



Research on Labor Relations Model of Internet Platform Employment

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Abstract. The purpose of this study is to analyze the changing trend of employment policies on China's Internet platforms and summarize the typical patterns of employment on the platform. The research result is that the employment policy of the platform has experienced three periods: initial period, development period and normative period. The typical modes of platform employment include direct signing, intermediary, outsourcing and new sharing employment.

Keywords: Internet Platform Employment · Labor Relation · Employment Policy · Labor Law

1 Introduction

With the rapid development of the digital economy and the sharing economy, as well as the increasingly severe employment situation, Internet platform employment has gradually become an important employment model with its advantages in reducing employment costs, reducing employment risks, streamlining organizational structure etc. From the perspective of labor law, platform employment is a form of employment in which employers form non-standard labor relations or non-labor relations with workers in ways other than standard employment. Its main forms include labor dispatch, part-time employment, platform employment, labor outsourcing, business outsourcing, business cooperation, retirement and re-employment, etc. Among them, platform employment is a new form of employment that integrates the information network platform of labor demanders and suppliers through Internet technology to recruit, organize, manage workers and control the entire labor process. It gradually presents the current trend of substantiation, de-employment, and de-labor relations.

This study analyzes the evolution trend of China's labor policy in the employment of Internet platforms. Based on the practice of Internet enterprise platform employment in recent years, four typical patterns of Internet platform employment are proposed. It also studies and analyzes the mode of establishing labor relations, characteristics of labor relations and applicable laws of each mode.

2 Changes in Labor Relations Policy

In 2010, the China Online Taxi Sharing Platform was put into operation, and the new employment mode of platform employment came into being. With the vigorous development of the Internet platform economy, the scale of platform employment has expanded rapidly, and the lack of protection of platform employment rights and interests has become increasingly prominent. The policy orientation of platform employment has changed from “inclusive and prudent” and “providing space for the development of new business forms” to “safeguarding the rights and interests of workers in new business forms”. From the perspective of policy development process, the evolution of national requirements for platform employment policy can be roughly divided into three stages [1].

2.1 Initial Period of Platform Employment Governance

Since 2015, China has entered an exploratory period in the governance of Internet platform employment. Before that, the employment governance policy of the Internet platform at the national level has not yet been formed. In 2016, many departments jointly issued a policy document on online car hire, officially opening the prelude to China’s exploration of governance on Internet platform employment.

As a new thing, Internet platform employment has gradually emerged some problems in its development process. At this stage, the central and local governments strongly support and encourage innovation. The development of the Internet platform economy has promoted the innovation and development of the platform employment model. The government puts forward the principle of inclusive and prudent supervision on platform employment. Policy attention mainly focuses on the core issues that need to be solved in the platform employment and how to provide space for the development of new business forms.

2.2 Development Period of Platform Employment Governance

In 2019, China entered a standardized platform employment governance period in development. On the one hand, the platform employment governance policy at this stage continues to emphasize the principle of inclusive and prudent supervision of new business forms. However, on the other hand, the supervision on the safety bottom line of platform economic development has been strengthened.

The policy documents on platform economy at this stage emphasize the development goals of normative and healthy. The principle of “development first, regulation second” is adopted for the regulation of platform employment. The policy content reflects the legal protection of the legitimate rights and interests of workers in the platform economy from multiple perspectives. While supporting the employment of the platform, the policy began to try to protect the rights and interests of workers in new business forms.

2.3 Normalization Period of Platform Employment Governance

In 2021, China’s governance of Internet platform employment will enter a standardized development period. At this stage, China has issued a series of policy documents, the

core content of which focuses on safeguarding the rights and interests of workers in the new industry. The institutional framework of platform employment governance has gradually begun to take shape.

The policy clarifies the importance and urgency of safeguarding the rights and interests of workers in the new business form at the national level. The construction of the system for safeguarding the rights and interests of workers in new business forms has entered a substantive stage, and the platform employment governance has entered a comprehensive and standardized management stage.

At the end of 2021, the Central Economic Work Conference proposed that social policies should keep the bottom line of people's livelihood, and improve flexible employment, employment and social security policies. It can be seen that the issue of platform employment has become the focus of China's social policy.

The report of the 20th National Congress of the Communist Party of China requires "to improve the security system for promoting entrepreneurship and employment. Support and standardize the development of new forms of employment. Improve labor laws and regulations. Improve the negotiation and coordination mechanism of labor relations. Improve the protection system of workers' rights and interests. Strengthen the protection of flexible employment and workers' rights and interests in new forms of employment." This may mark that the platform employment governance is about to enter a new stage.

3 Four Modes of Employment on Internet Platform

The business scope and operation mode of enterprises on different Internet platforms are different, and there are also some differences in the employment mode. According to the different legal relationship between the platform enterprise and the service provider, the current employment mode of the Internet platform can be divided into four types: direct signing mode, intermediary mode, outsourcing mode and new sharing mode [2].

3.1 Direct Signing Mode

Internet platform enterprises, as the main body of employment, directly sign labor contracts with labor providers. There is no essential difference between this mode and the traditional employment mode. The only difference is that the service provider generally accepts work orders through mobile APP, rather than accepting work tasks in a fixed workplace like traditional workers. The labor service provider under this employment mode also generally needs to punch in on time, have fixed working hours, and must complete the order tasks arranged by the platform enterprise as required.

Under the direct signing mode, the platform directly hires labor providers, and the nature of labor contracts is clear. The behavior and appearance of the service provider wearing the platform uniform, using the platform logo, and wearing the work card are consistent with the identity of its workers, and its behavior of providing services is a duty behavior. In case of infringement, the platform shall bear the corresponding consequences. The legal relationship reflected is simple and clear, and the Labor Law is applicable.

In practice, the signing of labor contracts between Internet platforms and service providers will lead to high employment costs, which are common in the initial stage of platform enterprises. At present, this employment mode accounts for a very small proportion of the total platform employment, and has a trend of further reduction.

The typical representative is the “Shouqi Arrivals” platform. Its predecessor was the taxi company of Shouqi Group, and its driver was originally a full-time labor contract employee. Shouqi Group began to practice the transformation from traditional cruise taxi to reserved taxi from 2015. Its platform software “Shouqi Car Appointment” was put into operation. At present, the drivers of the company’s Beijing area network are still mainly from the four taxi operating companies under the Shouqi Group.

3.2 Intermediary Mode

Internet platform enterprises, as intermediaries, provide information services for both supply and demand of labor services. In this mode, the role of platform enterprises is to provide an online labor service trading platform and set transaction rules. Both parties of labor supply and demand need to register on the trading platform established by the platform enterprise. After the registration is completed, the labor demander will publish the work task, time limit, remuneration and other information on the platform. The labor service provider can select appropriate work tasks according to its own situation [3].

The labor supply and demand parties can negotiate on the transaction platform on terms such as task duration and remuneration according to the transaction rules set by the platform enterprise. The platform enterprise will not participate in the transaction process of both parties, but will charge a certain fee after the transaction is successful.

In this model, the positioning of the Internet platform is information media, which is to create trading opportunities between the supply and demand sides of labor services and facilitate the conclusion of contracts through information matching. The relationship between the platform and the service provider is in line with Article 424 of the Contract Law, which states that “the intermediary provides the client with the media services for concluding the contract, and the client pays the remuneration”, which constitutes the intermediary contract relationship.

When it is necessary to identify the subject of liability for infringement, the Internet platform, as a network service provider, can introduce the provisions of Articles 194 to 197 of the Civil Code. “If the services of the service provider cause damage to others, the Internet platform does not need to bear the liability for infringement without its own fault.” The Internet platform only provides information services for contract signing, and has no causal relationship with infringement [4].

3.3 Outsourcing Mode

Internet platform enterprises authorize some businesses or businesses in a certain area to the contracting organization by signing a cooperation agreement with the contracting organization. Then the contracting organization signs a labor contract with the labor service provider. The service provider registers on the APP of the Internet platform enterprise according to the arrangement of the contracting organization, and provides services for consumers according to the order information released by the platform.

In this employment mode, the platform enterprise does not sign a labor contract with the service provider, but the contracting organization signs a labor contract with the service provider. In practice, the outsourcing mode has the phenomenon of multi-level subcontracting and subcontracting [5].

The standard form of outsourcing mode is that the contracting organization signs labor contract with the labor service provider, which is applicable to the Labor Law. In judicial practice, this mode has different handling methods due to the normative differences of contracting organizations. The existing judicial cases involving contracting organizations are mainly the damage caused by the service provider to a third party, who lists the platform, contracting organizations and service providers as defendants.

Specific situations can be divided into three categories. The first category is that the contracting organization explicitly recognizes the labor contract relationship between it and the labor service provider. The contracting organization shall be liable for damages, and the platform shall not be liable. The second category is that the contracting organization does not recognize the labor contract relationship between it and the labor service provider. The court examined the command, management and remuneration of the contracting organization to the service provider, and determined that the two were labor contract relations. The responsibility shall be borne by the contracting organization. The third category is that the contracting organization explicitly recognizes the labor contract relationship between it and the labor service provider. However, the court held that the contracting organization was a labor dispatch company and the platform was a labor unit. According to Article 1191 of the tort liability of the Civil Code, the platform bears the tort liability, namely, fake outsourcing and real dispatch.

It can be seen that the contract structure of this model is a combination of “business outsourcing contract” between the platform and the contracting organization, and “labor contract” between the contracting organization and the labor provider. Although the contracting organization may have non-standard employment, it has no essential difference from general labor relations disputes. There is also evidence to follow in the labor law, and there is rich judicial experience to rely on [6].

3.4 New Sharing Mode

The new sharing mode is the Internet platform employment in the sense of real sharing economy. Individual service providers directly register and receive orders on the platform APP, and can independently decide whether to provide services, when and where to provide services. At the time of registration, some platform enterprises will sign cooperation agreements with service providers, and some platform enterprises will not sign any form of agreement with service providers. At first, the service providers of the new sharing mode were mainly part-time. With the rapid development of the Internet platform economy, more and more service providers begin to work full-time on the platform, and then evolve into the form of part-time employment.

According to statistics, the Shanghai headquarters of “Hungry” has more than 100000 platform employees. Among them, the outsourcing mode has more than 10000 full-time riders, who sign labor contracts or implement labor dispatching with third-party distribution companies. The new sharing mode has more than 80000 registered people in Shanghai, of which about 3000 are active daily.

4 Conclusions

From the perspective of the policy development trend of Internet platform employment, since 2015, China's governance of platform employment has gone through three stages: the initial stage, the development stage and the standardization stage. The policy orientation of platform employment has changed from "inclusive and prudent" and "providing space for the development of new business forms" to "safeguarding the rights and interests of workers in new business forms". According to the different legal relationship between the platform enterprise and the service provider, the platform employment can be divided into four modes: direct signing mode, intermediary mode, outsourcing mode and new sharing mode. The legal relationship of the first three platform employment modes is relatively clear, and the labor relationship of the new sharing mode is relatively controversial. Internet platform employment is a new way of employment, and its impact on sustainable economy needs to be further explored.

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