

Supreme Court Overturns Appellate Decision That Failed to Determine Whether Annual Leave Entitlement Arose on the Retirement Date

(Supreme Court Decision 2024Da206043 dated September 3, 2026)

1. Background and Issue

The plaintiffs were employees of the defendant company who retired upon reaching the mandatory retirement age after becoming subject to the company's wage peak system.¹ The defendant's annual leave entitlement date fell on July 1. Although the plaintiffs retired on June 30—the day before that entitlement date—the defendant nevertheless paid allowances for a total of 50 days of unused annual leave, including 25 days attributable to the plaintiffs' final year of employment.

The plaintiffs subsequently filed suit, alleging that the defendant had underpaid the unused annual leave allowances by excluding certain wage items from the ordinary wage calculation. They sought payment of the difference between the amount already paid and the amount recalculated to include those wage items.

The appellate court rejected the portion of the claim relating to the 25 days of annual leave attributable to the plaintiffs' final year of employment, reasoning that, at the time of retirement, the plaintiffs had not yet acquired the right to use those annual leave days.

The principal issue before the Supreme Court was whether the employer's rules of employment or established labor practices could be found to grant annual leave on the retirement date even where that date precedes the annual leave entitlement date and, if so, whether the plaintiffs can claim the difference for the 25 days of unused annual leave accrued through work during the last year prior to retirement.

2. Supreme Court's Decision

Appellate Court

The appellate court held that the plaintiffs' entitlement to the 25 days of annual leave attributable to their final year of employment did not arise until July 1—the day after their retirement on June 30. Because the plaintiffs had not yet acquired the right to use that annual leave at the time of retirement, the court concluded that they were not entitled to allowances for those unused leave days.

Supreme Court

The Supreme Court reversed and remanded the portion of the appellate court's judgment relating to the plaintiffs' claim for unused annual leave allowances. The Court explained that, as a general rule, the right to use annual leave arises on the day following completion of one full year of service (the "statutory entitlement date"). However, where an employment contract, rules of employment, or similar governing instrument provides for a different entitlement date and the employee's entitlement has in fact arisen under those provisions, the employees can claim the allowances for unused annual leave even if the employee retires prior to the statutory entitlement date.

In its explanatory materials on the wage peak system, the defendant classified a case where the statutory reference date was July 1 and the resignation date was June 30 as a "case where the statutory reference date and the retirement date coincide." The materials further stated that those employees would become entitled to 25 days of annual leave attributable to their final year of employment.

The Supreme Court found that, in light of those explanatory materials and the fact that the defendant had paid unused annual leave allowances that included the 25 days in question, there is room for consideration that the employees' entitlement to annual leave has been set to arise on the retirement date.

Accordingly, the Supreme Court held that the court of remand must further examine whether there exist defendant's rules of employment or established labor practices which provides that entitlement to annual leave would arise on the retirement date.

3. Significance

This ruling has significance in that it specifically demonstrates that, when an employment contract or rules of employment stipulate a date for the accrual of annual leave that differs from the statutory standard, the right to annual leave may accrue in accordance with such contract or rules. In particular, the Supreme Court held that, how the timing of annual leave entitlement relating to retirement date is set and applied within the workplace shall be looked into based on the explanatory materials on the wage peak system and the details of actual payment of the unused annual leave allowances.

The decision also makes clear that an employee's claim for unused annual leave allowances should not be rejected solely because the employee retired before the statutory entitlement date. Rather, it is necessary to determine whether a separate entitlement date more favorable to employees had been established within the workplace.

Accordingly, when calculating unused annual leave allowances for retiring employees, employers should review not only the statutory entitlement date but also the relevant rules of employment, explanatory materials provided to employees, and the employer's established payment practices.

¹ A system under which employees' wages are adjusted after reaching a specified age, typically before mandatory retirement.

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