

Abstract

Section 11/1 of Labour Protection Act B.E. 2541 (1998) has been legislated to support the legal intention of Constitution of the Kingdom of Thailand B.E. 2550 (2007) in Chapter V Directive Principles of Fundamental State Policies, Part 7 Economics Policy, Section 84 which states that “the state shall act in compliance with the economic policy as follows: ...

(7) promoting people of working age to obtain employment, protecting child and woman labour, providing the system of labour relations and tripartite which entitling labours to elect their representatives, providing social security and ensuring labours working at equal value to obtain wages, benefits and welfares upon fair and indiscriminate basis;”

According to section 11/1 the objective of Labour Protection Act B.E. 2541 (1998) is to ensure an employee hired for wages with fair rights, benefits and welfare.

Nevertheless, once consider thoroughly into section 11/1, an application of law to the matters of fact is still ambiguous. For example, according to the phrase “...*The operator shall arrange for an employee hired for wages who works in the same manner as employees under a direct employment contract to, without discrimination, receive fair rights, benefits and welfare.*”, what is the boundary of enforcement of such sentence and what is the precise meaning of the word “fair”.

Besides, the interpretation of matters of law in this aspect is, as well, disputable.

Hence, this research aims to study the problem of application and interpretation of hired for wages employment under Labour Protection Act B.E. 2541 (1998). Moreover, the research seeks to clarify the difficulties in hire of service and labour management particularly in the aspect of boundary of enforcement focusing on the general concept of hired for wages, relating principle of law and Central Labour Court’s judgments. As a result, the specification of job description is essential for the hired for wages employment to avoid misinterpretation and rebuttal of section 11/1 with permanent employee. And for the interpretation and enforcement of section 11/1 of Labour Protection Act B.E. 2541 (1998), if authorities adhere to the spirit of law namely Constitution of the Kingdom of Thailand B.E. 2550 (2007) and relating labour law, the better standard of hired for wages employment will be settle and the enforcement of law will fall into an unambiguous area.