



**Journal Website:**  
<https://theusajournals.com/index.php/ijlc>

**Copyright:** Original content from this work may be used under the terms of the creative commons attributes 4.0 licence.

## ISSUES OF RECOVERY OF REHABILITATED PERSONS

**Submission Date:** January 08, 2023, **Accepted Date:** January 13, 2023,

**Published Date:** January 18, 2023

**Crossref doi:** <https://doi.org/10.37547/ijlc/Volume03Issue01-04>

**Khojaev Yunushoja Mustafohoja**

Under The Supreme Council Of Judges Of The Republic Of Uzbekistan Independent Student Of The Higher School Of Judges, Uzbekistan

### ABSTRACT

In this article, the shortcomings observed in the practice of inquiry, investigation and judicial bodies in the restoration of the violated rights of rehabilitated persons, the fact that the subsequent actions of rehabilitated citizens are not clearly and clearly defined by the law, which causes them to be confused, to further improve the legal basis for the restoration of the violated rights of rehabilitated persons. suggestions and conclusions are given.

### KEYWORDS

Rehabilitation, reinstatement, decision, military serviceman, judicial practice.

### INTRODUCTION

The main goal of the reforms carried out in the judicial sphere of our country in recent years is to create a single system that can reliably protect the rights, freedoms and legal interests of citizens while increasing the quality of hearing cases in courts. After all, as the head of our state said, "Every person who steps on the threshold of the court should be fully convinced that justice reigns in Uzbekistan."

Otherwise, as the great German philosopher Immanuel Kant said, "When justice is gone, nothing else is left to determine the value of life." We must never forget this fact. "Judges should be tireless defenders of laws, strong pillars of justice." [1. - B. 106]

Today, the courts are carrying out significant work aimed at restoring the violated rights of citizens and

realizing their legal interests. The head of our state is in this regard

"... it is necessary to firmly strengthen the confidence of our people in the judicial system, to literally turn the court into a fortress of justice" [2. - B.457] defined specific tasks for the courts.

We can see that citizens' trust in the courts is increasing year by year, as they seek to protect their rights through the courts. "In 2018, 89,469, 88,535 in 2019, and 64,365 in 2020 were submitted to the General Prosecutor's Office in connection with violations of labor legislation by employees and employers." [3. – B.4]

Based on the statistics of the Supreme Court of the Republic of Uzbekistan, it is related to only one reinstatement by the courts of our republic

In 2020, 2,385 cases were processed, in 2021, 3,221, and in 2022

668 cases were considered and resolved in the 1st quarter. These numbers show that the number of jobs in this category is increasing year by year. Among the disputes regarding rehabilitation, rehabilitation of rehabilitated persons has a special place. However, the absence of a unified approach in the practice of rehabilitating rehabilitated persons, as well as in the judicial practice, in some cases, causes the dissatisfaction of our citizens and the guarantee of reliable protection of their rights and freedoms in this regard.

It is known that the guarantee of protection of the labor rights of citizens through the court is determined by the regulation of these relations on the one hand, and on the other hand by the real possibility of realizing such rights.

Today, we cannot say that the practice aimed at ensuring the labor rights of our citizens, especially the rights related to the rehabilitation of rehabilitated persons, does not always fully ensure such rights. The variety of practices and approaches in this regard is surprising. Restoring the rights of a rehabilitated person is carried out on the basis of a court decision, an investigator's or a prosecutor's decision, according to Articles 304-310 of the Criminal Procedure Code of the Republic of Uzbekistan [4].

Therefore, according to the content of the above articles, the court that issued the relevant verdict on the rehabilitation of the person will have to restore the rights of the rehabilitated person. Therefore, according to Article 311 of the Criminal Procedure Code, along with the rights of the rehabilitated person, it is confirmed that if his demand for the restoration of his labor rights is not satisfied, or if he is dissatisfied with the decision made, he has the right to appeal to the court in the procedure of litigation.

However, in this legal norm, it is not clearly defined that the rehabilitated person has the right to appeal to the court in the procedure of litigation in cases where the demand of the rehabilitated person is not satisfied by which state body or official. In this regard, the law does not show the "right way" to the rehabilitated person.

At this point, we can witness the diversity of approaches in judicial practice regarding the rehabilitation of rehabilitated persons, especially military servicemen and employees. The judicial practice in this regard is based on the current laws, statutory documents, the letter of the Supreme Court of the Republic of Uzbekistan No. 11-9-10 sent to all courts on February 4, 2019 and "Reinstatement, salary, material related to rehabilitation during 2019 and 9

months of 2020 and on the results of the generalization of court practice in civil cases on the recovery of moral damages" was formed based on the decision of the Board No. RS-54-20.

2019 by the Supreme Court of the Republic of Uzbekistan

In the letter No. 11-9-10, sent on February 4, it was stated that different practices have been formed regarding which court belongs to the disputes arising from the labor relations of former military personnel, employees of the Internal Affairs, Customs Committee, and other state bodies, which, in turn, leads to citizens wandering in the courts. that leads to wandering and undermines their confidence in justice, in order to put an end to this situation and to form a uniform practice:

- to the courts of civil cases regarding disputes arising from labor relations of employees of the Ministry of Internal Affairs of the Republic of Uzbekistan, the Customs Committee and other state bodies;

- relevant explanations are given that military servicemen's or ex-servicemen's disputes related to labor and other legal relations are subject to military courts.

However, we cannot say that this letter also provided a unified view of judicial practice in this regard.

In the decision of the Supreme Court of the Republic of Uzbekistan No. RS-54-20 "On the results of summarizing the judicial practice in civil cases related to rehabilitation, wages, recovery of material and moral damages during 9 months of 2019 and 2020" ... The results of the generalization conducted by the republican courts on civil cases regarding the practice of resolving disputes related to rehabilitation related to work reinstatement indicate that the unified judicial

practice in this regard is mostly correct, the restoration of the rights of the rehabilitated person and compensation for property damage are provided for in Articles 304-313 of the Criminal Procedure Code. although it is noted that rehabilitation should be carried out on the basis of the ruling or decision of the court, prosecutor or investigator who issued a decision on rehabilitation, but the cases are mainly considered and resolved in civil courts.

Also, the Labor Code of the Republic of Uzbekistan

In cases where the employment contract was illegally terminated or the employee was illegally transferred to another job in Article 111 [5], he must be reinstated to his previous job by the employer himself, the court or another competent body. are applying to the courts. However, we can see that in some cases civil courts decide cases of this category based on the norms of the Labor Code of the Republic of Uzbekistan, and in other cases they decide them based on the norms of the Criminal Procedure Code of the Republic of Uzbekistan.

At the same time, in the current judicial practice, Article 312 of the Criminal Procedure Code is not applied in all cases regarding the demands for restoration of labor rights of rehabilitated persons.

For example, citizen S. In connection with his acquittal in the criminal case against him, he applied to the State Customs Committee system, applying Articles 304-312 of the Civil Code, to reinstate him to his previous job and to count the days of non-work by adding them to his seniority. The plaintiff's claim was satisfied by the decision of the court of first instance dated 13.08.2020 and the decision of the court of appeal dated 06.10.2020.

The civil case was heard in the Supreme Court on 05.02.2021 in the cassation procedure, and the trial panel made a new decision to reject the claim.

Based on the protest of the Deputy Prosecutor General, who stated his objections to this decision, the case was reviewed again in the cassation procedure on 26.04.2021, but the decision of the Supreme Court remained in force.

Later, with the ruling of 08.20.2021, the ruling of 02.05.2021 was canceled based on the newly discovered circumstances, and on 08.27.2021, based on the result of hearing the case, a ruling was adopted to leave the decisions of the lower courts on the satisfaction of the claim unchanged.

In this case, if the Supreme Court initially assessed the plaintiff's reinstatement as incorrect based on Articles 304-312 of the Criminal Procedure Code, then later came to the conclusion that this conclusion was incorrect, and due to his rehabilitation, he should be reinstated to his previous job and may demand reinstatement. upheld the decisions of the lower courts, taking into account that the one-year claim period had not expired.

Also, a claim with a decision made on 29.06.2020 within the framework of the civil case filed by the plaintiff K. regarding the claim against the defendant K.'s General Department of Internal Affairs of the city of Tashkent and the Ministry of Internal Affairs of the Republic of Uzbekistan regarding the illegality of the order, reinstatement and recovery of wages rejected.

The decision of the court of first instance in this civil case was left unchanged based on the decision of the appellate court on 18.08.2020.

Supreme Court of the Judicial Panel on Civil Cases

The decisions of the courts of both instances were left unchanged by the ruling dated 20.05.2021.

Supreme Court of the Judicial Panel on Civil Cases

According to the ruling of 24.08.2021, the rulings of the above-mentioned High Court judicial panel and the court of appeal of the Tashkent city court were canceled and the case was sent to the court of this instance for a new trial.

In accordance with the decision issued on 16.11.2021 by the civil trial panel of the Tashkent city court, the decision of the court of first instance was canceled and a new decision was made to satisfy the claim in the case.

Many such examples can be cited. But in any case, the courts should reach a unified approach on which legal acts to apply in solving such type of disputes.

In our opinion, the cases in our current legislation also paved the way for different approaches in judicial practice in dealing with cases related to the reinstatement of military servicemen and employees. For example, in Article 303 of the Code of Criminal Procedure of the Republic of Uzbekistan, different approaches were taken by the legislator regarding the restoration of the violated rights of the rehabilitated.

Article 17 of the Law of the Republic of Uzbekistan "On State Customs Service" [6], Article 34 of the Law "On Internal Affairs Bodies" [7], Law "On the National Guard" [8]

According to articles 22, employees of these agencies have the right to apply to the court for reinstatement on the basis of rehabilitation, while article 36 of the Law of the Republic of Uzbekistan "On State Security Service" [9] establishes the procedure for resolving



labor disputes by higher authorities. . Of course, in such a case, it is natural that there are different approaches in judicial practice.

In our opinion, the first factor that affects the lack of a uniform approach in the judicial practice in considering and resolving labor disputes is the lack of improvement of legal documents, the second factor is the lack of detailed explanations by the competent authorities regarding the application of this or that norm to the courts, and the third factor is the labor, criminal-procedural and the fact that research in the field of other legal sciences is lagging behind, and the fourth factor is the fact that the subjects of the law of legislative initiative do not introduce proposals for the solution of the problem.

The above analyzes show that today, first of all, in order to achieve judicial practice related to the reinstatement of rehabilitated persons, especially rehabilitated servicemen and employees, it is necessary to unify legal documents in this field, as well as to regulate labor disputes involving certain categories of employees of the Supreme Court of the Republic of Uzbekistan. it is necessary to develop the relevant Plenum decision. Also, we believe that the adoption of the Law of the Republic of Uzbekistan "On Restoring the Rights of Rehabilitated Persons" based on the comprehensiveness and specificity of these relations today will also be effective in regulating these relations.

## REFERENCES

1. Ш.М.Мирзиёев “Янги Ўзбекистон Стратегияси”. Тошкент. “Ўзбекистон” НМИУ, 2021. – Б. 106.
2. Ш.М.Мирзиёев “Миллий тараққиёт йўлимизни қатъият билан давом эттириб, янги босқичга

кўтарамиз”. 1-жилд. Тошкент. “Ўзбекистон” НМИУ, 2017. – Б. 457.

3. Л.У.Раҳимқулова Якка меҳнат низоларини кўриб, ҳал этиш тартиби. Юридик фанлари бўйича фалсафа доктори илмий даражасини олиш учун диссертация. Т.:2021. – Б. 4.
4. <https://lex.uz/docs/111460>
5. <https://lex.uz/docs/142859>
6. <https://lex.uz/docs/67566>
7. <https://lex.uz/docs/3027843>
8. <https://lex.uz/docs/5128310>
9. <https://lex.uz/docs/3610935>