

The Research on the Registration System in Administrative Litigation

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Abstract: Firstly, this paper understands the function of registration system of administrative litigation. On this basis, It analyzes the current status of registration system and the existing problems. Finally, the paper puts forward some suggestions on perfecting the registration system of administrative litigation.

1. Introduction

Filing a case is the beginning of judicial procedure and the starting point for the court to investigate and decide cases. Filing a case, also known as accepting a case, can generally be divided into two types: examination system and registration system. Under the current system, there are several different modes of filing a case, and there are some differences in their operating procedures. Filing a case is based on the court's initiation of examination. After examination, it is judged whether a case should be filed, so examination is the basis of filing a case. In a complete case acceptance system, conditions, modes and remedies are essential. For those involved in the case, the initiation of litigation relief procedure reflects the fairness of justice. The implementation of the filing system really affects the interests of all parties in legal cases, especially the rights of the parties. In the legal procedure, the court shall file a case in accordance with the provisions of civil procedure law, administrative procedure law and other laws, so as to ensure the integrity and impartiality of the judicial procedure. In the operation of legal procedures, the filing system is to safeguard the rights of all parties in the case, and weigh the interests of the government, the court and citizens. From this point of view, the filing system and its implementation reflect the judicial level of a country. From the current basic situation of our country, we need to continue to explore a more reasonable filing system on the basis of the existing laws, which is also an important sign of comprehensively deepening the judicial reform.

2. The Current Situation and Problems of the Registration System of Administrative Litigation in China

2.1 The Current Situation of the Registration System of Administrative Litigation in China

Since the establishment and implementation of the administrative litigation registration system, the number of administrative cases has greatly increased, showing a "blowout" situation. However, the judicial resources in various regions are limited, and the limited judicial resources have been exhausted to cope with the surge of administrative litigation. Since the revision and implementation of the new administrative procedure law in 2015, the number of administrative litigation cases in courts at all levels in China has greatly increased, which has further increased the pressure on court judges to examine cases.

The implementation of the nationwide registration system began on May 1, 2015. One month after the implementation of the registration system, the Supreme People's Court made an investigation and statistics. Relevant statistics show that in a short period of one month since the implementation of the nationwide registration system, there are more than one million cases filed by courts all over the country. In addition, the grass-roots courts in different places have different situations, which reflect different implementation procedures in the process of applying the registration system. Beijing No.4 Intermediate People's Court is the first batch of courts in China to try out reform and cross administrative areas. Its special practice in judicial practice has greatly

reduced the time required for filing a case and solved the embarrassing situation of “difficulty in filing a case” to a great extent. In addition to this, it also launched the letter of commitment on good faith litigation and established the list of abusive litigation personnel, so as to alleviate the dilemma of abusive litigation. Beijing No.4 Intermediate People's Court has made some achievements against the problem of multiple filing cases. In addition, Chongqing No.4 Intermediate People's Court, which is typical, has implemented the registration system on the basis of openness and transparency and improving satisfaction, continuously improved and strengthened the information search system, and continuously increased the investment in information disclosure equipment such as LED. At the same time, six areas have been set up, namely, the waiting area for the masses, the registration area for filing a case, the information inquiry and transfer area, the self-service area, the litigation guidance area and the petition reception area, so as to jointly build a “one-stop” litigation service center in order to achieve the effect of convenience for the people. To strengthen the integration of the case information is more conducive to the public to query the case information, and strictly limit the registration procedure, so that the public can be more reliable and satisfied in this process. In order to implement the registration system, the grass-roots people's courts in Shandong Province, such as Shan County People's court, classify cases and set up different service windows in the process of implementing the registration system. The windows provide corresponding cases and litigation models, and optimize the configuration of the registration windows, Inform the existence of litigation risks and provide a variety of channels for litigation settlement, making it more conducive to serving the public. The scheme in the above article can have practical effect on solving the problems of “no case, no complaint and delay in filing a case”, which is helpful to improve the filing rate. However, various schemes lack unified norms, which is not conducive to local supervision and supervision, and it is easy to breed judicial loopholes, thus failing to achieve the original intention of the registration system.

In the process of carrying out the registration system, the number of cases is increasing, and the courts in all parts of the country also provide various countermeasures and solutions to this situation, but the overall lack of uniform regulatory standards. Therefore, at present, we should pay attention to the laws in judicial practice and judicial activities, and establish corresponding laws and regulations to achieve uniform standards for the implementation of the registration system.

2.2 Problems in the Registration System of Administrative Litigation

2.3 There is a Conflict between the Provisions of the Law

The provisions on the conditions of prosecution in administrative litigation are roughly embodied in Article 49 and Article 25 of administrative procedure law. The provisions of the conditions of prosecution in it are not the full coverage, and there are still quite a few conditions of prosecution that will be determined by referring to the examination, which is difficult to avoid. For example, although the provision of “having an interest in administrative act” in the law is relatively simple, there are different academic viewpoints due to different interpretation methods. In the process of actual examination, it is necessary to identify and define the case in combination with the facts of the case, so as to achieve the scientific determination that it has an interest. In this practical case, we know that the substantive examination in specific cases is to obtain the results through specific examination methods. Generally speaking, the substantive examination generally exists in the specific trial process, and the substantive examination elements such as “interests” are not conducive to the elements stipulated in registration, which leads to an increase in the probability of the development of “quasi-registration system” to filing examination.

During the implementation of the new registration system, the workers in the court filing court formally examined the prosecution conditions for filing a case. When there are contradictions and conflicts in laws and regulations, the filing system will lose its substantive significance. The conflict of laws and regulations can be attributed to the lack of legislative time. Legislators do not have enough time to prepare for the “registration system for filing a case” stipulated in the Decision, and do not have more in-depth preparation for research, but simply add words on the basis of adhering to the policies issued by the national government. Under such circumstances, the transformation

from filing examination system to filing registration system is only limited to the change of name, not the actual change. Therefore, it is imperative to solve the contradictory laws and regulations.

2.4 The Registration Procedure is Not Clear Enough

When an administrative litigation subject submits a lawsuit to the court, the registration staff will examine the preparation materials submitted by the litigation subject, and the examination process and steps of registration are the key points of the registration system. In judicial practice, some local courts have a negative attitude when reviewing, and they do not accept the complaint submitted by the parties and do not issue any written documents. In the face of this situation, it is difficult to accurately determine when to file a case, and it is also difficult to judge whether the case has exceeded the time limit for filing a case prescribed by law. During this period, the parties may wait for a reply from the court for a long time, and some prosecutors will use other relief channels in order to safeguard their own rights and interests. However, the right is difficult to get relief, because the parties do not have a written certificate, and there is no evidence for the use of relief channels. In addition, the court staff sometimes have a negative attitude when facing the prosecution of the parties, and do not issue relevant legal documents to the parties. This illegal act clearly stipulates that the parties can make complaints to the higher court. Moreover, the higher court may request the lower court to make corrections, and the directly responsible person may be punished accordingly. However, when the higher court accepts the complaints from the parties, the existing laws, such as what the institution is and how the procedure is, do not give effective provisions for reference, and there is no corresponding judicial interpretation or detailed rules for clarification. Considering our country's special national conditions, even if there are clear provisions in the law, it is difficult to really implement them in practice. In administrative litigation, it is easy for the court to be interfered by some administration when filing a case for registration. Because of some interference factors, it is difficult to guarantee the impartiality of judicial activities. Moreover, in our country's court system, the connection between the lower and upper courts is relatively close. Moreover, in order to improve the settlement rate, many courts refuse to file a case because the cases prosecuted by the parties fail to meet the standards prescribed by law during the case registration stage, resulting in judicial disorder. In view of this, it is necessary to refine the problems existing in the registration system of administrative litigation and related procedures. And whether it is administrative litigation procedure or administrative litigation system, the key to ensure its vigorous vitality is fairness and justice. Compared with self-determination, reconciliation, mediation, arbitration and other methods to resolve disputes and contradictions, litigation can solve social contradictions to the greatest extent. Whether people evaluate substantive law as a good law or a bad law, litigation insists on its own fairness and ensures that "everyone is equal before the law". Therefore, only by continuously improving and refining all aspects of the registration system can we ensure the effectiveness of the right to appeal.

2.5 The Administrative Litigation Registration System Lacks Supervision Mechanism

① Lack of external supervision mechanism

With the advancement of our country's rule of law, our country has established a registration system for filing a case, which also stems from the problem of "difficulty in filing a case" in our country. Under the system of filing examination, the court has great discretion on whether to file a case, which leads to the fact that in judicial practice, many courts file a case if they want to file a case, but they don't file a case if they don't want to file a case. There is a lack of an external supervision mechanism to supervise and restrict it accordingly, which leads to the litigant's right to appeal not being guaranteed. The exercise of power needs to be supervised, and the power without supervision can easily lead to corruption. The supervision of judicial power requires the procuratorial power to play its role, and the supervision of procuratorial power can ensure the judicial power to operate according to law. For the court's supervision of filing a case, the supervision of the procuratorate is crucial. In our country, the courts are responsible to the NPC and subject to its supervision and inspection. As the main body of supervision, the National People's

Congress and its Standing Committee are very important for the supervision of judicial power. Moreover, the way of news media is an important means for the masses to obtain information related to cases, and the reporting and supervision of cases by news media can prompt the courts to exercise judicial power according to law. Thus, in our country, people's congresses and their standing committees, procuratorates and news media are all very suitable subjects of legal supervision. However, there is no clear legal regulation on the amount supervision of the registration system, so that many illegal cases can not be punished, and the plaintiff's right to appeal is damaged, but it is difficult to get relief.

② Lack of internal supervision mechanism

Article 51 of Opinions on the Reform of the Registration System in the People's Court and administrative procedure law clearly explains the supervision mechanism of filing a case, and the filing of a case by a lower people's court should be supervised by a higher people's court. If the people's court at a higher level finds that the people's court at a lower level should file a case instead of filing a case, it may order it to file a case, or the court at a higher level may order other judges at a lower level to file a case for jurisdiction. Although "Opinions" and "administrative procedure law" have made provisions on the issues related to the supervision of filing a case, the provisions are general, not detailed and clear enough. If a party complains to a higher court, it does not give a clear explanation as to which court department complained. When a higher court receives a complaint from a party, there is no clear regulation on how to deal with it. In judicial practice, most of the reasons for the parties to complain to the higher court are that the court did not issue a ruling document within the prescribed time limit, and the failure of the court to issue a ruling document within the prescribed time limit has little impact on the realization of the substantive rights of the parties, but this behavior of the court obviously violates the current legal provisions on the registration system. The higher court has no right to revoke the late issuance of legal documents by the lower court, because the lower court has not made a wrong judgment that damages the substantive rights of the parties, and the legal documents issued by the lower court have already taken legal effect, so what the higher court can do is to issue a notice of attention or prompt, which does not play a substantial role in safeguarding the rights of the parties. At the same time, the higher court can't supervise the lower court by adopting formal notice to correct its wrong behavior. This situation is widespread in judicial practice, and the current law does not give detailed regulations on what measures should be taken by the higher court.

3. Suggestions on Improving the Registration System of Administrative Litigation in China

3.1 The Principles of Perfecting the Registration System of Administrative Litigation

In the practice of continuous improvement of laws and regulations on administrative litigation, it is necessary to reasonably balance the conflict between safeguarding the rights and interests of litigation subjects and preventing abuse of litigation. That is to say, it is necessary to effectively solve the problem that litigants are "difficult to file a case", and at the same time, it is necessary to effectively curb the proliferation of cases in false litigation. Therefore, in view of the present objective reality, practical measures should be introduced to fundamentally enhance the credibility of the national judicial organs and promote the better implementation of the country ruled by law. Let people recognize and trust the judiciary. When encountering difficulties, they will actively approach the local courts and actively apply for relevant litigation procedures. At the same time, we should let people fully understand the relevant conditions of litigation acceptance, and understand what is suitable for litigation and what is not suitable for litigation. So as to realize the balance between the protection of litigant's right to appeal and the prevention of abuse of litigation, and solve the main contradictions in the implementation of procedural law at present. In the early stage of the reform of the registration system, there will be some unexpected emergencies, which requires us to analyze and deal with specific situations. It is necessary to fully protect the right to appeal and prevent the frequent occurrence of abuse. Only in this way can we truly achieve the purpose of

protecting the right to appeal and preventing abuse, and show the superiority of the registration system.

3.2 Suggestions on Improving the Registration System of Administrative Litigation in China

(1) Establish clear review criteria

One of the most important reasons why it is difficult to file a case in administrative litigation is that the conditions for filing a case are relatively high, and the filing standards of local courts are different. At present, our country adopts the registration system of filing a case, which is a formal examination of the complaint filed by the administrative subject in the process of examining the filing of a case. The foregoing has been analyzed, and the current practice may lead to differences in the discretion standards based on by various courts. Because the standards of filing a case are inconsistent, it makes the judge have greater discretion in the process of filing a case.¹ Therefore, when filing a case, we should make clear legal provisions on the review standard of filing a case, unify the standard of filing a case, not attach other conditions to filing a case for prosecution, and be consistent with the judicial interpretation, so as to ensure that the judge can not abuse his discretion.

The filing and registration system in administrative litigation mainly adopts the “petition registration mode”. In order to ensure the fair and reasonable results of the case and maintain the dignity of our country's justice, we need to establish a detailed and clear review standard to review the registered complaint. The first thing that needs to be determined in the review standard is the basis of filing a case. Only by establishing a unified case filing basis can we effectively avoid different courts in the same region and the same level courts in different regions from forming different interpretation standards for cases. The subject of review in the filing stage of administrative litigation cases is the filing court. Therefore, the filing court should review the detailed information of the parties and properly handle the conditions set by the administrative litigation.

Under the “complaint registration mode”, filing a case is based on the low-order prosecution conditions. It is mainly manifested in the following aspects: (1) Only the qualification of the prosecutor is required to be “a citizen, a legal person or other organization having a direct interest in the case”, and no more requirements are made. (2) The relevant examination requirements for the defendant have also lowered the standards. At present, only the identity of the defendant is required to be determined, and no other detailed provisions are made. (3) There is no strict requirement on the content of the request for litigation and the factual basis that needs to be mastered in litigation. In view of the factual basis, it is only required to issue the relevant administrative act basis, but not the objective facts and reasons required for litigation trial, and the scope of filing examination does not directly consider the scope of accepting cases and the jurisdiction of the court.

In addition, the Supreme People's Court of China clearly pointed out in its “Opinions on Filing a Case” that it would not accept additional acceptance conditions beyond the provisions of the current laws and regulations in China. The interpretation of the contents of this law can be directly understood as that the court only examined the above three conditions in the process of examination, and other conditions were not included in the scope of examination. Therefore, no matter whether there is abusive action or false action, the parties are not the content that can be reviewed at this stage. Thus, in addition to the above three review conditions, the court can not review other contents in the name of discretion.

(2) Detailed registration procedures

Law enforcement is an important means to safeguard social justice, but it is not the only means. [Zhu Suli: Trial Management and Social Management-How the Court Effectively Responds to “There are Too Many Cases”, Chinese Law, No.6, 2010, p. 56.

] In the process of law enforcement, it will inevitably lead to various problems, so it is necessary to take litigation to solve these disputes. In view of the particularity of the administrative procedure law itself, it is necessary to effectively control the law of the Ministry to ensure that the

¹Huang Xianxiong and Huang Ting: Legislative Defects and Countermeasures of the Registration System of Administrative Litigation, in the sixth issue of Administrative Law Research, 2015, p. 20.

implementation of judicial public power in China can be effectively controlled and further protect the legitimate rights and interests of citizens. However, as a new legal system, some new problems will inevitably arise. Therefore, it is particularly important to formulate corresponding measures to straighten out their procedural relations.

When the people's court starts the administrative litigation procedure, those who meet the prosecution conditions stipulated in Article 25 and Article 49 of the administrative law shall register and file a case. Articles 50 and 51 of administrative procedure law also involve related regulations such as relief procedures. At the same time, in order to ensure a certain trial efficiency, the administrative procedure law also makes relevant provisions on the trial link, so as to improve the trial efficiency, solve administrative disputes and promote the protection of the legitimate rights and interests of the parties. Therefore, in order to ensure the effectiveness of judicial activities, the filing procedure of administrative procedure law must fully guarantee the possibility of its implementation. After receiving the litigation documents of the case, the filing court shall uniformly manage the numbering, and transfer it to the administrative court of the relevant court after registering the explanation. Another advantage of numbering is that it is conducive to the timely and orderly substantive examination by the administrative court, thus starting the procedure of administrative litigation cases. The filing court shall be responsible for the payment of litigation costs and the delivery of relevant legal documents such as the notice of responding to the lawsuit in the prosecution procedure. At the same time, whether the litigation claims submitted by the parties have passed the statute of limitations is examined, so as to reduce the burden on other institutions of the court, cause the accumulation of litigation cases, and promptly notify the parties to withdraw the lawsuit. In the process of filing a case, the functions of relevant departments should be clarified. The main duties of filing court are filing registration and simple formal examination, while the main duties of administrative court are trial of cases, filing court and administrative court, which is in line with the principle of separation of legislation and trial.

(3) Establish a supervision mechanism for filing a case

① Establish external supervision mechanism

According to the regulations in “Opinions on the Reform of the Registration System in the People's Court” (hereinafter referred to as “Opinions”), in our country, people's congresses and their standing committees from all walks of life exercise their functions of supervising the courts according to law, and the opinions put forward by NPC deputies and their standing committees should be paid attention to and implemented by courts at all levels. In Opinions, it is only stipulated that the NPC and the Standing Committee can put forward their own opinions on the work of the court, but there is no corresponding explanation on what way to feedback opinions. The people's court should accept the supervision of the National People's Congress, and implement and rectify the problems raised by it, but there is no legal consequence if the court fails to implement and rectify. Therefore, this paper holds that for some problems in court filing, NPC deputies can issue different written proposals according to different problems; for matters that need to be rectified by people's courts in a short time, NPC deputies can put forward suggestions in the form of proposals. For some minor issues, issues that do not involve the substantive rights and interests of the parties can put forward their own opinions in the form of opinions. When the court receives the proposal or opinion issued by the NPC deputies, it should give a reply within a reasonable period of time, and put forward specific measures for rectification and implementation in the written reply. If the people's court fails to carry out corresponding rectification and implementation after accepting the supervision of the National People's Congress, it can hold the president of the court or the president and other relevant responsible persons accountable, and make corresponding demerits, warnings and other punishments.

② Establish internal supervision mechanism

Before the establishment of the internal supervision mechanism of the registration system, it is necessary to make a unified plan for the setting of the filing window of the current court. At present, in some areas, there is no special administrative registration window, but the procedure is simplified, and the prosecution review is directly under the responsibility of the president of the

administrative court. The reason for this practice is that in judicial practice, the courts in some areas accept fewer administrative cases, and it will simplify many processes for the president to directly complete the examination of cases. However, there are many shortcomings in this practice. First of all, after the establishment of the registration system, the number of administrative litigation cases will increase greatly. If the president of the administrative court continues to review the case, it will increase its workload and be difficult to complete. Secondly, the aforementioned practice is contrary to the litigation principle of “separation of trial and adjudication”. If a judge is responsible for both trial and filing a case, it is unfavorable for the protection of the litigant's right to appeal. Therefore, the administrative filing work must be handed over to the filing court for unified responsibility, which is also one of the prerequisites for establishing the internal supervision mechanism.

According to the existing system of supervision and punishment within the court, the staff's dereliction of duty in the process of filing a case is punished internally. The higher people's court has the right to supervise the filing of cases by the lower people's court, and the way of supervision is that the higher people's court supervises itself or the parties appeal to the higher people's court. If the higher-level court is verified through investigation, the lower-level people's court shall impose corresponding penalties on the filing staff for refusing to file a case or making things difficult for the parties.

4. Conclusions

In the revised administrative procedure law in 2015, the registration system of administrative litigation was established. The introduction of the registration system means that the administrative litigation has entered a new stage. With the establishment of the registration system, the number of administrative litigation cases in our country has surged for a time, but with it, some shortcomings have been exposed. The establishment of the registration system has effectively solved the dilemma of “difficulty in filing a case”, but the registration system itself has exposed many drawbacks in the process of judicial practice: the registration system lacks the necessary theoretical support, the people's courts in many areas are not consistent in the examination standards of prosecution conditions, and there is also a lack of corresponding supervision mechanism within the courts. Therefore, in the future legislative and judicial development and improvement process, we should further improve the registration system of administrative litigation, better protect the litigant's right of action.

References

- [1] Zhang Wenzhong: “The Implementation of the New “Administrative Procedure Law” and the Court Registration System”, published in “Journal of Shanghai University of Political Science and Law: The Rule of Law” Issue 3, 2015.
- [2] Liang Junyu: “The Substantive Implications and Expected Aspects of my country's Administrative Litigation Registration System”, published in “Administrative Law Research”, Issue 6, 2016.
- [3] Administrative Law in the Twenty-First Century. Richard.B Stewart. N.Y.U.L. 2003.
- [4] Administrative Law. Timothy Endicott. 2015.
- [5] Administrative Law and Judicial Deference. Matthew Lewans. 2009.