SPC Guiding Case No. 181: Zheng [X] v. Honeywell Automation and Control Solutions (China) Co., Ltd. (Labor Contract Dispute)

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Keywords

Civil / labor contract / termination of labor contract / sexual harassment / rules and regulations

Holding

A managerial employee of an employer shall take reasonable measures to handle complaints from employees who have been sexually harassed. Where a managerial employee fails to take reasonable measures, condones sexual harassment, or interferes with the investigation of sexual harassment, and the employer terminates the labor contract on the grounds that the managerial employee failed to perform his or her job duties and seriously violated the rules and regulations, the people's court shall not support the managerial employee's claim that the termination of the labor contract was unlawful.

Basic Facts

Zheng [X] joined Honeywell Automation and Control Solutions (China) Co., Ltd. ("Honeywell Company") in July 2012 as a channel sales manager. Honeywell Company had established a mechanism for training on prevention of workplace sexual harassment, and Zheng [X] had received relevant training. Honeywell Company's Code of Business Conduct provided that managers and supervisors "shall ensure that subordinates can speak freely without fear of retaliation, and that all concerns or problems can be professionally and promptly resolved," and did not permit any retaliatory conduct. The 2017 version of the Employee Handbook provided that committing sexual harassment against others, violating the company's Code of Business Conduct, and making false statements during internal company investigations were all disciplinary violations that would result in immediate dismissal. The above rules and regulations had been discussed at communication meetings of the company's labor union before implementation.

The labor contract signed between Zheng [X] and Honeywell Company provided that Zheng [X] confirmed and agreed that the company's existing Employee Handbook and Code of Business Conduct and other rules and regulations formed part of the contract. After the Employee Handbook was amended, Zheng [X] again signed a confirmation, stating that he had read, understood, and was willing to accept the content of the 2017 version of the Employee Handbook, and was willing to abide by company policy as a precondition for working at Honeywell Company.

On August 30, 2018, Zheng [X], believing that the relationship between a subordinate female employee Ren [X] and Zheng [X]'s superior Deng [X] (who was married) was somewhat strained, spoke with Ren [X] to "ease" the relationship between the two. Zheng [X] mentioned that he had observed the previous day that Deng [X] had said something to Ren [X] and that Ren [X] had not answered, and that he had specifically gone to Ren [X] to smooth things over. Ren [X] mentioned that, when she first joined the company, she had shown Zheng [X] screenshots of WeChat messages of sexual harassment sent by her indirect superior Deng [X], and that Zheng [X] had responded at the time: "I just don't want to get involved in this matter," "I don't want to answer your later questions anymore," "I feel it's a bit strange, but I don't dare ask." During the conversation, Ren [X] stressed that Deng [X] was sexually harassing her, that Deng [X] had demanded to develop a romantic relationship with her, and that after she refused, he continued to harass her incessantly; Zheng [X] should not blame her for not paying attention to Deng [X], and should not come to pressure her on Deng [X]'s behalf. Zheng [X] responded: "If you work like this, it makes me sad," "The more aloof you are, the

more he feels he wants to do something to you," "He's so direct; if it were me, I'd first get close to you, feel things out, and then chat."

Later, by November 2018, Zheng [X] proposed to Honeywell Company's human resources department to terminate the labor contract with Ren [X] on the grounds that Ren [X] was unsociable and other reasons, but was unable to explain a reasonable basis for terminating Ren [X]'s labor contract. The human resources department then approached Ren [X] to understand the situation. Ren [X] informed the human resources department that she had been harassed by her indirect superior Deng [X], that Zheng [X] had intentionally or unintentionally tried to matchmake her with Deng [X], and that she had suffered retaliation for refusing the harassment. Honeywell Company then launched an investigation.

On January 15, 2019, Honeywell Company investigated Zheng [X] and prepared an investigation record. Zheng [X] did not sign the investigation record, but made numerous modifications to the answers recorded in the record to the company's questions. As to the question in the investigation record of whether any female employee had reported to Zheng [X] that Deng [X] had said some inappropriate things to her and had sexually harassed her, for which the recorded answer was "No," Zheng [X] made no modification.

On January 31, 2019, Honeywell Company issued a "Unilateral Termination Letter," terminating the labor contract with Zheng [X] on the grounds that Zheng [X] had failed to perform his duties as a manager, had not taken any measures to help the subordinate stop being harassed after she reported being harassed by her indirect superior, had instead retaliated against the subordinate, and had made false statements about the above facts during the investigation.

On July 22, 2019, Zheng [X] applied to the Shanghai Labor Dispute Arbitration Commission for arbitration, requesting Honeywell Company to pay compensation of RMB 368,130 for unlawful termination of the labor contract. The request was not supported by the arbitration award. Zheng [X] refused to accept the award and brought a lawsuit with the same request before the Pudong New Area People's Court of Shanghai.

Judgment

On November 30, 2020, the Pudong New Area People's Court of Shanghai rendered Civil Judgment (2020) Hu 0115 Min Chu No. 10454: Zheng [X]'s litigation claims were dismissed. Zheng [X] refused to accept the first-instance judgment and appealed. On April 22, 2021, the Shanghai First Intermediate People's Court rendered Civil Judgment (2021) Hu 01 Min Zhong No. 2032: the appeal was dismissed and the original judgment affirmed.

Reasoning

The effective judgment of the court held that the focus of the dispute in this case was: (1) whether the Employee Handbook and the Code of Business Conduct on which Honeywell Company relied to terminate Zheng [X]'s labor contract were binding on Zheng [X]; and (2) whether Zheng [X] had committed serious disciplinary violations sufficient to justify termination of the labor contract.

As to the first focus of the dispute, the evidence in the case showed that the 2017 version of the Employee Handbook and the Code of Business Conduct of Honeywell Company, to which Zheng [X] objected, had been discussed at communication meetings of Honeywell Company's labor union in September 2017 and December 2014, respectively. The labor contract signed between Zheng [X] and Honeywell Company expressly provided that the Employee Handbook and the Code of Business Conduct formed part of the labor contract, and Zheng [X] had read, understood, and accepted the above systems. After the Employee Handbook was amended, Zheng [X] also again signed a confirmation, confirming that he had read, understood, and was willing to accept the 2017 version of the Employee Handbook, and was willing to abide by company policy as a precondition for working at Honeywell Company. Under these circumstances, Honeywell Company's Employee Handbook and Code of Business Conduct should be binding on Zheng [X].

As to the second focus of the dispute, first, the evidence in the case showed that Honeywell Company had established a mechanism for training on prevention of workplace sexual harassment, and Zheng [X] had also received relevant training. Honeywell Company's Code of Business Conduct required managers, supervisors, and other managerial employees to help subordinates resolve concerns or problems professionally and promptly, and not to retaliate. Honeywell Company's 2017 version of the Employee Handbook also listed violations of the company's Code of Business Conduct as serious disciplinary violations that would result in immediate dismissal. Although Zheng [X] claimed that the relevant female employee had not provided concrete evidence of the harassment and that he was unable to judge the authenticity or rightness of the harassment, his comments on the WeChat screenshots shown to him by the relevant female employee when she first joined the company — "I feel it's a bit strange, but I don't dare ask" and "I just don't want to get involved in this matter" — in the recording of the conversation of August 30, 2018 showed that Zheng [X] himself did not consider the relevant WeChat content to be normal communication between colleagues. Moreover, when the relevant female employee repeatedly stressed that her indirect superior had been harassing her, Zheng [X] was not seen to respond actively to help resolve the matter, but instead said: "He's so direct; if it were me, I'd first get close to you, feel things out, and then chat." All of these acts actively promoted the development of an improper relationship between his subordinate and his superior. Zheng [X]'s conduct clearly contravened the duties he should perform as a department supervisor of Honeywell Company, and his relevant responses also contravened public order and good morals. In addition, according to Zheng [X]'s own account, he should have clearly known the reason for the poor relationship between the relevant female employee and her indirect superior after the conversation of August 30, 2018, but Zheng [X] not only failed to take positive measures, but instead considered that the relevant female employee had handled the matter improperly. After Ren [X] expressly indicated her resistance to Deng [X]'s sexual harassment, Zheng [X] proposed to the human resources manager in mid-November 2018 that Ren [X]'s personality was unsociable and that he hoped the company could terminate the labor contract with Ren [X]. On this basis, Honeywell Company's claim that Zheng [X] had retaliated against the relevant female employee was also a reasonable inference. Second, Honeywell Company's 2017 version of the Employee Handbook expressly provided that making false statements during an internal company investigation was a serious disciplinary violation that would result in immediate dismissal. The investigation record of January 15, 2019 provided by Honeywell Company showed that Zheng [X] had made false statements during the investigation. Although Zheng [X] claimed that the investigation record had not been recorded according to his account and that he had not been permitted to modify much content, this claim contradicted the fact that Zheng [X] had made modifications to his answers to numerous questions in the investigation record, and the court did not accept it. The investigation record could serve as a basis for finding that Zheng [X] had made false statements.

In summary, the various grounds of appeal raised by Zheng [X] could hardly serve as a basis for establishing his appeal. Honeywell Company's claim that Zheng [X] had committed serious disciplinary violations was well supported and did not constitute unlawful termination of the labor contract. Zheng [X]'s appellate request that Honeywell Company pay compensation of RMB 368,130 for unlawful termination of the labor contract was not supported.

Relevant Legal Provisions

Article 39 of the Labor Contract Law of the People's Republic of China.

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