



# THE HUMAN RESOURCE

Issue 01 | July - September 2021

Benefits

skill

Career

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Promotion

COMPENSATION

EMPLOYEE  
RIGHTS!

WORKING  
HOURS

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NATIONAL INSTITUTE OF PERSONNEL MANAGEMENT

KARNATAKA CHAPTER

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# THE HUMAN RESOURCE

Quarterly Publication of National Institute of Personnel Management - Karnataka Chapter

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Editorial Committee



KARNATAKA CHAPTER

## CHAIRMAN'S MESSAGE



Dear Members,

Warm greetings to you all.....

It is a great privilege and honour to serve as the Chairman of this prestigious Institution. I would like to express my sincere gratitude to all of you for electing me and giving me an opportunity to serve as Chairman of NIPM-KC.

I am privileged to have an excellent committee of talented, young and experienced HR Professionals whose support and expertise encourages me to carry forward NIPM agenda as well as to take new initiatives.

Our team intends to organise a range of activities like evening lectures, professional training programs and workshops to enhance the quality and add value to the HR Professionals and all the participants. We are also planning to organize a conference in the coming days. We are also thinking of organising quarterly legal update sessions, from the legal experts for the benefit of all the Members/Professionals.

I believe that, "**It doesn't matter who you are, it is who you choose to be**", and all those who associate themselves with NIPM have chosen to be the better version of themselves year by year. We, as a team here in NIPM have the platform and opportunity to give new vision and values to our young HR Professionals and thereby make a difference.

I earnestly ask for your support in collaborating with other Professional bodies and Government Authorities to organise many joint programmes in the days to come. We need to focus on strengthening the existing NIPM clusters located in different parts of Bangalore.

I take this opportunity to complement the editorial team of, "**THE HUMAN RESOURCE**", who have put-in dedicated efforts to bring out this Journal with excellent compendium of articles. Our team always supports and provides resources to make it possible to bring out this magazine every quarter.

We would like to invite new ideas from the Members, Senior Professionals and Past Chairmen to support NIPM-KC members to grow professionally and intellectually.

Warm Regards

**Robert Cutinha**

Chairman - NIPM - KC



KARNATAKA CHAPTER

# EDITORIAL MESSAGE



From the Editorial Committee

Dear Reader,

We are pleased to present to you the Quarterly issue of The Human Resource. It shall be our endeavour to bring to you a Quarterly compendium which will serve as a cauldron of knowledge with interesting and refreshing articles, a synopsis of the Quarter gone by and a peek into the Quarter to come. We will strive towards value addition by focussing on contemporary topics in HR.

In this edition we have focussed on the subject which is most debated and discussed of late - 'THE LABOUR CODE'. The new labour code is set to be implemented during the most challenging of times that the planet has witnessed in the last few decades, bringing with it newer challenges for the Employers and Employees in India. Heraclitus, the ancient Greek philosopher, remarked that "**The only constant in life is change**". This new change in our lives is analysed, debated and questioned by Mr. S N Murthy, Senior Advocate, Mr. Muralidhara, Advocate and Mr. Vittala Rao, Management Consultant - through their insightful articles. They bring to us not only the background of this law, but also a critical analysis of the same and some thoughts on the way forward.

We introduce to you the new Team for the year 2021-23 in this edition and also capture the events and programmes that were conducted from July 2021 - September 2021. We have also shared with you the programmes/events that we wish to conduct in the coming months, for which we look forward to your participation.

We welcome members to share their suggestions on what subject/theme they are keen on exploring. An e-mail may be sent to [nipmkc@gmial.com](mailto:nipmkc@gmial.com) with your ideas which will be considered by us. We are certain that The Human Resource will be not just a good read, but something worth preserving.

**Mrs. Karuna .S.G**  
Chairperson - Editorial Committee  
EC member, NIPM - KC (2021-23)

# THE CODE ON WAGES 2019

By S.N. Murthy | Senior Advocate

The Code on Wages 2019 is an amalgamation of four existing labour enactments viz., The Payment of Wages Act, 1936, The Minimum Wages Act, 1948, The Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976. An attempt has been made to reduce the number of legislations by bringing a code comprising of all the above said four enactments. Some of the salient features of The Code on Wages 2019 are as under:

**A) Section 2(f) of the Code defines 'Contractor' as under:**

"Contractor", in relation to an establishment, means a person, who—

- (i) undertakes to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, through contract labour; or
- (ii) supplies contract labour for any work of the establishment as mere human resource and includes a sub-contractor;

A clear attempt is made by emphasizing that a person who merely supplies labour for any work of the establishment (principal employer) falls within the definition of contractor. The Hon'ble Supreme Court, in a number of cases had taken the view that mere supply of contract labour could lead to the conclusion that the contract is a 'sham'. This is because, the Hon'ble Apex Court has been of the view that if the work of contract labour is supervised or controlled by the principal employer, the contract could be deemed to be 'sham contract'. Recently, the Hon'ble Supreme Court in Bharat Heavy Electricals Limited Vs. Mahendra Prasad Jakhmola reported in 2019 (2) LLJ page 1 has analysed what constitutes contract labour and at para-12 of the Judgment reproduced paras-38 and

39 from the Judgment in International Airport Authority of India Vs. International Air Cargo Workers Union. It reads thus:

The expression "control and supervision" in the context of contract labour was explained by this Court in International Airport Authority of India v. International Air Cargo Workers' Union thus: (SCC p. 388, paras 38-39):

38. ...if the contract is for supply of labour, necessarily, the labour supplied by the contractor will work under the directions, supervision and control of the principal employer but that would not make the worker a direct employee of the principal employer, if the salary is paid by a contractor, if the right to regulate the employment is with the contractor, and the ultimate supervision and control lies with the contractor.

39. The principal employer only controls and directs the work to be done by a contract labour, when such labour is assigned/allotted/sent to him. But it is the contractor as employer, who chooses whether the worker is to be assigned/allotted to the principal employer or used otherwise. In short, worker being the employee of the contractor, the ultimate supervision and control lies with the contractor as he decides where the employee will work and how long he will work and subject to what conditions. Only when the contractor assigns/sends the worker to work under the principal employer, the worker works under the supervision and control of the principal employer but that is secondary control. The primary control is with the contractor."

After analysing paras-38 and 39 of the Judgment in International Airport Authority case, the Hon'ble Supreme Court at para-20 has stated thus:

"20. From this judgment, it is clear that test No. 1 is not met on the facts of this case as the contractor pays the workmen their wages. Secondly, the principal employer cannot be said to control and supervise the work of the employee merely because he directs the workmen of the contractor 'what to do' after the contractor assigns/allots the employee to the principal employer. This is precisely what paragraph 12 explains as being supervision and control of the principal employer that is secondary in nature, as such control is exercised only after such workman has been assigned to the principal employer to do a particular work."

It is clear from the above judgment that if the contractor pays wages to the workmen and the contractor assigns/sends the worker to the principal employer consequent to which worker works under the supervision and control of the principal employer, that is still secondary control as the primary control is with the contractor.

**B) Section 2(l) defines 'employer' as under:**

(l) "employer" means a person who employs, whether directly or through any person, or on his behalf or on behalf of any person, one or more employees in his establishment and where the establishment is carried on by any department of the Central Government or the State Government, the authority specified, by the head of such department, in this behalf or where no authority, is so specified the head of the department and in relation to an establishment carried on by a local authority, the chief executive of that authority, and includes,—

(i) in relation to an establishment which is a factory, the occupier of the factory as defined in clause (n) of section 2 of the Factories Act, 1948 and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the said Act, the person so named;

(ii) in relation to any other establishment, the person who, or the authority which, has ultimate control over the affairs of the establishment and where the said affairs is entrusted to a manager or managing director, such manager or managing director;

(iii) contractor; and

(iv) legal representative of a deceased employer;"

A reading of the above Section gives the impression that those employed by an employer through any person or on his behalf or on behalf of any person is also an employee of the employer. In other words, even for contract labour, the employer is the principal employer. This is bringing the definition of employer in line with those existing under the ESI Act, EPF Act, Factories Act and the like. This raises a serious question, particularly in the light of the fact that even for the purpose of bonus, the above definition of employer holds good. If that is so, a question arises as to who is responsible for payment of bonus to contract workmen, and what should be the quantum of bonus payable to contract labour. Once you hold that workman engaged through a contractor should be taken to have been engaged by the employer (principal employer), it becomes obvious that whatever provisions of the Bonus Act that applies to principal employer in respect of his direct employees will apply with equal force to contract labour also.

**C) Section 2(y) defines 'Wages' as under:**

"2(y) "wages" means all remuneration whether by way of salaries, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes,—

- (i) basic pay;
- (ii) dearness allowance; and
- (iii) retaining allowance, if any,

but does not include--

- (a) any bonus payable under any law for the time being in force, which does not form part of the remuneration payable under the terms of employment;
- (b) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the appropriate Government;
- (c) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
- (d) any conveyance allowance or the value of any travelling concession;
- (e) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment;
- (f) house rent allowance;
- (g) remuneration payable under any award or settlement between the parties or order of a court or Tribunal;
- (h) any overtime allowance;
- (i) any commission payable to the employee;
- (j) any gratuity payable on the termination of employment;
- (k) any retrenchment compensation or other retirement benefit payable to the employee or any ex gratia payment made to him on the termination of employment:

Provided that, for calculating the wages under this clause, if payments made by the employer to the employee under clauses (a) to (i) exceeds one-half, or such other per cent. as may be notified by the Central Government, of the all remuneration calculated under this clause, the amount which exceeds such one-half, or the per cent. so notified, shall be deemed

as remuneration and shall be accordingly added in wages under this clause:

Provided further that for the purpose of equal wages to all genders and for the purpose of payment of wages, the emoluments specified in clauses (d), (f), (g) and (h) shall be taken for computation of wage.

Explanation.--Where an employee is given in lieu of the whole or part of the wages payable to him, any remuneration in kind by his employer, the value of such remuneration in kind which does not exceed fifteen per cent. of the total wages payable to him, shall be deemed to form part of the wages of such employee;"

The above definition is a drastic departure from the existing definition of 'Wages' under Section 2(h) of the Minimum Wages Act, 1948. Under the Minimum Wages Act, 1948, 'wages' is defined as under:

"2(h): "wages" means all remuneration, capable of being expressed in terms of money, which would, if the terms of the contract of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes house rent allowance], but does not include—

- (i) the value of -
  - (a) any house-accommodation, supply of light, water, medical attendance, or
  - (b) any other amenity or any service excluded by general or special order of the appropriate Government;
- (ii) any contribution paid by the employer to any Pension Fund or Provident Fund or under any scheme of social insurance;
- (iii) any travelling allowance or the value of any travelling concession;
- (iv) any sum paid to the person employed to defray special expenses entailed on him by the nature of his employment; or
- (v) any gratuity payable on discharge;

A reading of the two definitions clearly shows that only basic wages and dearness allowance constitute wages under the Code. In other words, when we talk of minimum wages, only the components of basic wages and dearness allowance will have to be taken into consideration. This is virtually undoing the judgment in Airfreight case and in Hindustan Sanitaryware and Industries Limited Vs. State of Haryana Civil Appeal No.2539/2010 decided on 29.04.2019. Now, to satisfy the requirements of the payment of minimum wages, the salary should have components of basic wages and dearness allowance aggregating to not less than what is fixed by the Government as minimum wages. This might call for restructuring of wage structure in a large number of industrial establishments.

- D) Parity in Wages:** Section 3 of the Code clearly lays down that there should be no discrimination on the ground of sex while recruiting an employee for any kind of work and or while fixing remuneration for the same kind of work between male and female employees.
- E) Eligibility for bonus:** This provision is very vague as the ceiling limit for the purpose of coverage under the Act is required to be specified by a notification. Till such notification is published, employers will be in the dark.
- F) Proportionate reduction in bonus:** A new section is introduced where an employee who has not worked on all working days in an accounting year could suffer proportionate reduction in the payment of bonus; and this provision applies only where more than minimum bonus is required to be paid. It is very difficult to find out what the section means, particularly because, bonus is paid on salary earned during the accounting year. An effort, possibly is made to ensure that only those employees who regularly attend should get higher quantum of bonus when bonus beyond the minimum bonus is paid.

- G) Adjustment of customary or interim bonus against bonus payable under the Code:** Where an employer pays Pooja bonus or other customary bonus or pays a part of the bonus payable under the Code before the date on which it becomes payable, such bonus paid could be deducted from the bonus entitlement when paid later.
- H) Authority may get accounts of the employer audited at the cost of the employer:** A new provision with regard to authority appointed to determine the disputes with regard to bonus may appoint auditors to get the accounts of the employer audited at the cost of the employer and then act on the said audit report.
- I) Officers of the appropriate Government empowered to levy penalties in case of violation:** For the first time, a provision is made for imposing penalty, in case of violation of provisions with regard to bonus. An enquiry should be held before levying penalty.
- J) Restriction on officers to initiate criminal prosecution:** The inspector cum facilitator is required to give an opportunity to the employer to comply with the provisions of the Code by way of written direction in case of violations. The time limit for such compliance is also required to be given. If the employer complies with the direction so issued within the specified time, the inspector cum facilitator is not permitted to initiate prosecution proceedings. In case of violation of similar provision/s within a period of five years, there could be prosecution even after compliance.
- K) Composition of offences:** A totally new concept is introduced in the Code, under which, in cases of offences not punishable with imprisonment alone, the authority, on an application by the accused person before or after institution of the criminal prosecution is required to compound the offence for a sum of fifty per cent of the maximum fine provided for such offence.

Those who do not comply with the provisions for the second time within a period of five years will not be entitled to the benefit of compounding.

**L) Draconian provision with regard to Prosecution:** Section 52(1) of the Code on Wages reads thus:

52. (1) No court shall take cognizance of any offence punishable under this Code, save on a complaint made by or under the authority of the appropriate Government or an officer authorised in this behalf, or by an employee or a registered Trade Union registered

under the Trade Unions Act, 1926 or an Inspector-cum-Facilitator.

It is seen from the above that an employee or a union registered under the Trade Unions Act, 1926 may straightaway make a complaint to the judicial magistrate alleging breach of any of the provisions of the Code. In other words, the restriction on prosecution that is in force as on date in the form of trade union requiring sanction of the Government to prosecute the employer for offences is done away with. Now, any employee or registered trade union may straightaway file a criminal complaint. This provision will definitely be misused by the employees as also the trade unions. For every small thing, the employee and the trade union will start threatening the employer with filing of cases before the Judicial Magistrate Court. It looks as though companies will have to engage an advocate only to attend to these cases and should engage officers for the purposes of going and sitting in the court every now and then. This is a highly retrograde step and in no way advances the policy of the

Central Government of improving ease of doing business.

**M) Working Journalists and Sales promotion employees** are brought within the definition of workmen under the Code.

**N) Floor wages to be fixed by the Central Government:** Section 9 of the Code deals with the power of Central Government to fix floor wages. The provision clearly states that the Central Government shall fix floor wages taking into account minimum living standards of a worker. The floor wages may be different for different geographical areas. The provision further makes it clear that the minimum rates of wages fixed by the appropriate Government i.e., respective State Governments shall not be less than the floor wage.

There is no doubt that there are so many areas in the Code which require rules and regulations to be framed for effective implementation. It is possible, that over a period of time, with interpretations of the provisions by the courts, a clear picture would emerge.

The Code on Wages 2019 has received assent of the President of India on 08.08.2019. However, the code or portions of the code as the case may be, will come into effect from the date the Central Government notifies the commencement date in the official gazette. As such, as of now, the existing enactments continue to operate in the field. Once a new Code comes into force, the four enactments viz., The Payment of Wages Act, 1936, the Minimum Wages Act, 1948, The Payment of Bonus Act, 1965 and the Equal Remuneration Act, 1976 would stand repealed.

(will be continued in the next Issue)

*"The views expressed in this Article are that of the author.  
The views contained here are not to be construed as Legal Opinion"*

## Evening Lecture Programme

In September 2021, NIPM-KC in association with HDFC Bank conducted a session on the Importance of implementing NPS and the role of Corporate India. The speakers extensively discussed the role of National Pension Scheme acting as a catalyst for corporate growth and how industries can be enablers for this. The session was attended by approx. 50 participants and appreciated by all present.

### NIPM KARNATAKA CHAPTER



## IMPORTANCE OF IMPLEMENTING NPS & THE ROLE OF CORPORATE INDIA

BY HDFC TEAM

Mr Vivek Agarwal, Regional Head - Karnataka

Mr Sudhakar Kamath, Zonal Head - South

Retirement & Pension, HDFC Life

Zoom Meeting

Date: September 14, 2021

Time: 06:00 PM

Meeting ID: 946 1592 2043

Passcode: 256428



#### KEY DISCUSSION POINTS

Social Security & its Relevance

National Pension Scheme as a catalyst

Role of Corporate India as an Enabler



## A unique Labour Law Certification Programme tailor made to the needs of an organisation.

NIPM successfully delivered to M/s Aditya Birla Fashion & Retail Limited a 3 month certification programme on labour laws, through industry & subject-matter experts viz., Mr. S N Murthy, Senior Advocate, Mr. S N Gopinath, Senior HR & IR Consultant, Mr. Vittala Rao, Management Consultant - IR, Mr. Bhima Rao, Management Consultant and Mrs. Karuna S G, Advocate & POSH Consultant. This programme was curated specifically for M/s ABFRL after identifying the basic training needs for the audience, who were all employees of M/s ABFRL.

Some glimpses of the Certification Ceremony conducted by NIPM-KC on 14.08.2021:





**Event was sponsored by M/s ABFRL.**

NIPM-KC is happy to help identify and cater to any specific and unique training needs of organisations.  
Please write to [nipmhc@gmail.com](mailto:nipmhc@gmail.com) for further information.

# Evening Lecture Programme

In June 2021, Ms. Bharathi Singh, Founder and CEO of SA-MUDRA foundation presented a webinar on CSR during COVID-19. Mrs. Bharathi has extensively worked towards youth wellness and women empowerment. This virtual programme was well received by all participants.



## NATIONAL INSTITUTE OF PERSONNEL MANAGEMENT

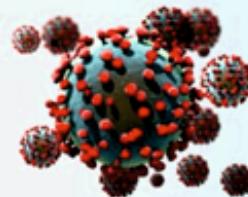


Presents webinar on

### **“COVID-19 and Corporate Responsibility”**

on Friday 4<sup>th</sup> June 2021

06.00 pm - 07.30 pm



COVID-19 pandemic has created havoc across the globe, resulting in disruption in life, business and livelihood of people. Human Resource professional play a pivotal role in reviving business, while reconstructing the lives of people and creating hope and opportunities for them. To pursue this goal HR leaders should enable themselves and become change leaders. Added to this they themselves need to beat the Work stress, monotony of Working from Home and loneliness during lock down days. This webinar is to address these critical issues and explore possibilities.



**BHARATHI SINGH**

*Founder & CEO  
SA-MUDRA FOUNDATION  
Development professional,  
Life Coach, Career Analyst.*

Bharathi Singh is a self-made, well read, Development professional with sincere commitment towards the cause of youth wellness and women empowerment. She has worked towards this cause, creating awareness through theatre, prevention of suicides and saving younger generation. SA-MUDRA FOUNDATION under her able leadership has impacted 1,77,000 people in 13 years of untiring work. Her sincere commitment and excellence in societal service has been recognized through regional, State, National and International Awards including Kempegowda Award from GOK, Change Maker Award by Bangalore management Association, Global Inspirational Women Leadership Award, Exemplary Services to youth by British South India Council of Commerce, Chanakya Award by PRCI.



*Meeting Link:*  
<https://flg.webex.com/flg/j.php?MTID=mf30b46ca921c43b3adf7b73b7e8a97e2>  
Meeting No: 128 564 9435  
Password: bBdK3dcrv46

PR Basavaraju  
Chairman

Dinesh AU  
Secretary

# ನೂತನ ಕ್ಯಾರಿಕಾ ಬಾಂಧವ್ಯ ಸಂಹಿತೆ - ಒಂದು ವಿಶೇಷಣ

- ಮುರಳಿಧರ ಚಿಕ್ಕಮಗಳೂರು | ವರ್ಕೆಲರು

ಕ್ಯಾರಿಕೆಗಳಲ್ಲಿ ಮಾಲೀಕರು ಮತ್ತು ಕಾರ್ಮಿಕರು/ಕಾರ್ಮಿಕ ಸಂಘಗಳ ನಡುವೆ ಉದ್ಘಾಟನಾ ಮಾರ್ಕೆಟ್‌ನಲ್ಲಿ ಕ್ಯಾರಿಕಾ ವಿವಾದಗಳನ್ನು ಶಾಂತಿಸುವುದಕ್ಕಾಗಿ ಹಾಗೂ ಕಾನೂನಾತ್ಮಕವಾಗಿ ಬಗೆಹರಿಸುವಲ್ಲಿ ಮೂರು ಕಾರ್ಮಿಕ ಕಾನೂನುಗಳು, ಅಂದರೆ ಕಾರ್ಮಿಕ ಸಂಘಗಳ ಕಾಯ್ದೆ, 1926 (Trade Unions Act, 1926), ಕ್ಯಾರಿಕಾ ಉದ್ಯೋಗ (ಸಾಧಿಯ ಆದೇಶಗಳು), 1946 (Industrial Employment (Standing Orders) Act, 1946) ಮತ್ತು ಕ್ಯಾರಿಕಾ ವಿವಾದಗಳ ಕಾಯ್ದೆ, 1947 (Industrial Disputes Act, 1947) ಪ್ರಮುಖ ಪಾತ್ರವನ್ನು ವಹಿಸುವುದರ ಬಗೆ ಅಭಿಪ್ರಾಯ ಭೇದವಿರಲಾರದು ಅನೇಕ ದಶಕಗಳಿಂದ ಜಾರಿಯಲ್ಲಿದ್ದ ಈ ಕಾನೂನುಗಳು ಈಗ ರದ್ದಾಗಿ ಮೂರು ಕಾರ್ಮಿಕ ಕಾನೂನುಗಳನ್ನು ಸಂಯೋಜಿಸಿ ಕ್ಯಾರಿಕಾ ಬಾಂಧವ್ಯ ಸಂಹಿತೆ (Industrial Relations Code)ನ್ನು ಜಾರಿಗೊಳಿಸುವ ಪ್ರಯತ್ನವನ್ನು ಕೇಂದ್ರ ಮತ್ತು ರಾಜ್ಯ ಸರ್ಕಾರಗಳು ಕೈಗೊಂಡಿವೆ. ಕಾರ್ಮಿಕ ಕಾನೂನುಗಳು ಸುಧಾರಣೆಯಾಗಬೇಕು ಮತ್ತು ಸರ್ಕಾರಣಗೊಳ್ಳಬೇಕೆಂಬ ಕೇಂದ್ರ ಸರ್ಕಾರದ ಉದ್ದೇಶವನ್ನು ಕ್ಯಾರಿಕಾ ಬಾಂಧವ್ಯ ಸಂಹಿತೆ ಸಾಕಾರಗೊಳಿಸಿದೆಯೇ ಎಂದು ವಿಶೇಷಿಸಬೇಕಾದದ್ದು ಅವಶ್ಯಕ.

## ಕಾರ್ಮಿಕ ಕಾನೂನುಗಳ ಸುಧಾರಣೆಯ ಬೇಡಿಕೆ:

ಜಾಗತಿಕರಣ, ಉದಾರೀಕರಣ ಮತ್ತು ವಿಾಸಗೀಕರಣದ ನೀತಿಗಳನ್ನು ಭಾರತ ಸರ್ಕಾರ ಆಲಂಗಿಸಿ ಜಾರಿಗೊಳಿಸಿದ ಹಿನ್ನೆಲೆಯಲ್ಲೇ ಕಾರ್ಮಿಕ ಕಾನೂನುಗಳು ಸುಧಾರಣೆಗೊಳ್ಳಬೇಕೆಂದು ವಿಶ್ವಭಾಬಾಂಕ (World Bank) ಅಂತರರಾಷ್ಟ್ರೀಯ ಹಳೆಹಾಸು ಸಂಸ್ಥೆ (IMF), ಬಹುರಾಷ್ಟ್ರೀಯ ಹಾಗೂ ದೇಶೀಯ ಕಂಪನಿಗಳ ಬೇಡಿಕೆಯಾಗಿತ್ತು. ಬಂದವಾಳ ತೊಡಗಿಸಿ, ಉದ್ದಿಮೆಗಳನ್ನು ಪ್ರಾರಂಭಿಸುವ ಮುಕ್ತ ಅವಕಾಶದಂತಹೀ ಬಂದವಾಳವನ್ನು ಹಿಂತೆಗೆಯುವ ಮತ್ತು ಉದ್ದಿಮೆಗಳನ್ನು ಮುಚ್ಚುವ ಮುಕ್ತ ಅವಕಾಶ ಈ ಸಂಸ್ಥೆಗಳ ಬೇಡಿಕೆಯ ಅಂತರ್ಗತ ಅಂಶವಾಗಿತ್ತು. ಕಾರ್ಮಿಕರನ್ನು ನೇಮಕಾತಿ ಮಾಡಿಕೊಳ್ಳುವ ಸ್ವಾತಂತ್ರ್ಯದಷ್ಟೇ ಅವರನ್ನು ಕೆಲಸದಿಂದ ತೆಗೆದು ಹಾಕುವ ಸ್ವಾತಂತ್ರ್ಯದ ಬೇಡಿಕೆಯೂ ಮತ್ತೊಂದು ಅಂತರ್ಗತ ಅಂಶವಾಗಿತ್ತು. ಹಲವಾರು ಮಾಲೀಕರ ಸಂಸ್ಥೆಗಳು ಈ ವಿಧಾನಗಳ ಬಗ್ಗೆ ವಿಚಾರ ಸಂಕಿರಣಗಳನ್ನು ಮತ್ತು ವಿಚಾರಕಮೃಟಗಳನ್ನು ಕಾಲಕಾಲಕ್ಕೆ ಏರ್ಪಡಿಸಿ ತಮ್ಮ ಬೇಡಿಕೆಗಳ ಬಗ್ಗೆ ಸರ್ಕಾರಗಳ ಗಮನ ಸೇಳಿದ್ದನ್ನು ಸರಿಸುಬಹುದು.

## ಅನಗತ್ಯ ಕಾರ್ಮಿಕ ಸಂಹಿತೆಗಳು:

ಕಾರ್ಮಿಕ ಕಾನೂನುಗಳ ಸುಧಾರಣೆಯ ಬೇಡಿಕೆಯ ಬಗ್ಗೆ ಗಮನಿಸಬಹುದಾದ ಒಂದು ಪ್ರಮುಖ ಅಂಶವೆಂದರೆ ಮಾಲೀಕರು

ಈ ಕಾನೂನುಗಳ ಸುಧಾರಣೆಯನ್ನು ಬಯಸಿದ್ದರೇ ಹೊರತು, ಅಲ್ಲಿಯವರೆಗೆ ಪ್ರಚಲಿತದಲ್ಲಿದ್ದ ಎಲ್ಲ ಕಾರ್ಮಿಕ ಕಾನೂನುಗಳನ್ನು ರದ್ದುಗೊಳಿಸಿ ಹೊಸ ಸಂಹಿತೆಗಳನ್ನು ಜಾರಿಗೊಳಿಸಬೇಕೆಂಬುದು ವಿಶ್ವ ಭ್ಯಾಂಕ್, ಅಂತರರಾಷ್ಟ್ರೀಯ ಹಣಕಾಸು ಸಂಸ್ಥೆ, ವಿದೇಶೀ/ಸ್ವದೇಶೀ ಕಂಪನಿಗಳ ಬೇಡಿಕೆಯಾಗಿರಲಿಲ್ಲ. ಅಂತರರಾಷ್ಟ್ರೀಯ ಕಾರ್ಮಿಕ ಸಂಸ್ಥೆಯ (ILO) ಒಂದು ಸಮೀಕ್ಷೆಯ ಪ್ರಕಾರ ಕಾರ್ಮಿಕ ಕಾನೂನುಗಳು ಸಮಗ್ರವಾಗಿ ಪರಿಷ್ಕರಣೆಯಾಗಬೇಕೆಂಬುದನ್ನು ಕೇಳಿದ ಉದ್ದಿಮೆದಾರರು ಕೇವಲ 10% ಮಾತ್ರ ಉಳಿದ 90% ಉದ್ದಿಮೆದಾರರು ಕ್ಯಾರಿಕಾ ವಿವಾದಗಳ ಕಾಯ್ದೆ 1947 (Industrial Disputes Act, 1947) ಕ್ಯಾರಿಕಾ ಉದ್ದಿಮೆಗಳ ಸಾಧಿಯ ಆದೇಶಗಳ ಕಾಯ್ದೆ 1947 (Industrial Employment (Standing Orders) Act, 1946) ಗೆ ಕೆಲವು ಪ್ರಮುಖ ಕಲಂಗಳಲ್ಲಿ ತಿದ್ದುಪಡಿಗಳನ್ನು ಬಯಸಿದ್ದರ ಬಗೆ ಮಾಡಿತ್ತಿಗಳಿವೆ. ಅವುಗಳನ್ನು ತಿದ್ದುಪಡಿಗೊಳಿಸುವ ರಾಜಕೀಯ ನಿರ್ಧಾರ ಉದ್ದಿಮೆದಾರರ ಬಯಸಕೆಯನ್ನು ಪೂರ್ವೇಸಲಿತ್ತು ಸಾರಾಸರಿಗೆ ಬದಲಾವಣೆ ಮತ್ತು ತತ್ವರಿಣಾಮವಾಗಿ ಉಂಟಾಗುವ ಗೊಂದಲ ಅನಾವಶ್ಯಕವಾಗಿತ್ತು ಎಂಬುದು ಕಾರ್ಮಿಕ ಸಂಹಿತೆಗಳನ್ನು ಆಭ್ಯಾಸಿಸದವರ ಅರಿವಿಗೆ ಬಂದಿರುವ ಸಂಗತಿಯಾಗಿರಬಹುದು.

## ಸರಳವಾಗಿದ್ದ ಕಾರ್ಮಿಕ ಕಾನೂನುಗಳು:

ಕಾರ್ಮಿಕ ಕಾನೂನುಗಳು ಆಯ್ದು ಕಾಲಫ್ ಟ್ರ್ಯಾಡ್ ಸನ್ವೇಶಗಳಿಗನುಣಾವಾಗಿ ರೂಪಗೊಂಡಿದ್ದು, ಪ್ಲಾಂಟೇಷನ್ ಕಾರ್ಮಿಕರಿಗೆ ಅವರ ಕಾರ್ಯ ಕ್ಷೇತ್ರಕ್ಕೆ ಅನ್ವಯವಾಗುವ ಪ್ಲಾಂಟೇಷನ್ ಲೇಬರ್ ಕಾಯ್ದೆ, ಬೀಡಿ ಕಾರ್ಮಿಕರಿಗೆ ಅನ್ವಯವಾಗುವ ಬೀಡಿ ಮತ್ತು ಸಿಗಾರ್ ಕಾಯ್ದೆ, ಗಳಿಕಾರ್ಮಿಕರಿಗೆ ಅನ್ವಯಿಸುವ ಗಳಿಗಳ ಕಾಯ್ದೆ ಹಿಂತೆ ಆಯಾ ಕಾರ್ಮಿಕ ಕ್ಷೇತ್ರಕ್ಕನುಗುಣವಾದ ಗೋಚರಣೆಯನ್ನು ಹಿಂತೆ ವಿಧಿಸಿದ್ದು ಅವುಗಳ ಆಧಾರದ ಮೇಲೆ ಲಕ್ಷಣತರ ಕ್ಯಾರಿಕಾ ವಿವಾದಗಳ ತೀವ್ರಾನಗೊಂಡಿದ್ದನ್ನು ಮಾಲೀಕರಾಗಲೀ ಅಧಿವಾ ಕಾರ್ಮಿಕ ಸಂಘಟನೆಗಳಾಗಲೀ ಅಲ್ಲಾಗಳೆಯಾವಂತಿಲ್ಲ. ಈ ಕಾನೂನುಗಳು ಕಾರ್ಮಿಕರ ಮತ್ತು ಕಾರ್ಮಿಕ ಸಂಘಟನೆಗಳ ಹಕ್ಕು ಮತ್ತು ಹಿತರಕ್ಷಣೆಗೆ ಸಂಪೂರ್ಣ ಬದ್ದವಾಗಿದ್ದವು ಎಂದು ಹೇಳಲಾಗಿದ್ದರೂ ಸ್ವಲ್ಪ ಮಟ್ಟಿನ ರಕ್ಷಣೆ ನೀಡಿದ್ದವು ಎಂಬುದು ವಸ್ತು ಸತ್ಯ.

## ಎರಡನೇ ರಾಷ್ಟ್ರೀಯ ಕಾರ್ಮಿಕ ಅಂಯೋಗ

ಮೇಲ್ಕೂಡ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಅಸ್ತಿತ್ವದಲ್ಲಿದ್ದ 29 ಕಾರ್ಮಿಕ ಕಾನೂನುಗಳನ್ನು ರದ್ದುಗೊಳಿಸಿ ನಾಲ್ಕು ಹೊಸ ಕಾರ್ಮಿಕ ಸಂಹಿತೆಗಳನ್ನು ತರುವ ಅವಶ್ಯಕತೆ ಕೇಂದ್ರ ಸರ್ಕಾರಕ್ಕೆ ಏನಿತ್ತು

ఎంబుదు ప్రత్యే అటల్ బిహారి వాజపేయి సకార రెండు రోజుల్లో కామిక్ కౌన్సిల్ కామిక్ ఆయోగ రచిసిద్ద లుద్దేళ సంఘటిత కామిక్ కరిగీ అన్నటిసువ కానూనుగళన్ను పరామర్శిసువుదు మత్తు అసంఘటిత కామిక్ కరిగీ కనిష్ట రక్షణ నీడువ కాయ్ద రూపిసువ సలహ పడేయువుదు. ఆదరే ఎరడనే రాష్ట్రాలు కామిక్ ఆయోగ కామిక్ కానూనుగళన్ను నాల్చు సంహితగళన్నాగి సరళికరించబేకందు శిఫారస్తు నీడిత్తు. ఆదరే ఈ శిఫారస్తుగటు సుమారు 12 వషట్కాల కాల నేనెగుదిగే బిద్దిత్తు. అదు మత్తే మరుజీవ పడెదిద్దు నరేంద్ర మోది ప్రధానియాగి అధికారదగద్దుగేయేరిద నంతరవే.

## ಸಂಕೀರ್ಣ ಕಾಮ್ಯಕ ಸಂಹಿತೆಗಳು:

ಭಾರತದ ವ್ಯಾಪಾರ ಸುಗಮವಾಗಿ  
ನಡೆಯಲು ವಂತಹ ವಾತಾವರಣ (Ease of doing Business)  
ಸೃಷ್ಟಿಸೇಕೆಂಬುದು ವಿಶ್ವಾಧಿಕಾರಿಗಳಾಗಿ  
ಒಂದು ಭಾಗ ಕಾರ್ಯಕ್ರಮ ಮತ್ತು ಸುಧಾರಣೆ. ಆದರೆ ಒಂದು ಭಾಗ  
ಕಾರ್ಯಕ್ರಮ ಕಾನೂನುಗಳ ಸರಳೀಕರಣ ಮತ್ತು ಸುಧಾರಣೆ. ಆದರೆ  
ವಿವರಾಂಶವಿಲ್ಲದರೆ, ಸರಳವಾದ ಕಾನೂನುಗಳು ಸಂಕೀರ್ಣ  
ಸಂಹಿತೆಗಳಾಗಿ (Complex Codes) ಹೊಸ ಗೊಂದಲಗಳನ್ನು  
ಸೃಷ್ಟಿಸಿರುವುದು ಗಮನಾರ್ಹ. ವಸ್ತು ಸಂಗಿರಿಯಿಂದರೆ ನಾಲ್ಕು  
ಸಂಹಿತೆಗಳನ್ನು ಕೂಲಂಕುಶವಾಗಿ ಪರಿಶೀಲಿಸಿದಲ್ಲಿ ಪ್ರತಿ  
ಸಂಹಿತೆಯಲ್ಲೂ ಸುಮಾರು 80% ರಷ್ಟು ಕಲಂಗಳನ್ನು ಹಿಂದಿನ  
ಕಾರ್ಯಕ್ರಮ ಕಾನೂನುಗಳಿಂದ ಯಥಾವತ್ತಾಗಿ ಕಾಣಿ ಮಾಡಲಾಗಿದೆ.  
ಆದರೆ ಅಂದಕ್ಕೆ ಇಂದ್ರಾಂದು ಅವಾಂತರ ಅಗತ್ಯವಿತ್ತೇ ಎಂಬುದು  
ಕಾರ್ಯಕ್ರಮ ಸಂಪೂರ್ಣಗಳ ಪತ್ತೆ.

## ಸಂಯುಕ್ತ ರಾಜ್ಯ ವ್ಯವಸ್ಥೆಗೆ ಧಕ್ಕೆ:

## ಹೆಚ್ಚಿನದಾದ ಕೈಗಾರಿಕಾ ಅಶಾಂತಿ:

ಮತ್ತೊಮ್ಮೆ ಸಾಧ್ಯೀ ಆದೇಶಗಳ ಬಗ್ಗೆ ಗಮನಹರಿಸುವುದಾದಲ್ಲಿ, ಸಂಹಿತೆಯ ಪ್ರಕಾರ 300ಕ್ಕೂ ಹೆಚ್ಚು ಕಾರ್ಮಿಕರಿರುವ ಕೈಗಾರಿಕಾ ಸಂಸ್ಥೆಗಳು ಸಾಧ್ಯೀ ಆದೇಶವನ್ನು ಹೊಂದಿರಬೇಕು. ಅಂದರೆ 300ಕ್ಕೂ ಕಡಿಮೆ ಕಾರ್ಮಿಕರನ್ನು ಹೊಂದಿರುವ ಕೈಗಾರಿಕಾ ಸಂಸ್ಥೆಗಳು ಸಾಧ್ಯೀ ನಿಯಮಗಳನ್ನು ಹೊಂದಿರಬೇಕಿಲ್ಲ. ಒಂದು ಸಮೀಕ್ಷೆಯ ಪ್ರಕಾರ ಸಂಹಿತೆ ಜಾರಿಗೊಂಡ ನಂತರ ಸುಮಾರು 90% ಕೈಗಾರಿಕಾ ಸಂಸ್ಥೆಗಳಿಗೆ ಸಾಧ್ಯೀ ನಿಯಮಗಳನ್ನು ಹೊಂದಿರಬೇಕಿಲ್ಲ ಹಾಗೆಯೇ 40% ಸಂಘಟಿತ ಕಾರ್ಮಿಕರು ಸಾಧ್ಯೀ ನಿಯಮಗಳ ಅನ್ವಯದಿಂದ ಹೊರದೂಡಲ್ಪಟ್ಟಿರುತ್ತಾರೆ. ಇದೇನೂ ಮಾಲೀಕರಿಗೆ ಸಂತಸ ತರುವ ವಿಚಾರವಲ್ಲ. ಇದು ಕೈಗಾರಿಕಾ ಅಶಂತಿಯನ್ನು ಹೆಚ್ಚಿಸಿ, ಉತ್ಪಾದನೆಯನ್ನು ಕುಂಠಿತಗೊಳಿಸುವ ಸಾಧ್ಯತೆಗೆ ಅವಕಾಶ ಕಲ್ಪಿಸಿದೆ. ಇನ್ನು ನಿಗದಿ ಅವಧಿಯ ಉದ್ದೋಷ (Fixed Term Employment) ಮಾಲೀಕರಿಗೆ ಒಂದು ಅಲ್ಲಾವಧಿಯ ಪರಿಹಾರವೇ ಹೊರತು ದೀರ್ಘಾರ್ಥಿಯ ಪರಿಹಾರವಲ್ಲ. ಕೈಗಾರಿಕೆಗಳಲ್ಲಿ ಉತ್ಪಾದನೆಯ ಹೆಚ್ಚಿ ಮತ್ತು ಗುಣಮಟ್ಟ ಸಾಧಿಸಲು ಕುಶಲ ಮತ್ತು ಬದ್ದತೆಯಲ್ಲಿ ಕಾರ್ಮಿಕರು ಅತಿ ಅವಶ್ಯಕ. ನಿಗದಿತ ಅವಧಿಯ ಉದ್ದೋಷಿಗಳು ಕೈಗಾರಿಕೆಯ ಬಗ್ಗೆ ಅಭಿಮಾನ ಮತ್ತು ಬದ್ದತೆ ಹೊಂದುವ ಸಾಧ್ಯತೆ ಕಡಿಮೆ. ಹಾಗಾಗಿ ಮಾಲೀಕರು ಇದೊಂದು ಮೋಡಿ ಸರ್ಕಾರ ನೀಡಿದ ವರದಾನವೆಂದು ಪರಿಗಣಿಸಿದಲ್ಲಿ ಅದು ಅಲ್ಲಾಯಿಲ್ಲ ಎಂಬುದು ಮಾತ್ರ ಖಚಿತ. ಇನ್ನು ಕೈಗಾರಿಕಾ ಭಾಂದವ್ಯ ಸಂಹಿತೆಯಲ್ಲಿನ “ವೇತನದ” ಅರ್ಥವ್ಯಾಪ್ತಿ ಹಿಂದಿನ ಕೈಗಾರಿಕ ವಿವಾದಗಳ “ವೇತನ” ಅರ್ಥವ್ಯಾಪ್ತಿಗಿಂತ ಸಂಕುಚಿತಗೊಂಡಿದೆ. ಇದು ಕಾರ್ಮಿಕರಿಗೆ ನೀಡಿರುವ ದೊಡ್ಡ ಪೆಟ್ಟು, ರಿಟ್ರೆಂಜ್‌ಮೆಂಟ್ ಪರಿಹಾರವನ್ನು “ವೇತನ” ಅರ್ಥವ್ಯಾಪ್ತಿಯಿಂದ ಹೊರದೂಡಿರುವುದು ಕಾರ್ಮಿಕರಿಗೆ ಮಾಡಿರುವ ಭಾರಿ ಅಸ್ವಾಯವೆಂದೇ ಹೇಳಬಹುದು.

ಸ್ವಾಗತಾಹ ಅಂಶಗಳು:

“ಕಾರ್ಮಿಕ” ಅಥವ್ಯಾಪ್ತಿಯನ್ನು ಹೆಚ್ಚಿಸಿ ಕಾಯುಗಿರತ ಪತ್ರಕರ್ತರು ಮತ್ತು ಸೇಲ್ಸ್ ಪ್ರಮೋಷನ್ ನೌಕರರನ್ನು ಸೇರಿಸಿರುವುದು ಸ್ವಾಗತಾರ್ಥ. ಕ್ರೊರಿಕ್ ಬಾಂಧವ್ಯ ಸಂಹಿತೆಯ ಕಲಂ 14 ಕಾರ್ಮಿಕ ಸಂಘಗಳ ಮಾನ್ಯತೆಯನ್ನು ಕುರಿತದ್ದು. ಇದು ಸಂಹಿತೆಗೆ ಸೇರಿಸಲ್ಪಟ್ಟಿರುವ ಹೊಸ ಅಂಶ. ಇದರ ಪ್ರಕಾರ ಪ್ರತಿಯೊಂದು ಕ್ರೊರಿಕ್ ಸಂಸ್ಥೆಯಲ್ಲಿ ನೋಂದಾಯಿತ ಕಾರ್ಮಿಕ ಸಂಘವಾಗಲೇ ಅಥವಾ ಸಂಘಗಳಾಗಲೇ ಇದ್ದಲ್ಲಿ ಆ ಸಂಸ್ಥೆಯ ವೇತನ ರಿಜಿಸ್ಟರ್ ನಲ್ಲಿರುವ ಕಾರ್ಮಿಕರ ಪ್ರಕ್ರಿಯೆಗೆ 51% ಮತ್ತು ಅದಕ್ಕೂ ಹೆಚ್ಚು ಕಾರ್ಮಿಕರ ಬೆಂಬಲ ಪಡೆಯುವ ಕಾರ್ಮಿಕ ಸಂಘವು ಏಕಮೇವ ಸಾಮೂಹಿಕ ಚೌಕಾಶಿದಾರ ಸಂಘವೆಂದು (Sole Collective Bargaining Union) ಮಾನ್ಯತೆ ಪಡೆಯುವುದು. ಒಂದಕ್ಕಿಂತ ಹೆಚ್ಚು ನೋಂದಾಯಿತ ಕಾರ್ಮಿಕ ಸಂಘಗಳು ಕ್ರೊರಿಕೆಯಲ್ಲಿದ್ದರೆ ಮತ್ತು ಯಾವ ಕಾರ್ಮಿಕ ಸಂಘವೂ 51% ಕಾರ್ಮಿಕರ ಬೆಂಬಲ ಪಡೆಯದಿದ್ದಲ್ಲಿ, ಅಂತಹ ಪರಿಸ್ಥಿತಿಯಲ್ಲಿ ಚೌಕಾಶಿ ಪರಿಷತ್ತೆನ್ನು (Bargaining Council) ರಚಿಸಲಾಗುವುದು. ಕ್ರೊರಿಕ್ ಸಂಸ್ಥೆಯಲ್ಲಿನ 20% ಕಾರ್ಮಿಕರ ಬೆಂಬಲ ಹೊಂದಿದ ಕಾರ್ಮಿಕ ಸಂಘಕ್ಕೆ ಪ್ರತಿ 20%ಗೆ ಓವರ್ ಪತ್ತಿನಿಧಿಯಂತೆ ಚೌಕಾಶಿ ಪರಿಷತ್ತೆನಲ್ಲಿ ಪಾಲಿನಿದ್ದ ದೂರೆಯುವುದು.

ಕೈಗಾರಿಕಾ ಬಾಂಧವ್ಯ ಸಂಹಿತೆಯ ಕಲಂ-27 ಕಾರ್ಮಿಕ ಸಂಘಗಳ ಒಕ್ಕೂಟದ (Trade Union Federation) ಮಾನ್ಯತೆ ಕುರಿತಾಗಿದ್ದು, ಈ ಕಲಂ ಕೂಡ ಸಂಹಿತೆಯಲ್ಲಿ ಸೇರಿರುವ ಹೊಸ ಅಂಶ. ಈ ಕಲಂನ ಪ್ರಕಾರ ಕೇಂದ್ರ ಸರ್ಕಾರವಾಗಲೇ ಅಥವಾ ರಾಜ್ಯ ಸರ್ಕಾರವಾಗಲೇ ಕೇಂದ್ರ ಮತ್ತು ರಾಜ್ಯ ಮಟ್ಟದಲ್ಲಾಗಲೇ ಒಂದು ಕಾರ್ಮಿಕ ಸಂಘ ಅಥವಾ ಕಾರ್ಮಿಕ ಸಂಘಗಳ ಒಕ್ಕೂಟ ಮಾನ್ಯತೆ ನೀಡಬೇಕೆಂಬ ಅಗತ್ಯ ಬಿಧ್ಯಾಗ ಅಂತಹ ಕಾರ್ಮಿಕ ಸಂಘ ಅಥವಾ ಕಾರ್ಮಿಕ ಸಂಘಗಳ ಒಕ್ಕೂಟಕ್ಕೆ ನಿರ್ದೇಶಿತ ನಿಯಮಗಳ ಪ್ರಕಾರ ಮಾನ್ಯತೆ ನೀಡಬಹುದು. ಕಾರ್ಮಿಕ ಸಂಘಗಳು ಮತ್ತು ಕಾರ್ಮಿಕ ಸಂಘಗಳ ಒಕ್ಕೂಟಗಳಿಗೆ ಕೈಗಾರಿಕಾ ಸಂಸ್ಥೆಗಳಲ್ಲಿ ಮಾನ್ಯತೆ ನೀಡುವ ಒಂದು ಕೇಂದ್ರ ಕಾನೂನು ಈವರೆಗೂ ಲಭ್ಯವಿರಲಿಲ್ಲ. ಸಂಹಿತೆಯಲ್ಲಿ ಅದನ್ನು ಅಳವಡಿಸಲಾಗಿದೆ. ಮೇಲ್ಮೈಬೇಟಕ್ಕೆ ಇದು ಸ್ವಾಗತಹರ ಅಂಶವೆಂದು ಕಂಡುಬಂದರೂ ಇದು ಕೈಗಾರಿಕಾ ಬಾಂಧವ್ಯಕ್ಕೆ ಮಾರಕವಾಗು ಸಂಭವಗಳಿವೆ. ಕಾರ್ಮಿಕ ಸಂಘದ ಮೇಲೆ ಮಾಲೀಕ ವರ್ಗದ ಹತ್ತೋಟಿ ಹೆಚ್ಚಿಸುವುದು. ಸಾಮೂಹಿಕ ಜೋಕಾಶಿಯ ಮೇಲೆ ಅದರ ಪರಿಣಾಮ ಬೀರಬಹುದು ಮತ್ತು ಕಾರ್ಮಿಕ ಸಂಘಗಳ ನಡುವೆ ಪ್ರೇಮೋಚಿಗೆ ಕಾರಣವಾಗಬಹುದು. ಈ ರೀತಿಯ ಕಾರಣಗಳಿಂದಾಗಿ ಕಾರ್ಮಿಕ ಸಂಘಗಳ ನಡುವೆ ಮತ್ತು ಒಕ್ಕೂಟಗಳ ನಡುವೆ ಅಂತಹ ಕಲಪ ಬೆಳೆಯುವ ಸಾಧ್ಯತೆಗಳನ್ನು ತಳ್ಳಿಹಾಕುವಂತಿಲ್ಲ.

### **ದ್ವಿಸದಸ್ಯ ಜೈದ್ಯಮಿಕ ನ್ಯಾಯಾಧೀಕರಣ:**

ಕೈಗಾರಿಕಾ ಬಾಂಧವ್ಯ ಸಂಹಿತೆಯ ಕಲಂ-44 ಜೈದ್ಯಮಿಕ ನ್ಯಾಯಾಧೀಕರಣ ಕುರಿತದ್ದು. ಕೇಂದ್ರ ಮತ್ತು ರಾಜ್ಯ ಸರ್ಕಾರಗಳು ಅವಶ್ಯಕತೆಗೆ ತಕ್ಷಣ ಜೈದ್ಯಮಿಕ ನ್ಯಾಯಾಧೀಕರಣ ದ್ವಿಸದಸ್ಯಕ್ಕೆ ಹೀರೆ-ನ್ಯಾಯಾಧೀಕರು ಮತ್ತು ಆಡಳಿತ ಸದಸ್ಯರನೇಳಣಿಗೆ ನಿರ್ದಿಷ್ಟಾರೆ. ಇನ್ನು ಮುಂದೆ ಕಾರ್ಮಿಕ ನ್ಯಾಯಾಲಯಗಳನ್ನೆಲ್ಲ ಜೈದ್ಯಮಿಕ ನ್ಯಾಯಾಧೀಕರಣವೆಂದು ಕರೆಯಲಾಗುವುದು. ಇದರ ಜೆಚಿತ್ಯ ಪ್ರಶ್ನಾಹರ್ಣ.

### **ಮುಷ್ಟರಕ್ಕೆ ಲಾಕೋಟ್:**

ಮುಷ್ಟರ ಮತ್ತು ಬೀಗಮುದ್ರೆ ನಿರ್ವೇದ ಕೈಗಾರಿಕಾ ಬಾಂಧವ್ಯ ಸಂಹಿತೆಯ ಕಲಂ-62 ಮತ್ತು 63ರ ಪ್ರಕಾರ ಒಂದು ಕೈಗಾರಿಕಾ ಸಂಸ್ಥೆಯಲ್ಲಿ ಉದ್ಯೋಗದಲ್ಲಿರುವ ಯಾವ ವ್ಯಕ್ತಿಯೂ ಈ ಕೆಳಗೆ ಹೇಳಿರುವ ಪರತ್ತುಗಳನ್ನು ಪಾಲಿಸದೆ ಮುಷ್ಟರ ಮಾಡುವ ಹಾಗಿಲ್ಲ.

- ಅ) ಮುಷ್ಟರ ನಡೆಸುವ 60 ದಿನಗಳ ಮುಂಚೆ ಮಾಲೀಕನಿಗೆ ಮುಷ್ಟರದ ನೋಟೀಸ್ ಕೊಡದೆ ಮುಷ್ಟರ ಪ್ರಾರಂಭಿಸುವಂತಿಲ್ಲ.
- ಆ) ಅಂತಹ ನೋಟೀಸ್ ಕೊಟ್ಟ ಹದಿನಾಲ್ಕು ದಿನಗಳೇಳಗೆ ಮುಷ್ಟರ ಪ್ರಾರಂಭಿಸುವಂತಿಲ್ಲ.
- ಇ) ರಾಜೀ ಸಂಧಾನ ನಡೆಯತ್ತಿರುವ ಸಮಯದಲ್ಲಿ ಮತ್ತು ಮುಗಿದ ಏಳು ದಿನಗಳ ಬಳಗೆ ಮುಷ್ಟರ ನಡೆಸುವಂತಿಲ್ಲ.
- ಈ) ಮುಷ್ಟರದ ನಿಗದಿಪಣಿಸಿದ ದಿನಕ್ಕೂ ಮುಂಚೆ ಮುಷ್ಟರ ನಡೆಸುವಂತಿಲ್ಲ.

ಉ) ಕೈಗಾರಿಕಾ ಜೈದ್ಯಮಿಕ ನ್ಯಾಯಾಧೀಕರಣದ ಮುಂದೆ ಅಥವಾ ರಾಷ್ಟ್ರೀಯ ನ್ಯಾಯಾಧೀಕರಣದ ಮುಂದೆ ಪ್ರಕರಣ ನಡೆಯುವ ಸಮಯದಲ್ಲಿ ಮತ್ತು ಅದು ಮುಕ್ತಾಯವಾದ 30 ದಿನಗಳೇಳಗೆ ಮುಷ್ಟರ ನಡೆಸುವಂತಿಲ್ಲ.

ಉ) ಚಾಲ್ತಿಯಲ್ಲಿರುವ ಐತೀಮ್ರ ಅಥವಾ ಒಡಂಬಡಿಕೆಗೆ ಸಂಬಂಧಿಸಿದ ವಿಷಯದ ವೇಳೆ ಮುಷ್ಟರ ನಡೆಸುವಂತಿಲ್ಲ.

ಈ ಮೇಲ್ಮೈ ಪರತ್ತುಗಳು ಬೀಗಮುದ್ರೆಗೂ ಅನ್ವಯವಾಗುತ್ತದೆ. ಮೇಲೆ ತಿಳಿಸಿದ ಯಾವ ಪರತ್ತೆನ್ನು ಮೀರಿ ಮುಷ್ಟರ ಅಥವಾ ಬೀಗಮುದ್ರೆ ನಡೆದಲ್ಲಿ ಅದು ಕಾನೂನುಬಾಹಿರ. ಕಾರ್ಮಿಕ ವರ್ಗಕ್ಕೆ ಮುಷ್ಟರ ಒಂದು ಅಸ್. ಆದರೆ ಕೈಗಾರಿಕಾ ಬಾಂಧವ್ಯ ಸಂಹಿತೆ ಅದನ್ನು ತಡೆಗಟ್ಟಿದ್ದ ನಿಟ್ಟಿನಲ್ಲಿ ಅನೇಕ ನಿಬಂಧನೆಗಳನ್ನು ಹೇರಿದೆ. ಈ ಮೊದಲು ಸಾರ್ವಜನಿಕ ಉಪಯೋಗಿ ಸಂಸ್ಥೆಗಳಲ್ಲಿ ಮುಷ್ಟರಕ್ಕೆ ಮೊದಲು ನೋಟೀಸ್ ನೀಡಬೇಕೆಂದು. ಈಗ ಸಂಹಿತೆ ಈ ಪರತ್ತೆನ್ನು ಎಲ್ಲ ಕೈಗಾರಿಕೆಗಳಿಗೂ ಅನ್ವಯವಾಗುವಂತೆ ಮಾಡಿದೆ. ಈ ನಿಟ್ಟಿನಲ್ಲಿ ನೋಡಿದರೆ ಕಾರ್ಮಿಕ ಕರ ಎಲ್ಲ ಮುಷ್ಟರಗಳೂ ಅಕ್ರಮವಾಗುವ ಸಂಭಾವ್ಯವೇ ಹೆಚ್ಚು ಕಾನೂನುಬಾಹಿರವಾಗಿ ನಡೆಯುವ ಮುಷ್ಟರಗಳಿಗೆ ಕಾರ್ಮಿಕ ಕರ ಅನುಭವಿಸಬಹುದಾದ ದಂಡನೆಯ ಬಗ್ಗೆ ಸಂಹಿತೆಯು ಕಲಂ-86 ರಲ್ಲಿ ಪಟ್ಟಿಮಾಡಿದೆ.

### **ಅಕ್ರಮ ಮುಷ್ಟರ ಮತ್ತು ಲಾಕೋಟ್ ಗೆ ಶಿಕ್ಷಣ**

ಯಾವ ಕಾರ್ಮಿಕ ಅಕ್ರಮ ಮುಷ್ಟರ ಪ್ರಾರಂಭಿಸುವುದಾಗಲೇ, ಮುಂದುವರೆಸುವುದಾಗಲೇ, ಅಥವಾ ಮುಷ್ಟರಕ್ಕೆ ಮೂರಕವಾಗಿ ನಡೆದುಕೊಂಡಲ್ಲಿ ಅಂತಹ ಕಾರ್ಮಿಕ ಒಂದು ಸಾವಿರದಿಂದ ಹತ್ತು ಸಾವಿರ ರೂಪಾಯಿಗಳ ದಂಡ ತೆರಬೇಕು. ಇಲ್ಲವೇ ಒಂದು ತಿಂಗಳ ಸೆರೆಮನೆವಾಸ ಇಲ್ಲವೇ ಎರಡೂ ತರಹದ ದಂಡ ತೆರಬೇಕು. ಯಾವ ವ್ಯಕ್ತಿ ಅಕ್ರಮ ಮುಷ್ಟರದಲ್ಲಿ ಪಾಲೋಳ್ಯಾವ ಅಥವಾ ಅದಕ್ಕೆ ಮೂರಕವಾಗಿ ನಡೆದುಕೊಂಡಲ್ಲಿ, ಹತ್ತು ಸಾವಿರದಿಂದ ಇವತ್ತು ಸಾವಿರ ರೂಪಾಯಿವರೆಗೆ ದಂಡ ತೆರಬೇಕು. ಇಲ್ಲವೇ ಒಂದು ತಿಂಗಳ ಸೆರೆಮನೆ ವಾಸ ಇಲ್ಲವೇ ಎರಡೂ ತರಹದ ದಂಡ ತೆರಬೇಕು. ಯಾವ ವ್ಯಕ್ತಿ ಗೊತ್ತಿದ್ದೂ ಕೂಡ ಅಕ್ರಮ ಮುಷ್ಟರಕ್ಕೆ ಹಣ ನೀಡಿದಲ್ಲಿ ಹತ್ತು ಸಾವಿರದಿಂದ ಇವತ್ತು ಸಾವಿರ ರೂಪಾಯಿವರೆಗೆ ದಂಡ ತೆರಬೇಕು. ಇಲ್ಲವೇ ಒಂದು ತಿಂಗಳ ಸೆರೆಮನೆ ವಾಸ ಇಲ್ಲವೇ ಎರಡೂ ತರಹದ ದಂಡ ತೆರಬೇಕು. ಇಲ್ಲಿ ಗಮನಿಸಬೇಕಾದ ಬಹುಮುಖ್ಯ ವ್ಯತ್ಯಾಸವಂದರೆ ಮಾಲೀಕನಿಗೂ ಇದೇ ರೀತಿಯ ದಂಡವನ್ನು ವಿಧಿಸಿದೆ. ಆದರೆ ಮಾಲೀಕ ಅಕ್ರಮ ಬೀಗಮುದ್ರೆ ಫೋಟಿಫಿಂದಲ್ಲಿ ದಂಡ ತೆರಬೇಕಾದರೂ ಅದು ಒಬ್ಬ ವ್ಯಕ್ತಿಗೆ ಸೀಮಿತವಾಗುತ್ತದೆ. ಆದರೆ ಕೈಗಾರಿಕಾ ಸಂಸ್ಥೆಯಲ್ಲಿನ ಮುಷ್ಟರನಿರತ ಪ್ರತಿಯೊಬ್ಬ ಕಾರ್ಮಿಕನು ದಂಡ ತೆರಬೇಕಾಗುತ್ತದೆ.

### **ಉದ್ಯಮಿಗಳ ಬೇಡಿಕೆಯ ಮೂರ್ಕೆ:**

ಸಂಹಿತೆಯ ಭಾಗ-10 ರಲ್ಲಿನ ಕಲಂಗಳು ವಿಶೇಷವಾಗಿ ಲೇ-ಆಫ್, ರಿಟ್ರೆಂಚ್ ವೆಂಟ್ ವಂತ್ತು ಕಾರ್ಬಾನ್ ವೆಚ್ಚುವಿಕೆಗೆ ಸಂಬಂಧಪಟ್ಟಿದ್ದು. ಕೈಗಾರಿಕಾ ವಿವಾದಗಳ ಕಾಯ್ದೆಯ ಪ್ರಕಾರ ಒಂದು ವರ್ಷದ ಅವಧಿಯಲ್ಲಿ ದಿನವೊಂದಕ್ಕೆ ಸರಾಸರಿ 100 ಕಾರ್ಮಿಕರಿದ್ದ ಕೈಗಾರಿಕಾ ಸಂಸ್ಥೆಗಳು - ಕಾರ್ಬಾನ್, ಪ್ಲಾಂಟೇಷನ್

ಮತ್ತು ಗಣೆ – ಕಾರ್ಮಿಕರನ್ನು ಲೇ-ಆಫ್ ಮತ್ತು ರಿಟೈನ್‌ಬೆಂಟ್ ಮಾಡಲು ಮತ್ತು ಕ್ಯಾರಿಕಾ ಸಂಸ್ಥೆಯನ್ನು ಅಥವಾ ಅದರ ಭಾಗವನ್ನು ಮಜ್ಜಲು ಯುಕ್ತ ಸರ್ಕಾರದ ಪೊರ ಪರವಾನಗಿ ಪಡೆಯಬೇಕಿತ್ತು. ಈಗ ಸಂಹಿತೆ ಕಾರ್ಮಿಕರ ಸಂಖ್ಯೆಯ ಮಿಶ್ಯಾಲ್ 300ಕ್ಕೂ ಹೆಚ್ಚು ಎಂದು ನಿಗದಿಪಡಿಸಿದೆ. ರಾಜ್ಯ ಸರ್ಕಾರಗಳು ಈ ಮಿಶ್ಯಾಲ್ ಹೆಚ್ಚಿಸುವ ಅಧಿಕಾರ ಹೊಂದಿದೆಯೇ ಹೊರತು ಮಿಶ್ಯಾಲ್ ಕಡಿಮೆ ಮಾಡುವ ಅಧಿಕಾರ ಹೊಂದಿಲ್ಲ. ಸಂಹಿತೆಯ ಭಾಗ-10 ಬಹು ವರ್ಷದ ಮಾಲೀಕರ ಬೇಡಿಕೆಗಳನ್ನು ಮಾರ್ಪಡಿಸಿದೆ. 300ಕ್ಕಿಂತ ಕಡಿಮೆ ಕಾರ್ಮಿಕರಿರುವ ಲಕ್ಷಣತರ ಕ್ಯಾರಿಕಾ ಸಂಸ್ಥೆಗಳಲ್ಲಿ ಇನ್ನು ಮುಂದೆ ಲೇ-ಆಫ್, ರಿಟೈನ್‌ಬೆಂಟ್ ಮತ್ತು ಕ್ಲೋಜರ್ ಮಾಡಲು ಯಾವ ಕಾನೂನಿನ ಅಡ್ಡಿಯೂ ಇರುವುದಿಲ್ಲ. ಇಂತಹ ಕ್ಯಾರಿಕಾ ಸಂಸ್ಥೆಗಳಲ್ಲಿ ಕೆಲಸ ಮಾಡುತ್ತಿರುವ ಕಾರ್ಮಿಕರ ಬದುಕು ಈಗ ಅನಿಶ್ಚಿತ.

ಕಾರ್ಮಿಕ ಸಂಘರ್ಷ ಕಾಯ್ದು, 1926, ಕ್ಯಾರಿಕಾ ಉದ್ಯೋಗ (ಸಾಧ್ಯಾ ಆದೇಶಗಳು), 1946, ಮತ್ತು ಕ್ಯಾರಿಕಾ ವಿವಾದಗಳ ಕಾಯ್ದು, 1947, ಈ ಮೂರು ಕಾರ್ಮಿಕ ಕಾಯ್ದೆಗಳು ಸಂಯೋಜಿತಗೊಂಡು ರೂಪಗೊಂಡಿರುವ ಮತ್ತು ಸರ್ಜೀಕರಣಗೊಂಡಿದೆಯೆಂದು ಹೇಳಲಾಗಿರುವ ಕ್ಯಾರಿಕಾ ಬಾಂಧವ್ಯ ಸಂಹಿತೆ ಕ್ಯಾರಿಕೆಗಳಲ್ಲಿ ಮಾಲೀಕರು ಬಯಸಿದ್ದ ಬದಲಾವಣೆಗಳನ್ನು ಜಾರಿಗೊಳಿಸಿದ್ದರೂ, ಕ್ಯಾರಿಕೆಗಳಿಗೆ ಬೇಕಾದ ಶಾಂತಿ ಮತ್ತು ಸೌಹಾದರೆಯನ್ನು ಎಷ್ಟರ ಮಟ್ಟಿಗೆ ತರುವುದೋ ಎಂಬುದನ್ನು ಕಾದುನೋಡಬೇಕಾಗಿದೆ.

ಒಟ್ಟಾರೆ ಈಗಿನ ಪರಿಸ್ಥಿತಿಯಲ್ಲಿ ಕವಿ ಗೋಪಾಲಕೃಷ್ಣ ಅಡಿಗರ ಕವಿತೆಯ ಒಂದು ಸಾಲು ನೆನಪಿಗೆ ಬರುತ್ತದೆ.

## ’ಅಷ್ಟೂಂದು ಮಿಂಚು ಮಿಂಚಿದ್ದಕ್ಕೆ, ಒಲೆಯ ತರಗೆಲೆ ಕೂಡ ಹತ್ತಲಿಲ್ಲ’

“The views expressed in this Article are that of the author.  
The views contained here are not to be construed as Legal Opinion”

“

*You cannot mandate  
productivity you must  
provide the tools to let  
people become their best*

— Steve Jobs

”

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## Labour Reforms: Ease of Doing Business - 2020 -2021 Emergence of Four Labour Codes.

### Gains, Challenges and Concerns of Employers Arising out of the Labour Reforms through Labour Codes.

By K. Vittala Rao | Management Consultant

The buzz words, "**Labour Reforms**", are not unfamiliar to the Business Community as well as the Trade Unions for the last over 3 decades. The Central Government brought "**Economic Reforms**" all of a sudden in the year 1991, resulting in Globalization of Trade & Business. Economic Reforms calls for immediate Labour Reforms to provide a helping hand in terms of elimination of legal constraints & hurdles to the Indian Industry. Indian Industry was saddled with multiple legal restrictions causing hurdles for organizing /reorganizing/ rationalization of process & methods and most importantly the productivity etc. This was not attended to. Ever since, the Indian Business Entrepreneurs have been consistently pressurizing and pursuing the Central Government to bring out "**Labour Reforms**" for ease of doing Business due to global competitiveness in cost, quality and delivery. The Business constantly urged upon the Central Government, in order to invite Foreign Direct Investment, the productivity coupled with international quality as also the cost effectiveness which are the main criteria, and insisted on the Central Government that flexibility in engagement of human resource, to elimination of the legal hurdles and restrictions pertaining to modernization, adaptation to the latest technology, rationalizations and method improvements etc. are the primary essentials towards this goal. As we have witnessed, the Central Finance Ministry would talk of the word "**Labour Reforms**" during the Finance Budget presentation every year. Indian Business would get motivated and attracted towards the steps to be taken with eagerness. The Trade Unions, upon hearing the word "**Labour Reforms**" would get emotionally charged and call for protest including

organizing & inciting a "**Bharat Bandh**". Next, the Central Government, influenced by the protest, would take no further initiatives, and the year is gone. These are the chain of events, going on year after year.

Indian Business, for survival, for expansions and to invite foreign direct investments, had to pass through plenty of hurdles posed by the Labour, coupled with legal restrictions. Businesses learnt over a period and consistently adopted systematic approaches to bring in "**Change Management**". Approaching the Labour, educate and convince them of the advantages in the Change Management from the points of view of security of employment, adequate remuneration and creating plenty of employment opportunities. Here, one must acknowledge the reciprocation by the Labour and their cooperation in all the endeavors. Thus, the Indian Business moved from "**Confrontation to Collaboration**".

We have seen tremendous growth in the Business, entry of MNCs, job growth etc for the last decades. Both Business & Labour accepted the concept of Change Management without relying upon any legal hurdles etc. The Central Government although no Reforms were brought in, did not take any initiative. But, the words "**Labour Reforms**" did not miss in any annual financial budget.

Second Labour Commission was formed and was entrusted the task of Labour Reforms from the point of view of eliminating/ simplifying the labour laws.

The Second National Commission on Labour, which submitted its report in June, 2002 had recommended that the existing set of labour laws should be broadly amalgamated into the following groups, namely:--

- (a) Industrial relations;
- (b) Wages;
- (c) Social security;
- (d) Safety; and
- (e) Welfare and working conditions

*Here again, for nearly 17 years, after the submission of Report in 2002,* the Indian Business did not see any initiative or progress or plans of actions to take up implementation of the Recommendations by the Central Government.

Now, we have been witnessing, since 2017, the initiatives taken by the Central Government to implement the Recommendations and accordingly, Labor Codes have come into place. The Draft Bills, consolidating various Labour Laws into Four Codes were published for debate amongst all stake holders in the year 2017. After suitable modifications in the Bills, the revised Bills were finally circulated in the year 2018 & 2019.

Now, all the Bills have been passed in the Parliament and after the assent of the President of India, now Four Codes have become Acts and the date of enforcement is awaited.

**The table shows the macro details of consolidation of the Labour Laws.**

CODE	Definitions		Provisions	
	Existing	Code	Existing	Code
Code On Wages [4 Legislations merged]	40	24	84	69
Code On IR [3 Legislations merged]	54	41	90	99
Code On Social Security [9 Legislations merged]	127	83	286	163
Code On Occupational Safety, Health & WC. [13 Legislations merged]	156	56	561	134
<b>Number of Legislations merged: 29</b>	<b>377</b>	<b>204</b>	<b>1021</b>	<b>465</b>

The Draft Bills of all Four Codes were published for opinions, suggestions or modifications if any by all the stake holders, namely, Industry, Trade Unions, consumers, & general public in the years, 2018, & 2019

But, it is unfortunate that the Industry did not avail the opportunity of addressing its issues, challenges, and concerns arising out of the Codes. No proper representations were made before the Government. Finally all the Bills are enacted as Acts and effective dates are awaited.

Now, there have been plenty of debates amongst the Business and many concerns are expressed as well as some challenging issues that may crop up resulting in increase in the legal petitions etc.

*Let us examine the overall positive and advantages for the Industry, Trade Unions and in particular those engaged in unorganized sectors.*

1. All the Labour Laws are unified under the Four Codes.

2. Aims at uniform application of Health, Safety, Occupational Health, welfare & working conditions to all Establishments, be it be commercial, manufacturing, plantations, Mines etc.
3. Submissions of returns are centralized and digitalized.
4. Aims at Social Security Schemes to be extended to Un-organized sectors.
5. Recognition of Trade Union has been legalized, after 94 years of Trade Unions Act came into force.
6. Most of the existing provisions related to Social Security Schemes like, Provident Fund, ESIC, and payment of Gratuity, Payment of Bonus, and Compensation in cases of employment injuries etc are retained in the Codes. This avoids conflicts between Industry, Labour & the Governments.
7. Applicability of Standing Orders has been enhanced to 300 workmen as against 100.
8. Earlier concept of “Public Utility Services” is eliminated. Notice of 14 days is mandated for Strikes / Lockouts. Any sudden or lightning strikes are illegal.
9. An Industry can layoff, retrench or close in case the employment strength of workers is less than 300 without seeking permission from the Central/ State Governments.
10. Fixed Term Employment has been introduced which is aimed at employment of persons due to sudden demand or service by an Industry.

*Let us examine the negative factors or disadvantages for an Industry and also the concerns with challenges to be faced.*

*How far the Four Labour Codes addresses the main objective & intention of the Central Government's promise - “Ease of doing Business”?*

#### **1. Wage Administration and employee cost.**

Employee Cost is highly significant to an Employer at all times includes forecasting. Employee Cost includes the direct and indirect outflows and more importantly it is very closely inter-related with the productivity or the output by an employee.

*Let us examine each of these costs with reference to the Labour Codes.*

Definition of “Wages” has been drastically redefined to make sure the “Contributory wages” shall be Fifty Percent of the total gross salary. Contributory wages to be taken for the purposes of payment of contribution to PF, payment of Gratuity and Payment of Bonus etc. This results in sizable financial additional liability to an Employer. The question is how to neutralize this additional liability - either overall cost savings measures for the product or service or by way of increased productivity or output?. Any attempts or efforts by the Employer to neutralize the additional financial burden, calls for “Change Management”. There is no relief provided under the Code and will have to prevail upon the Trade Union & workmen which are again matter of challenge. Let us discuss this in detail in the subsequent paragraph.

#### ***Fixation of National Floor Level Wages under the Chapter of Minimum Wages.***

The fixation has been evolved on the basis of evidence based fixation. Here, we may recall the Hon'ble Supreme Court judicial pronouncement endorsing the fixation of minimum wages based on evidence based one.

1. 2700 calories per head per day - 3 units are taken for a Family.
2. 66 metres of cloth per annum for the Family.
3. HRA @ 10% of sl.1.& sl.2.

4. Fuel, electricity, & misc @ 20 % Sl.1. 2. & 3.
5. Children education, medical, recreation etc. @ 25 % of 1,2,3.

The above base has been endorsed by Supreme Court :

*"The recommendations assumed a 2400 calorie diet, while a 1992 Supreme Court judgment and the Indian Labour Conference of 1957 recommended setting the national minimum wage on the basis of a 2700 calorie diet".*

This revised fixation aims at "**Need-based Minimum Wages**" as envisaged by the Central Government. The Industries may not be against this enhancement, in case, the same is linked to productivity of labour. Now, in its absence, this poses another additional financial burden on the Employer. In addition, there is half yearly revision of Dearness Allowance. **Wage theories propagate "Need Based Wages" depending on the productivity of labour.**

## 2. Bipartite Machinery under the Code.

**Firstly Works Committee** consisting of representatives of Employer & Employees to discuss and resolve issues pertaining to working conditions like, ventilation, sanitations, water, restrooms cleanliness, sitting facilities etc. Although, generally, disputes or conflicts are not encouraged to discuss in this forum including individual / any group grievances.

### **Secondly, Grievance Redressal Machinery.**

Here again, the Machinery is a team of representatives of Employer & Employees limiting to maximum Ten members. Chairman of the Committee shall be on rotational basis every six months. Any grievance by a worker or even group ,may bring up any grievance before the

Committee. The decision by the Committee is based on majority votes. **But, there is a rider.** Majority votes means at least 50 % of the worker's representatives must endorse the decision along with the Employer's. How far can any Employer accomplish this? This is next to impossible. **Another major jolt.** In case the worker / group of workers do not accept the decisions of the Committee, they can straight approach the Conciliation officer thus raising an Industrial Dispute through the Union. This is a major concern for any Employer since it would result in sharp rise in Industrial Disputes.

Here, the challenges for an Employer is the Proactive measures to be taken, namely, forecast any grievance, strategize the plans of actions, preventive steps to avoid any grievances and even if there are, then, resolve the same either way and must prevent the grievance reaching the Committee. Once the grievance reaches the Committee, it is out of control as explained above. **Managerial Effectiveness is the essence for any preventive and resolution steps.**

## 3. Change in Service Conditions.

This continues to be a challenge for an Employer to alter or change in service conditions without due process of Law as mandated at present under Sec.9A of the Industrial Disputes Act. What concerns any employer is that - any rationalization process, methods, improvement in the process, increase in productivity, redeployments, flexibility in engaging or deployments etc are all included under the head "**Service Conditions**". In fact, for the last three decades, particularly after the Economic Reforms and Globalization in 1991, the Employers have been continuously urging for modification, relaxation or even elimination.

Now, it a matter of disappointment and concern that even under the Codes, there are no changes envisaged.

Hence, this situation calls for a challenging task to neutralize the additional financial burden as we discussed earlier and continues to be so in case of any strategic plans towards technical developments, innovations, innovative practices including expansions, generation of employments etc.

#### 4. Outsourcing & contract labour management.

As we are fully aware, the Contract Labour [Regulation & Abolition] Act came into effect from 1971 wherein regulatory measures have been mandated like registrations, licensing by contractors, payment of wages not less than the prescribed minimum wages as notified by Central and State Governments, working conditions, social security coverage etc . The Central / State governments are entrusted with the power of abolition of contract labour in any industry, class of industries etc in terms of Sec.10[1] of the Act. The Industry and the Trade Unions have been extremely familiar with their obligations and observing strict compliances. There have been number of cases of prohibitions in certain Industrial Establishments. Consequent to the rapid development of industrialization in the areas of Information Technology, BPO, ITES, manufacturing, service sector, hospitality and health care etc., there have been tremendous growth in employment opportunities and that has contributed to reduce the unemployment in the Country. The contract labour engagement & outsourcing have been prominently dominated by all Central and State Government in all their activities and functions. At present, one can see tremendous growth in employment through outsourcing in the Industrial and Business circles.

Now, let us see what is in store for the Business.

THE OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020, defines CORE & NON CORE ACTIVITIES. While, this is welcome, Sec.57 of the Code prohibits engagement of contract labour in CORE AREAS.

NON CORE AREAS, no issues, engagements are permitted.

Definition of Core Areas has been very vague and highly debatable.

*"Core activity of an establishment" means any activity for which the establishment is set up and includes any activity which is essential or necessary to such activity"*

This will be a major challenge for all employers. The Code also specifies that in case of any conflicts or differences in deciding what is Core and Noncore, the same may be referred to an Authority to be specified by the Central/ State governments. It means plenty of hindrances, lead to litigations etc. and the Business cannot wait any longer.

On close examination of various types of outsourcing of functions like finance, administrations, pay roll, wage administrations, talent acquisitions, marketing, sales, purchase, IT / ITES / BPO sectors etc., these activities do fall under the definition of "Core Activities". *The question is how to face the challenge.*

There is a small leverage for arguments to continue to engage contract Labour. Following is the extract of the definition of "Contract Labour".

Sec. 2 (m) "Contract Labour" means a worker who shall be deemed to be employed in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer and includes inter-State migrant worker *but*

***does not include a worker (other than part time employee) who is regularly employed by the contractor for any activity of his establishment and his employment is governed by mutually accepted standards of the conditions of employment (including engagement on permanent basis), and gets periodical increment in the pay, social security coverage and other welfare benefits in accordance with the law for the time being in force in such employment;***

***But, this is highly arguable, debatable and interpretations can be either way.*** We can be sure that this will be a major litigation when the Code comes into effect and the Trade Unions or even the Authorities might start questioning this and create conflicts. ***It is too early to conclude that the employers have gained from the proviso.***

## **5. Worker Reskilling Fund.**

This is a newly introduced Chapter towards creating a Fund. This Fund is aimed at Skilling / Reskilling of workmen who are retrenched. The Funds are generated by contributions by Employers as well as the Government. The intention and purpose of the Code under this provision is good.

Now the Central Government has published Draft Rules and some of the State Governments have also published the Draft Rules.

Under these Draft Rules, it is surprising to see that the Employer is directed to contribute the amount equivalent to 15 days of wages in cases of retrenchment of a workman. The amount to be credited to Central / State Authority online with details of name and bank details etc. of

the retrenched worker. In turn, the Authority will remit this amount to the retrenched workmen.

***Now, here, where is the reskilling?*** The Employer has to pay retrenchment compensation under the Code which is a condition precedent at the time of retrenchment and then the Employer has to deposit the amount to the Fund. ***This is an additional payment of retrenchment compensation.*** The purpose and intention of the Code is totally diluted.

## **6. Penalties.**

The penalties under all the Codes are ***very severe*** for each and every contravention of the provisions. The Minimum Fine starts with Rs.Fifty Thousand and goes up to Rs. 4 Lakhs.

The imprisonment starts with Three months and goes up to 3 years.

Under the Code on Wages, any employee who gets the salary delayed or gets less salary or deductions are in excess, the Employee can directly file a complaint before a Magistrate against the Employer. **Hence, strict compliances under all the Four Codes is one of the challenges.**

***Finally, when we scrutinize the positive sides of the Four Codes with the dis-advantages, concerns, threat of increase of litigations, challenging issues, how far can one say that it is a Labour Reform with a purpose and intention of "Ease Of Doing Business"??***

Bangalore  
Email:vittalarao@gmail.com  
5<sup>th</sup> September, 2021

***"The views expressed in this Article are that of the author.  
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# NIPM KARNATAKA CHAPTER

Presents



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&

### INDUSTRIAL RELATIONS CODE 2020 IT'S DYNAMICS AND IMPACT



**By Dr Manjunath G**  
**Additional Labour Commissioner - IR**  
**Government of Karnataka**

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**Time:** 4 pm Onwards

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# Your Mental Health Matters!!

## A small reminder to HR professionals

By Dr. Shreedevi .A.U | Assistant Professor

Department of Psychiatric Social Work, NIMHANS

Human Resource (HR) professionals are the intersection of the two organizational dynamics, human exchange and systemic change. They are confronted by rapidly changing requirements and responsibilities especially related to the welfare, safety, policies, rights of employees, oversee payroll, and so on. To add to the list, the most recent being COVID-19 pandemic and the implementation of Labour Code. It accounts for the challenge and performance pressure for the HR Managers and other Human Resource professionals.

HR professionals are playing a crucial role in ensuring that mental health, as a serious business issue, is discussed in senior management's agenda, driving through policies and initiatives to tackle the growing challenges on this front. Companies spend huge amount of money on employee well-being programs because leaders recognize that good psychological health helps their workers be less stressed, more satisfied with their jobs, more energized, more creative, and more socially engaged leading to better productivity.

No doubt, pressure on HR is increasing. HR professionals do feel stretched, challenged and quite often overburdened. With all these errands and by consistently putting the needs of others first in their working lives, is there a tendency for HR professionals to neglect their own mental health and wellbeing? The answer is unequivocally "YES".

### What is mental health?

Mental health is a state of well-being in which an individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and is able to make a contribution to his or her community. Poor mental health is on the other hand, associated with rapid social change, stressful work conditions, gender discrimination, social exclusion, unhealthy lifestyle, physical ill-health and human rights violations. Multiple social (environmental), psychological, and biological factors determine the level of mental health of a person at any point of time. According to the National Mental Health Survey of India (2015-16), around 15% of Indian adults need support for one or other mental illness issues.

In a stress survival guide for HR professionals' Mark Gorkin (LCSW) documents a list of HR-related stressors:

- Availability and Accountability - can lead to burnout
- Objectivity - concerned advocate for management and employees can make them stressed
- Multiple roles
- Transitional Glue - HR team sustain morale in the face of an uncertain and vulnerable future
- Crisis management
- Ever - changing technology and policy
- Training demands

HR professionals are known to be good at caring for the rest of the workforce, sign posting others to help while they are expected to be the strong resilient kind of professionals. People expect HR professionals to be perfect, to give great advice to others, on many areas including on mental health. Undeniably mental health-related concerns continue to pervade the workplace, which includes HR professionals too. Often it may be ignored because of the unwritten code of conduct in HR fraternity i.e., *if we show signs of weakness ourselves then who can the business trust?* Sometimes, there is this expectation that *we don't need help!* This obviously makes it harder for HR professionals to speak out should they experience mental health problems.

Deprioritising their own mental wellbeing could be particularly hazardous for HR professionals because of the typical type of person that goes into the profession. For some professionals, with already existing predisposition for HR professionals to struggle with mental health issues, the difficult external business environment can also be a potential trigger. There are not only stigmas towards acknowledging, accepting the mental health problems, but the barriers that have been built up between HR and the rest of the business when it comes to mental health. There is no wonder many feel a lack of control over their workload and career. Some may have genuine worry that reaching out about a mental health issue could negatively impact their job security.

In *Firstpost* titled 'Our silent relationship with mental health – Stigma is still strong in India', Mumbai-based counsellor Divya Srivastava wrote:

*"Can one say with certainty that stigma surrounding mental health has reduced? Perhaps, yes; but to a very minuscule extent. True, people are not shunning topics related to mental health; conversations are now taking place more in the open. But it is an issue that is still trivialised."*

### **Being watchful:**

HR professionals are by no means immune to the wider situation, in which mental ill health is now the primary cause of long-term sickness. Though professionals use the terms anxiety and depression loosely to explain their psychological state of mind, a sizable amount of people being potentially diagnosed to have them as most common conditions.

Reading signals and early detection is the first step of prevention. The following are a few early signs which indicate that a person may be experiencing mental health problems. These signs should be considered when it is not typical of one's personality and it constantly bothers and deteriorates work or personal life day-by-day. Similarly, ruling out any physical ailment is must before considering it as mental health issue.

- Unusual behaviours which may be overly sensitive, irritable, angry, confused, forgetful, teary or tense
- Working longer or fewer hours than usual
- Obsession with parts of the job, and neglect of others
- Disengagement and low self-esteem
- Increased unplanned absence
- Increase in use of negative language and workplace conflict
- Physical symptoms such as appearing tired, headaches, sleeplessness, poor appetite
- Unusual fear towards some aspects of work or people
- Suicidal thoughts
- Smoking, drinking, or using drugs more than usual
- Experiencing severe mood swings that cause problems in relationships

## **Healthy mind in healthy body:**

Stress is inevitable and universally present. Protecting our own mental health is paramount because if we cannot look after our self we are in no position to look after others. We need to feel comfortable in putting our hands up and saying '*Can I have some help here?*' It is the simple logic that we are humans and we tend to get emotional impact from difficult situations.

A few high-spirited HR professionals coming forward with their stories of battling with mental health issues, are paving the way for better, more resilient, positive cultures in companies. This opens up innovative environmental approaches to fostering well-being.

New Economics Foundation (<http://www.neweconomics.org>) quoted simple doable techniques in Five Ways to Wellbeing:

- Connect (to others, individually and in communities);
- Be active;
- Take notice (of the world);
- Keep learning; and
- Give (e.g., smile, volunteer, join in).

Similarly, 'A stress survival guide for HR professional's by Mark Gorkin suggested five survival strategies:

- Balance Interdependence and Autonomy
- Balance administrative work and human relations
- Maximise team meetings
- Encourage independence by setting boundaries - Three boundary-setting strategies will enable the HR manager to successfully juggle various roles and responsibilities:
  - Delegation: Balance the Triple A - *Authority, Autonomy and Accountability* - which are critical management and stress tools.
  - Education: Help others not to be so dependent on your indispensable knowledge.
  - Separation: Generate the space-time dynamics for optimal performance of HR. Model the stress management mantra- "*Giving of yourself and giving to yourself!*"
- Reach out to specialists and counsellors: Resist the urge to be a self-therapist. When things are beyond your capacity to handle, it is better to take the help of experts without draining your internal resources. There is still a taboo towards using the services of a counsellor or the psychiatrist, but it is all the mindset; one may be comfortable in going to a physician, diabetologist or a dietician. The same level of acceptance needs to come among professionals.

## **To conclude:**

Recognizing these stressors, warning signs and strategic interventions will lighten the personal load while strengthening the leadership hold. There are various mind-healing methods such as yoga, meditation, practising mindfulness which can provide the cushion while handling mental health issues. At the end of the day, all these will allow you to practice Safe Stress and thereby, safeguard your mental health.

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