



# China Employment Law ALERT

## Compliance Series

*At the request of many of our multinational clients, we are issuing a series of Alerts focused on China-specific employment compliance tips. This is the second in our series.*

### Compliance Tip #2: Watch Out: Employment Discrimination in China May Lead to Legal Liability

Employment discrimination is not uncommon in China. In spite of the existing laws promulgated to promote equality and fairness, enforceable protection against employment discrimination is still limited. In today's job postings, for example, sexually discriminatory requirements such as "male only" or "male preferred" can easily be found. The purpose of this Alert is to remind employers of the potential liability of employment discrimination in China.

In a recent labor and employment dispute case in Beijing, a company ("defendant") was sued by a female job applicant ("plaintiff") whose job application for the position of administrative assistant was ignored by the defendant because it only recruited male employees. This discriminatory requirement was clearly provided in the job posting available on the Internet and was later confirmed by the defendant via telephone. The plaintiff claimed RMB 50,000 as compensation for the discrimination she suffered and asked the defendant to apologize for such discrimination. On December 18, 2013, a settlement was reached between the parties according to which the defendant would apologize and pay RMB 30,000 to the plaintiff as compensation.

This case is regarded as a milestone in China's anti-discrimination practice. The Employment Promotion Law of the People's Republic of China, which entered into force in 2008, clearly prohibits sexual discrimination during the hiring process. However, before this case, numerous female job applicants suffered from sexual discrimination, but none of them challenged the discrimination with success. Accordingly, more and more employers mistakenly believe that discriminatory restrictions are nevertheless acceptable in China. The result of this case will change that misconception. It may encourage not only females, but also other job applicants who are discriminated for racial, religious or other reasons, to protect their rights of equal employment, therefore causing a boom of anti-discrimination litigation. Employers in China must watch out for any potential discriminatory behavior and be very careful to avoid legal liability.

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