



Correction of an Error in a Severance Pay Calculation Formula in the Internal System Does Not Constitute a Change to the Retirement Benefit Scheme

Under Company E's rules of employment, severance pay is to be paid in accordance with the Act on the Guarantee of Employees' Retirement Benefits. Company E subsequently discovered that the severance pay calculation formula programmed into its internal system was inconsistent with the formula prescribed in its rules of employment and corrected such inconsistency.

Certain employees claimed that: (i) correcting the formula error in the internal system constituted a change to the retirement benefit scheme and, because Company E had not followed the procedures required for changing such scheme, the revised formula was invalid; and (ii) Company E was required to pay the difference between the amount that would have been payable under the previous formula and the severance pay actually paid based on the current (corrected) formula.

Consequently, the court of first instance dismissed all of the plaintiffs' claims, and the plaintiffs appealed, leading to the appellate proceedings.

Shin & Kim represented Company E not only in the first-instance trial but also in the appellate proceedings, persuasively arguing that the change to the formula in the internal system was merely a correction of an existing calculation error and therefore did not require the procedures for amending the retirement benefits scheme.

The appellate court accepted all of Shin & Kim's arguments, ruling that revising the severance pay calculation formula programmed into the internal system merely corrected an inconsistency between the calculation formula and the rules of employment and therefore did not constitute a change to the retirement benefit scheme. It upheld the first-instance court's ruling that Company E had no obligation to pay the difference in severance pay claimed by the plaintiffs, as it had paid the full amount of severance pay in accordance with the rules of employment, and thus dismissed the plaintiffs' appeal.

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