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# Judicial Provision Of The Right To Reinstatement: Legal Basis And Practical Problems

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**Abstract:** This article analyzes the legal basis and practical significance of the right to appeal to the court in disputes regarding reinstatement. The right to judicial protection is one of the constitutional and inalienable human rights, and this right also serves as an important guarantee in labor relations. The Constitution of the Republic of Uzbekistan, the Labor Code, the Law "On Courts," and international legal documents, including the Universal Declaration of Human Rights, widely cover the right to appeal to the court. In particular, the new edition of the Labor Code clearly defines the procedure for considering claims for reinstatement in court. At the same time, it was indicated that there are some problems, ambiguities, and norms in the legislation leading to various interpretations in the restoration of labor rights of rehabilitated persons. The article takes a systematic approach to these issues.

**Keywords:** Reinstatement, court appeal, labor law, rehabilitation, legal mechanism, human rights, judicial protection, dispute, legal problem, procedural order, civil cases.

**Introduction:** Today, the judicial and legal system in our country is being consistently improved and modernized. Based on advanced foreign experience in the implementation of reforms, it is proposed to improve the activities of courts and raise them to the stage of formation as a single body for the protection of the rights and freedoms of individuals and legal entities.

In the Republic of Uzbekistan, the right to appeal to the court is recognized as one of the most fundamental and inalienable rights of citizens, as evidenced by the fact that from the first days of independence, that is, on December 30, 1991, our country joined the "Universal Declaration of Human Rights[1]."

According to international and national norms, the right to judicial protection is guaranteed, and not only labor rights of citizens, but also the possibility of judicial protection of any violated right is guaranteed.

In particular, Article 23 of the Universal Declaration of Human Rights states that "everyone has the right to work, to a free choice of occupation, to fair and favorable working conditions, and to protection against unemployment," and according to Article 8 of the Declaration, "everyone has the right to effective restoration of these rights by authoritative national courts in cases of violation of the fundamental rights granted to him by the Constitution or law. [2]"

This international norm guarantees citizens' labor rights and the right to apply to the court for the restoration of their violated rights and the realization of their legitimate interests.

Protection of citizens through judicial bodies is an integral and decisive part of the mechanism for protecting human rights and freedoms. Because the court is the most important tool in the system of restoring the violated rights and freedoms of citizens. Every person is guaranteed judicial protection of their rights and freedoms, the right to appeal to the court against illegal actions of state bodies, officials, and public associations. It has been declared that the judiciary in the Republic of Uzbekistan acts independently of the legislative and executive branches, political parties, and other public associations.

According to Article 42 of the Constitution, everyone has the right to decent work, free choice of profession and type of activity, working in favorable working conditions that meet safety and hygiene requirements, receiving fair remuneration for their work without any discrimination and not less than the established minimum wage, as well as protection from unemployment in the manner prescribed by law.

Article 55 of the Constitution guarantees everyone the right to judicial protection of their rights and freedoms, to appeal to the court against illegal decisions, actions, and inaction of state bodies and other organizations, their officials, and to restore violated rights and freedoms, to ensure that their case is considered by a competent, independent, and impartial court within the time limits established by law.

At the same time, according to Article 14 of the Law "On Courts," "Citizens of the Republic of Uzbekistan, foreign citizens and stateless persons have the right to judicial protection from any unlawful decisions of state and other bodies, actions (inaction) of their officials, as well as from encroachments on their life and health, honor and dignity, personal freedom and property,

other rights and freedoms. Legal entities also have the right to judicial protection."

The norms of this legislation mean the right to apply to the court in the general procedure and do not restrict the right of employees to apply to the court with a claim for reinstatement. Citizens can be protected through the courts not only in cases of violation of labor rights, but also in cases of damage caused as a result of the actions or inaction of housing, family, contract, and other citizens and officials.

The right to judicial protection is one of the most important, eternal, inalienable human rights. In recent years, the need for strong, effective, prompt, and competent judicial protection has significantly increased, acquiring particular significance in the context of economic, social, and political reforms.

The relevance of the problem of human rights in Uzbekistan is directly related to the introduction into legal practice of international standards, which emerge not only as a criterion, but also as a direction of social development.

The methods of resolving contradictions arising between the individual and the state are of fundamental importance. At the same time, it should be noted that a major step towards the democratization of society is associated with the establishment of the procedure for appealing to the court on behalf of the state against illegal actions of its bodies and officials that violate the rights of citizens, and the introduction of the institution of the Human Rights Commissioner[3].

Applying to the court is one of the guarantees of the right to judicial protection, the rights and freedoms of citizens. Judicial protection is one of the main means of state protection of the rights, freedoms, and legitimate interests of citizens, which is carried out by ensuring justice.

Appealing to the court is an inalienable right of a person, and no one can be deprived of such a right. The inalienability of a person's right to appeal to the court is expressed in the fact that even a person cannot renounce such a right. A person may not consider it necessary to apply to the court on a specific issue and may not apply to the court, since this is not an obligation, but a right of the person. However, refusal to apply to the court and waiver of the right to apply to the court are different concepts, and the law excludes the waiver of the right to apply to the court[4].

The right to apply to the court for reinstatement is regulated by special legislative acts, namely labor and procedural legislation.

In particular, according to Article 545 of the new edition of the Labor Code, an employee has the right, at their

choice, to apply to the labor dispute commission or directly to the court for the resolution of an employment dispute.

Article 558 of this Code establishes that, regardless of the grounds for termination of the employment contract, disputes on reinstatement at work, on changing the date and the formulation of the grounds for termination of the employment contract, on payment for forced absence from work or for the time of performance of low-paid work are considered directly in court.

Article 559 of the Code establishes that an employee has the right to apply to the court for the consideration of an individual labor dispute.

Also, according to Article 3 of the Civil Code, any interested person has the right to apply to the court (court) in civil cases to protect their violated or disputed right or legally protected interest in the manner prescribed by the legislation on civil proceedings.

Article 26 of the Code establishes that the following cases fall under the jurisdiction of the civil court for labor disputes.

At the same time, according to Article 39 of the Law "On State Civil Service," a state civil servant, in case of disagreement with the decision on rotation, has the right to appeal to a higher state body or a specially authorized state body or to a court[5].

According to Article 47 of this Law, a state civil servant has the right to appeal the disciplinary sanction applied to them to a higher state body or a specially authorized state body or to a court.

As can be seen, appeals to the court for disputes related to reinstatement are regulated on the basis of general and special norms. Resolution of disputes on reinstatement in court is an important way to protect the labor rights and legitimate interests of an employee.

It should be especially noted that as a result of the changes taking place in our country, the rapid growth of the labor market, the fact that most of the relations between employees and employers are not regulated by current labor legislation, has become clearly evident. In this regard, a new system has been created that adequately protects the labor rights of employees by legislatively strengthening relations in the sphere of labor.

In the new edition of the Labor Code, the labor rights of an employee are sufficiently enshrined, and any employee whose labor rights have been violated can appeal to the labor dispute commission or directly to the court.

However, in practice, there are some problems with reinstatement, and problems arise with the restoration of labor rights of rehabilitated persons.

In particular, according to Articles 304-310 of the Criminal Procedure Code of the Republic of Uzbekistan, the restoration of the rights of a rehabilitated person is carried out on the basis of a court ruling, an investigator's or prosecutor's decision. Let's start with the court's ruling.

Consequently, according to the content of the above articles, the court that issued the relevant verdict on the rehabilitation of the person must restore the rights of the rehabilitated person. Consequently, according to Article 311 of the Criminal Procedure Code of the Republic of Uzbekistan, the rehabilitated person, along with their rights, has the right to apply to the court with a corresponding claim in the order of claim proceedings if their claim for restoration of labor rights is not satisfied or if they disagree with the decision taken.

However, this legal norm does not clearly stipulate which state body or official has the right to apply to the court in the order of claim proceedings in cases where the rehabilitated person's claim related to the restoration of labor rights is not satisfied. Thus, the law does not show the rehabilitated person the "right path."

This code is called the "right of claim."

If we pay attention to Article 312, it is provided that the rehabilitated person may demand payment of monetary compensation for property damage within two years from the date of receipt of the ruling or decision to make such payments, and the restoration of other rights within one year from the date of receipt of a notification explaining the procedure for restoring the rights of the rehabilitated person. Consequently, no procedural document will be adopted for the reinstatement of a rehabilitated person, only an explanatory notification will be sent to him.

The norm of this content leads to a number of misunderstandings. The misunderstanding is related to different interpretations of this norm, namely, firstly, which body issues this letter, secondly, when it is issued, thirdly, does the period begin after receiving an explanatory notification from the body that rehabilitated the person, or after receiving a notification from the body or official authorized to restore the person to work, fourthly, why the rehabilitated person should be given an explanation, fifthly, what prevents the rehabilitating body itself from restoring the person to work, etc[6].

It should be especially noted that an important aspect of the employee's right to apply to the court for reinstatement is that the employee can apply to the

court directly or through authorized bodies, and according to the changes in the legislation, the inclusion of justice bodies in the subjects applying to the court in the interests of the employee is also important, aimed at protecting the rights and legally protected interests of employees.

Based on the foregoing, the right to apply to the court in cases of reinstatement should be recognized as one of the constitutional and inalienable human rights. Although the Labor Code enshrines practical guarantees of this right, in some cases, in particular, in matters related to the reinstatement of rehabilitated persons, there is a lack of clarity in the legal environment. The mechanism of judicial protection is not only a means of restoring rights, but also a real expression of the state's attitude to human rights. Therefore, it is advisable to simplify the procedure for applying to the court, introduce clear and logical legal mechanisms for resolving disputes related to reinstatement, and establish a unified legal approach to rehabilitated persons. This will serve to strengthen citizens' trust and more effectively implement judicial and legal reforms.

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