

Case Study: Appropriate Employer Response to Workplace Harassment Reports

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I. Introduction

000 The Korean 000 Company (hereinafter referred to as "the Company") received notification from the Ministry of Employment and Labor on July 26, 2023, regarding a report of workplace harassment. The details of the notification stated that, in accordance with Article 76-3 of the *Labor Standards Act*, the employer is required to conduct an investigation into reports of workplace harassment, take measures against the alleged perpetrator, provide protection for the alleged victimized employee(s), take appropriate actions regarding workplace harassment, and report the outcomes to the Ministry of Employment and Labor.

The Company consists of five employees, including one office manager, two team leaders, and two staff members. The alleged perpetrator of the workplace harassment in this case was the office manager, and the alleged victim (the petitioner) was the planning team leader. From the perspective of the petitioner, there are five claims of harassment by the alleged perpetrator:

First, the petitioner was instructed to report his commuting details via personal messaging due to alleged poor attendance;

Second, the alleged perpetrator caused significant stress for the petitioner by instructing him to obtain direct signatures from the company's president without the immediate supervisor's signature;

Third, the alleged perpetrator verbally abused the petitioner for refusing excessive work orders;

Fourth, the alleged perpetrator engaged in actions to exclude the petitioner from work tasks;

Fifth, the alleged perpetrator humiliated the petitioner by verbally abusing him in the presence of other employees at a cafe.

The Company conducted an investigation into these five alleged instances of harassment involving relevant parties and concluded that "the alleged perpetrator's actions do not constitute workplace harassment." In response, the petitioner submitted to the Ministry of Employment and Labor additional evidence for reconsideration, prompting the Ministry to request a re-investigation of the workplace harassment claim on October 26, 2023. In response, the Company conducted a re-investigation of the alleged perpetrator's actions and concluded that they did indeed constitute workplace harassment. Accordingly, the Company took disciplinary

action against the perpetrator, including a salary reduction and harassment prevention education. The Ministry of Employment and Labor then deemed the Company's actions regarding the reported workplace harassment to be appropriate and concluded the case. Considering the possibility of this leading to secondary victimization, it is important to examine the specifics of this case alongside the employer's prudent judgment.

II. Employee's Complaint and Employer's Response (Initial Complaint)

1. Details of the Employee's Complaint

The employee's allegations of workplace harassment are as follows:

(1) Instruction to report commuting via Personal KakaoTalk messages:

The Company has a system where all employees are required to check in and out using groupware. However, from March 24, 2023, to May 2, 2023, at the perpetrator's instruction, the petitioner exclusively reported his commuting details via personal KakaoTalk messages. On March 24, 2023, just before an event where temporary employees were to work together, the perpetrator instructed the petitioner to report his commuting via KakaoTalk. The petitioner initially forgot to report and was reminded to do so, but stopped reporting from May 3, 2023, onwards. On April 28, 2023, in the afternoon, when the petitioner asked the perpetrator, "Why am I the only one reporting commuting via KakaoTalk?" the perpetrator responded, "How can I trust you?"

(2) Rejection of Approval Documents:

In early May 2023, when the perpetrator assigned additional tasks to the petitioner, he refused due to the overwhelming workload. The perpetrator suggested the petitioner consult the company president about these additional tasks, to which the petitioner agreed. Angered, the perpetrator instructed that henceforth, all tasks should be approved directly by the company president, bypassing the petitioner. Subsequently, when the petitioner submitted approval requests to the perpetrator, he was rejected with the reason "Report directly to the company president." Following this, when the petitioner directly submitted requests to the president, he was instructed to go through the proper approval channels. After resubmitting to the perpetrator, he reluctantly approved. Despite the petitioner's inquiries as to why approvals were being withheld, the perpetrator only repeated, "Report directly to the company president." This lack of proper approvals caused significant

difficulties, especially with many pending tasks before an upcoming event. Even after sending KakaoTalk messages and emails requesting approval after drafting documents, the perpetrator ignored them.

(3) Unfair Task Assignment and Verbal Abuse:

When the perpetrator instructed the petitioner to handle all tasks except for media publicity duties, and the petitioner expressed difficulty due to existing workload, the perpetrator angrily accused the petitioner of disobedience and violating orders. They belittled the petitioner, using disrespectful language, and humiliated them.

(4) Exclusion from work meetings:

The perpetrator excluded the petitioner from departmental event meetings by not sharing the schedule, forcing the petitioner to rely on other colleagues to receive information about meeting outcomes, thus unfairly excluding him from work-related discussions.

(5) Verbal Abuse in Public Places:

When the petitioner reported work matters to the perpetrator at a café near the company, the perpetrator, dissatisfied with the report, verbally abused the petitioner. He criticized the petitioner's position as team leader, questioned his duties, and expressed a preference for this office manager working alone. Despite the café being quiet and no one else raising their voice, the perpetrator's actions embarrassed the petitioner in front of others, causing humiliation.

2. Employer' s Investigation Results:

After conducting interviews with the perpetrator and relevant witnesses, the Company reported the following findings to the labor inspector. During the investigation period, the company implemented separation measures by allowing the petitioner and the perpetrator to work remotely in the morning and afternoon, respectively. The employer conducted an investigation and convened a disciplinary committee on August 25, 2023, ultimately reaching a decision of non-guilt regarding the perpetrator. The details are as follows:

(1) Instruction to report commuting via personal KakaoTalk messages:

The petitioner usually checked in and out using groupware. However, the perpetrator instructed the petitioner to report his commuting details exclusively via personal

KakaoTalk messages.

- Perpetrator's Position: The perpetrator noted that the petitioner failed to report tasks performed in non-visible areas, unlike other employees. Specifically, concerning COVID-19 testing, the petitioner went for testing without reporting and even sent a KakaoTalk message saying he would return to work in a week after receiving a positive result, without submitting any diagnosis or supporting documents. The perpetrator instructed the petitioner to report via KakaoTalk to emphasize the importance of diligence in his work attitude, as it differed from that of other employees.
- Assessment: While instructing commuting reports via personal KakaoTalk messages may not inherently cause psychological distress or deteriorate the work environment, it is challenging to consider it as harassment. The petitioner's concern regarding being singled out for this instruction is noted; however, considering the petitioner's distinct work attitude compared to other employees, this instruction cannot be deemed unfair discrimination. Thus, the action does not qualify as workplace harassment.

(2) Rejection of Approval Documents:

The petitioner claimed that the perpetrator rejected his drafts, insisting he report directly to the company president.

- Perpetrator's Position: The perpetrator explained that during a restructuring process by the organizational committee, there was a vacancy in the publicity team, so he asked the petitioner to assist with publicity tasks. However, the petitioner vehemently refused and abruptly left, declaring, "I will talk to the company president myself," as he had previously stated. The perpetrator merely followed the petitioner's previous assertion without giving any undue reason for rejecting the draft.
- Assessment: While it is acknowledged that the draft was rejected, the petitioner's own statement of intending to report directly to the company president precedes this incident. Therefore, rejecting the draft without a specific reason cannot be considered as causing physical or psychological distress or deteriorating the work environment.

(3) Unfair Task Assignment and Verbal Abuse:

The petitioner stated that the perpetrator ordered them to handle all tasks except for publicity duties, and upon refusal, the perpetrator berated him.

- Perpetrator's Position: While it is acknowledged that the publicity team needed support due to vacancies during the organizational restructuring, the perpetrator denied ordering the petitioner to handle all tasks and did not mention disobedience. Moreover, there is no evidence of verbal abuse. Instead, the petitioner reacted aggressively, using profanity and standing up abruptly, which prompted a similar reaction from the perpetrator.

- Assessment: Considering the petitioner's previous involvement in publicity tasks, the request was for assistance rather than ordering him to handle all tasks. Furthermore, the petitioner refused the request and did not actually perform additional work. Additionally, there is no objective evidence besides the petitioner's claims of verbal abuse, and other employees mentioned by the petitioner did not provide corroborating evidence. Therefore, it is difficult to conclude that the request for assistance escalated to behavior causing physical or psychological distress or deteriorating the work environment.

(4) Exclusion from Work Meetings:

The petitioner claimed that the perpetrator unfairly excluded him from work by not sharing meeting schedules.

- Perpetrator's Position: The perpetrator stated that they did share the meeting schedule and did not exclude the petitioner from work.

- Assessment: Without objective evidence supporting the petitioner's unilateral claim, it is not possible to recognize workplace harassment in this regard.

(5) Verbal Abuse in Public Places:

The petitioner alleged that the perpetrator verbally abused him at the café on the second floor of the building where the company is located, causing humiliation as others looked on.

- Perpetrator's Position: The perpetrator denied engaging in the alleged verbal abuse.

- Assessment: Without objective evidence supporting the petitioner's claim and given the perpetrator's denial, it is not possible to recognize workplace harassment in this regard.

III. Labor Ministry's Reinvestigation Directive (Second Complaint)

1. Content of the Labor Ministry's Reinvestigation Directive:

After the company concluded its investigation on August 25, 2023, stating that the reported workplace harassment could not be recognized, and ultimately reporting "no suspicion" regarding the perpetrator, the Labor Ministry issued a reinvestigation directive to the company on October 26, 2024. The directive outlined concerns about certain facts not being properly verified. The contents are as follows:

The objectivity, fairness, and rationality should be ensured in the process and content of the workplace harassment investigation. However, upon review, it appears that objective investigation was not achieved in the following matters (①~④), necessitating a reassessment of whether workplace harassment occurred.

① Informing the petitioner of the investigation on short notice (informing the petitioner orally 30 minutes before the investigation, leaving him unprepared).

② Receiving only the respondent's answers before the petitioner's interview, and conducting the investigation based on the respondent's answers to verify the petitioner's facts.

③ Concerns about potential secondary harm, such as remarks made by investigation committee members during the petitioner's interview, such as "The petitioner's content seems ambiguous as harassment" or "Isn't reporting commuting via KakaoTalk not a difficult task?"

④ Insufficient evidence to prove the investigation results (judgment content). For instance, mentioning the lack of evidence to determine whether reporting commuting via KakaoTalk due to low work diligence was within the appropriate scope of work responsibilities.

2. Company's Reinvestigation and Disciplinary Committee Proceedings:

The company conducted a reinvestigation into the workplace harassment incident. On November 12, 2023, a disciplinary committee meeting was held, and disciplinary action of demotion was taken against the perpetrator in accordance with Article 16 of the Employment Regulations. The details are as follows:

(1) Personal KakaoTalk Reporting of Commute Times Due to Instructions from the Perpetrator:

Since March 24, 2023, when the petitioner began using a separate office space, the perpetrator instructed him to report his commute times via KakaoTalk as the perpetrator couldn't verify the petitioner's commute due to the separate office. Despite the fact that all other colleagues were reporting their commutes through the company's groupware, the perpetrator required the petitioner to report via

KakaoTalk until May 2, 2023. This was used as a means by the superior to control a specific employee through abnormal methods, and by assigning tasks beyond the scope of the petitioner's duties, it can be inferred that it would have caused significant humiliation and damage to their self-esteem.

(2) Rejection of Approval Documents:

The petitioner reported work plans to the immediate supervisor, the perpetrator, and received approval. Subsequently, the petitioner processed the work after obtaining final approval from the higher-level supervisor, the company president. Despite this procedure, the perpetrator disregarded it and instructed the petitioner to directly obtain approval from the second-level higher supervisor, the company president. While the second-level higher supervisor was instructing to obtain the immediate supervisor's signature first, it was apparent that the supervisor was intentionally harassing the petitioner.

(3) Unfair Work Assignments and Verbal Abuse:

When a vacancy occurred in the publicity team, the perpetrator assigned the workload to the petitioner without any consultation. When the petitioner protested against this unfair decision, the perpetrator responded by shouting and using disrespectful language, stating that refusing to comply with the order was insubordination and disobedience. Since other employees witnessed this incident, it constitutes workplace harassment through verbal abuse.

(4) Exclusion from Work Meetings:

Since May 4, 2023, the petitioner was excluded from meetings or conferences related to a specific project overseen by the office manager, the perpetrator. Consequently, the petitioner had to learn about the relevant information from third parties. However, in reality, as the petitioner's duties were excluded from this project and he was no longer involved in its execution, it cannot be acknowledged as work exclusion.

(5) Verbal Abuse in Public Places:

Regarding the claim that the perpetrator verbally abused the petitioner loudly in a café adjacent to the company premises, since there is no evidence to substantiate this claim, it is difficult to acknowledge it.

The employer acknowledged workplace harassment for the following three out of five

claims: (1) KakaoTalk reporting of commute times, (2) review or refusal of approval for the petitioner's drafts, and (3) unfair work assignments and verbal abuse. However, for claims (4) work exclusion and (5) verbal abuse in public places, since there is no evidence to substantiate them, they were dismissed.

The employer conducted an investigation into additional issues raised during the reinvestigation of the workplace harassment claim, interviewed relevant parties, and concluded that there was workplace harassment by the perpetrator in this case. As a result, the company reconvened the disciplinary committee to impose wage reduction measure on the perpetrator and issued a disciplinary notice to the perpetrator stating that if there is a recurrence of harassment, it will result in heavier penalties.

IV. Handling by the Ministry of Employment and Labor and Implications

1. Handling by the Ministry of Employment and Labor:

After investigating the incident, it was difficult to find clear unreasonable circumstances in the execution of necessary measures regarding the recognized workplace harassment under the Labor Standards Act. Therefore, the case was concluded administratively as "no violation." However, recommendations were made to the workplace to adequately consider the future situation of targeted employees and take necessary appropriate measures. Additionally, recommendations were given for special preventive activities and organizational culture diagnosis to establish a culture of mutual respect and prevention of conflicts related to workplace harassment at the company level.

2. Implications:

The issue of workplace harassment can arise at any time, and employees of the company must be aware of this fact and make efforts to prevent it. While superiors may not perceive their actions as harassment, employees who must accept and live with them may perceive them as such. Therefore, superiors need to consider whether their directives or behaviors fall within the appropriate scope of work. Superiors should reflect on their own conduct to ensure that workplace harassment does not occur. Preventing workplace harassment can serve as an important starting point for creating a company culture where mutual respect and a desire to work are fostered. The intention behind preventing workplace harassment is not to diminish the authority or status of superiors but to create a workplace culture that respects

the dignity of all individuals involved. In other words, establishing a workplace culture where adults respect and recognize each other can lead to a place where individuals can realize themselves through work. Furthermore, in cases of workplace harassment, punishing the perpetrator alone may not be the best solution; it should also serve as an opportunity to re-educate employees and re-establish a culture of mutual respect.