SHIN&KIM
법무법인(유) 세종

Supreme Court Rules Performance Bonus Should Not Be Included In Average Wages To Calculate Severance

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On January 29, 2026, the Supreme Court rendered three decisions addressing whether performance bonuses fall within the definition of “wages” under the Labor Standards Act. Shin & Kim’s Labor & Employment Group represented Company A and successfully obtained a Supreme Court ruling on January 29, 2026, confirming that performance bonuses do not constitute wages and should not be included in calculating “Average Wages”.

1. Background

Company A introduced a performance bonus as part of its management performance compensation program. For approximately 14 years thereafter, the company determined each year, through separate agreements with the labor union, whether the bonus would be paid and the applicable payment criteria. Although the specific payment standards varied slightly each year, they were generally linked to the achievement rate of financial targets such as net profit.

The plaintiffs, who are former employees of Company A, filed a lawsuit claiming that the performance bonus constituted wages as compensation for work performed and therefore should have been included in the calculation of their average wages, which form the basis for determining severance pay. Accordingly, the plaintiffs sought payment of the difference in severance benefits.

2. Court’s Decision

The appellate court held that the performance bonus constituted wages. It reasoned that the bonus was closely connected to employees’ provision of labor as it reflected the collective performance of the workforce. The court further found that an obligation to pay the bonus had been established, given that the company had developed a practice of paying the bonus once each year based on its business performance.

However, the Supreme Court overturned the appellate decision. The Court emphasized that realization of net profit was an absolute precondition for payment of the performance bonus, and that net profit is significantly influenced by factors other than employees' provision of labor. The Court therefore found that the bonus was not proportional to the quantity or quality of labor provided by employees, but rather depended on external factors that employees could neither control nor primarily influence through their work. On this basis, the Supreme Court concluded that the performance bonus did not constitute wages.

3. Implications

This decision is significant in that it establishes an important benchmark for determining whether performance bonuses constitute wages, and it is expected to have a substantial impact on future cases involving similar issues.

In particular, the ruling is meaningful because the Supreme Court denied the wage nature of a performance bonus even though the bonus was determined through agreements with the labor union regarding payment and calculation criteria, and was structured to be paid upon achievement of specified targets.

[Korean version] 경영성과급의 임금성이 문제된 사건에서, 항소심 판결을 뒤집고 대법원에서 경영성과급이 임금에 해당하지 않는다는 판결을 받았습니다.

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