

Easing the pain of job loss

Social safety net is limited but labour protection laws do help people get back on their feet

SRIWIPIA SIRIPUNYAWIT

It's early Monday morning. Patra wakes up, gets dressed and heads to work as usual. However, today is different as bad news is waiting for her. No one has given her prior warning that she will be out of job by the time she reaches the office.

Patra is not alone in finding herself jobless in a slow economy that has been made worse for some companies by the rise in the value of the baht. The most high-profile case lately has been Thai Silp South East Asia Import Export Co, a sportswear manufacturer that shut its doors without giving any notice to its 5,000-plus workers. It blamed the baht.

Two weeks of protests and negotiations resulted in the Thai Silp workers receiving 92% of the wages they were owed, and the company will pay severance once it sells its assets.

The Thai Silp case has left many people wondering what rights they have when an employer suddenly pulls the plug. According to Sasirusm B. Chumhakasikarn, an attorney with the international law firm Tilleke & Gibbins, there are two types of employment termination: just and unjust.

If employers fairly terminate employment contracts or lay off workers, they will be obliged to make severance payments based on the number of years each employee has worked for the company. Payment in lieu of advance notice, unpaid wages and other payments may also be required according to the contracts. Employees must also be paid for any unused annual leave days they have.

In the case of unjust termination or layoffs that are not based on justifiable reasons, employers will also be obliged to make extra payments — one month's pay for each year of service on top of the normal severance requirement. For instance, if the employee has worked for five years and is fired over a personal conflict that is deemed to be an unfair issue, he or she will receive an additional



Thai Silp workers show off ATM cards for bank accounts from which they will be able to draw most of the wages the company owes them.

five months' pay besides the normal statutory requirement.

In the case of Thai Silp, Mrs Sasirusm says the job losses were a direct result of severe financial difficulty and would not be defined as unfair termination.

Prechaya Ebrahim, a partner at the law firm LS Horizon, says that employers who do not compensate employees according to what is stated in the law can face criminal charges. However, termination will not be considered unlawful if the employers prove it was necessary, as in the Thai Silp case.

"However, the employees could still sue the company under the civil code," Mr Prechaya explains.

That may be of only small comfort to people who no longer have a steady income, since state benefits granted to the unemployed are still quite limited when compared with those in developed countries, he notes.

"However, it also depends on how promising the country's economy is. When the economy is good, then people can get new jobs easily. But if the economy is sagging, that means the unemployed will remain unemployed for quite a long time before being hired again. That means the state must make sure that compensation benefits can help cover the expenses during the period."

Mr Prechaya says that employees who are laid off can seek help from two government organisations.

First, the Labour Protection and Welfare Department has an Employee Welfare Fund to help those who are laid off without being compensated. It will pay the employees the sum to which they are entitled under the law and will collect it from the employer afterward.

According to the regulations, laid-off employees who have worked from 120 days to six years are entitled to 30 times

the minimum wage stated under the Labour Protection Act. Those who have worked more than six years will be compensated at 60 times the minimum wage.

Second, employees can also seek help from Social Security Fund. To qualify, they must have made contributions to the fund for at least six months within the past 15 months prior to the termination of employment. They also need to register at the Office of Employment within 30 days of losing a job.

There are some conditions attached. They must be capable of performing work and ready to take suitable jobs as offered. They must not reject job training when offered and must report to the Employment Office at least once a month.

The above conditions will not apply to people who have become unemployed for the following reasons: dishonesty in their duties, committing criminal offences against employers, intentionally causing serious damage to their employers, violating work regulations or laws on serious grounds, or being sentenced to imprisonment by a court.

Employees who qualify for Social Security assistance will be paid 50% of their wage based on maximum contributions of 15,000 baht for no more than 180 days per year. The fund also offers to pay the unemployed who resign from their jobs for no more than 90 days at 30% of their wage based on maximum contributions of 15,000 baht per year.

To apply, employees must register as unemployed at the Office of Employment, Department of Employment. The documents required include identification card, a photo, letter of employment termination or a copy of a notice of resignation (Sor. Por. Sor. 6-09) or a letter of employment termination from the employer and a copy of a bank passbook.

Employees can find out more by contacting the Office of Welfare and Labour Protection in their area, or call the Labour Ministry hotline, 1506.