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Retirement as a Condition of Employment and Legal Implications of Amending Work Rules

Retirement is legally recognized as a cause for termination of employment when an employee reaches the age set by the employer. Under the Labor Protection Law, retirement is expressly acknowledged as a cause of termination, while under the Labor Relations Law it is treated as a Condition of Employment. This means that agreements regarding retirement are considered agreements relating to Conditions of Employment, and are binding upon both employer and employee.

The Supreme Court affirmed that a company's work rules constitute an Agreement relating to Conditions of Employment of the Labor Relations Act. Consequently, when an employer wishes to amend, change, or revoke work rules in a way that affects employees, such action cannot be taken unilaterally. If the change may be disadvantageous to employees, the employer is required to obtain employee consent. Failing such consent, the employer must submit a demand for amendment the Labor Relations Law and pursue negotiations with the employees until a resolution is reached.

This principle applies directly to the case of retirement age. For example, if a company currently sets retirement at age 55 but plans to extend the retirement age to 60, such amendment is regarded as an alteration of a Condition of Employment. While extending retirement age may appear beneficial to some, it is not necessarily favorable to all employees. Certain employees may prefer to retire at 55 in accordance with the existing rules. Therefore, the company must first obtain consent from employees before amending its work rules to extend the retirement age.

The Supreme Court provides additional guidance: employers seeking consent may directly request it from employees, with written agreements signed by both parties to confirm the acceptance of the amendment. Such agreements should be attached to the amended work rules as evidence of mutual consent. Furthermore, as clarified by both this ruling and the Labor Protection ruling, consent is binding only on the employees who provide it. Employees who withhold consent remain subject to the original work rules prior to their amendment.

Accordingly, if an employee consents to an amendment extending the retirement age, that employee will be bound by the new retirement condition. Employees who do not consent will remain bound by the original retirement rule. For new employees joining the company after the amendment, however, the new work rules will automatically apply, as they form part of the employment contract and are legally binding from the outset.