

Course Name: Labour Welfare and Industrial Relations

Professor Name: Prof. Dr. Abraham Cyril Issac

Department Name: School of Business

Indian Institute of Technology Guwahati

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Lec 40: Welfare, working hours of adults

Hello students. Welcome back to the course on labor welfare and industrial relations.

I'm Dr. Abraham Cyril Issac. I'm a faculty at the School of Business, Indian Institute of Technology, Guwahati.

So over the last few lectures, we have looked into the Factories Act. We have looked into the background, why the Factories Act or such an act was essential and what were the salient features of the particular act. So specifically, we had looked into something like the working conditions, something like the safety of the worker in the particular factory. So all these aspects have been looked up and we have also looked into the working conditions and specifically. the welfare of the people.

So today I would like to discuss more on the welfare element in the Factories Act 1948. So we had looked into different aspects of welfare but today I would like to look into special provisions made in the Act towards the welfare aspect. Now welfare of the workers is something which is very critical. It goes one step ahead of what the safety conditions or the working conditions or provisions with respect to other amenities are. Welfare takes a step ahead because it looks into the need and the want of the particular individual within the factory.

So let's look into the welfare of workers. The word labor welfare refers to the services offered to employees in and outside the factory premises. So it is not only that the welfare happens to be within the factory premises, it is one step beyond that, it is what schemes

or what social security these individuals who are working in the factory conditions do have or do possess or can claim. So the word labor welfare becomes essentially critical because it has an outside dimension to it.

It has a dimension outside the factory associated to it. So something like, let's say, to make the life of the worker easy, something like canteens, something like the rest and recreation facilities, housing for all, all these services actually cater to what is known as the welfare of workers. So if you look at specifically, we are going one step beyond. We are looking into the possibility of having a better working condition and moreover, we are also looking into a possibility of having a better worker in terms of how he is in his mental disposition.

He is happy with a proper residential facility provided for him by the company or maybe he is happy with the facilities that are provided like a good canteen facility, a good recreation facility where not only him or her, but their family also can enjoy and have a better time, a quality time. So this is something which reflects or which resonates when it comes to welfare of the fact of welfare within the factories act. In the early stages of industrialization this is something which we have discussed in the previous couple of modules welfare activities for factory workers did not receive adequate attention so the act actually looked into that inadequacy that lacunae and tried to mitigate that with certain provisions so specifically in this class we'll look into those provisions which are very particularly associated with the welfare of the individual. Now when we look into the act there are certain significant amendments that pertains to this welfare and the first and the foremost one is raising the minimum age of children who can work from 12 to 14 years old.

We had a clear discussion in the previous module with respect to the working conditions for you know young workforce but here specifically when large number of children were actually into the workforce or they were forced into the workforce, I should say, then the acts like Factories Act gave a respite, gave a certain remedy to that issue or that pertinent problem that existed in the Indian workforce. So this was the first and foremost thing which the Factories Act did by raising the minimum age of children who can work from 12 to 14 years old. Reducing the number of hours a child can work from five to four and

a half giving special preference so again we are specifically looking into the scenario that was there existent in that period of time lot of amendments lot of changes are have gone through with respect to what a child or how a child can work and what would be the age limit nowadays the things are different but preventing the kids from working between hours of 7 p.m. and 6 a.m. was something that critically came up as a significant amendment to the act. It essentially shows that there has been certain exploitation that has happening in this time window from 7 p.m. to 6 a.m. And incidentally or interestingly, these amendments actually tried to attack that and try to mitigate that.

ensuring that are preventing the kids from working between hours of 7 p.m. and 6 a.m. The health, safety and well-being of all types of employees are also given particular attention with respect to the Factories Act 1948. So these were some of the significant amendments that came in with respect to the Factories Act.

Now, when you look into the welfare measures specifically, so if I want to divide and understand, let's say I want to categorically understand the welfare measures specifically, I will broadly understand it in terms of occupational health care. I can look into appropriate working hours and I can also look into appropriate remuneration. So any individual who is working, let's say, remove the factory context for, let's say, 10, 20 seconds and think in your workplace. If you are working in your domain of work, you will see that what affects you more. is nothing but the occupational health.

Let's say you are working in a very good premises, but there is some chemical factory adjacent to it. So there is a potential passive hazard that you are exposed to. Also, there are situations where some of you might be working in some hazardous environment which can actually create occupational hazard. So that would be one of the first and foremost concerns that how you would be safe enough or how can you be safe enough to work in the particular workplace. You might be interested in working there.

You might be happy in working there because you are the right fit for the right job. But still somewhere because of the continued exposure, maybe incrementally. There might be some issues that are coming in and occupational health care takes the first and the foremost criticality or critical position in the scheme of things. Second would be how

much time can you work? Maybe during the initial hours just into the company, you are young, you are having energy.

There might be a lot of potential you are having and you might be eager to work more. 8 hours, 10 hours might seem very less for you, you might be ready to contribute more and nothing like if there are some incentives for working beyond the actual routine hours, you might be happily taking up those assignments. But unfortunately, as the age catches in, as you become more mature, as you have your own other family commitments and other commitments, You feel that you do not have that much of time to spend in the workplace. You do not have that much of energy to spend in your workplace.

So appropriate working hours also happens to be catching up as one of the significant factor when it comes to workplace. And the third and the most important thing, I will say this is one of the most critical aspects, appropriate remuneration. Why will a person work at a company which is not appropriately giving him or her the required salary or what he or she is capable of or doing for the company. So these were certain critical function or critical elements which needed deliberation and most of the welfare measures with respect to the factories act came in these three verticals so occupational health care appropriate working hours and appropriate remuneration so we'll look into that in the detailed welfare provisions i'll go section by section let's look into section 42 to 50 which specifies the necessity for welfare of workers so when we look into section 42 washing facilities, When we look into section 43, which talks about the facilities for storing and drying clothes. Similarly, facilities for sitting. You might be working in a condition as I had a small discussion in the previous class. There are situations in which you have to be with the machine or in the workplace standing all the time, let's say. Your shift is for 8 hours even if it looks like a small shift you may have to stand the whole time.

So there should be appropriate facilities for relaxation, facilities for sitting and that is given by section 44. Section 45 encompasses on the first aid appliance. So all these factories might have a potential threat. There could be any sort of injury and any sort of emergencies that could come in. So Section 45 takes care of that.

As we have mentioned in the welfare aspect, the most critical one being canteen, Section 46 looks into that. Similarly, shelters, restrooms and lunchrooms also. are looked up by section 47 section 48 looks into the crest and welfare officers come under the ambit of section 49 so basically there is a certain accountability that is also coming into picture rather than just putting the rules the laws the significant amendments on paper the act wanted to have some teeth the act wanted to have some power and that's why certain welfare officers provision was also given under section 49 so these are the initial section 42 to section 50 what they encompass or what they actually tried to direct the employer to do for the worker now let's look into working hours We had understood that this is also one of the most critical aspects when it comes to the working dignity and the significance of the work in the particular factory.

Working hours is the hours which the worker or employee perform their duties under a job. This is what is the operational definition of working hours. Now it can be on daily basis, it can be on a basis of week or monthly basis. So when you are being remunerated, you are actually remunerated based on the working hours. So this is why the operational definition of working hours becomes very critical.

Now, when you look into the second part or the second critical element, working hours, what are the provisions associated with working hours? Let's look into that quickly from Section 51 to Section mainly 62. Section 51 looks into the weekly hours. If the company is calculating your working hours based on the week, weekly hours is encompassing or is being covered under Section 52. Section 52, incidentally, also looks into the weekly holidays, if any.

So what are the rest hours? What are the possibilities of having a recreation? What are the possibilities of having a rest not only to the body but also to the mind? So weekly holidays are looked into by section 52. Section 53 categorically looks into the compensatory holidays the companies are supposed to give and section 54 looks into the daily hours that are actually being monitored based on the work schedule.

Section 55, on the other hand, looks into the rest intervals. This is, please understand, when this looks into the weekly holidays and compensatory holidays, section 52 and

section 53, section 55 is classically looking into the rest intervals between the particular day. And similarly, Section 56 looks into the spread over and 57 night shifts. So, all those provisions with respect to night shifts are governed by Section 57, be it in the work time, be it in the safety protocol, be it in the way the things have to be operated or the lighting, anything and everything comes under the ambit of Section 57. Section 59 looks into overtime and extra wages.

Section 60 looks into double time double employment. So basically any incentives working above and over the schedule will be governed by section 59 and section 60 for double employment section 61. specifically looks into the notice of periods of work for mainly adults and finally there is a provision for register of workers under the section 62 so when you categorically summarize the working hour provisions you have a whole lot of provisions included in the act from section 51 to section 62 now when you look into the law specifically regarding work hours please note Please note, there are certain exceptions because, you know, when it comes to a way that the work or the daily work of the factory is getting affected by certain critical provisions in the Act, there are certain safeguards also given to the employer. And there are certain provisions or exceptions given to the authorities, especially the state or the central government.

And let's quickly look into that exception, Section 64. very critical when it comes to this law, gives power to make laws regarding all the provisions. Please remember, all the provisions related to working hours, weekly holidays, daily working hours, etc. So provided that the state has provided a ground for amending the provisions as mentioned in the Factories Act 1948.

So section 64 says, happens to be very critical as it has certain exceptional provisions and it gives the authorities the power to make laws regarding all the provisions related to the aforementioned factors. Now, similarly, Section 65 also. gives the power to the state government to exempt any provisions under the Factories Act 1948 if it deems fit that the exemption is required to enable the factories to work under that Act. condition or situation so this is also interesting because when you are looking into the entire set of provisions specifically there could be some provisions that may go against the spirit of the existence of the factory or spirit of employment so to prevent that or to have a check

Over that, there is this provision in Section 65, which categorically gives the power to the state government to exempt any provision under the Factories Act if it deems that the exemption is required to enable the factories to work under that particular condition or situation.

So this gives a certain bit of power to the state government. And we have seen in many cases, I will take a specific case after this, which categorically underscores the relevance of section 65 and the exemption associated with that now this is the particular case regarding working hours with landmark judgment which happened in the workmen of multiple sugar factory private limited versus the multiple sugar factory private limited So this is something which happens to be one of the classical cases when it comes to the working hours and when it comes to the factory act, specifically with respect to the Section 65, which I was talking. So let's have a detailed understanding of what this case is all about.

So in the case of workmen of the Motipur Sugar Factory Pvt. Ltd. versus the Motipur Sugar Factory Pvt. Ltd., 1965, where the workers of the factory urged the court to allow a rest period.

So please note, we have covered the rest period under Section 65 just now, which was exempted by the government of Bihar under Section 64 for the purpose of handling and crushing the cane. So this was the part of their work and relevant sections were quoted because the Act gives a rest period under the ambit of Section 55, but the government of Bihar exempted it under the purview of Section 64. So the workers were subject to the condition as per the state government's new rules that they were only allowed to take light refreshments or light meals at the place of their employment only. Thus, as the rules were made under Section 64, it was held that the cane operations were exempted from Section 65 subject to the condition mentioned by the government of Bihar. So the claim of workers that they need to have a 30-minute rest period

This was actually the claim was set aside as Section 64 and Section 65. So this will be a practical understanding of what we have discussed just now. Theoretically, Section 64 and Section 65 is special provisions which give the state government authority. powers to

exempt certain provisions as it deems fit for the factories to deal with exceptional press of work. So because of the press of work, the argument was that we are not in a position to give the requester 30 minutes arrest per shift.

So the Supreme Court in this case. tell that the workers are allowed to take a few minutes of break in turn in age shift so that the work does not stop. So the work should get the primacy. We cannot undermine the work and just go for the rights of the individual. The work should get the primacy.

Work should not stop since if the court allows only 30 minutes rest period, the average crushing speed will be reduced to 31,000 mounds per day. So basically, it severely affects the the work efficiency if the court is going to allow the request. So according to the guidelines as now is released by different states, all the state governments are not only the state of Bihar, all the state government has clearly mentioned that the factory should not lay off their workers and they must ensure that the workers are paid fully for the work even during the lockdown in order to protect the rights of the workers. So this is the amendment.

This is the newness or this is the latest update with respect to the law which I am talking about. Madhya Pradesh government is considering to allow a longer shift in the factories as it works out in all the ways to help factories to cope with fewer workers. Please understand longer shift as an alternative for fewer workers and a lot of high demand, which is essential point during the lockdown. As because of the coronavirus pandemic, the factories, including the state, are suffering from an economic crisis. So this is what happened.

During the pandemic and what the case had taken a deviation and there are certain updates from different state governments with respect to meeting on the high demands. The government's decision in the extension of working hours is really good initiative as it will provide a lot of employment opportunities and moreover will help us provide with all essential commodities while assuring the usage of minimal labor. So if you look into the things that have changed during the Corona period, other than the Madhya Pradesh government, now different states, including Uttar Pradesh, Gujarat, Rajasthan, Himachal

Pradesh have also extended their factory working hours as it will lead to the production and manufacturing of all essential goods and services available. without violating the Home Ministry's guideline for maintaining social distancing as only few workers will be working. So what we understand here is specifically that the law is evolving.

There is no doubt about it. With changing circumstances, changing situations, there has to be change that has to come in the law also. And this is rightly pointed out by the specific case. So to summarize this particular class, we looked into one particular factor, which is welfare. And if you look into the working conditions, the safety precautions, etc., welfare happens to get the opposite for the simple reason that the worker is happy enough to come back to the work and work for the required hours and then go back happily because he is getting some fringe benefits out of it. Not only the regular salary or remuneration, but also some facilities, some recreation, some good facilities within the working place or maybe some other fringe benefits outside. So all these factors will actually enable him or her to go to that particular factory and work. So please understand, ladies and gentlemen, that these factors, these provisions given in the welfare, these are critical, these are required, no doubt about it. Having said that, there are or there should be certain checks and balances as rightly given by section 64 and 65 because having said about the rights of the individual, it is also pertinent for me to note that the work should not suffer. And this is the classic observation of the apex court of the country that the work should not suffer. The efficiency of the work should not suffer at the cost of being propagating for the rights of the individual.

So there should be a proper balance. There should be proper working conditions as well as welfare measures to the particular employee but also the employer should be gaining from the factory that he has put up. The work should not be getting affected. There should not be any detrimental effects on the efficiency of the work. So that's all from today's class. Take care.

We'll see with more details about the factories act in the next few sessions. Till then take care. Bye bye.