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# China court deals blow in case on H.I.V. bias

BEIJING

But the public airing by state media is seen by activists as a small boon

BY ANDREW JACOBS

In a significant setback for people with H.I.V., a Chinese court has ruled against a man who said he had been wrongly denied a teaching job after his prospective employer learned he was carrying the virus that causes AIDS.

The decision, issued Friday by a judge in Anhui Province, came in the first case a court in China had even agreed to hear dealing with H.I.V. discrimination.

The man who filed the lawsuit, a 22-year-old college graduate, had already passed a battery of written tests and an interview, when a mandatory blood exam revealed his status, prompting the local education bureau in the city of Anqing to reject his application.

"I'm heartbroken," said the man, who used the alias Xiao Wu in legal papers to protect his identity. "I just wanted to find some justice for me, and for others facing the same problem."

Lawyers for the man said they would appeal.

In his ruling, the judge agreed with the education bureau's contention that regulations covering civil servants trump a four-year-old national law that was supposed to protect people with H.I.V. from the prejudice of employers. That law, passed by the State Council, the government's senior executive body, states that "no institution or individual shall discriminate against people living with H.I.V., AIDS patients and their relatives."

Li Fangping, a lawyer who argued Xiao Wu's case during a three-hour trial

## People with H.I.V. and AIDS are widely shunned in China.

last month, said the judge's decision defied logic. "It's an example of how the legal system enhances and expands discrimination against people who are H.I.V. positive," he said.

Although people with H.I.V. and AIDS have increasing access to medical treatment, they are widely shunned by Chinese society and often barred from universities, state jobs and private corporations. The ostracism has serious implications: In a report last year, the United Nations said fear and ignorance kept two-thirds of the estimated 740,000 Chinese infected with H.I.V. from seeking treatment.

The government has come a long way since the late 1990s, when it went to great lengths to cover up a tainted-blood scandal in which thousands of people contracted the disease.

These days people with AIDS have access to free anti-retroviral medication and China's top leaders, including Prime Minister Wen Jiabao and President Hu Jintao, make a show of consoling people with AIDS on World AIDS Day each Dec. 1. In a small but significant gesture, the government earlier this year lifted a 20-year-long ban on foreigners with H.I.V. from visiting China.

But AIDS advocates say they face a host of restrictions that make it hard to carry out their activities. Wan Yanhai, the founder of the AIDS organization Aizhixing Institute, moved to the United States last May claiming years of government interference, including scrutiny

by tax officials and the fire department, made it impossible to carry out his work.

In Henan Province, Tian Xi, a young activist who contracted H.I.V. through a blood transfusion, is awaiting sentencing on charges that his protest at a local hospital resulted in damaged property.

In an odd way, the legal travails of Xiao Wu were a bright spot for AIDS activists, who hoped a positive ruling would be a milestone in the battle against official discrimination. The Chinese media avidly covered the case and the defendant gave interviews, although he was careful to protect his identity. Encouraged by the case, another H.I.V.-positive college graduate last month filed a similar case in Sichuan Province.

Advocates worry that the ruling on Friday will simply provide more legal cover for employers who do not want to hire people with H.I.V. "This is bad news, given that this was the first time an H.I.V.-positive person dared to stand up for his rights," said Yu Fangqiang, an AIDS advocate whose organization provided free representation to the defendant. "The entire H.I.V. community had high hopes but now the door appears to be shutting for people who want to use the courts to fight against discrimination."

Despite the unfavorable ruling, some were heartened that the issue had received a public airing through the courts and sympathetic coverage in the state media. Jin Wei, a sociologist at the China Central Party School, said it was cases like this that would shift public attitudes on AIDS. "You have to change the social atmosphere before you can affect any one individual's fate," she said.