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INTERREGIONAL ROTATIONAL METHOD: DISCRIMINATION OF WORKERS AND IMBALANCE OF "NORTHERN" GUARANTEES

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Subject. The shortage of labor in the Russian labor market is one of the most serious challenges to the country's socio-economic development. Labor resources for production connected with the extraction of natural resources in the Far North and similar areas are provided using the rotational method of work organization. For persons working on the rotational method in the Far North and similar areas, the legislator has established increased guarantees and compensation in connection with work under extreme natural and climatic conditions. However, the analysis of current legal policy reveals a decrease in the level of established guarantees and compensation.

The aim of the article is to identify the grounds for guarantees and compensation for persons working on the rotational method in the Far North and similar areas.

Methodology. The study is based on the use of both general scientific (analysis, synthesis) and special (formal-legal, functional, legal-technical) research methods. The authors analyzed the materials of Russian judicial practice regarding the provision of guarantees and compensation for persons working on the rotational method in the Far North and similar areas.

Main results. The authors criticized the dependence of guarantees for workers who perform rotational method in the Far North and similar areas from the place of permanent residence of the employee: in unfavourable climatic conditions in the Far North and similar areas or traveling to perform work from other regions. The authors noted that Article 302 of the Labor Code of the Russian Federation, which establishes guarantees and compensation for workers traveling to work on the rotational method in the Far North and equivalent areas, contains legal uncertainty in determining the duration of annual additional paid leave. At the same time, according to the provisions of this norm, the length of service, that entitles workers to appropriate guarantees and compensation when traveling to work on the rotational method in the Far North and similar areas from other regions, includes only calendar days of rotation and actual travel time.

Conclusions. The place of permanent residence of persons working on the rotational method in the Far North and similar areas cannot be used as a basis for differentiating legal regulation of labor relations. Thus, the definition of the length of rest time must be linked to working time, respectively, without making its duration dependent on factors unrelated to the performance of work duties. The authors propose to improve the legislation on guarantees and compensation for persons working on the rotational method in the Far North and similar areas.

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1. Introduction

At present, the shortage of labor in the Russian labor market represents one of the most serious challenges to the country's continued socio-economic development. In sectors related to natural resource extraction in the Far North and other sparsely populated, remote regions, securing a sufficient labor supply has always been and remains a critical priority. A traditional means of addressing this issue is the use of shift, or rotational, work arrangements. In certain industries, such as oil and gas, this system constitutes the primary form of labor organization [1, p. 219].

Data from the employment platform hh.ru indicates that the number of vacancies for rotational work has been steadily increasing each year. For instance, between January and April 2024, the number of such job postings rose by 36% compared with the same period in 2023. As of early 2024, rotational work positions accounted for approximately 7% of all job listings. Regionally, the share of available rotational vacancies was 5.3% in Krasnoyarsk Krai, 5.1% in Irkutsk Oblast, and 1.2% in Tomsk Oblast[1].

It is important to note that individuals employed under rotational work arrangements may reside either in areas characterized by special natural and climatic conditions or outside them. Since the Soviet era, the practice of organizing both regional (intraregional) and interregional rotational work systems has been well established [2, p. 174]. During this period, a specific legal and administrative approach emerged – one that sought to offset the additional costs associated with transporting personnel from the central and southern regions of the country to the North. Under this approach, rotational workers were granted "Northern" guarantees and compensations, such as bonuses for length of service in the Far North and equivalent areas, only for the duration of their shifts and travel time. This same approach was subsequently incorporated into the current Labor Code of the Russian Federation and, in certain respects, even expanded, although considering present-day economic conditions, its practical justification has become less clear.

On the one hand, employers today are no longer obliged to organize or finance the transportation of interregional rotational workers from their place of residence to the designated assembly point and back. The legislature has thus effectively relieved employers utilizing the interregional rotational work method of the significant financial burden associated with these transportation costs. Employers remain responsible only for providing travel between the employer's location or assembly point and the actual work site[2], which constitutes a logical and market-oriented adjustment. This change allows the labor market – represented by the workforce itself – to self-regulate mobility at its own expense, whether employment is cyclical or periodic in nature.

On the other hand, the Labor Code of the Russian Federation and its application in practice have clearly moved toward a more differentiated legal regulation of labor for individuals employed under rotational work arrangements, particularly those working in regions with extreme natural and climatic conditions. This differentiation increasingly depends not solely on where an individual works, but also on where they permanently reside [3, p. 98].

2. Problem Statement

In 2004, significant amendments and additions were introduced to the Labor Code of the Russian Federation. These changes were not immediately understood by participants in labor relations or by law enforcement authorities. An analysis of the provisions contained in Chapter 50 of the Labor Code reveals a gradual reduction in the scope of "Northern" guarantees and compensations, followed by attempts to adjust and clarify this approach through decisions of the highest courts of the Russian Federation [4, p. 27].

Within this context, the amendments to Article 302 of the Labor Code of the Russian Federation, which, among other matters, regulate the differentiation of legal provisions concerning "Northern" guarantees and compensations for

[1] Serov V. The number of rotational vacancies in Tomsk Oblast has increased by 25%. URL: https://www.tomsk.ru/news/view/v-tomskoy-oblasti-na-25-vyroslo-kolichestvo-vahtovyh-vakansiy (date of access: 07.02.2025).

[2] Zhandarova I. Employers will pay shift workers for travel to their place of work. URL: https://rg.ru/2023/03/01/tuda-obratno.html (accessed: 07.02.2025).

rotational workers, appear to represent a continuation of the same legislative policy. The special approach to calculating the percentage bonus for length of service in the North for employees who are not permanent residents of the region is, to a certain extent, logically consistent. In this respect, the current Labor Code maintains continuity with Soviet-era labor legislation, whereby the period of service qualifying an employee for these benefits includes only the time spent on rotational work and the time spent traveling between the assembly point and the work site [5].

At the same time, all rotational workers, regardless of their place of permanent residence, are entitled to a regional wage coefficient, with no exceptions or special rules applied. However, issues arise in the calculation of the length of service qualifying such employees for additional leave due to work in the Far North and equivalent areas. Certain aspects of this practice can reasonably be regarded as discriminatory, insofar as they establish limitations or advantages unrelated to the employee's professional qualifications or work performance [6, p. 103].

3. Is the Permanent Residence of a Rotational Worker a Legitimate Ground for Differentiation or a Form of Discrimination?

Article 3 of the Labor Code of the Russian Federation provides that distinctions established by law shall not be regarded as discrimination if they:

- are determined by the inherent requirements of a particular type of work;
- arise from the state's special concern for individuals in need of enhanced social and legal protection; or
- are established to ensure national security, maintain an optimal balance of labor resources, promote the priority employment of Russian citizens, or achieve other objectives of the state's domestic and foreign policy.

Accordingly, such distinctions may be considered legitimate forms of differentiation rather than unlawful discrimination.

However, the insufficiency of this legislative framework for defining what does not constitute discrimination [7] permits the conclusion that differentiating workers based on their place of permanent residence [8, p. 408] – or on whether they are employed under regional or interregional rotational arrangements – does not fall within any of the categories recognized as legitimate. In labor law, the place of residence of an employee is not treated as a lawful ground for differentiating labor regulations, unlike employment in territories with specific natural or climatic conditions [9].

Setting aside, for analytical clarity, the potential arguments that differentiation may be justified by (a) the need for special protection of rotational workers residing in the North, or (b) the goal of maintaining an optimal balance of labor resources, the two most relevant rationales in this context, we note the following.

First, all rotational workers employed in the Far North perform their labor under identical conditions and fulfill the same standard working hours. Nevertheless, the guarantee that directly depends on the length of service in Northern regions, such as additional leave, is effectively calculated only for the time actually spent at the worksite in the North. While living outside the North may indeed be more comfortable, regular commuting to and from such regions poses significant health risks. Periodic transitions between different climatic zones can exacerbate health deterioration. Consequently, employees who must regularly endure lengthy commutes and repeated acclimatization periods arguably deserve no less attention from the state than those who permanently reside in the Far North and are continuously exposed to its harsh conditions. Indeed, several scientific studies emphasize the importance of considering adaptive climatic factors in the organization of rotational work, particularly considering the constant alternation between adaptation and re-adaptation to new environmental conditions [10,11].

Second, with respect to the goal of maintaining an "optimal balance of labor resources," such equilibrium is already supported by a market-based mechanism – namely, the increased travel costs borne by employees residing far from the assembly point. Unless employers voluntarily agree to reimburse these expenses through collective bargaining agreements [12], such costs remain the responsibility of the workers themselves. In practice, such compensation arrangements have become increasingly rare, further underscoring that

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differentiation based on residence lacks both economic necessity and legal justification.

4. Problems in Granting Additional Leave to Rotational Workers Not Residing in the Far North

Perhaps the clearest example of what should be classified as discrimination, rather than legitimate differentiation, concerns the duration of additional leave granted to rotational workers employed on so-called interregional shifts in the Far North. Article 302 of the Labor Code of the Russian Federation contains provisions that are poorly coordinated and, at minimum, exhibit significant legal uncertainty.

On the one hand, the article establishes that rotational workers are entitled to additional paid leave of 24 and 16 calendar days for work performed in the Far North and equivalent areas, respectively [13, p. 135]. On the other hand, the same article specifies that the length of service qualifying an employee for these guarantees and compensations, if the employee travels from another region of the country to perform rotational work in the North, includes only the days spent on the shift itself and the travel time to and from the work site. Furthermore, the provision states that for rotational workers who are permanent residents of the Far North and travel to a northern shift from within the same or another northern region, "Northern" guarantees and compensations are granted on the same basis as for all residents of the Far North. In such cases, seniority is calculated on a calendar basis, without regard to the actual time spent at the shift location.

A formal interpretation of these norms has led courts, over the past decade, to rule largely in favor of employers in disputes concerning the calculation of annual additional paid leave for interregional rotational workers. The prevailing judicial view holds that such leave should be calculated in proportion to the duration of time actually spent on rotation[3]. Nevertheless, there are also judicial decisions in which compensation for unused leave was calculated without applying proportional reduction – likely in cases where the employer did not raise corresponding objections[4].

This practice reveals conceptual and legal weaknesses in the prevailing interpretation that additional leave for rotational workers not residing in the North must be provided only on a proportional basis. Conceptually, annual leave represents a period of rest designed to: (1) compensate for the temporary expenditure of labor (the economic aspect); (2) ensure the realization of the constitutional right to rest (the legal aspect); and (3) facilitate the recovery of the worker's physical and mental health (the medical aspect) [14, p. 91]. Additional leave serves as a compensatory measure, recognizing that those who work in the Far North face increased health risks and therefore require extended periods of rest.

From this perspective, the proportional approach is fundamentally flawed. Even though interregional rotational workers spend part of the year in less extreme natural and climatic conditions, they are still exposed to significant physical and psychological strain resulting from constant travel, abrupt climatic transitions, and recurring adaptation and re-adaptation cycles. Such workers may, in fact, face greater cumulative health risks than their counterparts who reside permanently in northern regions [15].

From an economic standpoint, it must also be emphasized that all rotational workers, regardless of permanent residence, perform the same standard number of working hours, and traditionally, the duration of rest time is directly correlated with the amount of work performed. It is therefore both logical and equitable to link the duration of additional leave to actual working time, rather than to factors unrelated to the performance of job duties, such as the employee's place of residence.

The practical consequences of this inequitable framework are particularly troubling. In some cases, rotational workers who do not actually reside in the Far North have resorted to unlawful means, such as fictitious residential registration in northern territories, to qualify for the full range of benefits associated with "Northern" employment.

[3] Decision of the Sovetsky District Court of Omsk No. 2-783/2020 2-783/2020~M-526/2020 M-526/2020 dated September 3, 2020 in case No. 2-783/2020. URL: https://sudact.ru/regular/doc (date of access: 07.02.2025).

[4] [Decision of the Industrial District Court of Samara No. 2-1814/2023 of September 29, 2023 in case No. 2-1814/2023. URL: https://sudact.ru/regular/doc (accessed: 07.02.2025)

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5. Specifics of Calculating and Accounting for "Northern" Work Experience in Providing Social and Labor Guarantees under the Rotational Work Method

From a formal legal standpoint, the judicial practice criticized above reveals a fundamental conceptual misclassification of additional leave. Although courts often regard additional leave as a form of guarantee or compensation, it is, in fact, neither. According to the legal definitions contained in Article 164 of the Labor Code of the Russian Federation, compensation refers to monetary payments, whereas guarantees denote the means, methods, and conditions necessary for the exercise of labor rights [16, p. 62]. By contrast, vacation constitutes a period of rest to which an employee is entitled as part of the right to labor and rest [17, p. 89]. The guarantee associated with this right lies in the payment of vacation wages, which enables the employee to make practical use of the entitlement. The compensatory nature of additional leave [18], arising from its purpose of offsetting the adverse effects of work in extreme climatic conditions, does not, however, transform it into "compensation" within the meaning of the Code.

A closer examination of the calculation of "Northern" work experience for rotational workers further illustrates this inconsistency. The Ruling of the Constitutional Court of the Russian Federation of July 12, 2006, No. 261-O, provides important interpretative guidance. In that case, the Constitutional Court examined the provisions of pension legislation concerning the determination of service length qualifying for early retirement benefits related to work in the Far North. The Court explicitly held that the legislator links the acquisition of early retirement rights to work performed in the North, rather than to residence in its adverse climatic conditions. Consequently, the Court concluded that, provided the standard number of working hours has been completed within the accounting period, the time between shifts should not be excluded from the total calendar period constituting the employee's length of service[5].

Judicial practice further confirms that courts, when adjudicating such disputes, tend to satisfy plaintiffs' claims—on the condition that the employee has actually completed at least the normal working hours[6] established by law. In these cases, the time between shifts is excluded from the calculation of service in the Far North and equivalent territories[7]. Thus, when determining eligibility for early insurance pensions due to work in the Far North and similar areas, courts calculate the relevant work experience based on hours worked, not time of residence in those regions.

Against this backdrop, it becomes unclear why the calculation of work experience in the Far North should differ depending on the specific purpose for which it is used. As demonstrated, in the context of early retirement benefits, interregional rotational workers are recognized as having the same rights as their counterparts residing permanently in the North, provided they have completed the prescribed working hours within the relevant accounting period. Yet, paradoxically, when calculating the duration of additional leave for work in the Far North or equivalent areas, those same workers, despite having performed identical work under identical conditions, are denied equal treatment.

An additional inconsistency in the application of Article 302 of the Labor Code of the Russian Federation further illustrates the incoherence of the current approach. A rotational worker residing in an area equivalent to the Far North, but who performs

[5] Determination of the Constitutional Court of the Russian Federation dated 12.07.2006 No. 261-O "At the request of the Duma of the Taimyr (Dolgano-Nenets) Autonomous Okrug and the Norilsk City Court of Krasnoyarsk Krai on the verification of the constitutionality of the provision of the second paragraph of clause 8 of the Rules for calculating periods of work that give the right to early appointment of an old-age labor pension in accordance with Articles 27 and 28 of the Federal Law "On Labor Pensions in the Russian Federation", as well as at the complaint of citizens A.V. Gorodchikov, M.N. Grechko and others regarding the violation of their constitutional rights by the same provision" // Collection of Legislation of the Russian Federation. 2006. No. 42. Art. 4410.

[6] Decision of the Novy Urengoy City Court No. 2-4367/2017 2-4367/2017~M-4050/2017 M-4050/2017 dated November 20, 2017 in case No. 2-4367/2017. URL: https://sudact.ru/regular/doc (date accessed: 07.02.2025).

[7] Decision of the Sovetsky District Court of Tomsk No. 2-528/2019 2-528/2019~M-63/2019 M-63/2019 dated February 21, 2019 in case No. 2-528/2019. URL: https://sudact.ru/regular/doc (date accessed: 07.02.2025).

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rotational work in the Far North itself, receives full "Northern" benefits, including additional leave of 24 calendar days and a seniority bonus calculated in the same manner as for permanent residents of the Far North. Notably, during periods of rest between shifts, this employee continues to live in a less extreme environment, namely, a territory equivalent to the Far North, yet still receives the higher-level benefits.

This example underscores the internal inconsistency of the existing system of labor law differentiation. The current approach reduces the level of guarantees and compensations solely due to residence outside the officially designated northern territories, even when the actual working conditions and labor inputs are identical. Such differentiation undermines the coherence of the legal framework and contradicts the principle of equal treatment for workers performing equivalent labor under comparable conditions.

6. Contradictions in the Rules for Calculating Length of Service in Determining Bonuses for Shift Workers in the North

Following the same line of reasoning, it is necessary to critique another provision of Article 302 of the Labor Code of the Russian Federation, which establishes differing rules for calculating bonuses based on length of service in the Far North and equivalent areas. As previously noted, this provision demonstrates a certain continuity with the regulatory approaches inherited from Soviet labor law. However, continuity alone cannot justify the persistence of such an approach in contemporary conditions.

Historically, the emergence and development of legal regulation concerning northern guarantees and compensations were driven by the need to attract and retain labor in the country's northern regions, where intensive industrial development, particularly hydrocarbon extraction from newly discovered deposits, was just beginning. In addition to attracting workers, legislators faced the challenge of retaining them in these regions, given the extreme natural and climatic conditions as well as the significant infrastructural and social hardships of life in the North [20, p. 111].

The percentage bonuses for length of service in the Far North and equivalent territories, commonly referred to as northern bonuses, were originally designed not merely as compensatory payments but as incentive measures [21, p. 37]. Under Soviet (and early post-Soviet) legislation, the amount of the northern bonus depended not simply on total length of service in the North, but on continuous service in northern regions [22, p. 128]. For an employee, the right to the maximum bonus was contingent upon maintaining uninterrupted employment not only within the Far North or equivalent areas but also, often, within the same organization or enterprise.If a worker changed employers, the reason for termination and the duration of the interval between dismissal and re-employment were legally significant. All previously accrued bonuses were forfeited in cases of dismissal for culpable actions or voluntary resignation without valid cause. In this way, Soviet lawmakers sought to discourage so-called "flyers"—workers who moved frequently between jobs or regions—by creating substantial financial incentives for continuous work in the North over a defined period (three to five years continuously in the Far North or equivalent localities, respectively), preferably within the same enterprise or association of enterprises.

During the 1990s, as Russia transitioned to a market economy, these rules gradually evolved. Initially, certain requirements regarding the "continuity" of service were relaxed. For example, strict rules defining valid reasons for voluntary resignation were abolished, and proportional reductions in previously earned bonuses upon temporary departure from the North were introduced. Eventually, the continuity requirement was eliminated entirely. The northern bonus thus became linked solely to the fact of employment in the Far North, regardless of interruptions or the grounds for termination of the employment contract [23, p. 271]. Continuous work experience lost its legal significance as a determinant of eligibility and bonus amount.

Nevertheless, this transformation did not strip the northern bonus of its incentive nature. Although the bonus is now calculated based solely on total service in the North, its underlying function (to encourage long-term work in harsh climatic conditions) remains. The difficulty lies in the method by which the relevant length of service is determined.

Pursuant to Article 302 of the Labor Code of the Russian Federation, such service is calculated exclusively on a calendar basis and depends on the employee's residence in the Far North, rather than on the actual time spent working there.

A literal and systematic interpretation of Article 302 and the provisions of Chapter 50 of the Labor Code reveals a paradox. For a worker residing in a region equivalent to the Far North but employed on a rotational basis in the Far North, the northern bonus is calculated as though the worker spent the entire calendar (or accounting) period in the Far North. By contrast, another worker performing the same rotational work in the same northern region but residing elsewhere in the country will require roughly twice as long to accumulate the same level of northern bonus, since only the periods actually spent on the rotational assignment are credited to their northern service record.

This differential treatment appears manifestly unfair, echoing the same inequities identified earlier in relation to additional leave and early old-age insurance pensions. However, unlike those cases, where judicial interpretation has contributed to inconsistent application, the differentiation in calculating the percentage supplement for northern service is explicitly codified in federal legislation. As such, it remains formally lawful, even though its substantive fairness and consistency with constitutional principles of equality in labor relations are open to serious doubt.

7. Conclusions

Summarizing the results of this study, several key conclusions may be drawn.

1. The permanent residence of rotational workers cannot serve as a legal basis for differentiating the legal regulation of their labor relations.

2. Legislation governing "northern" guarantees and compensations, as well as the specific regulation of rotational work, requires further improvement ensure consistency with current realities, established social relations, and economic conditions, a topic that has been repeatedly emphasized in academic discourse [24, 25].

3. At a minimum, legislative clarification is needed in respect of Article 302 of the Labor Code of the Russian Federation. Specifically, it should be explicitly stated that the provisions of Part 6 do not apply to the calculation of the duration of additional leave for work in the Far North and equivalent territories.

4. The current approach, which differentiates the scope of "northern" guarantees and compensations for shift workers based on their permanent residence, should be revised. The elimination of residence-based differentiation would not only restore the principle of social justice in the sphere of labor law but also contribute to the state's strategic objectives of attracting and retaining qualified labor in the Far North.

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