Abstract

Would an employer be obliged to attend a resignation from the general pension system issued by an employee for having filed a pension application at the Social Security Institute? If not, would he be obliged to pay the retroactive effect of pension since the accrual date because, according to the Social Security Institute, he would lose that retroactive effect? The answer is no, it must not be granted that payment because along that time the worker earned a salary and both concepts are philosophical and juridical incompatible because they would come from the same juridical cause. Moreover during the whole time of labor relationship contributions to the general pension system must have been done, time that has to be register to increase the final value of pension; this means that there would not be a detriment but a benefit (different from taking the accrual date of pension right, an active worker as the departure point for the pension recognition.) Finally, if the employer would have admitted the employee petition, he would not only be breaching the law, but he would have placed in an imminent risk situation facing a contingent survivors or invalidism pension, or he would have blocked that the worker reach the required contributions volume demanded for the recognition of a retirement pension.

Keywords

Contribution, invalidism pension, retirement pension, pension for survivors, pension for orphans, pension for widows.