

Course Name: Labour Welfare and Industrial Relations

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Week – 09

Lecture – 04

Hello students, welcome back to the course on labor welfare and industrial relations. Today we move to the fag end of module 9 where we look into two critical aspects. One is employment of young persons because we have introduced you to this particular argument and this particular concept before in lecture 1 and 2 of this module. We specifically look this with in the background of annual leave with wages. We will also look into special provisions, penalties and procedures.

I'm Dr. Abraham Sirlaisek. I'm an assistant professor at the School of Business, Indian Institute of Technology, Guwahati. So straight away into the session. We'll look into the provisions of employment of young person. So if you recollect in the previous class, we had given you certain insights with respect to what has happened over the period of time with respect to young person or young individuals into employment.

Initially, there were a lot of children actually in the workforce. forced or otherwise. But after the act and after certain remedies or amendments with respect to the act, we see that those numbers have gradually reduced. But that said, there are certain young employment, but the act gives some specific provisions of employment for this young person. So we'll critically and deeply look into it.

Provisions of employment of young person. So the first is prohibition of employment of young children. Again, if you recollect, we have almost looked into section 64, specifically section 64 and 65. If you recollect, had given specific weight age or specific primacy to the government and authorities to have a checks and balance in between all

the acts and provisions. So section 64, 65, essentially we had looked into a case also in the previous class.

So with respect to that in the background, let's look into from section 67, which specifically talks about prohibition of employment of young children specifically. Non-adult workers to carry tokens are covered under section 68. We have certificate of fitness to be issued in Section 69. So basically, you are safeguarding the young persons. Maybe there are there are critical issues like masquerading the age or maybe you are giving a wrong or falsifying about the particular data of the worker.

So all this have to be going through the lens of Section 69. Section 70 on the other hand looks into effect of certificate of fitness granted to adolescent. So this is specifically with respect to section 69 and section 70 which I was talking about. When you look into the workforce having lot of children, section 61 specifically has an eye on working hours for children. Specifically notice of periods of work for children is covered under section 72 specifically.

Register of child workers because in an organizational setup or a work factory, there could be a possibility that there might be some anomalies and there are certain some children still being employed knowingly, intentionally or unintentionally, knowingly or unknowingly. To keep a check on that, register of child workers is kept under section 73, under the ambit of section 73. Section 74, on the other hand, looks into the hours of work to correspond with notice under section 72, which is a notice of periods of work for children and register of child workers under section 73. So section 74 works in tandem with section 72 and section 73 for your understanding. When you look into Section 75, it is all about power to require medical examinations and power to make rules is governed by Section 76.

And finally, provisions relating to safety of young persons is categorically underscored under Section 77. So these are some of the provisions of employment of young persons right from section 67 which looks into the prohibition of employment of young children to section 77 which right from section 67 which looks into the prohibition of employment of young children to section 77 which looks into the provisions relating to safety of

young persons. So specifically when we look into the employment provisions Another significant aspect or another significant criteria which we should look specifically or critically is the annual leave. So every single individual will have the need to have a certain recreation or have a certain relaxation period.

It is not humanly possible to work 365, 24-7. It is not humanly possible. So there are provisions of annual leave. Be it in any industry, be it in any sector, wherever you are working, maybe in terms of office, maybe in terms of factory, wherever you are working, it does not matter. Every individual has the right to have certain relaxation within the entire work schedule over a year.

And that is why provisions are made for annual leave. Now, let's quickly look into annual leave provisions within the Act. Annual leave sometimes also referred to as holiday leave. It's paid vacation. Please do understand that it is not like you can take leave, but your salary or your remuneration will be cut for that.

It's a paid vacation for employees and is part of an employee's employment contract. So the moment you enter into a job, there could be a critical rule book or maybe workers handbook, which actually suggests that what would be the number of days you can take vacation. paid vacation. So the amount of annual leave an employee gets may or may not include public holidays and should be stated in their employment contract specifically. So this is something very specific to the employee employer arrangement.

It may or may not include the public holidays as per the agreement that you have signed with your employer. but it should be clearly, it should be clearly stated in the employment contract. And the legal minimum annual leave entitlement varies between countries. So this spreads word about the image of the country outside also, because annual leave entitlement varies between countries means there might be some countries which are favoring some of the working habits, working conditions. There are some countries which go for, you know, very less number of working days, but they favor

They rely more on the quality than on the quantity. They rely more on the productivity rather than just being available every time. So this happens to create an image of a country outside or across the globe that how well you are treating your workers. Now

let's look into some specific provisions with respect to annual leave with wages. For the application of the annual leave, section 78 talks about all this.

Section 79 encompasses annual leave with wages, specifically wages during leave period, specifically the paid vacation encompasses or comes under section 80. Section 81 encompasses payment in advance in certain cases. And when you look into Section 82, mode of recovery of unpaid wages. So there is a specific provision associated with that too. So it's not one way channel.

Mode of recovery of unpaid wages would also be a motivating factor for the employer also. So power to make rules comes under Section 83 and to power to exempt factories. Some of the particular factories could be exempt or some of the particular activities could be exempt. That is entitled under Section 84. Now, there are also certain special provisions when you look into Section 85 to 91 Section 85.

Clearly talks about the power to apply the act to certain premises specifically. So you might have certain anomalies. You might find that certain certain deviations are being brought in the act for the benefit of the employer. This cannot be categorically done without permission. the consideration of Section 85.

Similarly, Section 86 looks into the power to exempt some public institutions. So this might be required maybe in case of a smooth functioning of the activity, maybe if it's some institution which has some other bylaws or some other laws that are existing, then Section 86 comes into picture. Section 87 looks into dangerous operations, whereas 87A looks into the power to prohibit employment on account of serious hazard. Section 88 is all about notice of certain accidents and 88A is notice of certain dangerous occurrences. So amount or the way or the moment there is an accident or there is a dangerous incident, dangerous occurrence.

it has to be brought in limelight. It cannot be shut down. It cannot be shunted out. It cannot be kept in the dark. Section 88, Section 88A specifically talks about this notice of these accidents and dangerous occurrences.

And you look into section 89, it looks into the notice of certain diseases, maybe with respect to the occupation, maybe with respect to some non-communicable or communicable diseases. In that case, section 90 looks into the power to direct inquiry into cases of accident or disease, and 91 looks power to take samples. And finally, Section 91A is all about safety and occupational health survey. So there could be a certain protocol whereby this could be distributed and there will be certain rules and regulations governed under Section 91A how safety and occupational health surveys could be actually carried out.

Now, when you look specifically into the adjacent topic or the most important aspect within the Act is penalties and procedures. So there is still now we were looking into the different provisions which looked into the scheme of things on a progressive front. But what happens when these aspects are not governed according to the provisions of the section? What happens when there are deviations?

What happens when there are anomalies? So all these aspects with respect to the act and with respect to the conduct of the act or the conduct of activities under the act, comes under the penalties and procedures. So let's look into section 92, which offers general penalty for offenses. Section 93 is all about liability of honor.

Liability of owner of premises in certain circumstances. Section 94 looks into the enhanced penalty after previous conviction. So it's a repeat offense. It is happening again and again. Section 94 takes charge of the enhanced penalty after previous conviction.

All about penalty for obstructing inspector is given under section 95. Under this ambit of section 96 comes the penalty for wrongfully disclosing results of analysis. So if there are any manipulations, if there are any changes or anomalies that are critically brought under. or deviations are made under Section 91. Results of analysis under Section 91 is tampered with.

The penalty for wrongfully disclosing such results is given under Section 96. When you look into Section 96, we have to also acknowledge the fact that Section 96A looks into the penalty for contravention of the provisions of sections given in 41 B 41 C and 41 H which you can refer in the previous classes and also the study materials that are given

section 97 is all about offenses by workers and section 98 is all about penalty for using false certificate of fitness so we have mentioned in this class itself the need and the way the certificate of fitness could be actually produced and why it is critical to produce such a certificate of fitness but then there are chances there are options that people are given or fake the certificate of fitness maybe in terms of the child labor maybe in terms of the workforce to boost up the number of workforce so all these aspects All these critical anomalies are penalized under Section 98.

Section 99 looks for or goes for the penalty for permitting double employment of child. As we have discussed previously, Section 101 is all about exemption of occupier or manager from liability in certain cases. Continuing with the section, section 102 is all about power of court to make orders. Please note that we have discussed a case in the previous class where we have categorically underscored the judgment of the Supreme Court. where it took a stand whereby it stood with employer, but not going against the spirit of the employee, but still it took a stand with the employer.

So the power of court to make orders relies on or specifically is with section 102. Section 103 encompasses presumption as to employment and onus as to age is covered under section 104 and 104A of onus of providing limits of what is practicable. Now section 105 is all about cognizance of offenses. 106 section 106 is all about limitation of prosecutions. And finally section 106A is jurisdiction of a court for entertaining proceedings for offense.

So these are some of the provisions that are given with respect to the penalty with respect to what is to be done as a corrective mechanism. So this is the end of what we call as the factories act. Please note from the first lecture, I have tried to underscore why such an act was relevant. What was the historical background? What are the critical salient features that were covered under this act?

We dealt that with greater detail. We went into examers. We went into cases. In this class, I'll conclude with one statement. Please note that all these laws, all these amendments are made to, you know, cater to the needs of the individual, to the rights of the individual.

But that said, the employer also is at a certain level of consideration. If you have noticed in the previous class, in the previous case which we have discussed, the Supreme Court of the country had rightfully, emphatically suggested that the work cannot be compromised. So the work is also critical. The worker is equally critical. So the balance of this is what enables a smooth functioning of the work.

And this is what the provisions which we have talked about. The penalty provisions are also there. The progressive provisions are also there. Regressive provisions are also there. So please note, it is an amalgamation of both these factors, both these words, only to ensure that the work does not stop and the work does not stop at the cost of the worker.

So please note the act has provisions both for the worker and the work. The act has provisions both for the employer and the employee. This is the understanding you should take away from this module. Thank you for listening to me patiently. We'll see you with another module next time.

Till then take care. Bye bye. Namaste. Thank you.