Emerging Issues in Industrial Relations and Labour Laws: Labour Reforms

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ABSTRACT

Over the years, labour laws have undergone change with regard to their object and scope. Early labour legislations were enacted to safeguard the interest of employers. They were governed by the doctrine of laissez faire. Modern labour legislation, on the other hand, aims to protect workers against exploitation by employers. The advent of doctrine of welfare state is based on the notion of progressive social philosophy which has rendered the old doctrine of laissez faire obsolete. The theory of 'hire and fire' as well as the theory of 'supply and demand' which found free scope under the old doctrine of laissez faire no longer hold good. However, the emergence of globalization and privatization has brought new challenges. There is absolute necessity to reform labour laws. It is often contended by the employers that there are various restrictions on them to hire and terminate their services. The present paper speaks about the areas which require immediate attention to reform the labour laws, simplify and make more workable.

Keywords

Laissez faire, Labour Reform, Strike, Lockout, Retrenchment, Recognition, Conciliation, Inspection

INTRODUCTION

Labour law, which seeks to regulate the relations between employers and their workers, does not address several problems. Even though labour laws have been amended during the last few years, but it cannot be denied that they have become obsolete. Indeed, they suffer from various defects and shortcomings. Thus, most labour legislations are not applicable to unorganized labour, which constitute 93 percent of the labour force. Further most labour legislation is more than five decades old.

The emergence of globalization, liberalization and privatization has brought new challenges. There is therefore, mounting pressure to reform labour laws. In view of this the second National Commission on Labour had, in its report made some headway in removing the irritants and stumbling blocks. However, it is unfortunate that no positive step has so far been taken to give legislative shape to the recommendations of a commission.

It is often contended by employers that labour laws place unreasonable restrictions on them to hire workmen and terminate their services and inhibit them in meeting global competition. They also claim that this deters them from opening of new businesses and discourages employment density. On the other hand, workers' organizations have opposed the dilution of job security provisions in the law since they feel that it would encourage exploitation of workers and deterioration in the quality of employment. Whatever may be the justification of management and trade unions, there is a need to re-visit the existing provisions in view of the interests of workers and the recent developments.

EMERGING ISSUES

The key emerging issues in this regard are:

1) **Multiplicity of Labour Laws and the need for fewer labour legislations if not a single labour code**- There are about **165** legislations-both central and states to deal with labour. These are the most voluminous in the world. More laws mean less implementation, if the inspection and enforcement machinery is limited. The second National Commission on Labour grouped the entire labour laws into four or five categories. Be that as it may be, it is better to have fewer labour laws, if not single labour code and better enforcement and effective implementation machinery.

2) **Law relating to multiple definition of same/similar terms under labour legislation to be eliminated**- (a) The Industrial Disputes Act,1947 defines 'workman', the Factories Act defines 'worker' and the Employees' State Insurance Act,1948 defines 'employee' in different ways. This creates confusion. In order to bring uniformity, the term 'worker' should be uniformly adopted and defined. (b) The expression

'appropriate government' has been differently defined in various labour legislation. In order to reduce conflict and bring uniformity, there should be a single definition. (c) The term 'wage' has been defined differently under the Minimum Wages Act,1948, Payment of Wages Act,1936; Payment of Gratuity Act,1972 and the Industrial Disputes Act,1947. A need has therefore, been felt to provide a single definition.

3) **Law relating to arena of interaction**—vague: the definition of 'industry' under the Industrial Disputes Act, 1947 and 'establishment' under the Industrial Employment (Standing Orders) Act,1946 need to be simplified.

4) **Law relating to salary limit-obsolete**: The salary limit provided under various labour legislations has become obsolete. Thus, the wage limit under the Payment of Wages Act, 1936 has now been fixed at Rs. 6,500 per month. Likewise, the 2010 amendment in the Industrial Disputes Act fixes the wage limit for workers doing supervisory work at Rs. 10,000 per month. On the contrary, there is no wage limit for persons doing technical/skilled work. Thus, even persons like a pilot drawing several lakhs per month would be a workman under the Industrial Disputes Act, but a supervisor drawing Rs. 10,000 or more per month would not be a workman. This is an area which requires review.

5) **Number of persons employed**: the minimum number of persons prescribed under various labour legislations need to be reviewed.

6) **Laws regulating strikes and lockouts**: (1) Minimum period of notice must be prescribed for strikes/lockouts in non-public utility services. (2) Secret ballot method for resorting to strikes may be considered. (3) Penalties prescribed for illegal strikes/lockouts should be deterrent in nature. (4) Just like go-slow, stay-in-strike should be treated as a serious misconduct.

7) **Notice of Change under section 9A of the Industrial Disputes Act, 1947**: This need to be reviewed, particularly where the employers expands the business or increase the strength of labour.

8) **Government's permission for retrenchment, lay off and closure of enterprise**: The crucial is whether the management employing 100 workers or more should seek prior approval of the appropriate government before lay off, retrenchment or closure or the existing limit of 100 workers should be raised to 300.

9) **Problems of enforcement and compliance of labour laws:** The existing labour legislation does not fully address the problems of enforcement. This is more evident in the unorganized sector. Quite apart from this, the enforcement process has failed to meet the intent of legislation. The penal provisions, particularly in case of illegal strikes/lockouts have remained on paper.

10) **Recognition of unions**: There is no provision in any central labour legislation for the recognition of trade unions by the employer. The basic issue is about the mode of determining the bargaining agent.

11) **National minimum wage**: There is need to examine whether there should be a national minimum wage for all scheduled employment.

12) Other areas for reform

a) Social security for unorganized workers, particularly health, maternity benefits, disablement benefits and old age benefits.

b) Contract labour.

c) Child labour.

d) Minimum standards of employment for all workers.

e) Application and extension of Equal Remuneration Act.

CONCLUSION AND SUGGESTION

While political authority with regard to labour administration is vested with Ministry of Labour, Labour Commissioner is responsible for the implementation of Labour Laws and many other functions like inspection and conciliation.

Because of a large number of labour laws, there used to be a number of inspection carried out which used to be a big headache. Now, under the labour reforms and for making environment favourable to start/conduct business, the Government has initiated the move that there should be only one inspection under the Factories Act, 1948 and that necessary permission should be obtained for conducting

the inspection. In many cases, self- certification by the employer will serve the purpose.

Conciliation machinery is being strengthened and considered as the best method of settlement of disputes. However, poor infrastructure including inadequate manpower, legalistic orientation, limited scope, political interference etc. are the bottlenecks in the way of conciliation. It is, therefore, advisable to create a separate cadre for conciliation/mediation services. The conciliation officer should have proper training, appropriate attitude, more authority, trade unions and management having conciliatory approach, a time framework for referring the case for adjudication in case conciliation efforts have failed, etc., if the conciliation machinery is to prove effective.

Similarly, Labour Court system needs strengthening. Only disputes related to 'rights issues' should be settled through adjudication and 'interest disputes' should be resolved through conciliation machinery. Procedures should be simplified, time framework for the settlement of disputes should be specified, workload should be reduced, and more Labour Courts and Tribunals should be established.

Alternative dispute resolution mechanism should be promoted. This may include Labour Lok Adalats, permanent negation machinery involving bipartite negotiating agreements, voluntary arbitration, enterprise level bipartite negotiations, etc.

In the end, it can be concluded that labour administration and conciliation machinery are well founded in our country though the same needs to be made effective and efficient. In case the present Government's proposed reforms, including amendments/codification of labour laws get materialized, the labour administration and conciliation machinery is also likely to prove effective.

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