

■ Recent Court Cases ■

## Dismissal of labor leader, who is charged on allegation of embezzlement from union dues and sentenced to imprisonment and probation, was lawful

[Case No. Seoul Administrative Court decision 2019guhap54603 dated December 20, 2019]

**Kwang Sun LEE | Hae Ju SHIN**

The plaintiff is a state-owned enterprise operating the business of power utilities and related facilities development. The participant was criminally charged with the allegation of embezzlement of union dues while serving as the secretary general of the labor union and was sentenced to ten months of imprisonment and two years of probation (“Criminal Activities”). Based on the media coverage of this case, and there were public complaints and audit requests submitted to the Prime Minister’s Office, Anti-Corruption and Civil Rights Commission and the Board of Audit and Inspection of Korea calling for disciplinary measures to be imposed on the participant. The plaintiff subsequently dismissed the participant.

The court ruled that, even if the Criminal Activities of the participant were internal issues of the labor union and could not be deemed specific and direct breach of duty in terms of the job responsibilities based on the relationship with the plaintiff, the awry or wrongful act of the participant could be the ground for a disciplinary action given that (1) the Criminal Activities were exposed to the media and caused substantial disorder and confusion and (2) the labor union and the place of business are indivisibly related, and the plaintiff labor union, as an independent union, is exposed to serious risks in connection with the Criminal Activities.

Further, the employees of the plaintiff, which is a state-owned enterprise, are expected to maintain the

level of ethics and sense of responsibilities which are higher compared to other enterprises. Moreover, the media coverage of the Criminal Activities must have substantially damaged the reputation of the plaintiff as a state-owned entity. Therefore, it would be fair to conclude that the employment relationship between the plaintiff and the participant could not be maintained as a result of the Criminal Activities. As such, the court ruled that the dismissal of the participant was lawful.