

**Course Name: Labour Welfare and Industrial Relations**

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**Week – 10**

**Lecture – 05**

Hello learners, Namaste. Welcome back to the course on Labour Welfare and Industrial Relations. We move to the last lecture of this particular module where we will look into a new act, Equal Remuneration Act 1976. We look into the scope, try to define the different aspects and elements and factors associated with that and we look into some of the critical provisions of this fundamental act. I'm Dr. Ibrahim Sirilaisak.

I'm a faculty at the School of Business, Indian Institute of Technology, Guwahati. Now, when you look into this Equal Remuneration Act, specifically 1976, it was passed by the Indian Parliament in 1976. So it aims to provide. Equal pay for equal work to both men and women. So when you look into this act, the basis of this particular act, it seeks to prevent gender discrimination in employment and certainly remuneration aspect.

So Equal Remuneration Act 1976, you know, actually satisfied the ILO Convention, Convention 100 on Equal Remuneration and Equal Remuneration in 1958. So it was only during the 1975 that these discussions happened, the International Year of the Women, that India promulgated the Equal Remuneration Ordinance. So what happened in 1975 was to give effect to Article 39 of the Constitution of India, which directed, among all the other things, equal pay. So this was the significant key word which came into prominence in 1975.

Equal pay for equal work for both men and women. So the ordinance was replaced. for 1976 by the Equal Remuneration Act 1976. So the payment of equal remuneration to both men and women, irrespective of the gender, workers for the same or similar nature

of work protected under the act and also under the provisions of this particular discussions that have happened around as part of the ILO Convention 100.

So please note, this was the background. No discrimination was the theme permissible in recruitment and service condition, especially when it came to employment and remuneration for that matter, except where employment of women is prohibited. Please note there was a clear exception in this or restricted by under any law. So this is the background of the Equal Remuneration Act to be specific. Now, when you look into the scope of the act, let's understand the scope of the act.

But before that, again, there are certain critical definitions which we would be interested in. Just very quickly, if you see appropriate government, again, the same thing. It means in relation to any employment carried on by or under the authority of the central government or could be railway administration. Much similar to what we have discussed in the previous lecture. Or in relation to a banking company, maybe a mine or oil field or the major port.

or any corporation established by or under a central act or the central government in relation to any employment. When you look into the employer, the word, it has a meaning assigned what other acts also, especially Payment of Gratuity Act 1972, the same meaning a person. or business that employs one or more people, especially for wages or salary. A fair employer is a person or thing that makes use of or occupies someone or something, an inadequate employer of one's time. Man and woman mean the male and female human beings respectively of any age.

And certainly if you look into the remuneration, remuneration means basic wage or salary and any additional emoluments whatsoever applicable either in cash or in kind to a person employed in respect of this employment or work done in such employment. So if the terms of the contract of employment is expressed or implied in it could be fulfilled. And when you are looking into the context, we have already mentioned there is a clear-cut condition, same work or work of similar nature. Please note, this act is qualifying itself only in case of same work or work of

Similar nature. This is certainly the underlying philosophy behind this act. When you look into the scope of that, it was brought into force by central government in employment areas such as local authorities, hospitals, nursing homes, banks and insurance companies and all of the financial institutions for that matter. We'll see that educational institutions, teaching, training and research institutions are part of it. Mines are part of it.

Employees Provident Fund Organization, EPFO, Employees State Insurance Corporation, the FCI Food Corporation of India, Central Warehouse Incorporation, etc. are part of it. State Warehouse Incorporation part of it. Textile and textile products. Part of it, you have the electrical and electronic machinery being a part of it.

We have certain factories located in plantations because many actually include plantations also. Chemical and chemical products also part of it. The list goes on. We have the land and water transport. The part of it, this act, food products, beverages, tobacco and tobacco products are part of it.

Electricity, gas, water also comes under the ambit of this act. The associations or the bodies or the companies related to that wholesale and retail trade, restaurants and hotels, agriculture activities, transport, warehouse and communication. We have construction activities not to forget. We have air transport industry, real estate business, legal services. I just wanted to cover the exhaustive nature of this particular act.

That's why I looked into all the possible dimensions where this act could be actually applicable. So try to bring in the exhaustive nature of the applicability of this particular act. When you look into the key provisions, please note the first and the foremost thing, equal pay for equal work. So section 4 categorically summarizes that it's the duty of employer to pay equal remuneration to men and women workers for the same work or the work of similar nature. So please note, no employer shall pay to any worker employed by him in an establishment or maybe an employment institution.

remuneration whether payable in cash or in kind at any rate less favorable than those at which remuneration is paid by him to the workers of the opposite sex so this has been the statement in the in the particular act in such establishment or employment for performing

the same work again the work similar nature so this is something which would be interesting when you look into this act closely when you read this act more carefully no employer you will understand that shall for the purpose of complying with the provisions of the particular subsection of one reduce the rate of remuneration of any worker so where in an establishment or employment the rates of remuneration payable before the commencement of this act for either men and women workers for the same work or work of similar nature are different only on the ground of sex then the higher in cases where there are only two rates or as the case may be the highest in cases where there are only two rates of such rates shall be the rate at which remuneration shall be payable on and from such commencement to such men and women workers. So provided that nothing in this this particular section shall be deemed to entitle a worker to the revision of the rate of remuneration payable to him or her with reference to this particular service rendered by him or her in the in the act at the commencement of this act in the company before the commencement of the act. So this is something which you have to understand with respect to the equal pay for equal work theme.

When you look into the non-discrimination in recruitment part, the Section 5 is phenomenal in bringing in a clear idea that no discrimination to be made while recruiting men and women workers on and from the commencement of this Act. No employer, please note, no employer shall while making the recruitment for the same work or the work of similar nature as it goes by or in any condition of the service subsequent or recruitment such as let's say promotions it could be training or transfer make any discrimination against women except where the employment of women in such work is prohibited or restricted by or under any law for the time being in force so provided that the provisions of this section shall not affect any priority or reservation for scheduled castes or scheduled tribes. There should not be any specificity for ex-servicemen or even retrenched employees or any other class or category of persons in matter of recruitment of the post in an establishment or employment.

So what we see with respect to the non-discrimination in recruitment is that it is not only with respect to the equal pay for equal work, there should not be Any prescription or, you know, suggestion for discrimination in recruitment with respect to the sex of the

individual. So this is what is vital. When you look into the nitty gritty of this particular act, there is an advisory committee, which is mentioned in Section 6. For the purpose of providing increasing employment opportunities for women, the appropriate government shall constitute one or more advisory committees to advise it about the extent to which women may be employed in such establishments or employments as the central government may specify in its behalf.

So this is what is clear with respect to advisory committee and please note, Every advisory committee, every advisory committee shall consist of not less than 10 persons to be nominated by the appropriate government of which, let's say, one half shall be women. It is clearly mentioned within the Act. In tendering its service, this advisory committee shall have regard to the number of women employed in the concerned establishment or employment. So the nature of work, hours of work, suitability of women for employment as the case may be, the need for providing increasing employment opportunities for women, including the part-time employment and any other such relevant factors as the committee may think fit is vital.

And please note the advisory committee shall also regulate its own procedure. The appropriate government may actually, after considering the advice tendered to it by this committee, by this advisory committee, and after giving to the persons concerned in the establishment or employment an opportunity to make representations or make suggestions, issue such directions in respect of the employment of women workers as appropriate government may think fit so if you look into the advisory committee which is coming under section 6 of the act it is very prominent it has certain clear roles and this is what we have understood when we look into the power of appropriate government to appoint authorities for hearing and deciding claims and complaints please note that the appropriate government may by notification appoint such officers not below the rank of a labor officer not below the rank of a labor officer as it thinks fit to be the authorities for the purpose of hearing and deciding.

A could be the complaints regarding the contravention of any provisions. B could be the claims arising out of non-payment of wages at equal rates to men and women workers for the same work or again work of similar nature or may be the same or subsequent

notification define the local limits within which each such authority shall exercise its jurisdiction. Every complaint or claim referred to in subsection shall be made in such manner as may be prescribed. And also note, if any question arises as to whether two or more works are of the same nature or of a similar nature, it shall be decided by the authority appointed under the subsection 1. And also, whether a complaint or claim is made to the authority appointed under subsection 1, it may, after giving the applicant and employer an opportunity of being heard and after such inquiry, as it may consider necessary.

So please note, in case of the claim arising out of a non-payment claim, wages at equal rates which is the significant factor when it comes to the act in itself because it actually suggests for equal payment please note in such situations such scenarios where there is discrimination for the same work of work in similar nature the payment to be made to the worker of the amount by which the wages payable to him exceed the amount actually paid or in case of complaint that adequate steps taken by the employer So as to ensure that there is no contravention of any provisions of this act. We also see when it comes to the critical aspects of this act that every authority appointed shall have the powers of a civil court. It's not a criminal court.

It's a civil court under the Code of Civil Procedure. Again, it's subject to the revision for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the certain production of documents. Every such authority shall be deemed to be a civil court for all the purpose of this particular act. And any employer or worker aggrieved by any order made by an authority appointed by Under this act, on a complaint or claim may the supervision that within 30 days from the date of the order prefer an appeal to such authority as the appropriate government may by notification specify in this behalf and that the authority may after hearing the particular appeal confirm, modify or reverse the order appeal against and no further appeal shall lie against the order made by such authority.

And also the authority referred to in subsection 6 specifically, if it is satisfied that the appeal was prevented by sufficient cause from preferring the appeal within the period specified in the particular subsection, allow the appeal to be preferred within a further

period of, let's say, 30 days, but not thereafter. So these are the significant aspects when it comes to the power of appropriate government and the act in itself. When you look into the penalties, Section 10 is very critical. If after the commencement of this act, let's say any employer being required by or under this acts, let's say it's doing some acts, let's say acts like omitting or failing to maintain. any register or other document in relation to workers employed by him or her or the entity in itself is omitting or failing to produce any register master role or other document relating to the employment of workers or omits or refuses to give any evidence or prevent his agent

maybe servant or any other person in charge of the establishment or any worker for giving evidence or even omits or refuses to give any information, he shall be punishable. Simple imprisonment for a term which may extend to one month or with a fine which may extend to 10,000 rupees or possibly with both. So this is something which is very vital. If after the commencement of this act, any employer that makes any recruitment in contravention with the provisions of the act makes any payment or remuneration at an equal rates to men and women worker for the same work or the work of similar nature. Makes any discrimination between men and women workers and contravention of the provisions of this act or even omits or fails to carry out any specific direction given by the appropriate government under the act.

The entity shall be punishable Or to give information, he shall be punishable with fine, which may extend up to 5000 rupees. So there are clear-cut provisions for the complaints and penalties also when it comes to the section 10 of this particular act. So this is not formality. This is an act with certain checks and balances.

Now, if we look into the miscellaneous provisions, some of the interesting miscellaneous provisions are given, especially in section 7. When you look into the miscellaneous provisions, there is some specific explanation on the duty of employers to actually maintain registers, because this is something which is vital. Maintaining register is one of the formal way by which the employer can actually communicate. to the general public and so the employee and also the government of the day that yes, we are not discriminating. So let's understand this, why the maintenance of register is very vital.

Let's look into this. We have seen this employee perspective in greater detail. But when we look into the employer perspective, if the employer is coming out with a muster, with a register, which shows that For these segment of people or the entire workforce, this is the corresponding payment that is made. So there could be a clear cut data that you have in your hand that who is getting what.

From that data, you can actually make out whether there is any discrimination that is happening in the organization in the first place. And if that discrimination is happening, you can always go and refer to this act and seek for the legal penalties or related acts or, you know, some sort of satisfactory mechanisms whereby those issues can be actually mitigated. So let's let's understand it on this behalf. Why time and again within this lecture? Also, if you see, I have tried to emphasize on this part of the employer, the actual responsibility of the employer to actually maintain a register because that register is like a mirror.

It shows the organization with greater clarity, shows what is happening exactly in the organization organization. we are looking into a very transparent system hopefully there is no nothing to hide actually there might be you know some some books that are maintained only to show up but we are taking things in a in a goodwill in a bona fide aspect then we'll understand that typically what we see is that there is a maintenance of this register records which actually enables us to ascertain that yes there is no discrimination so we can go with the employer in that particular case that yes there is no discrimination this has been the the key importance or the vital aspect when we look into the provisions and this is certainly mentioned in the miscellaneous provisions also which we look into detail especially section seven so when you are looking into section seven for this matter miscellaneous provisions the duty of employers is vital So if you look into on and from the commencement of this particular act, every employer shall maintain such registers and other document in relation to the workers employed by him as may be prescribed. So, you know, there are certain possibilities of inspection.

When you look into the inspectors, we have to, you know, we'll spend some time here in understanding the inspectors specifically. The appropriate government may by notification appoint such persons specifically. As a thing fit to be the inspectors for the



purpose of making an investigation as to whether the provisions of this act or the rules made there under are being complied with by employers and may define the local limits within which an inspector may make such an investigation. So every inspector shall be deemed to be a public servant within the. The meaning of the IPC erstwhile and we have a change in that act also.

So an inspector may at any place within the local limits of his jurisdiction enter at any reasonable time with such assistance as if things fit, you know, any building, any factory premises. or vessel, require any employer to produce any register in a master role or other documents relating to employment of workers and examine such documents or even take on the spot or otherwise evidence of any person for the purpose of ascertaining whether the provisions of this act are being or have been complied with. Even examine the employer, his agent or the servant or any other person found in charge of the establishment or any premises connected therewith. or any person whom the inspector has reasonable cause to believe to be or to have been a worker in that particular establishment. Also, he has the right to make copies or take extracts from any register or other documents maintained

In relation to the establishment. Under this act. So any person. Required by an inspector. To produce any register.

Or other document. To give any information. Shall comply with such requisition. So please note. That is the relevance of inspectors.

In this case. When you are looking into offenses by companies. There are possibilities of different offenses. Where an offense under this act. Has been committed by a company.

Every person. who at the time the offense was committed, was in charge of, was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offense and shall be liable to be proceeded against the punished accordingly. So provided that nothing contained in the act shall render any such person liable, So if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such

offence then there is a chance of he or she not getting caught. Notwithstanding anything contained in this act especially in subsection 1.

Where any offense under this act has been committed by a company and it is proved that the offense has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director. Such manager, secretary or other officer shall be deemed to be guilty of that offense and shall be liable to proceed against and punished accordingly. So please note, I would like to explain two particular things here. One is company. We have used the word company in this particular act.

Company means anybody, corporate and includes a firm or other association of individuals. And we have also used the word director. Director in relation to a firm means a partner in the firm. So please understand these are the two terminologies we have used. So I thought I will try to introduce it now.

When you look into the power to make rules, power to make rules, the central government may by notification make rules for carrying out the provisions of this act. So the power is vested with the central government for this matter. In particular, And without prejudice to the generality of the foregoing power, all such rules may provide for all or any of the following matters. It could be the manner in which the complaint or claim referred to in subsection one of section seven shall be made or registers and other documents which an employer is required.

under section 8 to maintain in relation to the workers employed by him any other matter which is required to be or may be prescribed so what we understand is that every rule made by the central government under this act shall be laid as soon as may be after it is made before each house of parliament while it is in session if that is the case for a total period of 30 days which may be comprised in one session or in two or more successive sessions and if Before the expiry of the session. Immediately following the session. Or the successive sessions. Affords that both houses agree in making.

Any modification and the rule of both houses. Agree that the rule should not be made. The rule shall thereafter have effect. Only in such modified form. Or of no effect.

As the case may be. So however, any such modifications or an element shall be without prejudice to the validity of anything previously done under that rule so this is with respect to what do you understand with the power to make declaration power to make how to remove difficulties and finally if you look into a repeal and saving notwithstanding such repeal anything done or any action taken under the ordinance so repealed Including it could be, as I mentioned, any notification, nomination, appointment, order or direction made there under shall be deemed to have been done or taken under the corresponding provisions of this act. So please note when you're looking into this act specifically, it details on one important factor.

It details on the non-discrimination that should be there in your organization. There should be a proper parity when it comes to remuneration. Please note, time and again I have tried to emphasize on same work or work of similar nature. You cannot compare apples and oranges. It should be same work or work of similar nature.

If it is same work or work of similar nature, please note the salary or the wage should be also given in parity. There should not be any discrimination that is made between male and female. This is the crux of the act. This has been a phenomenal instrument in bringing in labor welfare. This has been one of the most key instrument in bringing gender equality.

So these are some of the underlying principles which actually empowered the opposite sex or the fairer sex to actually claim their position within the society, within the company, within the organization. So please note. There should be a parity when you are looking into same work or work of similar nature. That's all from this class. We'll see with another module in next class.

Till then, take care. Bye-bye. Thank you.