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Labour Laws in India: An asset or liability

Abhigya Singh

INTRODUCTION

Labours have been migrating towards their home since the beginning of lockdown. It shows that the labour laws implemented in our country have failed poorly. If the government suspends the existing labour laws what effect will it have on the labours? These laws include Industrial Disputes Act, Minimum Wages Act, The Factories Act, etc. These acts which are existing have a devastating effect on the working and functioning of labour activities in the state. Now we will explore the various laws and their importance.

INDUSTRIAL DISPUTES ACT

In an industry there is sure to be differences between the employees and the employers which may lead to lockouts and strikes. This act aims to maintain uninterrupted and peaceful working condition in the industry. It lays down provisions for clear and unbiased investigation and settlement of the disputes which include conciliation, arbitration and adjudication.

Under the act, the employees are required to provide compensation to the employees working in their Industrial Establishment when they shut down or lay off the employees. It also requires the employers to give a prior notice of 90 days to the employees before closure. They are also required to have the government notice for this process.

Important sections of this act are as follows:

- Section 2A: As per this section, when any employer removes or lays off any worker from his service, then the dispute arising between them is considered as an industrial dispute. No other fellow employee or employer must be part of the dispute to deem it as an industrial dispute.
- Section 2A(2): Under this section, the worker can write an application for settlement of the dispute to the conciliation. If the dispute is not solved within three months then he can approach the labour courts.
- Section 2A(3): Under this section, the worker can reach the labour courts or tribunals within three years of dismissal and discharge of service.
- Section 25(C): As per this section, the workers are allowed to lay off compensation when they have worked for minimum one year and the compensation amount must be half of the amount of wages and allowance which is payable to them.
- Section 25(M): As per this section, when there are more than 100 workers employed in an industrial establishment, the employers need to have permission from the government. Without the permission, the act of lay off will be deemed illegal.
- Section 25(G): This section deals with the procedure of retrenchment and the employees have to follow the principle of 'last come, first go'.

The Industrial Dispute Act is an important one for the interests and rights of workers and enables peaceful working condition in the industry. The suspension of this act may lead to unrestricted power in the hands of the employers related to the hiring and firing of the workers. Since these laws remain suspended, they can easily appoint and fire the workers without even requiring the permission of government. They can easily remove them from work without prior notice. For example, if there is the employer who wants to increase his profit then he can remove the workers after production without any prior notice and reason. The workers will have no choice and will have to follow the command of the master. It will also promote Unfair Trade Practices on behalf of the employers and the trade unions. The trade unions can easily blackmail and take undue advantage of the employers.

MINIMUM WAGES ACT

The exploitation of labourers has been a part of Indian society for a very long period of time. To prevent this, the Minimum Wage Rate Act was passed which protects and promotes the interest and well-being of the workers from the unethical practices undertaken by the employers.

According to this act, the government will fix the minimum wage rate by taking into account the wage period for which the labour has worked. This act leads to constitution of a wage committee which will have members compromising from both sides, i.e. employees and employers. The committee will be headed by a neutral or independent person who has no relation or interest to either of the sides. There is an Advisory Board under the section 7 of the act which is responsible for giving recommendation related to the fixing of wages to the government. The act lays down that failure of payment of minimum wage is a culpable offence. As per the section 22 of the act, this may lead to imprisonment up to 5 years and fine of 10,000 or both.

Important sections of this act are as follows:

- Section 3: This section defines that it is the responsibility of 'appropriate government' to fix the minimum wage rate. The term 'appropriate government' takes into account Central and State government and the local governing bodies.
- Section 9: This section focuses on the act of appointing and creating a committee which is responsible for giving recommendation and advices to the government regarding the wage rates.
- Section 11: As per this section, the workers are entitled to be paid their wages in cash form. It is the government which is responsible to look into the process about how the labours are paid their wages.

- Section 22: This section deals in particular with the quantum of punishment when the employers fails to pay the minimum wage rates to the workers working under them. If the employer is unable to pay the wages then there will be a fine of 1,00,000 and there may be imprisonment upto 5 years. Suspension of this act may lead to exploitation of labourers as they don't have any remedy to go to court of law. They will work at a lower wage rate as there will be no provision which will bind the employees to pay minimum wage rate. For example, if the labour has worked for one week and the wage payable to him is 140 as the wage rate is 20 per day. The employer pays him only 100 which is less than the minimum wage rate as decided by the government. The labours have got no other option than to accept this as there is no liability on the employers. This will effect the situation of the labours as this can be called bondage labour. As the workers will not be paid equal to their work and labour they will be exploited and it will adversely effect the economy of our country.

THE EQUAL REMUNERATION ACT

For a very long period of time, there had been discrimination between men and women regarding the payment of wages. Women were generally paid lower wages as compared to their counterpart. This act lays down that the employers must not give different remuneration to their employees based on sex for the works done by them. There must be no discrimination based on the ground of sex regarding hiring of workers or payment of remuneration. As per the act, it is the responsibility of the government to appoint a 10 member Advisory Committee which will consist 50% of women to take decisions pertaining to policies required for the workers. It is also the liability of the government to appoint a officer who will look into the complaints and claims made regarding non-compliance of the act. The failure to comply with this act may lead to punishment of fine of 10,000 upto 20,000 or imprisonment of 3 months which may extend to one year.

Important sections of this act are as follows:

- Section 2: This act deals with the fact that there must be no discrimination between men and women regarding the payment of wages. They must be paid equal wages as decided by the government and the employers will have to follow it.
- Section 7: This particular section deals with the appointment of an officer who will look into the complaints made by the workers regarding the infringement of their right to equal pay.
- Section 8: As per this section, the employer is required to create and maintain a proper record of the remuneration paid to the workers in detailed manner. This can help in finding out whether there is any discrimination or not.

- Section 10: This particular section deals lays down the punishment when the employer fails or is unable to fulfil the conditions mentioned under the act. The offender will be punished with a fine of 10,000 which may extend to 20,000 and imprisonment of 3 months extending up to 1 year.
- Section 13: Under this section the Central government has the power to formulate policies and give recommendation regarding making any changes into the act.

The suspension of this act will give rise to discrimination of payment of wages between men and women. It will result in exploitation of women labour and the owners can take undue advantage. When the whole country is trying to reduce the gap between men and women, without this act it will be hard or impossible to achieve this goal of gender equality. For example if there are two managers in a company out of which one is a male and the other as a female. They both do same amount of work along with equal working hour but in absence of this act, the employer can easily underpay the female employee and there will no one to question this particular act of theirs. This will bring the interest and rights of the female in a questionable position and no one can be held liable for it. This will affect their right to equal pay for work.

THE FACTORIES ACT

This act came into force in 1948 which takes into account the rules and regulations of working conditions of workmen in factories involving health, safety, welfare and annual leave, etc. It lays down that workers must not work more than 48 hours in a week in the factory and also specifies that the employers must take proper precaution and care related to proper health, safety and welfare of the labourers.

The act lays down that if provision of the act are not followed by the owner then it may lead to imprisonment extending up to 2 years or fine of 1,00,000 or both. If the owner's activity leads to accident causing death or serious bodily injury, then there will be fine of 25,000 if it leads to death and fine of 5,000 if it leads to serious bodily injury. When the owner is found guilty the second time under section 92 then there will be imprisonment up to 3 years and fine of minimum 10,000 and maximum 2,00,000 or with both.

Important sections of this act are as follows:

- Section 2: This section deals with the various important definitions such as what is a factory, who is an occupier, worker and what is a hazardous process? It helps to understand the industrial establishment and its various individuals which fall under this act.

- Section 7(A): This section lays down the duty of an occupier or manager of the factory. Some of the duties are to provide proper facilities to the workers for their safety and welfare. Another duty is to create such healthy and safe working conditions for the labours which is riskless. The manager is responsible to inform the labours about the dangers and risk which may arise from their work.
- Section 40(B): This particular section lays down that if there are more than one thousand workers in a factory or if the government deems the factory to be hazardous , then it is the duty of the employer to appoint a safety officer.
- Section 79: Under this section, the worker may be allowed wages even when they are on leave and the decision can be taken with the advice and recommendation given by the committee constituted under the Industrial Dispute Act.

When the workers are employed in an industry then he is surrounded by multiple risk and dangers and this particular act tries to reduce these risks. The safety and health are give advantage and prioritize under this act .If this act is suspended then the precautionary measures taken by the owners to maintain health and safety of workers will vanish and will put the workers in a dangerous situation which will pose a threat to their interest and rights. In our country the situation of the industries are still man driven so the workers take risks to complete the job. What if there is no safety measures? Who will be held liable for any accident arising during the work. The employers will not try to spend on the health and safety of the workers thus putting their life in danger. This particular act gives equal importance to every single worker who is employed.

CONTRACT LABOUR ACT

This act came into force in 1970 which deals with the rights and interests of contract labour. Contract labourers are not direct employee of the industrial establishments. They are handled by the Contractor who is remunerated by the employer who hire the contract labour. It is the contractor who pays wages and controls the action of the labourers.

According to the act, the employer and contractor have to get them registered and acquire a certificate from the government. The contractor requires to hold a license for contract labour which holds relevant information such as work hours, wage rate, working conditions.

It is the responsibility of the employers and contractor that the labours are given wages as per the decision of the government. They must also provide various facilities such as canteen, restrooms, first aid kit, healthy food and proper sanitation. Non compliance of this act may lead to payment of fine of 10,000 or imprisonment of 3months or both.

Important sections of this act are as follows:

- Section 7: Under this section, the owner of the industry establishment is required to register itself with the officer appointed by the government in a defined procedure.
- Section 12: As per this particular section, the contractor is required to as per the license issued by the issuing officer. This license must contain various important information such as wage payable, time period of work and the working condition.
- Section 16-19: These sections deal with the facilities which must be given and made available to the contract labours working in the factory which include the first aid kit, canteen, restrooms and proper sanitation.
- Section 20: This particular section lays down that it is the responsibility and liability of the employer to provide the basic benefits and facilities to the labours.
- Section 21: This section deals with the process of payment of wages to the labours. It is the responsibility of the contractor to pay the wages to the labours. It is the principle employer's responsibility to make sure that the wages are paid accordingly.

The Contract Labours are an important asset for our economy. This particular act puts emphasis on the fact that their interest are protected and promoted. It lays down the procedure under which the labours are employed in the industry. The employers cannot boycott these procedure laid down and these prevents them from taking their undue advantage. Suspension of this act will pose a threat to the interest and rights of the contract labours. These labours will be open to unethical, corrupted practices of the employers and will have no remedy. In the absence of this act, the contractor can easily exploit the labours with the employers. For example, if the principle employer gives the contractor 1,000 to pay to the ten labours employed in his establishment and the contractor pays only 900 and thus keeps 100 in his pocket. So this will not be a crime as there is no said act to regulate his particular act.

CONCLUSION

The situation of the labours in India is very critical and requires much needed preference by the government. The labours laws existing in the country tends to protect the interest of labours and workers and prevent them from exploitation by the employers and owners. Labours form the backbone of the economy and are the real heroes behind the constant rise of the country's industry. Rights and interest of labours must be protected.

Absence of these law will lead to the following situations:

- The owner can easily hire and fire the workers at their own will.
- There will be no minimum wage rate which means workers will not be paid as per their work.
- There will be discrimination in payment of remuneration between men and women.

If the laws are suspended then there will be chaos and unrest throughout the country. For example in the absence of Industrial Dispute Act there will be no security of job for the worker. The owner will fire them from job at their will. It will also affect the overall productivity of the labours because they will not be able to work according to their skill and efficiency. They will always be in a tighter position as before undertaking any job they will be unsure whether how long it will last and they cannot keep their opinions freely.

These labour laws try to reduce the wage gap between men and women. It gives a sense of pride and joy to the women as they find themselves in a position equal to that of man. If these laws are not there then the owners can easily underpay the women although they work as hard as their counterpart and contribute to the overall productivity. It will also affect the men as they will longer be paid the wage as per their work and they cannot go to any authority as they will not have any right to do so.

The workers employed in these industries and factories are always surrounded by the danger and risks involved in their work and job. So these laws bind the owners and employers to be responsible to maintain the health, hygiene and safety of the labour. Suspension of these laws mean that no one can be held liable for the harms occurring to the labours. The working condition will make them vulnerable.

Labours form the backbone of the economy and are the real heroes behind the constant rise of the country's industry. Rights and interest of labours must be protected.