VI Analysis of Case Law on Dismissal of Restricted Regular Employees

Introduction: Research Objective and Method

Section 1 Research Objective

Now that the introduction of "restricted regular employee" systems with restrictions on work duties (job types), places of employment and other aspects is becoming a significant policy issue, attention is being drawn to the nature of rules concerning termination of employment, and particularly to the dismissal of these employees. The crux of the debate appears to rest on whether dismissal rules for these restricted regular employees are any different from those of regular employees with no restriction on work duties (job types), places of employment, etc., and if they are different, how they differ and to what degree.

When considering this kind of problem, it would be beneficial to examine what sort of legal judgments the courts have previously made in cases of dismissal of workers who have an indeterminate period of restriction on work duties (job types) and places of employment. So far, however, no research has comprehensively analyzed or studied this point. JILPT therefore decided to gather a comprehensive body of judicial precedents on two types of dismissal (economic dismissal and dismissal due to insufficient ability), focusing on workers without an indeterminate period of the aforementioned restriction, in case law since the legal principle of abuse of dismissal rights was established (Article 16 of the Labor Contract Act), and also to analyze trends in legal judgments by courts in those cases.

Section 2 Research Method

In this study, the analysis will be aimed at judicial precedents meeting conditions 1., 2. and 3. below and reported in one of the three case journals ***Rodo Hanrei, Rodo Keizai Hanrei Sokuho**** and ***Rodo Kankei Minji Saibanreishu***** (although some more recent cases are reported in ***Rodo Hanrei Journal******).

* Abbreviated below to "Rokeisoku"

** Abbreviated below to "Rominshu"

*** Abbreviated below to "Journal"

1. Judicial precedents formed after the Supreme Court judgment in the Kochi Broadcasting case (Supreme Court, January 31, 1977, 268 Rodo Hanrei 17), when the Supreme Court is considered to have established the legal principle of abuse of dismissal rights, until September 1, 2013.
2. Cases of economic dismissal (including notice of termination for change of conditions [1]) and dismissal due to insufficient ability (here, the format of claims is limited to those in which the legal validity of the dismissal is problematic, including claims for confirmation of status, claims for damages, and provisional disposition for remedy of status).
3. Cases in which restrictions are imposed on a worker's work duties (job type) and/ or place of employment (including cases in which the work duties (job type) and place of employment are explicitly restricted in contractual documents, etc., as well as others in which, even without being expressed as such, a court could be construed as having made a judgment on the premise that some form of restriction has been imposed in view of the process of hiring, the actual working situation, etc.).

Based on the principles set out above, the **LEX/DB** case law database was searched for judicial precedents meeting condition 1. above, in order to

1 When an employer terminates a labor contract (dismisses a worker) after proposing changes to labor conditions which the worker does not accept.

gather judicial precedents for analysis in this study. This process produced a total of 3,355 judicial precedents. Next, judicial precedents meeting conditions 2. and 3. above were extracted by examining each of these precedents one by one.

As a result, 61 cases (34 cases of economic dismissal, 26 cases of insufficient ability dismissal, and 1 case of economic dismissal plus insufficient ability dismissal) were obtained as judicial precedents meeting all of conditions 1.- 3. above.[2] The authors then enumerated the key points of each case to analyze trends in legal judgments made by courts (of the authors of this paper, Ryo Hosokawa was responsible for analyzing trends in economic dismissal cases and Yota Yamamoto for trends in cases of dismissal due to insufficient ability, although the ultimate outcomes are based on mutual discussion and investigation between the two).

Analysis of Trends in Judicial Precedents in Cases of Dismissal of Restricted Regular Employees

Section 1 Economic Dismissal Cases

1. Classification of cases

The 35 analyzed precedents in cases of economic dismissal consisted of 22 cases in which restriction on work duties (job type) was the problem, 7 cases in which restriction on the place of employment was the problem, and 6 cases in which restrictiveness in both work duties (job type) and the place of employment was the problem.

2. Whether the restrictiveness is explicitly stated

1) Restriction on work duties (job type)

The restriction was explicitly acknowledged, using expressions such as "specifying the status in terms of work duties" or "restricting work duties (job type)", in 7 of the 22 economic dismissal cases in which restriction on work duties (job type) was the problem (Cases 6, 11, 12, 14, 27, 30 and 33).

In the other 15 cases (Cases 1, 2, 3, 4, 5, 7, 9, 10, 13, 18, 22, 24, 29, 32 and 35), the restriction on work duties (job type) was not explicitly acknowledged, but the court could be construed as having made its judgment on the premise that some form of restriction had been imposed, in view of the process of hiring, the actual working situation, etc. (for convenience, this kind of restriction will be referred to below as an "implicit restriction").

2) Restriction on the place of employment

The restriction was explicitly acknowledged, using expressions such as "specifying the place of employment" or "restricting the place of employment", in 4 of the 7 economic dismissal cases in which restriction on the place of employment was the problem (Cases 16, 17, 21 and 23).

In the other 3 cases (Cases 15, 19 and 25), the restriction on the place of employment was not explicitly acknowledged, but a judgment could be construed as having been made on the premise of an implicit restriction.

3) Restriction on work duties (job type) and place of employment

There were 6 cases in which restrictiveness of both work duties (job type) and the place of employment was the problem, and in 3 of these cases (Cases 8, 26 and 28) the restriction on work duties (job type) and place of employment was explicitly acknowledged. Of the others, there was one case (Case 20) in which the restriction on the place of employment was explicitly acknowledged, and in which the judgment could be construed as having been made on the premise that there was an implicit restriction on work duties (job type); and one case (Case 31) in which the restrictiveness of the place of employment was clearly denied, while the judgment could be construed as having been made on the premise that there was an implicit restriction on the work duties (job type). Finally, there was one case (Case 34) in which the employer asserted that there were restrictions of both the place of employment and work duties (job type), but the court clearly denied both claims.

2 The judicial precedents subject to analysis are listed at the end of this paper.

3. Factors for judging restrictiveness

1) Restriction on work duties (job type)

When judging the presence and degree of restriction on work duties (job type), descriptions in contracts, rules of employment, etc., are sometimes taken as factors for judgment (Cases 11, 32 and 33), as shown in Table VI-1. In many judicial precedents, however, judgments focused on the actual working situation of the worker in question or on the process of hiring rather than these documentary descriptions.

The most numerous of these are cases in which the presence and degree of restriction on work duties (job type) are judged in terms of whether the worker in question has actually continued to be engaged in specific work or whether the worker has been engaged in any other work, and, in the latter case, how frequently the worker was engaged in other work (Cases 1, 2, 3, 5, 7, 9, 11, 13, 18, 22 and 34). These are followed by cases focusing on the actual deployment of allocation and transfers (Cases 9, 10, 13, 29, 33 and 35). Besides these, some cases focused on the speciality level of the worker's work duties or status, namely the relative importance of the job type, etc., within the company (Cases 20, 24 and 29), differences compared to other job types in terms of wage systems and labor conditions (Case 29), and the fact that preferential treatment was received (Case 30).

In many cases in which the presence and degree of restriction on work duties (job type) are judged with focus on the process of hiring, the motivation and purpose of hiring from the employer's perspective are taken as factors for judgment (Cases 6, 10, 12, 30 and 33). In others, factors for judgment are the educational and professional background of the worker in question (Case 5) or the background to application for a post in which a worker reached the stage of hiring interview through a job introduction agency (Case 35). In Case 35, the judgment also took account of how the worker's ability and experience were evaluated by the employer at the time of hiring. In another case (Case 20), the difference in hiring procedure compared to other job types was taken into account.

Table VI-1

			Case No.
Work (job type)	Process of hiring	Educational and professional background, etc.	5
		Process of applying	35
		Motivation and purpose of hiring from the employer's perspective	6, 10, 12, 30, 33
		Others	20, 35
	Description in contract, rules of employment, etc.		11, 32, 33
	Actual working situation, treatment, etc.	Actual working situation (whether the worker has continued to be engaged in specific work or has been engaged in other work, and the degree thereof)	1, 2, 3, 5, 7, 9, 11, 13, 18, 22, 34
		Actual deployment of allocation and transfers	9, 10, 13, 29, 33, 35
		Relative importance of the job type, etc., within the company	20, 24, 29
		Difference with other job types in wages and labor conditions	29
		Preferential treatment	30

Source: Compiled by author

2) Restriction on the place of employment

When judging the presence and degree of restriction on the place of employment, compared to judgments on the restriction on work duties (job type), there are more cases in which statements in contracts, rules of employment, etc., are given as factors for judgment (Cases 16, 21, 23, 25 and 28), as shown in Table VI-2. On the other hand, as with judgments on the restriction on work duties (job type), there are also many cases in which the focus is on the actual working situation, i.e. whether the worker had continued to be engaged in specific work (Cases 15 and 34), the actual deployment of allocation and transfers (Cases 19 and 23), and differences compared to other job types (Case 23). Besides these, as characteristic factors when judging the presence and degree of restriction on the place of employment, in relation to the process of hiring, there were many cases (Cases 15, 16, 17, 23 and 28) in which the focus was on the person authorized to hire the worker in question, or who essentially decided the hiring (for example, the authority to hire was given to, or the decision to hire was essentially made by, the branch manager level rather than Head Office). There were also two cases (Cases 15 and 20) in which the personal circumstances of a worker were taken into account in connection with employment with restriction on the place of employment.

4. The impact of restrictiveness on legal judgments

1) General discussion

As is well known, a "legal principle of economic dismissal" has been established at the level of case law. Under this principle, judgments on the legality of economic dismissal are based on four requirements (or factors): the need to reduce personnel, efforts to avoid dismissal, the rationality of selection, and the appropriateness of procedures.

A premise to be highlighted in this respect is that, of the 35 judicial precedents targeted for analysis as economic dismissal cases, there is not one that clearly states as a general principle that "the legal principle of economic dismissal [a framework for judgment based on the four requirements (four factors)] is not adopted on account of restrictiveness." If anything, 22 of the 35 economic dismissal cases (Cases 2, 3, 9, 12, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 32, 33, 34 and 35) are construed as making judgments based on the legal principle of economic dismissal [the framework for judgment based on the four requirements (four factors)].

In the other 13 cases, however, no general principle on the relationship between restrictiveness and the legal principle of economic dismissal is mentioned. Therefore, even though it is unclear whether the framework for judgment used in these cases is based on restrictiveness, these can be

Table VI-2

			Case No.
Place of employment	Process of hiring	Person authorized to hire or person deciding hire	15, 16, 17, 23, 28
		Scope of recruitment	16
		Mid-career hiring	16
		Others	25
	Statements in contracts, rules of employment, etc.		16, 21, 23, 25, 28
	Actual working situation, etc.	Actual working situation (that the worker has continued to be engaged in specific work)	15, 34
		Actual deployment of allocation and transfers	19, 23
		Difference with other job types	23
	Worker's personal circumstances		15, 20

Source: Compiled by author

construed as judicial precedents using a framework for judgment that differs from judgments based on the four requirements or four factors of economic dismissal. Of these, 6 cases (Cases 4, 5, 8, 10, 11 and 13) adopted methods of judgments which, although including factors included in the four requirements (four factors) in their standards for judgment, took account of other factors or did not take account of specific factors, etc., and used standards that could be construed as a framework differing from that of judgments based on the four requirements (four factors). Besides these, there were 3 cases (Cases 1, 14 and 31) in which the judgment was loosely based on whether there were grounds for dismissal, and another 3 cases (Cases 6, 7 and 30) in which the judgment was based on whether dismissal rights had been abused (without adopting the framework of the legal principle of economic dismissal).

Moreover, as stated in 2) onwards, there are cases in which, irrespective of the framework for judgment, restrictiveness concerning the worker in question may be evaluated as having a certain impact when making more specific legal judgments, such as the extent to which mandatory efforts to avoid dismissal were made. Even in these cases, however, it should be pointed out that courts tend to make general judgments on the appropriateness of dismissal, taking account not only of the nature of "restrictiveness" and the impact this has on mandatory efforts to avoid dismissal, etc., but also of other factors pertaining to the case in question, such as the need to reduce personnel or the appropriateness of procedures.

2) Efforts to avoid dismissal

In specific judgments on cases where the impact of restrictiveness can be discerned, the most common impact is that on judgments related to efforts to avoid dismissal.

A. Judgments restricting the scope for considering redeployment, etc.

As the impact of "restrictiveness" in connection with economic dismissal cases, the most typically observed restriction is that on the scope within which the employer should consider redeployment, etc., as an effort to avoid dismissal, as a consequence of restrictiveness concerning the worker in question. In terms of judicial precedents, statements to this effect are made in Cases 1, 3, 4, 19 and 33.

A typical example of this is Case 1, in which the economic dismissal of "on-site" or blue-collar workers engaged in construction site work was contested. In this case, the court stated that "If the plaintiff workers and other employees engaged in site work were to be redeployed to other divisions, it would be reasonable for the targeted job type to be restricted to site work and other special positions of a similar job type to this", but in that "site work and special positions in other divisions were overstaffed at the time, and there was no prospect of positions becoming vacant in the near future", judged that "they clearly became surplus to requirements … as there was no demand for labor power in other divisions, and moreover, there could be no expectation of such demand arising in the near future".

However, something to be borne in mind in connection with these examples is that there are relatively few cases in which there has been a straightforward link from restriction on work duties (job type) to restriction on the scope for considering redeployment, etc. In many cases, for work duties (job type) and others where redeployment is feasible (as claimed by the workers), the result has been a judgment restricting the scope of efforts to avoid dismissal, combined with factors such as circumstances making redeployment objectively difficult.

A typical example of this is Case 4, in which full-time teachers in an electrical engineering department as surplus personnel contested their dismissal on economic grounds, brought about with the closure of the department when pupil recruitment for the department was discontinued. The court's ruling in this case, in response to the workers' assertion that the employer should have taken the measure of making the teachers acquire licenses in a new subject enabling them to be redeployed there, was that even if such a measure had been taken, the workers "could only use a small amount of lesson time in the first place and there was no manifest obligation … to

transfer this to the other department" (Underlining by author).

B. Judgments construed as adopting the position that "The obligation to redeploy or make other efforts to avoid dismissal is not restricted on account of restrictiveness (or, at least, the obligation to make efforts to avoid dismissal is not extinguished)"

Judgments that "restrict the scope within which the employer should consider redeployment, etc., as an effort to avoid dismissal, as a consequence of restrictiveness concerning the worker in question" are made in some cases, as in a. above. However, in economic dismissal cases, there are numerous examples construed as adopting the position that "The obligation to redeploy or make other efforts to avoid dismissal is not restricted on account of restrictiveness", or "The obligation to make efforts to avoid dismissal is not extinguished" (Cases 7, 10, 11, 14, 15, 17, 18, 21, 23, 27 and 28).

A typical example is Case 23, in which the workers were hired by the Kawasaki Factory and engaged in work such as making raw noodles in the factory, under the system of daily wages paid on a monthly basis, but were dismissed on economic grounds upon the closure of the Kawasaki Factory. In this case, the court, though deeming that "Under the labor contract, the place of employment is thought to have been restricted to the Kawasaki Factory", stated nevertheless that "This merely means that workers paid daily wages on a monthly basis[3] could not be made to work in a location other than the Kawasaki Factory without their consent, and should not be construed as constituting grounds for reducing the scope of efforts to secure employment, which the defendant employer should offer to workers who are paid daily wages on a monthly basis in the event of closure of the factory", and furthermore that "As they have entered employment contracts with no fixed term and have worked in the Kawasaki Factory for many years to date, their expectation of continued employment is no different from that of workers paid monthly wages, and in view of the fact that there are no circumstances under which the business situation of the defendant employer has deteriorated, the defendant employer should, on closing the Kawasaki Factory, make maximum possible efforts to secure employment for the plaintiff workers".

Of course, even if such judicial precedents are construed as adopting the position that the obligation to redeploy or make other efforts to avoid dismissal is not restricted on account of restrictiveness, specific judgments on the cases in question sometimes reach the conclusion that limits on the work competency of the worker in question, derived from the restrictiveness concerning the worker, combine to make redeployment impossible as a result.

A typical example is Case 15, in which a worker who had been working in the Nagano Branch since joining the company contested dismissed on economic grounds upon the closure of the branch due to declining orders and technical innovation. In this case, the court offered the interpretation that the intention of both employer and workers was that "The plaintiff worker's place of employment would be the Nagano Branch as long as the Nagano Branch remained in existence", but stated nevertheless that "This dismissal cannot be described as manifestly valid just because the closure of the Nagano Branch was inevitable, and in this case, in which the plaintiff worker wished to be redeployed at Head Office, if the possibility of redeployment could be affirmed, moreover, it should be said that the plaintiff worker does not correspond to a 'redundant worker' … in the rules of employment … and there cannot be said to be 'unavoidable business-related circumstances'". However, considering the factual relationships in this case, in that "It is not easy for the plaintiff worker to carry out editing work at Head Office … and even sales work … had only been undertaken in conjunction with other work, with no conspicuous

3 Workers whose wages are calculated on a daily basis, with the total accumulated per month paid on a specific monthly payment date (pay day). Here, this refers to workers employed under a system of daily wages paid on a monthly basis by the defendant employer.

success, redeployment to the Sales Department would be difficult in view of this", the court ultimately denied the possibility of redeployment as an effort to avoid dismissal, in that "Considering the defendant employer's business situation, the work volume, and the plaintiff worker's history, it has to be said that the plaintiff worker's redeployment would have been markedly difficult".

C. Judgments restricting the scope of offering voluntary termination

Next, a judicial precedent restricting the scope of offering voluntary termination was found in just one case.

Namely, in Case 16, a worker who was hired as a clerical worker in the Osaka Branch contested economic dismissal upon the closure of the Osaka Branch due to poor business performance. In this case, the court ruled that the employer could not be seen as under obligation to offer voluntary termination in its Tokyo Branch, as not only were the scope of business activity and trading partners of the Osaka Branch different from those of the Tokyo Branch and the Osaka Branch had independent profit accounting, but also there was an agreement on restriction on the place of employment concerning the worker, and there was no plan for redeployment.

D. Judgments seeking efforts such as education or training for redeployment (with the aim of avoiding dismissal)

As stated in a. above, situations in which it is difficult to redeploy workers with the aim of avoiding dismissal can arise when the workers are employed with restricted work duties (job type), causing limitations on work competency or similar. In such cases, some judicial precedents (Cases 2, 5, 21 and 22) have sought that the employer make efforts for education, training, etc., with a view to facilitating redeployment to avoid dismissal.

A typical example is Case 5, in which a worker who had been working as a welder contested economic dismissal on grounds of refusing a transfer when the Kawasaki Factory was converted to a subsidiary. In this case, the employer asserted that, although a job that could be given to the worker by changing the job type or secondment in itself existed in the employer or secondment host, if such a job were given to the worker, the employer would have to pay the worker's wages during the period required to master the new job type, or the difference in wages compared to the secondment host, and that even if training were carried out with a view to changing the job type, there was no need to fill vacancies or increase staff in the department where the worker worked. In response to this, the court held that "The existence or lack of a job should be judged not only in terms of whether a job commensurate with the person's wage currently exists, but also, based on the company's business situation at the time and future prospects, whether it would be reasonable to find a job and to continue to employ the worker by changing the job type". Moreover, the court pointed out (among others) that "It cannot be acknowledged that the plaintiff worker has no adaptability to a change of job type, and judging from the defendant employer's employee scale, not only is it clear that sooner or later vacancies will arise through natural attrition, etc., but it is even conceivable that staff increases will be required as a result of an economic upturn or expansion of the business content, etc.", and thus judged that the employer "could continue to employ the plaintiff worker by changing the job type, and the expenses necessary for this change of job type should be seen as unavoidable" (underlining by author).

In judicial precedents making this kind of judgment, however, it must be borne in mind that consideration is often given to factors such as the level of necessity to reduce personnel in the case in question, or the overall business situation of the company concerned.

A typical example is Case 22, in which workers who had been working in a computer room contested their economic dismissal upon the closure of the computer room as an unprofitable division. In this case, the court held that "After the closure of the computer room, the plaintiff workers could conceivably have been redeployed in the sales division ... but because ⋯ the plaintiff workers ... only had experience of work such as typography and

computerized typesetting, and none had experience of outside work ... it is not beyond comprehension that the defendant employer would hesitate to redeploy the plaintiff workers in the sales division", but pointed out nonetheless that "The defendant employer ... is a company with spare capacity, and even if there was a need to reduce personnel, the need was not particularly pressing", and in addition, also taking account of the fact that workers with experience of printing work are generally capable of engaging in sales, ruled that "In that, amid the process leading to dismissal, redeploying the plaintiff workers in sales posts was not considered or proposed at all, when judged overall in combination with the urgency of the need to reduce personnel, it is difficult to evaluate that mandatory efforts to avoid dismissal were discharged".

E. Judgments seeking efforts to maintain employment in a given location through secondment, education and training, etc., because dismissal avoidance measures by relocating the place of employment alone do not suffice when the work undertaken by a worker employed under restriction on the place of employment no longer exists in that place of employment

In cases when the work undertaken by a worker employed under restriction on the place of employment no longer exists in that place of employment, dismissal avoidance measures through redeployment could conceivably take one of two forms, namely (1) relocation to another place of employment, etc., where the work in question exists, and (2) relocation to other work, etc., in the original place of employment. Here, there are judicial precedents stating that, when measure (1) does not suffice, relocation to other work, etc., should be attempted instead while maintaining the restriction on the place of employment, and that in some cases efforts such as education and training are required to this end.

A typical example is Case 21, in which workers were engaged in accounting and general clerical work in the Tohoku Sales Office as regular employees on the "local staff," and also dealt with accounting and general clerical work for subsidiaries, but were dismissed on economic grounds upon the closure of the Tohoku Sales Office, because not only had the assigned work ceased to exist but also no position could be secured in affiliated companies within a commutable range. When the economic dismissal was contested, the employer asserted that a proposal for transfer or secondment to an affiliate in the Kansai region had been made, but the workers had refused this and had therefore been dismissed on economic grounds. In response to this assertion, the court held that "The plaintiffs cannot likely be thought to have had difficulty in converting (from their accounting, clerical and other work duties) to sales staff (in an affiliate in the Tohoku region), and consideration should at least have been given to trialing the plaintiff workers as sales staff to ascertain if they had aptitude for such work", and ruled that "Because it should be said that there was clearly little likelihood that the plaintiff workers, who had families and would be unlikely to move home for their work in the first place, would accept the proposal (for transfer or secondment to the Kansai region) … this cannot be seen an important circumstance proving that efforts were taken to avoid dismissal".

A contrasting example is Case 31, in which a worker had entered an employment contract specifying sales clerical work in the job description and was working in the Sapporo Branch, but was dismissed on economic grounds on grounds that the branch's clerical work would cease to exist with the merger and discontinuation of sales branch work. When this was contested, the worker's assertion of restriction on the place of employment was denied, and on the premise that it was acknowledged that the worker's place of employment was not restricted, the conclusion was drawn that economic dismissal was unavoidable as the worker had refused redeployment to the Tokyo Head Office as a dismissal avoidance measure accompanying the discontinuation of sales clerical work in the Sapporo Branch.

3) On the need to reduce personnel

As stated in 2), of cases in which specific judgments seem to have been impacted by restrictiveness, the common impact is on judgments

concerning efforts to avoid dismissal. Besides these, however, some judicial precedents have also taken account of restrictiveness as a factor justifying the need to reduce personnel (Cases 4, 9, 13 and 29).

A typical example is Case 29, in which workers were engaged in home remedy distribution work as distributors in a home remedy distribution business undertaken by their company's Tochigi Prefecture Headquarters. When the home remedy distribution business of the Tochigi Prefecture Headquarters was transferred to a subsidiary, they were offered transfers or voluntary termination, but did not accept, and so were dismissed on economic grounds, which they contested. The court judged that "It can be seen as reasonable for the Tochigi Prefecture Headquarters ⋯ of ⋯ the defendant employer ... to transfer its home remedy distribution business to another company ... and in view of the fact that the work content and labor conditions of distributors engaged in home remedy distribution work were different from those of regular employees, it can be seen as necessary to target distributors involved in the business for personnel cuts accompanying the transfer of the business".

4) On the rationality of selection

Besides the above, some judicial precedents take account of restrictiveness as a factor justifying the rationality of selection (Cases 4, 9, 13, 24 and 33). A typical example is Case 33, in which the worker, who was working as a professor in a Department of Health and Welfare (Special Course in Living and Welfare) contested dismissal on economic grounds due to the closure of the Special Course in Living and Welfare. The court ruled that "The employment contract (between the plaintiff worker and the defendant employer) included an agreement on restriction on job type to Professor of the Special Course in Living and Welfare, and in view of the speciality of a university professor and the difference between the level of speciality of the Special Course in Living and Welfare and that of other faculties and departments, it can be deemed reasonable that the plaintiff worker, as a professor in the closed faculty (department), was selected for dismissal upon the closure of the Special Course in Living and Welfare, rather than a professor in another faculty".

5) Judgments that could be construed as simply justifying the dismissal of the worker in question as reasonable, in view of restrictiveness [i.e. not (substantially) considering the "four requirements" (four factors)]

As stated in 1) above, even in economic dismissal cases involving restriction on work duties (job type) or the place of employment, judgments are usually based on the framework of the legal principle of economic dismissal [the "four requirements" (four factors)]. Nevertheless, though few in number, some judicial precedents (Cases 6, 12, 26 and 30) reach the simple conclusion, in view of the restrictiveness pertaining to the worker in question, that the dismissal is justified as reasonable (i.e. they conclude that dismissal is unavoidable as previously restricted work duties have ceased to exist).

In cases such as these, however, it should be borne in mind that, rather than "work duties" or "job type" being restricted, the judgment could be construed as being premised upon employment for the purpose of engagement in even more restricted purposes (work). For example, Case 6 concerns an employment contract entered for the purpose of appointing the General Manager (CEO) of a subsidiary and assigning responsibility for the lease business. Similarly, Case 30 concerns a worker who was headhunted as the President of a Chinese local subsidiary. In both cases, dismissal resulted from the company's withdrawal from the business in question.

Section 2 Cases of Dismissal Due to Insufficient Ability

1. Classification of cases

Restriction on work duties (job type) was the problem in all 26 analyzed precedents in cases of dismissal for insufficient ability. Unlike economic dismissal cases, there were no cases in which restriction on the place of employment was the problem.

2. Whether the restriction is explicitly stated

Compared to economic dismissal, there were somewhat more cases in which the restriction on work duties (job type) was explicitly acknowledged, using expressions such as "specifying the status in

terms of work duties" or "restricting work duties (job type)," in judicial precedents analyzed as cases of dismissal due to insufficient ability. This was found in 11 of the 26 cases (Cases 36, 38, 40, 41, 43, 44, 47, 53, 54, 59 and 61). The reason for this is thought to be that, in cases of dismissal due to insufficient ability, the plaintiffs are often doctors, professors and others working in highly specialized positions.

On the other hand, there were 14 cases (Cases 37, 39, 42, 45, 46, 48, 50, 51, 52, 55, 56, 57, 58 and 60) in which, although restriction on work duties (job type) was not explicitly acknowledged, the court can be construed as having made a judgment on the premise of an implicit restriction.

Besides these there was also 1 judicial precedent (Case 49) in which, although the restrictiveness of work duties (job type) was explicitly denied, differences were stated in the judgment on the legality of dismissal due to insufficient ability based on whether or not work duties (job type) were restricted. This case is included in the analysis by this paper because it was thought that it could act as a reference case (on this point, see 4. (4) a. below).

3. Factors for judgments on restrictiveness

Meanwhile, as concerns factors for judging restrictions on work duties (job type), a characteristic feature of cases of dismissal due to insufficient ability compared to economic dismissal cases is that the majority focus on factors for judgment related to the process of hiring. In particular, as Table VI-3 shows, the courts focus on issues such as the educational background, professional background and ability of the workers themselves, details given in recruitment advertisements, the employer's motivation and purpose in hiring the worker in question, the worker's perception of the ability expected for the work duties (job type) in question, and explanation by the worker as to whether he or she has the ability expected for the work duties (job type). As such, there is an apparent tendency to judge whether the parties to a labor contract intended to restrict the work duties (job type) performed by the worker in question.

Also, though representing just one case of

Table VI-3

			Case No.
Work (job type)	Process of hiring	Educational & professional background, ability (language ability) etc.	38, 39, 41, 42, 50, 52
		Details in recruitment advertisement	41, 50, 59, 60
		Motivation and purpose of hiring from the employer's perspective	38, 40, 45, 50, 52, 59, 60
		Hiring test for other job type in mid-employment	36
		Worker's perception (of expected ability, etc.)	38, 40, 41, 59
		Mid-career hiring	38, 50, 52
		Worker's explanation (of job type and ability, etc.)	39, 42, 45, 52
		Promise of preferential treatment	38, 40, 42
	Description in contract, etc.		55, 58
	Actual working situation, treatment, etc.	Difference with other job types in wages and labor conditions	36, 55
		Preferential treatment	40, 45, 59
	Format of claim (claim to confirm specific status)		38
	Nature of personnel system		41, 54
	Others		37, 52

Source: Compiled by author

dismissal on grounds of insufficient ability, there was one case in which the format of the claims made in the law suit was highlighted as one factor for judgment when acknowledging a restriction on work duties (job type). Namely, in Case 38, the plaintiff worker was not merely seeking confirmation of the existence of a contractual relationship but was also seeking confirmation that the worker had the status of Manager of Human Resources Headquarters in the employer. In view of this, the court held that "It can be construed that (the parties) themselves acknowledge that this (labor) contract was a contract that specified the status as Manager of Human Resources Headquarters", and thus judged that "It is reasonable to construe that this contract is an employment contract specifying the status as Manager of Human Resources Headquarters".

In two rather more unusual cases (Cases 41 and 54), the problem was that workers employed in Japan to work in a US air base were dismissed due to insufficient ability. In these cases, the court deemed the workers in question to have specific restrictions on work duties (job type). This is because, in US air bases in Japan, workers are hired to perform specific work duties for each position; the personnel system adopted in principle is that, once a person is hired, unless they reapply and are hired for a different position, they are not able to perform other work duties.

4. The nature of the impact of restrictiveness on legal judgments

1) General discussion

Firstly, as a premise, it is extremely rare for the framework for judgments on the legality of dismissal to be clearly stated as a general theory in cases of dismissal due to insufficient ability, unlike in economic dismissal cases. The only example in which a general theory is stated is Case 61. Here, on whether or not there are "objectively reasonable grounds" (Labor Contract Act, Article 16) in an insufficient ability dismissal case, the court judged that "... As to whether there are ... 'objectively reasonable grounds' for dismissal due to a decrease in work ability or aptitude, a decision should first be based on an overall appraisal of circumstances such as whether, under the labor contract, a decrease in work competency is so serious that continued employment under the labor contract cannot be expected, having studied the content of the work competency required of the worker in question, or whether the employer encouraged the worker to make improvements or corrections or gave opportunities for efforts or reflection but no improvement was made, or whether there are any prospects for improvement through guidance in future".

As a result, in cases of dismissal due to insufficient ability, rather than stating special general theories, the vast majority of judicial precedents make simple judgments on the applicability of grounds for dismissal or whether there has been abuse of dismissal rights (under the rules of employment). Of course, in terms of specific judgments on the applicability of grounds for dismissal or whether there has been abuse of dismissal rights, the impact of restrictiveness can be discerned in several patterns.

2) On judging the applicability of grounds for dismissal

Firstly, the most common pattern found in judicial precedents was that in which the applicability of grounds for dismissal in rules of employment was judged strictly from the worker's perspective (= toward a tendency to recognize the applicability of grounds for dismissal) in accordance with the height of expectation or ability required of the restricted work duties (job type) (Cases 36, 38, 39, 40, 42, 43, 45, 46, 51, 52, 53, 58 and 61).

A typical example is Case 38, in which a worker who had been employed with the status in work duties specified as Manager of Human Resources Headquarters was dismissed based on a provision in the rules of employment (Rule 7: "If the employee's work performance or efficiency is extremely bad, and it is deemed inappropriate to continue employment"), and the dismissal was contested. The worker asserted that, for this Rule 7 to be applied and the worker to be dismissed, the worker's work performance or efficiency would have to be exceptionally poor, there would have to be no chance of correcting this or reassigning elsewhere, etc., and there would have to be no other option but to remove the worker from the

employer. In response to this assertion, the court ruled that "Since this contract ... is an employment contract specifying the status of Manager of Human Resources Headquarters, ... the judgment on whether the work performance or efficiency can be described as extremely bad is not a judgment going as far as whether the work performance or efficiency is extremely bad as 'an ordinary employee', but it would suffice to consider whether or not it falls under Rule 7 based on standards defining the work performance or efficiency required of the status of Manager of Human Resources Headquarters ..."

3) On dismissal during a probationary period

Next, though involving only one case, there was an example that explained the justification behind setting probationary periods for screening aptitude and reserving broad termination rights during that period when hiring workers restricted to high positions.

That is, in Case 37, a worker who was hired as a high-ranking employee under the title of "A-rank employee," engaged in PR work in the Media Room of the EC Delegation to Japan, contested the decision not to hire on completion of a probationary period. In this case, the court ruled that "... for (the defendant employer) to set a probationary period to screen aptitude and reserve termination rights when hiring a high-ranking employee such as the above can be seen as having stronger rationality compared to cases when this kind of employment format is not adopted, and it should be said that the exercise of termination rights reserved in this contract can be broadly recognized to a certain extent".

4) On dismissal avoidance measures

Furthermore, the restriction on work duties (job type) also has a certain effect on the scope of dismissal avoidance measures to be taken by the employer prior to dismissal.

A. Judgments deeming redeployment to another job type or demotion unnecessary or impossible

As in economic dismissal cases, when workers are employed without restriction on work duties (job type), the employer is also required to take dismissal avoidance measures prior to dismissal in cases of dismissal due to insufficient ability. In Case 49, the court ruled that "When a worker who has been employed with restriction on the job type or work content becomes unable to perform that work, or the department to which the worker is allocated actually does not exist, the worker is no longer able to provide performance in accordance with the spirit of the obligation, and this inevitably constitutes grounds for dismissal", but also that "When a worker is conversely employed without specific job type or work content, even if the provision of labor related to the work actually ordered to be carried out is inadequate, it should be considered whether there is work to which the worker can actually be allocated, taking account of the worker's ability, experience, status, the scale and industry of the employer (company), the actual situation of worker allocation and transfers, etc.".

By contrast, there were several cases of dismissal for insufficient ability of workers employed with restricted work duties (job types), in which redeployment (or demotion) as a dismissal avoidance measure was deemed unnecessary (Cases 38, 40, 50 and 59). A typical example is Case 38, in which a worker employed with the specified status of Manager of Human Resources Headquarters in work duties was dismissed due to insufficient ability and contested the dismissal. In this case, the worker asserted, on grounds of a provision in the rules of employment ("The company may order the redeployment or transfer of employees at its own judgment"), that if the worker had aptitude for a status in work duties other than the Manager of Human Resources Headquarters, the employer would bear an obligation to carry out redeployment, etc. In response to this assertion, the court ruled that " ... this employment contract is a contract concluded with attention to (the plaintiff worker's) educational and professional background, specifying the status of Manager of Human Resources Headquarters, and (the plaintiff worker) would not have wished to take up employment with the company if the position offered had been a general human resources post rather than Manager of Human Resources Headquarters, while

(the defendant employer) would not have wished to hire (the plaintiff worker) for a position or work duties other than those of Manager of Human Resources Headquarters ..." among other points, and therefore that "If ... (the defendant employer) judged (the plaintiff worker) to be unsuitable as Manager of Human Resources Headquarters, it would be reasonable to construe that there would be no obligation to assess aptitude for different positions or job types anew in accordance with ⋯ the rules (of employment), or to order redeployment to the department in question, etc.".

Alongside these, moreover, there are no few cases in which redeployment as a dismissal avoidance measure is judged impossible in reality on grounds of a restriction on work duties (job type) (Cases 43, 44, 48, 56 and 57). For example, in Case 48, in which a dentist contested dismissal due to insufficient ability, the court deemed that one factor when making a general consideration was that "(the plaintiff worker) was employed by (the defendant employer) in the specialist profession of a dentist and could not be redeployed to other workplaces", and concluded that "It cannot be said that dealing with (the plaintiff worker) by means of dismissal goes as far as lacking appropriateness in general societal terms".

Of course, there are also judicial precedents stating that when the speciality of the work undertaken by a worker is not of a high level, the employer's obligation to make efforts to avoid dismissal is not diminished. That is, in Case 55, in which a taxi driver contested dismissal due to insufficient ability, the court stated that "... For example, if a person who was a doctor loses his or her doctor's license, dismissal would be construed as unavoidable to a certain extent as the person could obviously not be redeployed as a hospital clerk ... (but), for work that has hardly any speciality, redeployment is possible to a certain extent, depending on the employer's need, and even if specific work cannot be performed, the worker cannot be dismissed and should be employed in another job type". On this particular case, the court deemed that "The Class 2 license[4] is a qualification that can be acquired by anybody with average ability, and cannot be said to be a qualification that requires a high level of speciality", and judged that "This must be said to negate the question whether an employer can terminate a contract by dismissal or other means as a matter of course when a taxi driver can no longer be engaged in that work".

In addition to this, moreover, in some cases of dismissal due to insufficient ability where a decrease in ability is caused by an industrial accident, it is explained that the scope of obligation to make efforts to avoid dismissal is not diminished even when there was an explicit restriction on the work duties (job type). An example of this is found in Case 47, in which a flight attendant, who was involved in a road accident while traveling in a taxi arranged by the employer for work purposes, was judged unfit in training for a return to work having been away from work through leave or absence for more than four years, and was dismissed due to insufficient ability. When the dismissal was contested, the court ruled that "When a worker has been employed with restrictions on the job type or work content, and then becomes unable to perform that work, if a department to which the worker could be allocated does not exist, the worker is no longer able to provide performance in accordance with the spirit of the obligation, and therefore this inevitably constitutes grounds for dismissal. ... However, even if a worker cannot be returned to the original work immediately after a period of leave or absence, if there is no decrease in the worker's basic working ability, and the circumstances of the inability to return to the original work is only a temporary result of the leave or absence, such as a lack of knowledge for being assigned specific work due to a change in machinery or equipment while on leave, and it would be possible to return to a state in which the original work could

4 One of the license categories under Japan's Road Traffic Act. Required when intending to drive a bus, taxi or other passenger vehicle for passenger conveyance (i.e. when carrying out commercial activity by carrying passengers in a passenger vehicle with a commercial numberplate), when driving a customer's vehicle as a designated driver, or in other words when driving a vehicle by way of executing a passenger conveyance contract.

be resumed after a short time, it cannot be said that the worker is no longer able to provide performance in accordance with the spirit of the obligation, and the grounds for dismissal provided in the rules of employment above should also be construed as carrying the same purport. Of course, the employer may, in return for paying wages to the worker after the return to work, demand the provision of labor commensurate with this, but even when it is not possible to return to the original work immediately, when it possible to return in a relatively short time, in view of the situation leading to the leave or absence, the scale and industry of the employer, the actual circumstances of worker allocation, etc., it should be said that the employer is required to provide a short period of preparation for returning to work, and take educational measures and others under the principle of good faith, and it should moreover be said that the employer cannot dismiss the worker without taking such good faith measures".

Meanwhile, as stated in 3. above, in the case where the problem lay in the dismissal due to insufficient ability of a worker employed in Japan to work in a US air base, the worker's work duties (job type) had an explicit restriction due to the personnel system adopted by the US air base. Nevertheless, when dismissing such a worker on grounds of insufficient ability, the measures (procedures) to be adopted are prescribed in Chapter 10 Section 4a of the Master Labor Contract (MLC) between Japan and the USA. As such, the courts merely judge whether or not the measures (procedures) prescribed in Chapter 10 Section 4a of the MLC have been adopted in relation to dismissal avoidance measures and others for cases such as this (on this point, Case 41 is an example where dismissal was deemed valid, and Case 54 an example where it was deemed invalid).

B. Judgments deeming education or training measures unnecessary

Furthermore, in cases of dismissal due to insufficient ability of workers employed with restricted work duties (job types), there were two cases in which the implementation of education or training as a dismissal avoidance measure was deemed unnecessary (Cases 50 and 58).

In Case 50, for example, the worker was employed as the Director of a Technology Center's Quality Management Division, and contested dismissal based on a provision in the rules of employment ("When there is no sincerity in work execution, knowledge, skills or efficiency have markedly deteriorated, and there are deemed to be no future prospects"). In this case, the court ruled that "This is a case of mid-career hiring, in which attention was focused on … (the plaintiff worker's) professional background ... the worker was hired on the terms of a Grade 1 Director with responsibility for overseas clients in the Quality Management Division, based on the judgment that the worker was an immediately deployable human resource equipped with the Japanese and English language ability and quality management ability necessary for the work, and (the plaintiff worker) was employed in understanding of that fact. As such, unlike cases of new graduate hiring on the premise of long-term employment, this is not a case in which (the defendant employer) ... should equip the worker with the necessary ability through education, or consider redeployment to a completely different department such as reception or odd jobs if there is no aptitude. If a worker is completely lacking in the ability expected when employed, and makes no attempt to improve this, dismissal is the inevitable results, and it would be reasonable to construe the provisions of the rules of employment ... as having the same purport" (Underlining by author).

C. Judgments deeming prior cautions, guidance or warnings unnecessary

Finally, particularly in cases contesting the dismissal of doctors due to insufficient ability, there is an apparent tendency for the courts to recognize the validity of dismissal even when the employer has given no prior cautions, guidance or warnings (Cases 51 and 56; and though not involving a doctor, Case 59 also fits this pattern).

A typical example is Case 56, in which a Head Physician contested dismissal due to insufficient ability. In this case, the worker asserted that the dismissal lacked appropriateness in general societal

terms, as the employer had not given the worker specific guidance or cautions. Against this assertion, the court ruled that "In view of the position in which ... (the plaintiff worker) ... was placed, as a clinician in contact with patients and as a doctor belonging to (the defendant employer) which undertook medical practice as an organization, appropriate behavior and medical action are a natural presupposition, and are not matters that require further cautions. As such, it would not be reasonable to emphasize the fact that (the defendant employer) had not given (the plaintiff worker) particularly specific or explicit cautions or guidance".

List of Judicial Precedents Subject to Analysis

(Economic Dismissal Cases)

Case 1 US Air Force Tachikawa Base Case, Tokyo District Court, December 1, 1978, 309 Rodo Hanrei 14

Case 2 Sumitomo Heavy Industries Tamashima Works Case, Okayama District Court decision, July 31, 1979, 326 Rodo Hanrei 44

Case 3 Toyo Sanso Case, Tokyo High Court, October 29, 1979, 330 Rodo Hanrei 71

Case 4 Saeki Gakuen Case, Fukuoka High Court, November 26, 1981, 326 Rominshu 825

Case 5 Chiyoda Corporation (Principal Action) Case, Yokohama District Court, March 26, 1992, 625 Rodo Hanrei 58

Case 6 The Chase Manhattan Bank Case, Tokyo District Court, March 27, 1992, 609 Rodo Hanrei 63

Case 7 Kanchi-in House Case, Kyoto District Court decision, November 15, 1993, 647 Rodo Hanrei 69

Case 8 Scandinavian Airlines System Case, Tokyo District Court decision, April 13, 1995, 675 Rodo Hanrei 13

Case 9 National Westminster Bank (First Temporary Injunction Appeal) Case, Tokyo District Court decision, August 17, 1998, 1690 Rokeisoku 3

Case 10 National Westminster Bank (Second Temporary Injunction) Case, Tokyo District Court decision, January 29, 1999, 782 Rodo Hanrei 35

Case 11 All Japan Seamen's Union Case, Tokyo District Court, March 26, 1999, 1723 Rokeisoku 3

Case 12 Kadokawa Culture Promotion Foundation Case, Tokyo District Court decision, November 29, 1999, 780 Rodo Hanrei 67

Case 13 National Westminster Bank (Third Temporary Injunction) Case, Tokyo District Court decision, January 21, 2000, 782 Rodo Hanrei 23

Case 14 Mine Unyu Case, Osaka District Court, January 21, 2000, 780 Rodo Hanrei 37

Case 15 Hirokawa Shoten Case, Tokyo District Court decision, February 29, 2000, 784 Rodo Hanrei 50

Case 16 Singapore Development Bank (Temporary Injunction Appeal) Case, Osaka District Court decision, May 22, 2000, 786 Rodo Hanrei 26

Case 17 Singapore Development Bank (Principal Action) Case, Osaka District Court, June 23, 2000, 786 Rodo Hanrei 16

Case 18 Wakita (Principal Action) Case, Osaka District Court, December 1, 2000, 808 Rodo Hanrei 77

Case 19 Minit Japan Case, Okayama District Court Kurashiki Branch decision, May 22, 2001, 1781 Rokeisoku 3

Case 20 Atsugi Plastics Kanto Factory Case, Maebashi District Court, March 1, 2002, 838 Rodo Hanrei 59

Case 21 Kanebuchi Chemical Industry (Tohoku Sales Office) Case, Sendai District Court decision, August 26, 2002, 837 Rodo Hanrei 51

Case 22 Toyo Printing Case, Tokyo District Court, September 30, 2002, 1819 Rokeisoku 25

Case 23 Toyo Suisan Kawasaki Factory Case, Yokohama District Court Kawasaki Branch decision, December 27, 2002, 847 Rodo Hanrei 58

Case 24 Taisei Denki Industries Case, Osaka High Court, January 28, 2003, 869 Rodo Hanrei 68

Case 25 Tohoku Sumidenso Case, Nagano District Court Ueda Branch decision, November 18, 2003, 1857 Rokeisoku 27
Case 26 Pasona (Yodobashi Camera) Case, Osaka District Court, June 9, 2004, 878 Rodo Hanrei 20
Case 27 Toko Package Case, Osaka District Court decision, May 12, 2005, 1948 Rokeisoku 25
Case 28 Osumi Case, Tokyo District Court, February 7, 2011, 2106 Rokeisoku 19
Case 29 Zen-Noh Case, Utsunomiya District Court decision, March 30, 2011, 2108 Rokeisoku 3
Case 30 Faith Case, Tokyo District Court, August 17, 2011, 2123 Rokeisoku 27
Case 31 Toms Case, Sapporo District Court, February 20, 2012, 2139 Rokeisoku 21
Case 32 Credit Suisse Case, Tokyo District Court, April 20, 2012, 4 Journal 12
Case 33 Murakami Gakuen Case, Osaka District Court, November 9, 2012, 12 Journal 8
Case 34 Victor Sports Case, Osaka District Court, March 8, 2013, 16 Journal 6
Case 35 PwC Financial Adviser Service Case, Tokyo District Court, September 25, 2003, 863 Rodo Hanrei 19

(Cases of Dismissal due to Insufficient Ability)

Case 36 Teikoku Detective Agency Case, Kobe District Court, March 27, 1980, 349 Rodo Hanrei 37
Case 37 EC Delegation to Japan Hiring Withdrawal Case, Tokyo High Court, December 14, 1983, Vol. 34 5, 6 Rominshu 922
Case 38 Ford Japan Case, Tokyo High Court, March 30, 1984, 437 Rodo Hanrei 41
Case 39 Ado Construction Design Office, Tokyo District Court, March 30, 1987, 497 Rodo Hanrei 70
Case 40 Mochida Pharmaceutical Case, Tokyo High Court decision, February 22, 1988, 517 Rodo Hanrei 63
Case 41 Yokohama US Military Base Case, Yokohama District Court, August 1, 1991, 597 Rodo Hanrei 68
Case 42 A Z Robe Case, Osaka District Court decision, November 29, 1991, 599 Rodo Hanrei 42
Case 43 Kinya Sangyo Case, Osaka District Court, March 26, 1999, 1708 Rokeisoku 14
Case 44 Hokkaido Ryukoku Gakuen Case (formerly: Otaru Futaba Joshi Gakuen Case), Sapporo High Court, July 9, 1999, 764 Rodo Hanrei 17
Case 45 Emerson Japan Case, Tokyo District Court, December 15, 1999, 1759 Rokeisoku 3
Case 46 Proudfoot Japan Case, Tokyo District Court, April 26, 2000, 789 Rodo Hanrei 21
Case 47 All Nippon Airways (Forced Retirement) Case, Osaka High Court, March 14, 2001, 809 Rodo Hanrei 61
Case 48 Asahi Shimbun Case, Osaka District Court, March 30, 2001, 1774 Rokeisoku 3
Case 49 Nakagawa Kogyo Case, Osaka District Court decision, April 10, 2002, 1809 Rokeisoku 18
Case 50 Hirose Electric Case, Tokyo District Court, October 22, 2002, 838 Rodo Hanrei 15
Case 51 Jikeikai Police Hospital Case, Tokyo District Court, November 10, 2003, 870 Rodo Hanrei 72
Case 52 Nihon Suido Consultants Case, Tokyo District Court, December 22, 2003, 871 Rodo Hanrei 91
Case 53 Yokohamashi Gakko Hokenkai (Dental Hygienist) Case, Tokyo High Court, January 19, 2005, 890 Rodo Hanrei 58
Case 54 State (United States Forces Japan, Dismissal) Case, Tokyo High Court, December 21, 2006, 936 Rodo Hanrei 39
Case 55 Tokyo M.K. Case, Tokyo District Court, September 30, 2008, 975 Rodo Hanrei 12
Case 56 Hospital A (Doctor Dismissal) Case, Fukui District Court, April 22, 2009, 985 Rodo Hanrei 23
Case 57 Rui Sekkeishitsu Case, Osaka District Court, October 29, 2010, 1021 Rodo Hanrei 21
Case 58 Japan Foundation Engineering Case, Osaka High Court, February 10, 2012, 1045 Rodo Hanrei 5
Case 59 Royal Bank of Scotland plc Case, Tokyo District Court, February 28, 2012, 3 Journal 8

Case 60 Corps Case, Tokyo District Court, July 17, 2012, 1057 Rodo Hanrei 38

Case 61 Bloomberg LP Case, Tokyo High Court, April 24, 2013, 1074 Rodo Hanrei 75