

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

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**Lecture: 54**

### **Lec 54: Code on Wages 2019**

Hello learners, welcome back to the course on labor welfare and industrial relations. We move to the second lecture of the last module that will discuss the code on wages 2019.

I'm Dr. Abraham Cyril Issac. I'm an assistant professor at the School of Business, Indian Institute of Technology, Guwahati. Now let's straight away go into the Code of Wages.

We have understood what the background is, what was the requirement, what was essentially the need for such a code. We have seen the entire background and the evolution part in the previous lecture. If you've gone through that, you'll understand that. Now let's look into the Code of Wages 2019. When we look into the wage bill, specifically, the wage bill was passed by Parliament in 2019.

When we see the details of this particular bill, it seeks to regulate wage and bonus payments. in all employments where any industry business trade or manufacturing is specifically carried out so let's if you look into the entire labor code specifically we see that you know in India labor is a subject of concurrent list we have seen that in our previous lecture since it is in the concurrent list both the parliament and the state legislatures can enact laws on it now that is the beauty of it even after All these years of independence, approximately, if you see, 90% of the workers work in the unorganized sector that do not have access to all the social securities. So if we look into the case, the total number of workers comprising of organized and unorganized sector is more than 50 crores.

So when you look into the wages bill specifically, We see that the court subsumed the following laws. The Minimum Wages Act 1948, Payment of Wages Act 1936, Payment of Bonus Act 1965, Equal Remuneration Act 1976 specifically. So this was an amalgamation of four of this major laws of the land till that period. Now let's look into the coverage and applicability of this particular act. The code extends to the whole of India.

Please note that the code universalizes right to minimum wages and timely payment of wages. So basically, there are critical aspects of minimum wages and timely payment of wages to all the employees, regardless of the wage ceiling. employment sector etc so there are two important aspects which we should understand one is specifically the minimum wage the minimum wage has been a bone of contention from the beginning what would be the minimum age that is actually required or that will be paid second important aspect is the timely payment now many a time that organizations or the employers have categorically agreed to the minimum wage. Without doubt, holistically, comprehensively, they had agreed to the minimum wage.

But when it comes to payment, there are a lot of irregularities with respect to the payment schedules. There are a lot of irregularities with respect to the payment part. Prompt payment is always absent when it comes to the Indian workplace. So this was something that was also born of contention and it was tried to resolve or they all tried to resolve this particular issue during that particular period in time. Now the court prohibits also gender discrimination on wage.

Now, this is vital when you look into the entire scheme, entire set of labor code. Specifically, we see that there were certain aspects which actually prevented the gender discrimination also. So coverage and applicability was significant. It tried to extend to whole of the India. It tried to look into critical aspects of minimum wages and also timely payment.

And it also had a certain provision or had a couple of provisions which looked into the discrimination on basis of gender. Now, when you look into the code specifically, the code extends to all establishments where any trade industry of manufacturing process is

carried on. So all types of employees. irrespective of their wage limit, whether they are skilled, semi-skilled, unskilled or supervisory, managerial, across all the sectors, they came under the coverage of the same. And finally, to all types of employers who engage employees for the trade, industry or manufacturing activities, the code extended to them also.

When you look into, again, the most important part, if you have seen the previous lecture, you will understand that I have tried to be very vocal against the definition part. Most of the laws, the acts... The frameworks, regulatory frameworks, whatever be the case be, there are certain inconsistencies across the definition part. Now, this particular code also brought in a new level of definition. And let's understand this not only with respect to employee, but also with respect to employer and other key establishments.

Let's look into that now. When you look into employee, Section 2K specifies that employee definition includes employees. All employees engage on wages to do skill training. semi-skilled, unskilled, operational or manual work including managers, supervisors and administrative staff. So, the term includes a person declared to be an employee by the appropriate government.

Now, that said, there is a critical exemption. It does not include apprentice engaged under the Apprentices Act 1961 and members of the armed forces of the union. So, please note, these are the two critical exemptions when we talk about employee. Employee has otherwise included everyone, right from skilled, semi-skilled, unskilled, operational or manual work to, you know, a lot of other people.

And that essentially will not include apprentice. It will not include armed forces of the union. Now, when you look into the term employer here, When you look into employer, employer in this code means a person who employs direct or indirect employees through contractor. This is vital through contractor in his establishment and where the establishment is carried on by any department of the central government or the state government.

The authorities specify. Now, please note these new concepts introduced in the definition of employer, specifically the one I underlined contractor as an employer and the legal

representative of a deceased employer. employer will be treated as an employer so these has been these have been the corrections that have made in the definition part of this particular law when you look into the establishment means any place where any industry trade business manufacture or occupation is carried on and it includes government establishment for that matter now when we look into other definitions let's look into inspector come facilitator Who is the inspector cum facilitator? His role is to advise employer and workers relating to compliance with the provisions of the code and to inspect the establishments as assigned to him by the appropriate government. Section 2C defines worker. Please note here we have tried to define employee. We have tried to define employer. Section 2K defines employee but section 2C defines worker and worker definition includes any person Employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical, supervisory work for hire or rewards. It includes working journalists and sales promotion employees also. So this is vital when you actually define worker according to Section 2C. Please note there are exemptions. It does not include any such persons who is subject to the Air Force Act 1950 or the Army Act 1950 or the Navy Act 1950.

So essentially you understand what I mean. B. Who is employed in the police service or as an officer or other employee of a prison. C. Who is employed mainly in a managerial or administrative capacity. D. Who is employed in a supervisory capacity drawing wage of exceeding Rs. 15,000 per month.

Or an amount as may be notified by the central government from time to time. And finally E who is apprentice engaged under the Apprentices Act 1961. So A and E we have already looked into in the previous slide. Here, there are additions with respect to the police service, a person who is involved, engaged in police service or maybe managerial or administrative capacity positions or who is employed in supervisory capacity, drawing a wage of exceeding rupees 50,000, 15,000 per month, etc. So these are the critical exemptions with respect to the definition of the worker.

Now, let's look onto the card on wage provisions. What are the provisions with respect to the discrimination factor. When Code on Wages prohibits discrimination amongst employees, it looks into the grounds of gender in matters relating to payment of wages by

the same employer in respect of the same work or work of similar nature. Please note, all these provisions with respect to the prohibition of gender discrimination happens only when it is related to the grounds of gender. It will happen only when the case is with respect to the same worker or work of similar nature. When you look into the determination of floor wage, you see that a new concept under the code has emerged as floor wage. Floor wage is to be fixed by the central government based on the minimum living standards of workers. Floor wage may be different for different geographical areas.

Please note that. So floor wage functions as a baseline for state level minimum wage. So it's a new concept that has to be fixed by the central government. based on the minimum living standards of workers now that said we also have some limitations associated with the floor wage appropriate government can under no circumstance fix a minimum wage rate which is lower than the floor rate if the existing minimum wage fixed by the appropriate government is higher than the floor wage they cannot reduce the minimum wage Now, let's look into the fixation of minimum wages.

We have seen this across different acts in the previous module with respect to this particular code. Let's look into the fixation of minimum wage. When you're looking into the fixation of minimum wage, it is applicable to all, including organized and unorganized sector. This is whiten. No employer shall pay to any employee wages less than the minimum rate of wages notified by the appropriate government.

So this again, the decision, the final decision making body is appropriate government and it has to come from the part of the government or the appropriate government. shall fix i repeat the appropriate government shall fix a minimum rate of wages a for the time work and b for the piece work so whatever is the work depending on the characteristic of work the particular wage is fixed so where the employees are employed on a piece work basis the appropriate government shall fix a minimum rate of wages for securing such employees a minimum rate of wages on a time work basis in case of time work the rates may be fixed in accordance with by the hour by the day or even by the month. So minimum wage will categorically depend on factors like skills and difficulty of the particular work. Ordinarily, we revise at an interval not exceeding five years.

So these are the different points associated with the fixation of minimum wages. Now let's look into the wage period and the time limit for the payment of wages. If we are looking into the wage period on a daily basis, The time limit for payment of wage is at the end of the shift. Please note that when we are looking into the wage period on a weekly basis, the time limit is on the last working day of the week.

So generally we see that weekend is a payment day for general informal workers. So this is the reason for that. fortnightly basis if the wage period is calculated then before the end of the second day after the end of the fortnight is the time limit for payment of wages and if our calculation of wage period is based on the monthly basis please note the time limit for payment of wages is before The expiry of the seventh day of the succeeding month. So this is many a time not honored by many private organizations.

And please note, this is vital with respect to the labor code. When you look into the payment of bonus, all employees whose wages do not exceed a specific monthly amount. notified by the central or state government please note this is a concurrent this is a subject in the concurrent list so notified by the central or the state government and who has put in at least 30 days of work in an accounting year will be entitled to an annual bonus so this is the condition when it comes to the payment of bonus specifically Now, annual minimum bonus will be at least eight point three percent of his wages or rupees hundred, whichever is higher, irrespective of the allocable surplus. Now, in addition, employer will distribute a part of this gross profit among the employees.

This will be distributed in proportion to the annual wages of an employee. So basically, what is the annual wage? Based on that proportion, based on that ratio, he or she will be getting the particular bonus. An employee can receive a maximum bonus, please note, of 20% of his annual wage in an accounting year. This is also a critical stipulated instruction or rule with respect to the code.

Now, when you look into other provisions, every employer shall be responsible to pay all dues under the code to every employee. Where employer fails to make such payment, please note, it could be company, firm, proprietor, owner of the establishment shall be responsible to pay. Where a claim has been filed on account of non-payment or less

payment of wages or bonus, it could be either non-payment or less payment of wages or bonus. Please note, or for making even deductions not authorized. So in the previous modules, if you recollect,

we have, you know tried to discuss on this in a very elaborate manner, not only with respect to the non-payment, we also discussed with respect to the less payment, we also discussed with respect to the lack of prompt payment and even some employer making deductions that are not authorized from the wages of an employee. Burden to prove that the said dues have been paid shall be upon the employer. Please note that every employer of an establishment shall maintain a register. Person's employer should be there. The list of muster role, the wages and the other details also should be there.

So every employer shall display a notice on the notice board at a prominent place containing abstract of code category wise wage rates. wage period day or date and time of payment of wages and even to a certain name and address of the inspector come facilitator now let's quickly look into the offenses and penalties associated with a particular code no quote shall take cognizance of any offense punishable under this code except on a complaint made by authority official of appropriate government please note that by an employee or a registered trade union an inspector come facilitator we have all seen this that's why i'm rushing through this no code inferior to that of a metropolitan magistrate or judicial magistrate of the first class shall try the offenses under this code so this essentially shows the legal importance the code is having with respect to the regulatory framework of labor relations in India so for imposing penalty appropriate government should appoint officer not below the rank of undersecretary, one for holding inquiry and to summon and enforce attendance of any person acquainted with a case to give evidence or to provide any document.

If on such inquiry he is satisfied that the person has committed any offence, he may impose such penalty as he thinks fit. So, these are some of the critical aspects with respect to offenses and penalties. When you look into the offenses and penalties, we have different types of dimensions of offenses coming in and the related penalties. Let's look into them in greater detail. First offense, if the payment to any employee is less than the amount due under this code, the penalty is, Punishable with fine which may extend to

50,000 rupees. Now, second case is a repeat offence. Within five years from the date of the commission of the first or subsequent offence, it is punishable with imprisonment for a term which may extend to three months. So, initially, if you see that it was punishable with fine which may extend to only 50,000 rupees, but if it's a repeat offence, you'll see that it is punishable with imprisonment for a term which may extend to three months or with fine, which may extend to one lakh rupees or both.

Then if you look into the first offence, contravenes any other provisions of this particular code, any rule made or order made or issued thereunder, punishable with fine, which may extend to 20,000 rupees. And again, if it's a repeat offence, within five years from the date of the commission of the first or subsequent offence, punishable with imprisonment for a term which may extend to one month or with fine, which may extend to 40,000 rupees or both. And finally, if you're looking into offenses of non-maintenance or improper maintenance of records in the establishment punishable with fine which may extend to 10,000 rupees.

So these are some of the offences and these are some of the penalty associated with that. Now over this lecture, we have tried to see how the labour courts have emerged over the period, what are the different, you know, offences and what are the different penalties associated with each offences. What do you mean by critical, important terms and terminologies? What is a new understanding of employee, employer, establishment worker who are in, who are out, who are exempted from that? So all these aspects we have categorically discussed.

So please note in this lecture, we have tried to show that. There is an inherent need of the reforms that has come our way in terms of the labor code. What all are the significant factors? We have also thrown light into some of the factors which are not discussed till now. We will try to discuss if they are covered within the labor codes.

We will try to discuss in the next few lectures. We will see more details in the next lecture. Till then, take care. Bye-bye. Thank you.