



BHUMIBOL ADULYADEJ, REX.

Given on the 30th Day of April, B.E. 2522;

Being the 34th Year of the Present Reign.

His Majesty King Bhumibol Adulyadej has been graciously pleased to proclaim that:

Whereas it is expedient to establish labor court as well as the procedure for labor cases;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly acting as the National Assembly, as follows:

Section 1

This Act shall be called the "Act for the Establishment of and Procedure for Labor Court B.E. 2522".

Section 2

This Act shall come into force on and from the date following the date of its publication in the Royal Gazette.

Section 3

In this Act;

"Labor Court" means the Central Labor Court, the regional labor court or provincial labor court.

"Employer Association" means an organization of employers established under the law relating to labor relations.

"Labor Union" means an organization of employees established under the law relating to labor relations.

Section 4

The Minister of Justice and the Minister of Interior shall be in charge of this Act and shall be empowered to issue Ministerial Regulations for the implementation of this Act in the part concerning the powers and duties of the respective Ministry.

Ministerial Regulations shall come into force after their publication in the Royal Gazette.

Chapter 1

Labor Courts

Section 5

The Central Labor Court shall be established in Bangkok Metropolis and its inaugurated date shall be proclaimed by Royal Decree.

The Central Labor Court shall have jurisdiction throughout Bangkok Metropolis, Samut Prakarn, Samut Sakhon, Nakhon Pathom, Nonthaburi and Pathum Thani provinces.

Section 6

A regional labor court shall be established and its inaugurated date shall be proclaimed by Royal Decree which shall also specify its territorial jurisdiction and its location therein.

Section 7

Should a provincial labor court be established in any province, it shall be done by an Act which shall also specify the jurisdiction of such court.

Section 8

Labor court shall have jurisdiction over the following matters:

- (1) disputes concerning the rights or duties under an employment agreement or under the terms concerning the state of employment;
- (2) disputes concerning the rights or duties under the law relating to labor protection or the law relating to labor relations;
- (3) cases where the rights must be exercised through the court according to the law relating to labor protection or the law relating to labor relations;
- (4) cases of appeal against a decision of the competent official under the law relating to labor protection or of the Labor Relations Committee or the Minister under the law relating to labor relations;
- (5) cases arising from the ground of wrongful acts between the employers and the employees in connection with a labor dispute or in connection with the performance of work under an employment agreement;
- (6) labor disputes which the Minister of Interior requests the labor court to decide in accordance with the law relating to labor relations.

Cases in the paragraph one, where the law relating to labor protection or the law relating to labor relations provides that complaint is to be made to the competent official or must be complied with steps and procedure prescribed, may be proceeded in the labor court only after actions have already been complied with steps and procedure provided by the said laws.

Section 9

In the area where the labor court has been in operation, no other court of first instance in such area shall accept cases under the jurisdiction of the labor court for adjudication.

Where a problem arises as to whether a case is under the jurisdiction of the labor court, regardless of whether it arises in the labor court or other courts, the Chief Justice of the Central Labor Court shall be the person to decide. The decision of the Chief Justice of the Central Labor Court shall be final.

Section 10

The labor courts shall be attached to the Ministry of Justice and the provisions of the Law for the Organization of Courts of Justice shall apply to the labor court *mutatis mutandis*.

Chapter 2

Judges in Labor Court

Section 11

In labor court, there shall be judges and associate judges in the numbers to be fixed by the Minister of Justice according to the necessity. In particular the number of associate judges for the employers and the number of associate judges for the employees shall be equal.

Section 12

Judges of the labor court shall be appointed by the King from judicial officials under the law on judicial service, who have the knowledge and understanding of labor problems.

Section 13

In the Central Labor Court and each regional labor court, there shall be a Chief Justice for each court. The Deputy Chief Justices of the Central Labor Court and of each regional labor court shall be in such number as determined by the

Minister of Justice according to the necessity of each court.

In each provincial labor court, there shall be a Chief Judge for each court.

Section 14

Associate judges shall be appointed by the King from persons in the lists of representatives of the employers and the employees compiled by the Labor Department in accordance with the vote casted by members of the employer association and the labor union, which have registered their offices in the territorial jurisdiction of the labor court concerned. Where there is no employer association or labor union with its registered office in the territorial jurisdiction of such labor court, appointments shall be made by the King from the list compiled by the Labor Department on behalf of the employers or the employees.

The persons who will be proposed for appointment by the King as associate judges must possess the qualifications, and shall have none of the prohibited characteristics as follows:

- (1) having Thai nationality;
- (2) being sui juris;
- (3) having domicile or place of work in the territorial jurisdiction of such labor court ;
- (4) not being a bankrupt, incompetent or quasi-incompetent;
- (5) never been sentenced to imprisonment by a final judgment, except for an offence committed by negligence or a petty offence;
- (6) having faith in the administration of democratic regime with the King as Head of the State;
- (7) never been convicted of an offence against the law relating to labor protection or the law relating to labor relations except released for not less than two years or the period of suspension of imprisonment has elapsed;
- (8) not being a political official, a committee member or staff of any political party, a member of the National Assembly or a member of the Bangkok Metropolitan Assembly or an elected member of local council or an attorney.

The rules and procedures of compiling the lists of representative of employers and employees stated in paragraph one shall be as specified in Ministerial Regulations.

Those appointed by the King as associate judges shall be trained in the subjects related to the labor court, the powers and duties of associate judges and regulations concerned as well as the sustenance of the status as associate judges in accordance with the training regulations laid down by the Ministry of Justice.

Prior to taking up the position, the associate judges shall make a solemn declaration in the presence of the Chief Justice of the Central Labor Court, or the Chief Justice of the regional labor court, or the Chief Judge of the provincial labor court to which they belong as the case may be, that they shall impartially perform their duties, not withstanding that they represent the employers or the employees and preserve official secrets.

The associate judge shall hold office for a period of two years. Nevertheless, those retired may be re-appointed by the King.

Section 15

An associate judge shall cease office upon;

- (1) expiration of one's term;
- (2) death;
- (3) resignation;
- (4) lack of any qualification or possessing of any prohibited characteristic under Section 4;
- (5) being sentenced to imprisonment by final judgment or court order;
- (6) removal by the King for having been absent from one's assigned duties for two consecutive times

without justification or committing any act causing such removal in accordance with the law on judicial service.

The cessation of office by virtue of (4) or (6) must be approved by the Judicial Service Commission under the law on judicial service.

Section 16

The Chief Justice of the Central Labor Court, the Chief Justice of the regional labor court, or the Chief Judge of the provincial labor court, as the case may be, or the person acting in the said position, shall assign the associate judges representing the employers and the employees to be on a duty list and the said list may include reserves.

Section 17

Subject to the provisions of Section 18, an equal number of judges and associate judges representing the employers and the employees shall form a quorum for the adjudication.

Section 18

Except for the adjudication, a judge of the labor court shall be empowered to conduct any proceedings or issue any order whether or not joined by the associate judges representing the employers and the employees.

Section 19

The provisions on the challenge of judges under the Civil Procedure Code shall apply *mutatis mutandis* to judges of the labor court as well as associate judges.

Section 20

An associate judge who sits in the hearing of any case shall try the case until its disposal, except in case of illness or other cause of necessity. In such a case, the authorized persons under Section 16 shall arrange the associate judge who has been assigned as a reserve, if any, or other associate judge to take his place.

Section 21

An associate judge shall receive allowance, traveling and accommodation expenses and other remunerations as prescribed by the Royal Decree.

Section 22

Where the new associate judge is not appointed or has been appointed but has not taken office, the associate judge whose term expired shall continue to perform his duties for the time being.

The associate judge whose term expired shall be empowered to try and adjudicate the cases that he has been hearing until such cases are disposed of, but shall not retain his office for more than sixty days after the expiration date of his term.

Section 23

An associate judge shall be a judicial officer under the Penal Code.

Section 24

The provisions on discipline and disciplinary actions of judicial officials under the law on judicial service shall apply *mutatis mutandis* to associate judges.

Chapter 3

Procedure of Labor Cases

Part 1

General Provisions

Section 25

The service of pleadings or any other documents on parties in a labor case shall be made by the court official, or fixed by the labor court to serve via reply-registered mail or by other means.

Section 26

A labor court is empowered to, where necessary and in the interest of justice, shorten or extend the period of time prescribed in this Act or fixed by the labor court.

Section 27

The filing of a plaint as well as any proceedings conducted in the labor court shall be exempted from court costs.

Section 28

In an appropriate case, the labor court may order that proceedings be conducted at the place where the cause of action arises or any other place.

Section 29

In order to ensure cost-efficiency, convenience, expediency and fairness of the proceedings, the Chief Justice of the Central Labor Court shall be empowered, subject to the approval of the President of the Supreme Court, to issue rules to be enforced in the labor court.

Such rules shall come into force after their publication in the Royal Gazette.

Section 30

The labor court may call any knowledgeable person and expert to appear and give opinion for its consideration.

Section 31

As far as they are not inconsistent with or contrary to the provisions of this Act, the provisions of the Civil Procedure Code shall apply, *mutatis mutandis*, to the proceedings in the labor court.

Section 32

In the case where the labor court is of the opinion that any act of any party does not comply with any proper step or is in violation of the provisions on the law governing the labor protection or the law governing the labor relations, the labor court shall be empowered to order such party to perform or not to perform any act in accordance with such laws.

In the case of defiance of the order under paragraph one; the labor court shall be empowered to order a detention until such order has been complied with but not exceeding six months.

Part 2

Procedure for Labor Cases in Labor Court

Section 33

A labor plaint shall be filed with the labor court within the territorial jurisdiction of which the cause of action arose. If the plaintiff intends to file the plaint with the labor court within the territorial jurisdiction of which the plaintiff or the defendant has domicile, the labor court may, when the plaintiff has proved that the trial in such labor court will be convenient, allow the plaintiff to file such plaint as requested.

For the purpose of this Section, the place of work of the employees shall be deemed as the place where the cause of action arose.

At any stage of the trial but prior to judgment or order disposing of the case, a party may, citing appropriate reason and necessity thereto, request the labor court where the plaintiff has filed the plaint, to transfer the case to other competent labor court. If the labor court deems appropriate, it may grant such request. However, it shall not issue such order without prior consent of the other labor court. If such consent is not given, the former labor court may submit the matter to the Chief Justice of the Central Labor Court for his decision. Such decision shall be final.

Section 34

In the locality where a provincial labor court has not yet been established, but is under the territorial jurisdiction of a

regional labor court, the plaintiff may file a plaintiff with either the provincial court or the regional labor court. If the plaintiff files the plaintiff with the provincial court, the provincial court shall notify the regional labor court. If the regional labor court accepts such plaintiff, it shall sit at the provincial court of such locality.

Section 35

The plaintiff may either file a written plaintiff or state his claim orally before the court.

If the plaintiff states his claim orally, the court shall be empowered to make investigation as necessary in the interest of justice, then make a memorandum of such claim and shall have it read out to, and signed by the plaintiff.

In the case where there are several plaintiffs, the court may arrange for the said plaintiffs to appoint one or more plaintiffs to act as representative in the proceedings.

The appointment of representative under paragraph three shall be in accordance with the rule under Section 29.

Section 36

The employers or the employees may authorize an employers' association or a labor union of which they are members or a competent official who is empowered to take legal action under the law governing the labor protection or the law governing the labor relations to represent them in the proceedings.

Section 37

Having accepted a case for adjudication, a labor court shall fix the date and time for hearing without delay and issue summon the defendant to appear in court by the time fixed therein. The summons shall set forth the particulars of the charge and the relief sought. The labor court shall also order the plaintiff to appear in court on such date and time.

The defendant may file written answer prior to his appearance on the date and time fixed by the labor court.

Section 38

When the plaintiff and the defendant appear in court, the labor court shall mediate the parties to reach an agreement or a compromise. For the purpose of continuous relationship between the parties, it shall be deemed that the labor case possesses specific nature that and it should be settled with good understanding.

In a mediation of the labor court, if any party requests or when the labor court deems appropriate, the labor court may order that such mediation is held in camera in the presence of the parties only.

In the case where the labor court has conducted mediation but the parties could not reach an agreement or a compromise, the labor court shall proceed with the trial.

Section 39

If there is any issue, which could not reach an agreement or compromise, the labor court shall record the issue in dispute, the plaintiff's statement and the defendant's answer. The court shall read the memorandum to the parties who shall then sign it. The labor court may direct any party to adduce evidence first or afterward, and fix the date of taking evidence promptly.

If the defendant refuses to make an answer, the labor court shall record this fact and then proceed with the trial.

Section 40

If the plaintiff who is aware of the order requiring him to appear in court under Section 37 fails to appear without notifying the labor court of the reason of his non appearance, it shall be deemed that the plaintiff has no intention to proceed with the case. The labor court shall then issue an order striking the case out of the case-list.

If the defendant on whom a summons to appear in court under Section 37 has been served does not appear without notifying the labor court of the reason of his non appearance, the labor court shall issue an order declaring the defendant to be in default and then try the case ex parte.

If the plaintiff or defendant has notified the labor court of the reason of his non appearance and the labor court is of opinion that the reasons are justified, the labor court shall fix the new date for both parties to appear in court.

Section 41

In case the labor court has issue the order striking the case out of the case-list under Section 40 paragraph one or the order declaring the defendant to be in default under Section 40 paragraph two; if the plaintiff or defendant notifies the

labor court of the reason of his non appearance within seven days from the date of issuing the order, the labor court shall have power to make an inquiry of such reason. If the labor court deems appropriate, it shall set aside the order under Section 40 and proceed with the trial after the issue of such order as if the annulled proceedings had never been conducted.

Section 42

If the defendant refuses to make an answer under Section 39 paragraph two or the labor court will try the case ex parte under Section 40 paragraph two, the labor court may take necessary evidence before adjudicating the case.

Section 43

The labor court, at any stage of the trial, have power to bring about an agreement of a compromise as implied in Section 38.

Section 44

In order to have the complete facts, the adduction of evidence and filing of a list of evidence by either party shall be made within the time specified, as the labor court deems appropriate.

Section 45

In the interest of justice, the labor court shall have power to take evidence on its own motion in order to clarify the fact of the case.

The labor court shall examine the witness by itself regardless of whether the witness is adduced by any party or summoned by the labor court. The parties or their lawyers may examine the witness only upon the permission of the labor court.

In the interest of expediency, the labor court shall proceed with the hearing without adjournment unless in the case of necessity which the labor court may adjourn the proceedings for no more than seven days.

Section 46

The labor court may, if it thinks fit, record the testimony of the witness in brief and have the witness append the signature.

Section 47

A knowledgeable person or an expert called by the labor court or the Supreme Court to appear and give opinion and the witness called by the labor court shall be entitled to allowance, transportation and accommodation expenses in the amount that the labor court or the Supreme Court, as the case may be, thinks appropriate.

Section 48

In the trial of a labor case, the labor court shall take into account the working condition, the cost of living, the employee's hardship, the level of wages or the rights and any other benefits of the employee in the same type of business as well as the status of employer's business and the economic and social condition in general so as to provide fairness to both parties.

Section 49

In the dismissal case, if the labor court thinks the dismissal is unfair, it shall order the employer to reinstate the employee at the same level of wage at the time of dismissal. However, if the labor court thinks that such employee and employer cannot work together, it shall fix the amount of compensation to be paid by the employer which the labor court shall take into consideration the age of the employee, the working period of the employee, the employee's hardship when dismissed, the cause of dismissal and the compensation the employee is entitled to receive.

Section 50

After all the necessary evidence has been taken, the trial shall be closed. However, the parties may close their case by oral argument on the day the trial is over. The labor court shall then pronounce the judgment or order within three days from such date. The associate judge who has already signed in the judgment or order may not present at the time of pronouncing the said judgment or order.

Before the labor court pronounces the judgment or order, it may proceed further with the trial if it thinks appropriate to do so in the interest of justice.

Section 51

The judgment or order of the labor court shall be made in writing and shall state or specify the facts as found in brief and the decision on the issues along with the grounds for such decision.

The labor court shall send a copy of the judgment or order to the Department of Labor without delay.

Section 52

The labor court shall not give judgment or order for anything in excess of or not included in the plaint except that the labor court deems appropriate, in the interest of the justice to both parties, to give judgment or order in excess of the relief sought.

Section 53

A judgment or order shall be binding only the parties to the proceedings. However, the labor court may state that the judgment or order may be binding upon any other employer and employee who share the common interest in the subject matter of the case.

Chapter 4

Appeal

Section 54

Subject to the provisions of this Act or other legislations, only the question of law in the judgment or order of the labor court can be appealed and the appeal shall lie with Supreme Court within fifteen days from the date of its pronouncement.

Appeal shall be lodged by filing a petition in writing with the labor court that gave the judgment or order. The labor court shall serve a copy of the petition in order for the respondent to make an answer within seven days from the date of receiving such copy.

If there is an answer from the respondent or the respondent does not file an answer within the time specified in paragraph two, the labor court shall promptly forward the file of the case to the Supreme Court.

Section 55

The lodging of an appeal does not entail a stay of execution of the judgment or order of the labor court, but the party lodging the appeal may apply to the labor court, which gave the judgment or order by motion setting forth reasonable grounds for the application in order to have the Supreme Court order the stay of execution.

Section 56

The Supreme Court shall promptly consider the labor case and give judgment or order.

In considering the case, the Supreme Court shall rely on the facts established in the labor court. But, if the facts are not sufficient, the Supreme Court shall order the labor court to hear further facts and then return the file to the Supreme Court without delay.

In the case where the labor court is of the opinion that the new facts shall alter the decision made, the labor court shall enter a new judgment and Sections 54 and 55 shall apply *mutatis mutandis*.

Section 57

The President of the Supreme Court shall set up a Labor Case Division in the Supreme Court for the adjudication of labor cases that may be appealed from the labor court.

In case of necessity and in the interest of justice, the Supreme Court may call any knowledgeable person of expert to appear and give opinion for its consideration.

Chapter 5

Provisional Measures before Judgment and Execution of Judgments or Orders

Section 58

Before making the judgment or order, if there is any necessity to safeguard the interest of the parties or the person involved, or to secure the execution of the judgment or order, the labor court shall have power, other than that provided in general in the Civil Procedure Code, to issue any order as deemed appropriate.

Transitory Provisions

Section 59

Cases under the jurisdiction of the labor court which are pending in a court of first instance in accordance with Section 3 of the Law for the Organization of Courts of Justice on the inauguration date of the Central Labor Court or the regional labor court or provincial labor court shall be determined and disposed of by the said court of first instance. However, if the said court of first instance deems appropriate, it shall transfer the case to the Central Labor Court, the regional labor court, or provincial labor court which has jurisdiction over the case for adjudication.

Section 60

During the period when a regional labor court and provincial labor court have not been inaugurated, the Central Labor Court shall have jurisdiction in that locality. The plaintiff may file a complaint with the provincial court of that locality. The provincial court shall then notify the Central Labor Court of the matter. After the Central Labor Court has accepted the case for adjudication, it shall conduct the proceedings at the relevant provincial court.

Countersigned by S. Hortrakit as Deputy Prime Minister

Remark

The reason for the promulgation of this Act is as follows:

Whereas the labor case has a characteristic different from general civil and criminal cases. This is because the labor case is the dispute of between an employers and employees, arisen contrary to the employment contract or relevant to the rights of employers and employees specified in the labor protection law and law on labor relations. Such dispute should be considered by judges having knowledge and understanding in labor problems, together with associated judges from both sides, employer and employee. The proceedings should be under circumstances which are conveniently, economically, expediently, equitably, equally undertaken, with the main aim is to make all parties concerned reconcilable and be able to work jointly without the fell of being adversary. In order to make the cases appealing and convenient, the proceedings in labor cases except steps and procedures being practical in civil cases specified by the Civil Procedure Code. It is, therefore, necessary to enact this Act.

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