve the problem.

Keywords

Chengdu-Chongqing Economic Zone, New Forms of Employment, Labor Rights Protection Synergy

1. Main Issues of Synergistic Protection of Workers’ Rights and Interests in New Employment Forms In Chengdu and Chongqing

1.1 Insufficient Information Sharing for Collaborative Assurance

Firstly, the two regions currently have a vague picture of the workforce group in new forms of employment, and the basic data information is not accurate. The two regions failed to accurately master the number, structure, jobs and other basic information of flexibly employed people, and there is a lack of data to monitor the mobility of this group between the two regions. Secondly, the interconnection of social security agencies is insufficient. The degree of information sharing is not high in social insurance transferring and connecting, inquiring about rights and interests, participating in insurance and paying premiums, and receiving benefits between two places, etc. Thirdly, in terms of labor supervision, the two interoperable platforms do not make sufficient use of information on corporate labor violations. The evaluation standard of labor security integrity level of enterprises in the two platforms and the mutual recognition and sharing mechanism of evaluation results have not been established, and the joint incentive or disciplinary mechanism has not been formed.

1.2 Inconsistent Policies and Regulations for Collaborative Security

Chongqing Municipality and Sichuan Province have successively issued the “Implementation Opinions on Safeguarding the Labor Rights and Interests of Workers in New Forms of Employment” (hereinafter referred to as “Opinions”), which is a programmatic institutional initiative for safeguarding the rights and interests of workers in new employment patterns in the two regions at present. By comparing the two Opinions, there are still the following problems. Firstly, the two places failed to collaborate on the release, resulting in some differences in the content of the release and other aspects. For example, the implementation of the main responsibility of the platform board, Sichuan Province issued more specific content, which is more operable. In terms of occupational injury protection, Chongqing Municipality is more specific and clearer, and introduced a corresponding supporting system. Secondly, the “Opinions” issued by the two places are characterized by a low level of effectiveness at the legal level, broadness in the content, the lack of guidance on the ground. For example, in terms of the criteria for determining the labor relations between workers and platform enterprises, although they all give the term “incomplete labor relations” in accordance with the national guidelines, the specific criteria for determining the labor relations are vague, which leads to different judgments in similar arbitration or litigation cases in both places. Thirdly, the core labor rights and interests of this group, such as fair employment, rest and leave, and wage and compensation, are not sufficiently protected. The main manifestation is the lack of policies, while the problem that the relevant policies introduced cannot be effectively connected with the previous policy implementation is prominent, which still has a lot of room for revision and improvement.

1.3 Weakness in Service Protection Synergy

Firstly, in terms of employment and entrepreneurship services, there is not enough effort to collaboratively provide career types, career guidance, entrepreneurship training, skills upgrading and unemployment assistance in Chengdu and Chongqing. Secondly, there is a poor synergy path between the workers in new employment forms of the two regions in terms of skill upgrading, training subsidies, skill level recognition and interoperability of title assessment. For example, there is a worker in Chongqing after attending training to obtain a skills certificate, due to the workplace adjustment to Chengdu, the validity of the certificate cannot be recognized, need to retake the training and then reapply. Thirdly, there is a “gap” between the two trade union organizations in terms of membership propaganda for workers in new employment forms, industry trade union formation and collective labor contract promotion. Fourth, the channels for protecting the rights of workers in new employment forms in the two places are not smooth, and the coordination and cooperation between the two places and the internal departments of the region are weak. Fifth, the standards for accepting cases and adjudicating cases in arbitration and trial are not uniform between the two places.

1.4 Inadequate Work Synergy Mechanism for Collaborative Security

Chongqing Human Resources and Social Security Bureau and Chengdu Human Resources and Social Security Bureau of Sichuan Province on May 19, 2022 “cloud” signed the “Chengdu-Chongqing Dual Core Human Resources and Social Security Business Cooperative Development Agreement” (hereinafter referred to as the Agreement), focusing on the three major sectors of employment, talent, social security public services and harmonious labor relations comprehensive management, proposed 12 Chengdu-Chongqing cooperation matters. However, there are the following problems in the content of the agreement, the first is that there are many framework collaborations, and the landing arrangements are not specific enough. In particular, although the platform for labor inspection involving labor security in new forms of employment in the two places has been established, in practice, the task arrangement

between the two sides is currently very limited. Second, the content specifically related to the working mechanism for protecting the rights and interests of workers in new employment forms is insufficient. Third, the protection of the rights and interests of workers in new employment forms is not only the responsibility of the human resources department, other departments such as transportation, market supervision and other departments also need to link up. Therefore, at present, except for the corresponding cooperation agreements between the human resources and social security departments of the two places, the interaction and communication between the departments of the other is insufficient. The synergistic governance mechanism between different sectors of the two regions is not yet mature.

2. Five Suggestions on the Coordinated Protection of Workers' Rights and Interests in New Employment Forms in Chengdu and Chongqing

2.1 Strengthen Information Sharing on the Protection of Workers' Rights and Interests in New Employment Forms in the Two Places

First, build a database of information sharing on new employment forms between the two places. With information technology as the governance object, solve the problem of lack of workers' rights and interests caused by technology in the two places. At the same time, we will use technology governance as a means to promote the sustainable development of new employment forms in the two places by improving their technical governance capabilities. Increase the accurate mapping of the overall number of workers, demographic characteristics, job characteristics, and key areas where rights and interests have been violated in the new employment forms of the two places, and grasp first-hand information. Second, establish a labor security supervision information sharing mechanism. Realize mutual notification of information on labor security violations by labor security inspection agencies of the two regions in handling cases of suspected new employment forms of workers in registered platform companies in the administrative areas under the jurisdiction of the other party. Advocate employers across two locations to carry out labor security compliance and integrity level evaluation. Encourage the two places to mutually recognize and share the results of the evaluation of labor security creditworthiness ratings assessed in accordance with regulations, and apply the evaluation results to "double random, one public" spot checks, special law enforcement, and other relevant work linked to enterprise labor security creditworthiness, and implement joint incentives or punishments.

2.2 Improve the Unification of Policies, Regulations, and Standards for the Protection of Labor Rights and Interests

First, the two places should integrate the existing policies and regulations on the protection of the labor rights and interests of workers in new employment forms, learn from each other's strengths, formulate and issue the "Implementation Opinions of Chengdu and Chongqing on Safeguarding the Labor Security Rights and Interests of Workers in New Employment Forms", and jointly issue supplementary systems such as the "Implementation Measures for Occupational Injury Protection for Employees in New Employment Forms in Chengdu and Chongqing", forming a policy system of "1 (National Guiding Opinions) + 1 (Implementation Opinions of the two places) + N (supporting measures of the two places)".

Second, the two places jointly clarify the scope of recognition of workers in new employment forms. Combined with the Civil Code and the Labor Law, distinguish the legal relationship between this part of the workers and the platform enterprises, especially the unified incomplete labor relationship identification caliber, jointly introduce operable identification standards through examples, typical cases,

etc., jointly solve the national problem of relationship identification, form a recognition caliber with Chengdu and Chongqing characteristics, and provide a policy and legal basis for the next step to determine the main responsibility of enterprises in new forms.

Third, highlight the protection of core labor rights and interests. The two places should focus on seven aspects, including fair employment, wage payment, rest and vacation, labor safety and health, social insurance, occupational injury protection, and platform rule algorithm, to safeguard the labor security rights and interests of workers in new employment forms, and make up for the shortcomings of the labor rights and interests protection system.

2.3 Improve the Service Guarantee Coordination Mechanism between the Two Places

First, focus on employment and entrepreneurship training and service quality improvement. Make full use of the two human resources industrial parks and other carriers to provide career introduction, vocational guidance, entrepreneurship training and other services for all types of laborers in new employment forms. Establish a unified vocational skills training subsidy mechanism, a mutual recognition mechanism for vocational qualification certificates or skill certificates, a channel to declare the titles of professional and technical personnel in new employment forms, and a unified evaluation standard between the two places.

Second, give full play to the role of trade unions and other industry organizations in the two places. Accelerate the exploration of diversified mechanisms for the establishment of new business enterprises in the two places, and actively attract workers in new employment forms to join trade unions. Strengthen ideological and political guidance for workers, and guide rational and legal rights protection. Urge platform enterprises to perform democratic procedures in accordance with law in the formulation of rules and regulations and the determination of major matters such as algorithms. Establish a mechanism to help workers in difficulty in new forms of employment. Promote the establishment of internal mediation organizations in new business enterprises.

Third, improve the coordination efficiency of social security agencies in the two places. Make full use of technical means such as "Internet +" to improve the service quality and level in terms of payment of insurance premiums, enquiry of rights and interests, receipt and settlement of benefits, and the transfer and continuation of social insurance relations based on the characteristics of strong liquidity. The staffs of the two places should strengthen the learning and exchange to enhance the effectiveness of their work.

2.4 Construct A Labor Security Supervision Linkage Mechanism

The first is to establish a labor security supervision assisted investigation system to realize off-site investigation, evidence collection, and delivery of labor security supervision documents, and establish a cross-regional assisted investigation platform for labor security supervision. Establish a linkage mechanism to crack down on illegal wage arrears. Jointly carry out law popularization publicity, special actions, and joint punishment.

The second is to establish a relief system for labor security rights and interests in different places in the region. For example, where Sichuan and Chongqing new employment form workers in the two administrative regions, their wages and other labor security rights and interests are infringed, within the statutory period of validity, they can hold the relevant evidence and materials to the administrative division of Sichuan and Chongqing (hereinafter referred to as the place of complaint) of the county-level labor security supervision agencies for foreign complaints, foreign acceptance.

The third is to establish a joint inspection mechanism for the human resources market in Sichuan and Chongqing. Irregularly carry out special operations to clean up and rectify the order of the human resources market, and investigate and deal with violations of human resources intermediary service agencies in accordance with the law. From time-to-time report information on violations of laws and regulations by human resources service agencies registered in the other party's administrative region.

The fourth is to establish a labor security supervision study exchange system. The two places take turns hosting seminars on labor security supervision work, jointly carry out labor security supervision business training, and organize labor security supervisors to exchange jobs and exercise in other places.

2.5 Create A Multi-Subject Collaborative Governance Working Mechanism

Firstly, establish a special organization for the joint protection of labor rights and interests in new employment forms in the two places. It is mainly responsible for coordinating the work of the decision-making level, coordination level, and execution level of various main departments to form an operating mechanism that runs through from top to bottom. All relevant departments must perform their own duties, assume their own responsibilities, coordinate and linkage, strengthen data sharing, and incorporate the protection of labor rights and interests in new employment forms into the digital economy collaborative governance system to form a concerted effort.

Secondly, each department performs its own duties. Functional departments such as market supervision, public security, commerce, health, and emergency management in the two places should cooperate with competent departments such as human resources and social security to strengthen comprehensive supervision of new business development, online transactions, traffic safety, production safety, and occupational health. The two judicial departments and labor unions, the Communist Youth League, the Women's Federation and other group organizations should work with the competent departments of the industry to strengthen the implementation of measures of promoting legal awareness and legal services for workers in new employment forms, recognizing and rewarding of advanced and exemplary figures, and caring.

Thirdly, jointly create a good social atmosphere. The two regions should collaborate to increase public opinion and publicity, establish positive examples, and crack down and expose violations of rights and interests. Actively guide new business enterprises and new employment forms of workers to establish the concept of community of interests. Establish a reporting system for the employment situation of new business enterprises, and improve the credit evaluation, trustworthy incentives, and dishonesty punishment mechanisms for the protection of labor rights and interests.

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