

Performance Evaluation System

Description

By DMLF

Federal Supreme Court Cassation Division on File No 219386, made a binding decision stating that the Employer is obliged to install a performance evaluation mechanism to say the capacity of the employee to perform deteriorated and hence terminate the employment contract.

The employer needs to have a mechanism of evaluation of employees' work performance. Such a work evaluation mechanism has to be clear and participatory. When evaluating the work performance of the employee, and such an employee exhibited deteriorating work performance, the employer should show that the determination comes after such evaluation. Termination of employment based on performance without a set of mechanisms in place for such evaluation by the employer, shall make the termination of employment unlawful.

Article 28(1)(a) states as follows: . 1/ *The following grounds relating to the loss of capacity of, and situations affecting, the worker shall constitute good cause for terminating a contract of employment with prior notice: a) The worker's manifest loss of capacity to perform the work to which he has been assigned; or his lack of skill to continue his work as a result of his refusal or inability to make use of an opportunity of training arranged by the employer to upgrade his skill or after having been trained, his inability to acquire the necessary skill,*(emphasis added to show the Amharic version uses 'or' whereas the English translation 'and').

Therefore, Cassation court on the above decision puts an obligation on the employer to show to the court, at the time of litigation, that when the employer is evaluating the performance of the worker, the employer needs to have an open, participatory and clear evaluation format to determine the worker manifests loss of capacity and such loss of capacity is determined by implementing such performance evaluation mechanism.

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