



# Court Ruling Points to Expanded LGBT Anti-Discrimination Protections in China

Insights

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In a landmark ruling, a Beijing court ruled in favor of a transgender employee against her employer, a Chinese e-commerce company, interpreting China's anti-discrimination laws to include protection based on sexual orientation and gender expression. This is the first time that a transgender employee has won a job discrimination case in China, paving the way for more similar cases to be brought in the future.

## Summary of the Case

In this case, the employee was diagnosed with gender dysphoria and obtained medical documentation stating that she required gender reassignment surgery. Three months after her surgery, she was terminated from her employment. While her employer argued that the reason for her termination was "continuous absenteeism," the employee claimed that this was a pretext and the true reason behind her termination was discrimination based on her sex. A Dongcheng District labor arbiter ruled in favor of the employee in January 2019 and her employer appealed the decision. In January 2020, the Beijing No. 2 Intermediate People's Court upheld the labor arbiter's decision and ordered the employee to be reinstated in her position with her agreed-upon monthly salary, back wages, and use of the women's restroom.

China's labor law provides that workers may not be discriminated against in employment based on their sex. The law also provides that workers seeking employment shall not be discriminated against based on their gender. Although these statutes do not explicitly include gender expression as a protected status, the court outlined in its opinion that discrimination based on sex is illegal and people who have legally changed their gender can bring a claim based on that basis. The court held that since the employee had legally changed her gender to female, her employer was obligated to treat her the same as other female employees. Since she was not treated the same as other female employees based on her transgender status, the court held that this was discrimination based on her sex. In addition to the verdict, the court also called for "tolerance" and said society must "respect and protect the personality, dignity and legitimate rights of transgender people."

## What Does This Mean?

This effectively expanded the definition of "discrimination based on sex" to include protections for transgender employees and suggests that more cases may be brought to the court by employees who believe they have been discriminated against due to their sexual orientation or transgender status. And it is likely that some may win. Employers should be aware of this ruling and future

standard and it is likely that some may think. Employers should be aware of this ruling and future decisions concerning discrimination in China and adjust their policies to conform to future court decisions.

For more information concerning discrimination protections in China or for assistance in analyzing your company's anti-discrimination policy in light of this decision, feel free to reach out to any member of the Fisher Phillips International Practice Group.

### ***Related People***

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