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METHODS OF PUBLIC EMPLOYEES' RIGHTS PROTECTION AT APPLYING MEASURES OF PROMOTION

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Promotion and reward of public employ-ees are important elements in the incentive scheme as they evidence of appreciation of the work done by public employees. The article de-scribes the importance and types of incentives in the activities of public employees, methods and features of public employees' right protec-tion at applying measures of promotion.

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Regulator of protecting public servants is the norms of law, which are adopted, influence, change, and are cancel under the influence of circumstances objectively influencing the whole legal system. The legal framework of protection of public servants is characterized by all the features typical for law. Tasks and functions of the legal institution of protecting public servants are the signs. Tasks and functions are closely related, define each other. Any function cannot be determined without the task. From another point of view, without providing the functions, the task cannot be performed. Among the common people of the country public servants are not the poorest group, for example, on the base of analyzing the average monthly salary. The level of protection of public servants cannot be assessed by usual measures. Representatives of the State in the implementation of labor activity are public servants. Therefore, for them there are special requirements both for admission to public service and in the process of its implementation.

The work of public servants is regulated in a specific order, by a special legislation. It refers to a special kind of work. Field of activity and working conditions are factors, which characterize the specificity of labor for public servants.

Legal status reflects the specific of activity of public servants. Legislatively established limitations on certain rights and freedoms of public servants justified from the point of view of the world practice in building and functioning of the public service, however, adversely affect its social prestige. We can conclude that their own specificity have objectives and functions of social protection of public servants. This view finds support in the special literature. Social protection of public servants as a system exercises such major functions as economic, social, political, spiritual, ideological and demographic one [1, 3, 6]. It should be noted, acknowledging reasonableness of the above functions, that if the functions under consideration are major, what functions are secondary ones? It is unpractical to divide the protection functions into the main and another, since by itself the scope of protection is extremely important for both society as a whole and for its individual members.

Promotion is an important means of educating and motivating the service activities of public civil servants, as well as of strengthening the rule of law and discipline in its system. Among the legal means to increase the performance of public servants a system of measures for their promotion takes an independent place.

Legal personality of the employer includes the right to promote employees. Promotion is a fairly effective means to increase labor productivity, and work discipline. Practice shows that sometimes the promotion is more effective in stimulating workers to conscientious work than penalties. An employer should seek a combination of measures of moral and material incentives of workers for the faithful performance of the duties under an employment contract.

High efficiency of incentives is only possible at complying with the established requirements for their use by public civil servants. D. M. Ovsyanko notes, "the most important requirement is complying with the rule of law, the validity for applying any of the incentives. They can be applied only by those bodies and leaders who have been granted such a right. However, they must apply only the incentives, which are provided for by relevant normative legal acts, within the limits of the power granted to them and in a prescribed manner" [7].

Article 191 of the Labor Code of the RF provides for, that an employer stimulates the employees diligently performing their work duties (thanks them officially, pays them a merit bonus, awards them with valuable presents, certificates of honor,

puts them forward for the title "Best in Profession"). For their outstanding achievements employees are to be awarded orders, medals, lapel badges and honorary titles.

In the system of incentives to encourage public servants promotion and rewarding for public servants are important elements as they evidence of appreciation of the work done by the public servants. Encouraging or rewarding helps to stimulate other public employees to conscientious performing their duties.

Promotion as the method of management disciplinary relations is a recognition of an employee among the team by providing it with privileges, advantages, public provision of honor, increasing its prestige. Each person has a need for recognition (material values). Promotion is aimed to the realization of this need. Unfair application of promotion can put the whole team at loggerheads. Therefore, at the application of incentives it would be appropriate to take into account the following rules of effectiveness of encouraging:

1) promotion should be applied at every manifestation of labor activity of a worker with a positive result;

2) encouragement should be meaningful and increase the prestige of good faith work. All the advantages and benefits of socio-cultural, housing and public services should be made available to bona fide employees. This is the only way to raise the prestige of faithful labor;

3) promotion must be transparent;

4) when applying the promotion you must use rituals, customs, traditions;

5) negative tradition must be pushed out only by positive traditions, but not by an order;

6) the closer the date of receipt of a reward, the more active a person works;

7) promotion availability. As practice shows, it is advisable to set rates at which the employee receives the legal right to promotion. Thus, there are formed clear, accessible additional objectives in labor for each employee, and these goals are another effective measure for management of labor and discipline in the team.

Considering the issues of encouraging for work and penalties for disciplinary offenses, first of all we should note the following difference:

- promotion for work is presented in article 191 of the Labor Code of the RF in the expanded list, and not limited only to it. In accordance with the provisions of article 191 of the LC RF, an employer encourages employees performing work in good faith. As the types of rewards the LC RF provides:

- expression of gratitude;

- grant award;

- awarding them with valuable presents;
- awarding them certificates of honor;
- introduction to the rank “Best in Profession”;

and also contains a clause that “other rewards for work are defined by a collective agreement or the internal regulations, as well as statutes and regulations on discipline. For special labor merits to the community and the state employees may be introduced to state awards”. So, whatever kind of promotion is applied by an employer, even if the promotion is not provided for by the labor legislation (LC RF and other laws), this promotion will be valid and applicable.

The types of disciplinary penalties are strictly limited by strict listing provided for by the LC RF, federal laws and other normative acts, the output beyond which is impermissible. Application by an employer of disciplinary punishment not provided in LC RF entails the invalidity due to its illegality.

Kinds of rewards and awards for excellent and efficient civil service:

- 1) expression of gratitude with the payment of a one-time reward;
- 2) awarding of certificate of honor of a state body with payment of a lump sum encouraging or award of a valuable gift;
- 3) another types of promotion and awarding by a public body;
- 4) lump sum reward in connection with retirement on a State pension for years of service;
- 5) encouragement of the Government of the Russian Federation;
- 6) encouragement of the President of the Russian Federation;
- 7) conferment of honor rank of the Russian federation;
- 8) awarding a merit badge of the Russian federation;
- 9) awarding orders and medals of the Russian federation.

Externally-organizational or administrative-legal encouragement associated with the provision of a simplified (privileged) procedure of implementation specific activities, such as reducing the number of verification actions at entry a freelancer for service; absolute material rewards (giving a monetary award, awarding valuable gift, preferential loans, etc.). Unformalized measures of moral stimulating impact (praise, direction to the prestigious business trip, dissemination of best practices of service with reference to authorship, and so on).

Measures of moral incentive impact are not accompanied by procedural drawing up and adoption of official acts. Measures of organizational incentive are accompanied by adoption of an administrative act, but not always procedurally formalized as an encouragement, because there is no a formal enshrining of these measures as an encouragement in normative legal acts.

In this case, at the center is put exactly organizational stimulation of activity of public servants (promotion, assignment of another skill category, and so on), but not only the increase in the amount of remuneration, although the latter is certainly important, because unlikely anyone wish to bear additional duties without financial compensation and incentives. The federal one includes mandatory feature of remuneration, so that the existence of organizational and material incentive measures can be considered in dialectical unity.

At the same time the status' nature encouraging is accompanied by an increase in salaries and benefits of a material nature on a regular basis, but the providing only the last ones is allowed either one-time for individual achievement in public service activity, or on a permanent basis for their devotion and fidelity to a particular system of public service.

The system of Russian law comprises individual branches, which in their totality and interactions form a complex social phenomenon, designed to streamline the most important public relations. Every law branch has its own logically deterministic structure consisting of separate norms of law, which are grouped by generic indicator into separate legal institutes. The latter ones can be both of branch and interbranch nature. One of such legal institutes of interbranch significance is the Institute of Incentive.

The legislation does not establish a sequence in the application of incentives. An employer may simultaneously apply several rewards (e.g., to declare thanks and give a bonus).

The right to promote an employee is a subjective right of an employer, which he may use or not on the basis of its own assessment of the achievements and merits of the employee. The legislation does not bind promotion of an employee to any objectified circumstances (for example, the achievement of age or length of service of certain duration).

Promotions on behalf of an employer are used by its officers. The competence of officials of an employer (the head of an organization, his deputies, heads of departments, etc.) is enshrined in the rules of the internal labor schedule. The employer shall issue an order or decree on the application of incentives that are expedient to publish in any way possible.

Protection of rights and interests, which is implemented in the form of provided to public employees possibilities to protect their labor rights, freedoms and legitimate interests by all non-prohibited by law methods is the goal of labor legislation. The LC RF provides a wide range of ways to protect labor rights and legitimate interests of public servants. Public servants have the possibility

of collective (trade union) protection of not only rights, but also interests by filing claim with a labor dispute to the commission that acts directly in the organization for resolution of unsettled disputes with the employer (chapter 60 of the LC RF); entering into a collective labor dispute and announcements of strikes; monitoring compliance with labor law and representing the interests of workers in another cases.

For the first time the norms of the labor legislation provide for self-protection of the rights of public employees, which is the ability to refuse to perform work not specified in a service contract, or work directly threatening the life and health of a public servant. In addition, public servants have the right to suspend work in the event of wage delay for more than 15 days (article 379 and 142 of the Labor Code of the RF). However, paramount importance in the protection of public employees at the application of incentives is given to judicial protection, as well as state control and supervision implemented, in particular, by the Federal Labor Inspectorate.

State supervision over the accurate and uniform observance of the Labor Code and other legal acts, containing labor regulations is implemented by the Attorney-General of the Russian Federation and by attorneys, subordinate to him in accordance with the Federal Law (article 353 LC RF).

Along with other rights of public employees in the application of incentives they have the right to compensation for damage caused in connection with the performance of their job duties, and compensation for moral damages under article 237 of the Labor Code of the RF.

Public servant has the right to compensation for the material damage caused by the unlawful deprivation of opportunities to work (article 234 LC RF), inflicted to the property of the employee (article 235 LC RF), as well as by delay of wages (article 236 LC RF).

Thus, the main ways to protect labor rights and freedoms of public servants in the application of incentives are:

- self-protection of labor rights;
- collective protection of labor rights and legitimate interests;
- state supervision and control over compliance with labor legislation and another normative legal act containing the norms of labor law;
- judicial protection.

Ways to protect public servants in the application of encouragement measures are simultaneously the guarantees of legitimacy in the field of labor and labor legal order.

Specific level (normal, high, low) of labor legal order and legitimacy in the field of labor in every public organization reflects the state of public life in the social sector in the state of law. At each organization all the subjects of labor law must strive to a high level of labor legal order and legitimacy in the field of labor as to the result of the legal regulation of labor.

Employer, its representatives have no right to prevent employees in the implementation all the forms of self-protection of their labor rights (and not just under article 379 LC RF). And article 380 LC RF prohibits prosecution of employees for their use the methods of self-protection of labor rights permitted by law. For violation of the ban they incur liability, established by Labor Code, Code on Administrative Offences, and even Criminal Code, as for the violation of labor legislation.

Responsibility for violation of labor legislation and labor protection both disciplinary and administrative (penalty) and material and, in appropriate cases, criminal one, shall bear guilty officials of administration, employer.

Thus, can be highlighted the following directions to increase the opportunities of protection the rights of public employees in the application of incentives.

First, it is necessary to align legislative acts of the Russian Federation and its subjects vertically regarding public servants in order to improve the legislative protection of the latter.

Secondly, the development of criteria for assessing the performance of public servants' activity will avoid arbitrariness against public employees by their managers, and make it possible to resolve many conflicts on the issues of promotion.

Thirdly, there will be a need for an educational program in order to create the legal and labor culture, since at the destruction of the key moral qualities of public servants to some extent their professional training loses its significance.

Fourthly, we would like not forget the professional development of public servants, as only an educated workers can both protect themselves from illegal actions, and subsequently prevent similar situations.

Finally, it is necessary to bind the training of public servants with their elevation in office, since career aspirations take an important place among the work's incentives of public servants.

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