



Rights of working women's under Indian Labour laws

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Abstract

The woman is the key to every family institution because she is the caretaker of the family. Hence her role is significant in the family as well as in the industrial sector also. Usually, we observe and experience from the ancient era, if there are cultured women in the family; definitely, that family was/is developing. Hence, first and foremost, there is a need to improve her socio-economic and legal status in society. The situation is different in India concerned with women's employment. Her rights have been violating day by day, and they don't have to get adequate facilities in the job. So, firstly, these legal provisions are strictly enforced at the ground level. Women empowerment is an essential segment today.

Keywords: women's right, Indian Labour laws

Introduction

Women are an integral part of the Indian workforce, but such a class of women employees is suppressed by the ancient period's administrative, executive, and political authority. The Indian parliament has enacted several legislative provisions to promote and secure women employees; then, women are also facing several workplace problems. For such a situation, who is responsible? Therefore day by day the women employees working ratio in employment is less than the globalization.

According to the information provided by the office of Registrar General & Census Commissioner of India, As per Census 2011, the total number of female workers in India is 149.8 million, and female workers in rural and urban areas are 121.8 and 28.0 million respectively. As per Census 2011, women's work participation rate is 25.51 percent compared to 25.63 percent in 2001. The Work Participation Rate of Women reduced marginally in 2011, but there is an improvement from 22.27 percent in 1991 and 19.67 percent in 1981. The work participation rate for women in rural areas is 30.02 percent compared to 15.44 percent in the urban areas.

In so far as the organized sector is concerned, in March 2011, women workers constituted 20.5 percent of total employment in the country's organized sector, which is higher by 0.1 percent compared to the preceding year. As per the last Employment Review by Directorate General of Employment & Training (DGE&T), on 31st March 2011, about 59.54 lakh women workers were employed in the organized sector (Public and Private Sector). Of this, nearly 32.14 lakh women were employed in the community, social and personal service sectors^[1]. This data shows that 50% of women are also not working; if we are thinking of increasing women employees' ratio in the labour sector first and foremost, appropriate authorities should focus on women employees' rights. The legislative provisions have been discussed as follows with respective labour laws.

Labour laws and Women's

Women should know their rights while working, and that protects them at the workplace. The protective legislative provisions have been provided under Indian labour laws as follows:

1. The Factories Act, 1948

Women are usually working in the factories and industries, but these are not availing adequate facilities regarding their health, welfare, and safety point of view. The factories Act, 1948 has provided specific legislative provisions in respect of women workers as:

The employer's first and foremost responsibility is to provide sufficient latrine and urinal enclosed accommodation for male and female workers while they are at the factory, and it shall be maintained in a clean and sanitary condition at all times^[2]. As well as separate adequate washing facilities for female workers^[3].

The woman is not allowed to clean, lubricate or adjust any part of a prime-mover or any transmission machinery while prime-mover or transmission machinery is in motion because there may be a risk of injury from any moving part^[4]. Sec. 27 of this Act prohibits women's employment in any part of a factory for pressing cotton in which a cotton opener is at work. Sec. 48 provides that wherein 50^[5] or more women workers work in the factory and have a child below six years, there should be crèches facilities and the employer avail them free milk and refreshment for such children.

Section 66 (1) (b) states that women workers can work between 6 a.m. to 7 p.m. The High Court of Andhra Pradesh held that no woman should be work in any employment between 10 p.m. to 5 a.m.^[6]. The women are prohibited from working on dangerous manufacturing process or operation^[7].

2. The Minimum Wages Act, 1948

Every woman employee has the right to receive minimum wages from the employer of the factory or industry. Sec. 12 of this Act provides that every employer pay a minimum wage rate to every employee engaged in scheduled employment. Under this Act, the wages shall not be less than the minimum wage rate fixed by such notification, and the employer has the right to deduct only authorized deductions.

3. The Payment of Bonus Act, 1965

Sec. 12 of the Principal Act provides that if the women employees are drawing Rs. 7000/- Salary then the bonus payable to her under Sec. 10 and 11 ^[8].

4. The Employees State Insurance Act, 1948

Under this Act, insured women can claim for maternity benefit under Sec. 50 as per the guidelines by the Central Govt. In the case of confinement ^[9] Ministry of labour Affairs has extended the confinement expenses from Rs. 5000/- to 7500/- for pregnant women who have not to avail of maternity services of ESIC dispensaries ^[10].

5. The Payment of Gratuity Act, 1972

The maternity leave period for females in continuous service was twelve weeks under section 2A (2) (IV) of the earlier Payment of Gratuity Act. But the Central Govt. has specified that the total maternity leave period in the female employee's case shall not exceed twenty-six weeks ^[11].

6. The Provident Fund Act, 1952

In India, the female labour participation rate is below 25% against the global rate of 40% ^[12]. Before the amendment, every employee had to contribute 12% of their basic salary towards EPF as a statutory mandate. A matching contribution was made by the employer too. But in the union budget 2018, the EPF contribution rate for the newly recruited female employees has been reduced from 12% to 8%. This privilege will be available to the new female employees for the first three years of employment ^[13].

7. The Maternity Benefit (Amendment) Act, 2017

The necessary changes have made during 2017 under the Maternity Benefit Act, 1961. The significant changes are as follows:

1. Increased the duration of paid maternity leave from 12 weeks to 26 weeks for women employees, unless they have two or more surviving children;
2. Maternity leave of 12 weeks to be available to mothers adopting a child below the age of three months from the date of adoption and the "commissioning mothers".
3. To "work from home" for women, which may be exercised after the expiry of the 26 weeks' leave period. Depending upon the nature of work, women employees may be able to benefit on mutually agreed terms with the employer.
4. To make the crèches facility mandatory for every establishment employing 50 or more employees. Women employees would be permitted to visit the crèche four times during the day (including rest intervals) ^[14].

Every woman has entitled to receive a medical bonus from her employer ^[15]. In miscarriage, a woman has entitled to leave with wages at the rate of maternity benefit for six weeks immediately following the day of her miscarriage ^[16]. In the case of nursing breaks ^[17], every woman delivered of a child who returns to the respective duty after such delivery has allowed two breaks in the daily course work until the child attains the age of fifteen.

8. The Equal Remuneration Act, 1976

Sec. 4 provides that, "Duty of employer to pay equal remuneration to men and women workers for the same work or work of a similar nature." As well Sec. 5 provides the employer shall not discriminate while recruiting men and women workers in employment.

9. The Sexual Harassment of Women at workplace Act, 2013

In 2013, India's Government notified the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act. Consistent with the *Vishaka* judgment, the Act aspires to ensure women's right to workplace equality, free from sexual harassment.

Under this Act, various issues have included defining the workplace, all types of establishments, dwelling place, the domestic worker and unorganized sectors, etc.

10. The Mines Act, 1952

The Ministry of Labour & Employment has decided after consultation with the authorities to allow women employees in aboveground mines, including opencast workings between 7 p.m. and 6 a.m. In the belowground working between 6 a.m. and 7 p.m. in technical, supervisory, and managerial work, continuous presence may not be required. The safeguards like obtaining the women employee's written consent, deployment in groups of not less than three (03), and provisions for framing and implementation of Standard Operating Procedures based on the guidelines issued in this regard by the Chief Inspector of Mines, have been incorporated ^[18].

11. The Plantation Labour Act, 1951

Sec. 9 (1) and (2) provides that the employer should provide separate sufficient latrines and urinals for males and females, and it should be maintained in a clean and sanitary condition. In every plantation wherein 50 or more women workers are employed, there should be a crèches facility, but such women must have below the six-year child ^[19]. The women or children are not allowed to work at the plantation between 7 p.m. to 6 a.m. if there is required to work during night time firstly; they obtain permission from the State Government ^[20].

12. The Building and Other Construction Worker's (Regulation of Employment and Conditions of Service) Act, 1996

Where a building or other construction work is caring for that place, the employer shall provide sufficient separate latrine and urinal accommodation for males and females, and they shall be conveniently accessible to the workers at all times while they are in such place (Sec. 33). The women

workers shall avail crèches facility at the building or construction place (Sec. 35).

13. The Beedi and Cigar Workers Act, 1966

Under this Act also woman workers provide sufficient latrine and urinal accommodation ^[21] as well as the prime duty of the employer to provide crèches facilities wherein fifty female workers are working at the employment place (Sec. 14). Sec. 25 stated that “No woman or young person shall be required or allowed to work in any industrial premises except between 6 a.m. and 7 p.m.

Conclusion

The multiple special legislative provisions are available for the health, welfare, and safety of women employees at the national and international levels. There is also a movement towards the empowerment of women employees in the labour law. Usually, most women are unaware of the statutory provisions; therefore, in practical life, they become the victim of injustice. Firstly, there is a need to fight against injustice; therefore, the women employees should know and understood legal provisions have provided under the respective laws, and those are generally promoting and securing their rights. Secondly, women should become members of the Registered Trade Union because the respective union will in favour of the women employees for solving their legal issues. Thirdly, women should form their self-help group; through that policy, those women know legal provisions that may spread among other women they are not aware of it. Fourthly, the NGO's voluntarily perform a crucial role in helping the needy and victim women employees to solve their legal problems. Several provisions are available for women employees on the paper. Still, at the ground level, executive authority, administrative authority, and political authority do not adequately enforce all provisions provided under the Indian labour laws. If the appropriate authorities concentrate on these issues, then after there will be positive results, women's rights shall not be violated.

References

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5. Subs. for “Fifty women workers” by Act 94 of (w.e.f. 26.10.1976), 1976.
6. Triveni K.S. and Ors. vs Union of India And Ors, (5) ALT 223, (2002) IILLJ 320 AP, 2002.
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8. Sec. 12 of the Payment of Bonus (Amendment) Act, 2015.
9. “Confinement” means labour resulting in the issue of a living child or labour after twenty-six weeks of pregnancy resulting in the issue of a child whether alive or dead. [Section 2(3), ESI Act]
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19. Sec. 12 of the Plantation Labour Act, 1951.
20. Sec. 25 of the Plantation Labour Act, 1951.
21. Sec. 12 of the Beedi and Cigar Workers (Conditions of Employment) Act, 1966.