



ORIGINAL RESEARCH PAPER

Law

MORAL HARASSMENT AND THE EMPLOYER'S DIRECTIVE POWER IN BRAZIL

KEY WORDS: Moral Harassment, Directive Power, types of Moral Harassment.

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ABSTRACT

The present work has as purpose and purpose, to analyze and clarify on the Theme: “Moral Harassment and the Employer's Directive Power”, being, in this way, looking for to analyze and to detail in depth the current theme that is in question, aiming at a formal language and at the same time easy to understand, so that the reader does not experience difficulties in textual interpretation. The purpose of the work is to analyze the aspects between employee and employer in relation to the limits that the employer submits according to the law, limits such that the employment relationship is extremely necessary, and what happens if he goes beyond these limits. Also, describe the aspects that guide the Employer's Directive Power. It will analyze what are the types of bullying, conceptualize bullying and study what should be taken in these cases of bullying.

INTRODUCTION

The dignity of the human person is at stake when it comes to this crucial point that the worker is exposed to in the face of an employer who does not obey his limits, and goes against the guidelines and regulations imposed by law (MARAN, BERNARDELLI, & VARETTO, 2018).

With regard to the 1948 Declaration of Human Rights, the Brazilian Constitution of 1988 was strongly incorporated and this Charter maintained it in a rigorous and competent manner, when the Universal Declaration of Human Rights guaranteed universal recognition, so that workers also obtain their rights with regard to labor issues to which he is subject, and fundamental issues of human rights and the dignity of the human person.

Mehmet, (2021), describes that bullying is shaped by behaviors that show psychological violence to the employer. This harassment occurs because the employer exceeds its limits, thus generating moral harassment. In its vast and overwhelming majority, when the employee is faced with this type of behavior by the employer of abusing their rights, certain disorders occur, causing psychological and physical damage, such as: Panic syndrome, anxiety, gastric and emotional diseases (PETRESCU & MANGHIUC, 2020).

On the other hand, Dundon et al (2014), the employer also has its rights, evidently, through its directive power to the detriment of the subordination in which the low-sufficient part of the employment relationship is found. By being at this level, the employer is guaranteed to take advantage of its directive power to adequately repel and impose what the directives allow them to execute. Therefore, in the work relationship, in which the subjects (employee and employer) are linked, a healthy relationship of coexistence is extremely necessary, making the work environment an ideal place for both parties (KOWAL, & SAWICKA-GWIAZDA, 2018).

According to Josheski (2012), without failing to mention the importance that the directive power has for the Labor Law, and great interest in the different ways the employer acts on his subordinates.

As a result of these facts that are the Moral Harassment and the Directive Power, as mentioned above, the big question that surrounds this work are: what is the Directive Power of the Employer? what is bullying at work? what are the types of bullying, what are the consequences, what measures should be taken in these hypotheses of bullying, how to avoid it.

These themes are provided for in the Constitution of Brazil. The Employer's Directive Power is based on article 2 of the CLT. Moral Harassment, on the other hand, is found in Law 8112, and is related to the dignity of the human person and human rights, as stated in Art. 7, IV of the Federal Constitution.

METHODOLOGY

The research used means such as: bibliographies, references. Thus, the effective way to clarify the various points analyzed in depth, helping to interpret and create a correct reasoning on the subject.

RESULTS

The directive power (of the employer) and the subordinate work (of the employee) are intensely related in the daily work relations, which are inherent to the employment contract itself (KANAT. MAYMON, YAAKOBI & MAARAVI, 2021)

It is through the directive power that the employer organizes his company internally and describes the functions of his subordinates and gives orders on how he should behave within the company.

The employer establishes wages, tasks, hours, charges and how the services must be performed, being able to control, inspect and punish employees who violate any of its determinations. Due to the intense interaction of the power to order and the duty to respect, the study of the employer's directive power is justified (AZEEZ, 2021).

According Machado et al (2021), the employer cannot go beyond the dictates of the law, confronting it, confusing the worker's subordination with the worker's person, thus resulting in the humiliation and embarrassment of the employee.

In Brazil, the prevalence of harassment occurs most often in two situations: sexual harassment by the employer, which is when the employer intends to take advantage with sexual intent; and moral harassment that occurs when the employer exposes a person (employee) to situations that leave them in an unfavorable, dishonorable, insulting and derogatory situation, discriminating or ridiculing.

According Molero Jurado et al (2021), moral harassment makes the employee's life a real torment, as it leads to uncomfortable and unpleasant moments. What makes socializing a great challenge for the party who suffers the harassment.

The work environment is a place where the parties have rights and obligations. Evidently, the parties must be in common agreement, so that good manners and good ethical behavior are not exceeded, which are extremely important for the environment to become favorable for both in this employment relationship.

Unfortunately, the worker often goes through the sad experience of harassment by his employer. Certainly, the parties, in order to prevent them, need to agree to establish a coherent dialogue.

CONCLUSION

It is possible to check through this work the concepts of moral harassment and the concept of the Employer's Directive Power, analyzing the aspects between employee and employer, observing each one from a doctrinal, legal and legal perspective.

We found that, in a way, the employment relationship needs ethical and moral standards so that the workplace can flow much more effectively and efficiently, leaving behind the discomforts that may end up generating harassment, and in addition, certain undesirable consequences.

And so, we conclude that despite the harassment suffered by the employer, who is a party that is above his subordinate, we can indeed find adequate solutions to remedy these problems, through forms of prevention, such as mediations and, if not possible, by their due corresponding and competent trade unions.

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