

Labour Welfare under the Factories Act, 1948

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Abstract

Indian Constitution protected the right to life and personal liberty. It includes the right to livelihood. Thus, it is the responsibility of the state to protect and implement this right in the modern period of globalization. Similarly, the Directive Principles of state policy states about the social security provisions in the interest of the labours in India. Therefore, labour welfare and security is not only protected but also state is required to implement it by adequate means. In India there are several legislations to protect the welfare of the labour. Social security means not only the protection of the income from loss but also the basket of policies created to grant the slandered of life to labour in society.

KEYWORDS: - Safety, hazardous, factory, welfare, labour, night shift, fit person, measures, process.

Introduction

India is a welfare state hence bound to follow the socialism pattern. As it is bound to have certain protection about the reseasonable slandered of living for the well being of the society. The growing unemployment created the problems of labour exploitation. This problem is to be tackled in the new economic era of globalization. This fact encouraged me to do the study of labour protection in the Indian legal framework i.e. the social security in the modern economic condition. The Indian Constitution protected the right to life and personal liberty. It includes the right to livelihood. Thus it is the responsibility of the state to protect and implement this right in the modern period of globalization. Similarly the Directive Principles of state policy states about the social security provisions in the interest of the labours in India. Therefore labour welfare and security is not only protected but also state is required to implement it by adequate means. In India there are several legislations to protect the welfare of the labour. Social security means not only the protection of the income from loss but also the basket of policies created to grant the slandered of life to labour in society. This research tries to focus the welfare measures for the employees rather than the welfare of the employers in the light of the Factories Act, 1948.

Objectives of study

1. To study the labour welfare.
2. To study the Factories Act,1948.
3. To find out the labour welfare provisions.
4. To find out the drawbacks of the Factories Act,1948.
5. To give suggestions to cure the drawbacks of the Factories Act, 1948.

Nature and Scope of the study

The Factories Act, 1948 and the labour welfare provisions of the said act in the light of the Indian legal framework is the scope of the study. It also includes the study of important case laws on the said topic.

Research Methodology

In preparation of this Research, information collected from the Secondary data like books, case laws, opinions etc. This is a arm chair research therefore primary data collection is not concentrated. The Factories Act, 1948, the report of the National Law Commission are the focused sources in the preparation of this research paper.

Hypothesis

1. Labour welfare is the Constitutional goal to be attained.
2. The Factories Act, 1948, contains welfare provisions.
3. The labour welfare provisions needs to be expanded.
4. There are certain drawbacks of the welfare provisions.
5. The Factories Act, 1948, to be amended.

Labour welfare under the Factories Act, 1948.

In India there are varies laws are enacted and implemented to protect the well-being of the worker in society. Society is a dynamic. It makes development. In the progress of the society human plays the important role. Labour being larger section in the society needs to be protected. The Factories Act,1948 Contains the following provisions for the welfare of the labours.

1. Facities and Conveniences

The factory should be kept clean.¹ There should be arrangement to dispose of wastes and effluents.² Ventilation should be adequate. Reasonable temperature for comfort of employees should be maintained.³ Dust and fumes should be controlled below permissible limits.⁴ Artificial humidification should be at prescribed standard level.⁵ Overcrowding should be avoided.⁶ Adequate lighting, drinking water, latrines, urinals and spittoons should be provided.⁷ Adequate spittoons should be provided.⁸

2. Welfare

Adequate facilities for washing, sitting, storing clothes when not worn during working hours.⁹ If a worker has to work in standing position, sitting arrangement to take short rests should be provided.¹⁰ Adequate First aid boxes should be provided and maintained¹¹

3. Facilities in case of large factories

Following facilities are required to be provided by large factories - Ambulance room if 500 or more workers are employed; Canteen if 250 or more workers are

¹ . Section 11 of the Factories Act, 1948.

² . Section 12 of the Factories Act, 1948.

³ . Section 13 of the Factories Act, 1948.

⁴ . Section 14 of the Factories Act, 1948

⁵ . Section 15 of the Factories Act, 1948.

⁶ . Section 16 of the Factories Act, 1948.

⁷ . Section 17&18 of the Factories Act, 1948.

⁸ . Section 20 of the Factories Act, 1948.

⁹ . Section 42 of the Factories Act, 1948.

¹⁰ . Section 44 of the Factories Act, 1948.

¹¹ . Section 45 of the Factories Act, 1948.

employed. It should be sufficiently lighted and ventilated and suitably located.¹²; Rest rooms / shelters with drinking water when 150 or more workmen are employed¹³; Crèches if 30 or more women workers are employed.¹⁴; Full time Welfare Officer if factory employs 500 or more workers¹⁵; Safety Officer if 1,000 or more workmen are employed.

4. Safety

All machinery should be properly fenced to protect workers when machinery is in motion.¹⁶ Hoists and lifts should be in good condition and tested periodically.¹⁷ Pressure plants should be checked as per rules.¹⁸ Floor, stairs and means of access should be of sound construction and free from obstructions.¹⁹ Safety appliances for eyes, dangerous dusts, gas, and fumes should be provided.²⁰ Worker is also under obligation to use the safety appliances. He should not misuse any appliance, convenience or other things provided.²¹ In case of hazardous substances, additional safety measures have been prescribed.²² Adequate firefighting equipment should be available.²³ Safety Officer should be appointed if number of workers in factory is 1,000 or more.²⁴

5. Working Hours

A worker cannot be employed for more than 48 hours in a week.²⁵ Weekly holiday is compulsory. If he is asked to work on weekly holiday, he should have full holiday on one of three days immediately or after the normal day of holiday.²⁶ He cannot be employed for more than 9 hours in a day.²⁷ At least half an hour rest should be provided after 5 hours.²⁸ Total period of work inclusive of rest interval cannot be more than 10.5 hours.²⁹ A worker should be given a weekly holiday. Overlapping of shifts is not permitted.³⁰ Notice of period of work should be displayed.³¹

6. Overtime Wages

If a worker works beyond 9 hours a day or 48 hours a week, overtime wages are double the rate of wages are payable.³² A workman cannot work in two factories. There is

¹² . Section 46 of the Factories Act, 1948.

¹³ . Section 47 of the Factories Act, 1948.

¹⁴ . Section 48 of the Factories Act, 1948.

¹⁵ . Section 49 of the Factories Act, 1948.

¹⁶ . Section 21-27 of the Factories Act, 1948.

¹⁷ . Section 28-29 of the Factories Act, 1948.

¹⁸ . Section 31 of the Factories Act, 1948.

¹⁹ . Section 32 of the Factories Act, 1948.

²⁰ . Section 35-36 of the Factories Act, 1948.

²¹ . Section 111 of the Factories Act, 1948.

²² . Section 41A-41H of the Factories Act, 1948.

²³ . Section 38 of the Factories Act, 1948.

²⁴ . Section 40 B of the Factories Act, 1948.

²⁵ . Section 51 of the Factories Act, 1948.

²⁶ . Section 52 (1) of the Factories Act, 1948.

²⁷ . Section 54 of the Factories Act, 1948.

²⁸ . Section 55 of the Factories Act, 1948.

²⁹ . Section 56 of the Factories Act, 1948.

³⁰ . Section 58 of the Factories Act, 1948.

³¹ . Section 61 of the Factories Act, 1948.

³² . Section 59 (1) of the Factories Act, 1948.

restriction on double employment.³³ However, overtime wages are not payable when the worker is on tour. Total working hours including overtime should not exceed 60 in a week and total overtime hours in a quarter should not exceed 50. Register of overtime should be maintained. In *R Ananthan v. Avery India*,³⁴ It was held that an employee working outside the factory premises like field workers etc. on tour outside headquarters are not entitled to overtime.

7. Employment of Women

A woman worker cannot be employed beyond the hours 6 a.m. to 7.00 pm. State Government can grant exemption to any factory or group or class of factories, but no woman can be permitted to work during 10 PM to 5 AM. Shift change can be only after weekly or other holiday and not in between.³⁵

8. Night Shift for women:

Factories Act has been proposed to be amended to allow night shift for women workers. The Government has decided to amend Section 66 of the Factories Act, 1948 to allow employment of women workers between 7.00 pm and 6.00 am. The demand of women's organizations and in tune with the present economic globalization, the Government has decided to bring in then required changes in the Act. This flexibility would be available to all manufacturing units including the apparel sector. This decision has been taken after meetings with the representatives of the employers and the trade unions. The proposed Bill will empower the State Governments for allowing the necessary flexibility in employment of women during night shift in factories.

The proposed amendment would inter-alia provide that the employer has to ensure occupational safety and adequate protection to the women workers. However, the State Government or any person authorised by it would be allowing employment of women during night only after consulting the workers or their representative organizations and concerned employers or their representatives. The State Governments are also empowered to frame their own rules for allowing such permissions.

9. Record of Workmen

A register (muster roll) of all workers should be maintained. No worker should be permitted to work unless his name is in the register. Record of overtime is also required to be maintained.³⁶

10. Leave

A worker is entitled in every calendar year annual leave with wages at the rate of one day for every 20 days of work performed in the previous calendar year, provided that he had worked for 240 days or more in the previous calendar year. Child worker is entitled to one day per every 15 days. While calculating 240 days, earned leave, maternity leave up to 12 weeks and lay off days will be considered, but leave shall not be earned on those days.³⁷ Leave can be accumulated upto 30 days in case of adult and 40 days in case of child. Leave admissible is exclusive of holidays occurring during or at either end of the leave period. Wage for period must be paid before leave begins, if leave

³³ . Section 60 of the Factories Act, 1948.

³⁴ . 1972(42) FJR 304 (Mad HC)

³⁵ . Section 66 of the Factories Act, 1948.

³⁶ . Section 62 of the Factories Act, 1948.

³⁷ . Section 79 of the Factories Act, 1948

is for 4 or more days.³⁸ Leave cannot be taken for more than three times in a year. Application for leave should not normally be refused. [These are minimum benefits. Employer can, of course, give additional or higher benefits].⁶²

11. Wages for overtime and Leave Salary

Wages for leave encashment and overtime will include dearness allowance and cash equivalent of any benefit. However, it will not include bonus or overtime.

12. Child Employment

Child below age of 14 should not be employed.³⁹ Child above 14 but below 15 years of age can be employed only for 4.5 hours per day or during the night.⁴⁰ He should be certified fit by a certifying surgeon.⁴¹ He cannot be employed during night between 10 pm to 6 am.⁴² A person over 15 but below 18 years of age is termed as 'adolescent'. He can be employed as an adult if he has a certificate of fitness for a full day's work from certifying surgeon. An adolescent is not permitted to work between 7 pm and 6 am.⁴³ There are more restrictions on employment of female adolescent. Register of child workers should be maintained.⁴⁴

13. Display on Notice Board

A notice containing abstract of the Factories Act and the rules made there under, in English and local language should be displayed. Name and address of Factories Inspector and the certifying surgeon should also be displayed on notice board.⁴⁵

14. Notice of Accidents, Diseases Etc.

Notice of any accident causing disablement of more than 48 hours, dangerous occurrences and any worker contracting occupational disease should be informed to Factories Inspector.⁴⁶ Notice of dangerous occurrences and specified diseases should be given.⁴⁷

15. Obligation regarding Hazardous Processes / Substances

Information about hazardous substances / processes should be given. Workers and general public in vicinity should be informed about dangers and health hazards. Safety measures and emergency plan should be ready. Safety Committee should be appointed.

Major findings

The concept of 'welfare' is necessarily dynamic, bearing a different interpretation from country to country and from time to time, and even in the same country, according to its value system, social institution, degree of industrialization and general level of social and economic development. Even within one country, its content may be different from region to region. According to pre-Independence notions, it could cover, apart from known amenities, items like housing, medical and educational facilities, cooperative societies, holidays with pay and social insurance measures. In our Constitution refer generally to the promotion of the welfare of the people. In its specific application to the

³⁸ . Section 81 of the Factories Act, 1948

³⁹ . Section 67 of the Factories Act, 1948

⁴⁰ . Section 71 of the Factories Act, 1948

⁴¹ . Section 68 of the Factories Act, 1948

⁴² . Section 71 of the Factories Act, 1948

⁴³ . Section 70 of the Factories Act, 1948

⁴⁴ . Section 73 of the Factories Act, 1948

⁴⁵ . Section 108(1) of the Factories Act, 1948

⁴⁶ . Section 88 of the Factories Act, 1948.

⁴⁷ . Section 88A & 89 of the Factories Act, 1948

working class, 'securing just and humane conditions of work' has been highlighted, but what these actually imply cannot be specified in rigid terms for all times.

Recommendations

Welfare outside the establishment as stated below to be created for all factories.

1. Maternity benefit,
2. social insurance measures including gratuity, pension, provident fund and rehabilitation,
3. benevolent funds,
4. medical facilities including programmes for physical fitness and efficiency, family planning and child welfare,
5. 'education facilities including adult education,
6. housing facilities,
7. recreation facilities including sports, cultural activities, library and reading room,
8. holiday homes and leave travel facilities,
9. workers' cooperatives including consumers' cooperative stores, fair price shops and cooperative thrift and credit societies,
10. vocational training for dependants of workers,
11. other programmes for the welfare of women, youth and children and
12. Transport to and from the place of work.

Conclusion

It is concluded that labour welfare is the responsibility of state rather than demand of time. Thus, it is the responsibility of the state to protect and implement this right in the modern period of globalization. In India there are various laws are enacted and implemented to protect the well-being of the worker in society.

References

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4. Law in Changing Society- W. Friedmann,
5. The Wealth of Nations- Adam Smith,