

SLCMC 2021

International conference «State and law in the context of modern challenges»

**BRINGING EMPLOYEES TO RESPONSIBILITY UNDER THE
LABOUR LAW OF THE RUSSIAN FEDERATION**

Olga U. Tikhonova (a), Artem A. Ivanov (b)*

*Corresponding author

(a) Saratov State Law Academy, 1, Volskaya Str., Saratov, 410056, Russia, mrs.tikhonova@yandex.ru,
(b) Saratov State Law Academy, 1, Volskaya Str., Saratov, 410056, Russia, artiom-depeche@yandex.ru

Abstract

This article analyses the psychological and legal aspects of bringing employees to disciplinary responsibility under the labour law of the Russian Federation. The relevance of this research in the context of modern socio-economic development is indicated. The appropriateness of shifting the emphasis in the context of legal understanding of the disciplinary responsibility essence has been postulated: the necessity for a primary study of legal responsibility is justified as a communication act based on free will. Particular attention is paid to the study of the impact of the procedure of bringing the employee to disciplinary responsibility on his mental state, on his perception of labor relations, in general, on the formation of guilt for his behavior. The importance of applying epy psychoanalytic approach to the study of the employee's personality in the system of labour management and employment management measures is postulated as systematic analysis of the psychological and legal aspects of labor relations. This will make it possible to best formulate ways of improving labor relations in the modern conditions of globalization and integration as the main areas of development of the world economy. In the context of large-scale socio-economic and geopolitical transformations, every aspect of labor relations is important, as it is possible to develop the world community exclusively in the context of unity in understanding strategies and tools of effective interaction. The research defines the procedure for the annulment of an employment contract.

2357-1330 © 2022 Published by European Publisher.

Keywords: Discipline, globalization, labor, responsibility, Russia

1. Introduction

The integration processes in the world economy are a natural manifestation of the progressive evolution of the socio-economic sphere of society (Lushnikov & Lushnikova, 2016). International economic integration creates all the necessary conditions for participating countries for economic growth, discovering advantages by adapting national economies to the needs of the world market. Psychological and legal institutions analysis is of particular importance in this area. It is to ensure the transforming of law and its enforcement in accordance with the national public policy priorities and the world community in the field of labor economy. An analysis of the procedure for bringing employees to disciplinary responsibility in accordance with the labor laws of the Russian Federation is a good idea in discovering ways to improve the system of labor management and the use of staff work. In general theory of law, the application of disciplinary measures is seen as a method of ensuring proper discipline of work, which is based on coercion (Pender et al., 2017).

It would seem impractical to take such a course of action. Bringing an employee to disciplinary responsibility is, in a certain sense, a communication act with sufficient motivational capacity. Excessive emphasis is done on the fact that disciplinary measures have, first of all, a negative impact on the part of the employer and can lead to negative consequences in the context of the employee's psychological perception in general. Frustration, increased nervous mental tension, the formation of an irrational sense of guilt are among them (Dose & Klimoski, 1995). This significantly reduces the quality of the employee's duties, the potential to put in place negative communicative-behavioral scenarios, which involve the leveling of interest in the development of labor relations, the inability to establish trust interaction, violation of executive discipline, lack of readiness for productive cooperation (Lee & Raschke, 2016). Demotivation processes, with significant impact on the behavior of the employee in the framework of labor relations, are particularly negative (Rawung, 2013). Confusion, a feeling of internal psychological discomfort, growing discontent, manifested either in excessive actualization of psychological protections, or in a particular expressive behavior to show their discontent, disappointment, decrease in the general level of productivity and lack of interest can lead to the desire to stop the labor relations.

The employee should not have an excessively actualized sense of guilt, including irrational. He should be aware that the employer's reaction to the disciplinary offense committed by him is a logical response to the violation of the terms of the employment contract. In the context of the study of the dynamics of guilt in labor relations, it is advisable to turn to an existential analysis that postulates the possibility of the existence of three forms of guilt. The first, real guilt, is formed as a result of choosing a value that is assessed as negative by the inner conscience, but the action is carried out in its favor. Guilt is based not on the assessment of norms and rules of behaviour, recognized in society, but on the basis of one's own meaning, personal value orientations. In therapeutic work with this type of guilt, the answer to the question about the reasons for the choice, made in favor of a value that is not generally accepted, will be practically significant. Only by considering the employer as an equal part of the employment relationship, the employee will be able to sincerely answer the indicated questions and effectively correct his behavior. The second form of guilt is guilt as a mistake. It is formed in a situation when the employee

at the time of making a decision was guided by his own conscience and realized the meaning of the act of activity being performed, but was not sufficiently informed about the situation or even about himself, his true feelings and experiences. The value for which he performs an action is important for him at the moment, but in the future its assessment is significantly corrected in a negative direction and a retrospective sense of guilt is formed.

The third form is called directly the feeling of guilt. It is formed if, for certain reasons, a person does not determine his attitude to a particular value that ultimately constitutes the essence of the action, does not correlate it with his inner conscience, which feels like a dead end, despair, withdrawal from himself. This leads to the commission of actions in a state of high tension, without clear guidelines, the internal assessment of behavior is often negative.

The experience of guilt actualizes the awareness of one's responsibility, stimulates an internal productive dialogue. Guilt allows you to realize the injustice of your actions both in relation to others and in relation to yourself. The practical significance of the sense of guilt in labor law lies in its actualization in the case of bringing an employee to disciplinary responsibility. The "exaltation" of this feeling can lead to adverse consequences. An employee cannot form an objective vision of a situation in which he has not realized and has not lived the only right meaning for himself; he closes himself, stops the internal dialogue. The experience of guilt becomes too strong, it completely captures, the psyche cannot withstand excessive stress, a mechanism of repression is formed, and, as a result, the value of the experience of guilt is lost. This scenario is unproductive, since it does not allow the employee to draw the necessary conclusions, take responsibility and correct his behavior. It seems that in labor relations, there is a special potential for the formation of a healthy, adequate mental response to all the negative aspects of labor-law interaction.

The process of demotivation of employees can be conditionally represented by several stages: the stage of confusion and a sense of internal psychological discomfort, the stage of increasing discontent, manifested either in excessive actualization of psychological defenses, or in a particularly expressive expression of their discontent, the stage of increased desire for super-results, at which the employee tries to prove himself in the hope of changing the situation, the stage of disappointment, characterized by a decrease in the overall level of labor productivity and lack of interest, the stage of making a final decision on the termination of the employment relationship. Of course, a single act of bringing to disciplinary responsibility, even if it is considered as a mechanism of coercion and the negative impact of the employer on the employee, will not necessarily lead to the actualization of global demotivation moods, but will lead to the formation of a negative mental background. It is the consideration of the procedure of applying disciplinary penalties as a logical response of the employer to the violation of labor discipline by the employee. It has the capacity to direct the development of the labor relations in a productive direction (Fisk, 2021).

The perception of the employer not as a subject with the authority to apply coercive measures, but as, first of all, an equal side of labor interaction will allow to establish emotional intimacy with him, to feel regret about the loss of value from the external and internal world. From the outside world, the feeling of lost value lies in the awareness of the harm caused to another person, which implies decrease in its significance, and, as a result, there is an alienation from oneself, a departure from the position of

experiencing one's own personal being of a worthy person, which is felt as a loss of inner value. Subsequent remorse involves the return of activity, the removal of the shackles of alienation, the formation of a desire for productive interaction with the employer in the context of further effective performance of work duties, the formation of personal experience of negative experiences brought to a logical and sensory-emotional conclusion. This has the potential to prevent the commission of negative acts of behavioral activity in the future.

The basis of an employment contract is based on a free will, implemented in the context of taking on certain obligations, so bringing an employee to disciplinary responsibility is not a punishment, but is a legitimately formulated response of the employer to the failure or improper performance of the employee's duties (Lewin & Gollan, 2020). In this context, it seems legal and appropriate to grant the employer the right to apply disciplinary action against an employee in the form of dismissal if he does not appear on the first day of work without valid reason. Some authors believe that the employer in this case has the only possibility of termination of employment relationship – the labour contract cancellation. However, in the case of consideration in the psychological legal context of the disciplinary application measures as a logical, legitimate reaction of the employer to the violation of labor discipline, it seems appropriate to formulate for the employer the right to terminate the employment contract with the employee, who did not start his duties on the first day of employment (Vasilieva, 2016). The employee is obliged to start performing his duties from the day defined by the employment contract; therefore, it is perfectly legal on the part of the employer to start work on the set day. Failure to comply with this directive without a valid reason would be a clear violation of labor discipline, suggesting the possibility of disciplinary measures.

2. Problem Statement

Postulating globalization and integration processes as the general direction of the world economy affirms the need to improve the quality of work and the expediency of a psychological and legal approach to the study of the worker's personality in the system of labour management measures and the use of staff labour. Of particular importance is the problem of determining the specifics of disciplinary responsibility applied in accordance with the labour laws of the Russian Federation. At the present stage, it is regarded as a method of achieving discipline based on coercion, but overemphasizing the punitive basis of this responsibility has the potential to reduce the effectiveness of labour management measures. It is important to determine whether the employer can apply disciplinary measures to an employee if he does not take up his or her duties on the first day of employment.

3. Research Questions

The following objectives of the study were formulated in order to achieve the following goals.

First is to determine the essence of disciplinary responsibility applied to employees under the labor law of the Russian Federation.

Second is to establish whether it is possible to consider it as an act of communication interaction between an employee and an employer which is not inherently coercion, but a statutory logical reaction of

the employer to the violation of the duties established in the employment contract on the basis of the free will of the parties.

Third is to provide a psychological and legal analysis of characteristics of the employee's perception of the disciplinary penalties application to him, to determine his possible strategies of behavior.

4. Purpose of the Study

The aim of the work is to determine the possibility of considering the procedure of bringing employees to disciplinary responsibility in accordance with the labor law of the Russian Federation as a communication act. It is based not on coercion, but on the legal logical reaction of the employer to the violation of duties established in the employment contract on the basis of the free will of the employee, as well as a psychological and legal study of the state of the psyche. This includes characteristics of the employee behavior in the case of disciplinary action, determining the importance of interaction areas between employee and employer in the context of modern globalization and integration processes.

5. Research Methods

The disciplinary responsibility applied to employees in accordance with the legislation of the Russian Federation and psychological and behavioral features of employees' perception of the procedure for imposing disciplinary penalties on them was carried out. General scientific methods are used: method of systemic analysis, deduction and induction, special comparative-legal, formal-legal method.

6. Findings

The research provided the following key results.

1. In today's globalized processes, which involve contradictory process of increasing interdependence and integration of different spheres of life, the study of labour relations is of particular importance, in particular, in the context of the analysis of labour discipline methods.

2. Consideration of the procedure of bringing employees to disciplinary responsibility under the labor law of the Russian Federation as a method of ensuring the discipline of labor, based primarily on coercion, is impractical and has the potential to correct labor interactions in a negative direction, namely in the context of:

- reducing the level of trust between the employee and the employer, reduction of motivational activity of the employee, productivity of his behavior;
- formation of an irrational sense of the employee guilt, leading to the inability to effectively carry out his or her work duties;
- negative impact on the development of labour management and application of staff work.

3. A detailed study of the psychological characteristics of the employee's behavior will help to determine ways to improve the labor laws of the Russian Federation and will act as a basis for formulating ways to improve the system of personnel management not only at the level of an individual state, but also in an international context.

4. Positive aspects of the considering disciplinary responsibility applied in accordance with the labour legislation of the Russian Federation as a communication act, which assumes that the employer's reaction to a disciplinary misconduct committed by the employee is a logical response to a violation of the employment contract terms are defined.

7. Conclusion

The following conclusions were drawn as a result of the research.

1. At the present stage of the development of globalization and integration processes, the disciplinary responsibility applied to workers under the labour laws of the Russian Federation is an important element in the system of labour management and the application of staff.

2. A psychological and legal approach to the study of the employee's personality has a special practical and theoretical significance.

3. The application of disciplinary penalties against employees is in a certain way a communication act, which implies a legitimate and logical reaction of the employer to violations of the terms of the employment contract based on the freedom of obligations.

4. The right of the employer to impose disciplinary action against an employee who did not take up his or her duties on the first day of employment is approved in accordance with the law of the Russian Federation.

References

- Dose, J. J., & Klimoski, R. J. (1995). Doing the right thing in the workplace: Responsibility in the face of accountability. *Employee Responsibilities and Rights Journal*, 8, 35–56.
- Fisk, C. L. (2021). The Once and Future Countervailing Power of Labor. *The Yale law journal*, 130, 1–7. <https://www.yalelawjournal.org/forum/the-once-and-future-countervailing-power-of-labor>
- Lee, M. T., & Raschke, R. L. (2016). Understanding employee motivation and organizational performance: Arguments for a set-theoretic approach. *Journal of Innovation & Knowledge*, 3, 162–169.
- Lewin, D., & Gollan, P. J. (2020). *Advances in Industrial and Labor Relations*. Emerald Publishing Limited.
- Lushnikov, A., & Lushnikova, M. (2016). The Eurasian model of international labour legislation in the context of globalization. *Russian law journal*, 4, 95–111.
- Pender, E., Elgoibar, E., Munduate, L., & García, A. B. (2017). Improving social dialogue: What employers expect from employee representatives. *The Economic and Labour Relations Review*, 29, 169–189.
- Rawung, F. H. (2013). The Effect of Leadership on the Work Motivation of Higher Education Administration Employees (Study at Manado State University). *Journal of Business and Management*, 15, 28–33.
- Vasilieva, S. (2016). Labour law in Russia. *Russian law journal*, 3, 157–161.