

# National commission on industrial relations

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## INDUSTRIAL RELATION & LABOUR LAWS Assignment Topic National commission on Industrial Relation Recommendation Submitted by J. Mary Smile MBA-Final Year NATIONAL COMMISSION ON INDUSTRIAL RELATIONS

The first National Labour Commission 1929, had promised lot in the direction of social security, social welfare, wages, social insurance, industrial relations, industrial adjudication, collective bargaining etc,. In sequel to the recommendations made in the report of the first national commission on labour series of labour enactments were passed.

After the gap of almost 72 years the Second National Labour Commission has been constituted and submitted its report in the year 2002 to the Government of India. At the outset the terms of reference to the commission are as under: 1. To suggest rationalization of existing laws relating to labour in the organised sector, 2. To suggest an umbrella legislation for ensuring a minimum level of protection to the workers in the unorganized sector.

Methodology: Before penning down the report, the Commission followed the following methodology: \* arranged consultation / conferences in the major cities of India to get the opinion of the Industry, public, educationalists and so on institutions'; \* circulated a questionnaire across the industry and the society in terms of the reference \* surveys conducted both in organised and unorganised sector General Recommendations: 1.

We recommend that the Central Government and the State Government should have a uniform policy on holidays, only 3 national holidays be gazetted - namely Independence Day, Republic Day and Gandhi Jayanti Day, two more days may be added to be determined by each State according to its own tradition and apart from these each person must be allowed to avail

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of 10 restricted holidays in the year, Government holidays should be delinked from holidays under the Negotiable Instruments Act. (5. 29) 2. Flexibility in the hours of work per week and compensation for overtime. 5. 32) 3. Attempt to change the basis of tenure in all jobs (permanent as well as non-permanent) to contractual and for stipulated periods, involves a basic change in attitude and notion. If transforming the basis of all employment is a social necessity because it has become economic necessity for industrial and commercial enterprises, then, it is equally necessary to create social acceptability for the change and the social institutions that can take care of the consequences. (5. 34 ; 35).

The fundamental change of this type has to be preceded by : i) evolution of socially accepted consensus on the new perceptual jobs ii) the evolution of a system of constant up-gradation of employability through training in a wide spectrum of multiple skills iii) the setting up of a system of social security that includes unemployment insurance and provisions for medical facilities; and iv) the institution of a mandatory system of two contracts - one, an individual contract and two, a collective contract with workers union. . The commission recommends that government may laid down list of highly paid jobs who are presently deemed as workman category as being outside the purview of the laws relating to workman and included in the proposed law for protection of non-workmen. Another alternative is that the Govt. fix a cut off limit of remuneration which is substantially high enough, in the present context such as Rs. 25, 000/- p. m. beyond which employee will not be treated as ordinary " workman". 6. 19) wage ceiling of Rs. 25000/- 5. Further the Commission recommended that it would be logically to keep all the

supervisory personnel, irrespective of their wages / salary, outside the rank of worker and keep them out of the purview of labour law meant for workers. All such supervisory category of employees should be clubbed along with the category of persons who discharge managerial and administrative functions.

The Commission would also recommend that such a modified definition of worker could be adopted in all the labour laws. We expect management to take care of the interest of supervisory staff as they will now be part of managerial fraternity. (6. 20) Modified definition of worker 6. Existing set of labour laws should be broadly grouped into four or five groups of laws pertaining to: \* Industrial relations \* Wages \* Social security \* Safety \* Welfare and working conditions and so on 7.

The Commission is of the view that the coverage as well as the definition of the term 'worker' should be the same in all Group of laws subject to the stipulation that social security benefits must be available to all employees including administrative, managerial, supervisory and other excluded from the category of workmen and others not treated as workmen or excluded from the category of workmen I. APPROACHES IN DRAFTING THE LAW ON LABOUR MANAGEMENT RELATIONS Firstly, the Commission would prefer the gender neutral expression 'worker' instead of the currently used word 'workman'.

Secondly, the law will apply uniformly to all such establishments. Thirdly, we recognize that today the extent of unionization is low and even this low level is being eroded, and that it is time that the stand was reversed and collective negotiations encouraged. Where agreements and understanding between two parties is not possible, there, recourse to the assistance of a <https://assignbuster.com/national-commission-on-industrial-relations/>

third party should as far as possible be through arbitration or where adjudication is the preferred mode, through Labour Courts and Labour Relations Commissions of the type be proposed later in this regard and not governmental intervention.

A settlement entered into with recognised negotiating agent must be binding on all workers. Fourthly, we consider that provisions must be made in the law for determining negotiating agents, particularly on behalf of workers. Fifthly, the law must provide for authorities to identify the negotiating agent, to adjudicate disputes and so on, and these must be provided in the shape of labour courts and labour relations Commissions at the State, Central and National levels.

Sixthly, The Commission is of the view that changes in labour laws be accompanied by a well defined social security package that will benefit all workers, be they in 'organised' or 'unorganised' sector and should also cover those in the administrative, managerial and other categories which have been excluded from the purview of the term worker. II. INDUSTRIAL RELATIONS AND TRADE UNIONS 1. It is necessary to provide minimum level of protection to managerial and other (excluded) employees too against unfair dismissal or removal.

This has to be through adjudication by Labour court or Labour Relations Commission or arbitration. (6. 22) 2. Central laws relating to the subject of labour relations are currently the ID Act, 1947, The TU Act, 1926, Industrial Employment (SO) Act, 1946, Sales Promotion Employees (Conditions of Service) Act, 1976. There are State level legislation too on the subject. We recommend that the provisions of all these laws be judiciously consolidated

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into a single law called " The Labour Management Relations Law" or " Law on Labour Management Relations". (6. 26) 3.

Recommend the enactment of special law for small scale units. We have come to the conclusion that the reasonable threshold limit will be 19 workers. Any establishment with workers above that number cannot be regarded as " small. (6. 28) 4. The commission has avoided the term 'Industry' with a view that the persons engaged in domestic service are better covered under the proposed type of umbrella legislation, particularly in regard to wages, hours of work, working conditions, safety and social security. (6. 40) 5. Modification in the terms like 'strikes', 'work stoppage' etc. and the terms go slow and work to rule must be regarded as misconduct under Standing Orders and Provisions relating to unfair labour practice. (6. 41) 6. Commission has recommended to the withdrawal of Essential Services Maintenance Act (6. 49). 7. The Commission has suggested to identify a bargaining agent on the basis of check-off system, with 66% entitling the Union to be accepted as a single negotiating agent and if no union has 66% support, then Unions that have the support of more than 25% should be given proportionate representation on the college. (6. 6) 8. Check-off system in an establishment employing 300 or more workers must be made compulsory for members of all registered trade unions. (6. 73) 9. Commission also recommended that recognition once granted, should be valid for a period of 4 years to be co-terminus with the period of settlement. No claim by any other Trade Union / Federation / Center for recognition should be entertain till at least 4 years have elapsed from the date of earlier

recognition. (6. 76) 10. Establishment employing 20 or more workers should have Standing Order or Regulations.

There is no need to delimit the issues on which Standing Orders can or need be framed. As long as two parties agree all manner of things including multi-skilling, production, job enrichment, productivity and so on can also be added. The appropriate Government may prescribe a separate Model Standing Orders for units employing less than 50 workers. The Commission has drafted a draft Model Standing Orders in this regard. (6. 77). 11. Every establishment shall establish a grievance redressal committee consisting of equal number of workers and employers representatives.

The said committee be the body to which all grievance of a worker in respect of his employment will be referred for decision within a given time frame (6. 80). 12. Commission's view on Chapter V B (Special Provisions relating to Lay-off, Retrenchment & Closure in the Establishments employing not less than 100 workmen) of the ID Act : The Commission has felt that, in the new circumstances of global competition, it may not be possible for some enterprises to continue and meet the economic consequences of competition.

In such cases, one cannot compel non-viable undertakings to continue to bear the financial burden that has to be borne to keep the concern going. They should, therefore, have the option to close down. In these circumstances, the commission came to the conclusion the best and more honest equitable course will be to allow closure, provide for adequate compensation to workers and in the event of an appeal, leave it to the Labour Relations Commission to find ways of redressal - through arbitration

or adjudication. 6. 87). 13. The commission has recommended for maintenance of panel of arbitrators by the LRC concern, to settle the disputes. (6. 93). 14. The matters pertaining to individual workers, be it termination of employment or transfer or any other matter be determined by recourse to the Grievance Redressal Committee, conciliation and arbitration / adjudication by the Labour Court. Accordingly, Sec. 2 a of the ID Act may be amended. 6. 96) 15. The system of legal aid to workers and trade unions from Public Fund be worked out to ensure that workers and their organisations are not unduly handicapped as a result of their inability to hire legal counsel. (6. 98) 16. Strike should be called only by the recognised negotiating agent and that too only after it had conducted a strike ballot among all the workers, of whom at least 51% of support the strike. (6. 101).

7 Workers participation in management - the legislative teeth should be provided. (6. 102). 18. The provisions in respect of small establishments can be in the form of a separate law name Small Enterprises (Employment Relations Act) or be included in the general law as a separate chapter to ensure that the interest of the workers are fully protected, even while lessening burden on the management and providing them with vigilance in exercising managerial functions. 6. 106) III. CONTRACT LABOUR/CASUAL TEMPORARY WORKERS The Commission has recommended that contract labour shall not be engaged for core production / service activities. However, for sporadic seasonal demand, the employer may engage temporary labour for core production / service activity. As mentioned by the commission that off-loading perennial non-core services like canteen, watch and ward, cleaning, etc. o other employing agencies has to take care of



three aspects - (1) there have to be provisions that ensure that ensure that perennial core services are not transferred to other agencies or establishments; (2) where such services are being performed by employees on the payrolls of the enterprises, no transfer to other agencies should be done without consulting, bargaining (negotiating) agents; and (3) where the transfer of such services do not involve any employee who is currently in service of the enterprise, the management will be free to entrust the service to outside agencies.

The contract labour will, however, be remunerated at the rate of a regular worker engaged in the same organisation doing work of a comparable nature or if such workers does not exist in the organisation, at the lowest salary of a worker in a comparable grade, i. e. unskilled, semi-skilled or skilled. (6. 109).

The Commission would recommend that no worker should be kept continuously as a Casual or temporary worker against a permanent job for more than 2 years. (6. 110) IV. WAGES i) The Commission recommends that every employer must pay each worker his one-month's wage, as bonus before an appropriate festival, be it Diwali or Onam or Puja or Ramzan or Christmas. Any demand for bonus in excess of this upto a maximum of 20% of the wages will be subject to negotiation. The Commission also recommend that the present system of two wage ceilings for reckoning entitlement and for calculation of bonus should be suitably enhanced to Rs. 7500/- and Rs. 3500/- for entitlement and calculation respectively. (6. 113). ii) There should be a national minimum wage that the Central Government may notify. This minimum must be revised from time to time. It should, in addition, have a component of dearness allowance to be declared six monthly linked to the

consumer price index and the minimum wage may be revised once in five years. The Commission also recommends the abolition of the present system of notifying scheduled employments and of fixing/revising the minimum rates of wages periodically for each scheduled employment, since it feels that all workers in all employments should have the benefit of a minimum wage. 6. 114) (iii) There is no need for any wage board, statutory or otherwise, for fixing wage rates for workers in any industry. (6. 118). V. WORKING CONDITIONS, SERVICE CONDITIONS ETC The Commission recommended enactment of a general law relating to hours of work, leave and working conditions, at the work place. For ensuring safety at the work place and in different activities, one omnibus law may be enacted, providing for different rules and regulations on safety applicable to different activities. The Commission have appended a draft indicative law on hours of work and other working conditions after this chapter, and an omnibus draft indicative law on safety in the chapter on Labour Administration). Such general law on working conditions etc OTHER RECOMMENDATIONS \* Recommendations on women & labour\* Recommendations on skill development \* Labour Administration \* Workers participation in management \* Employment scenario in the country \* Review of wages and wage policy