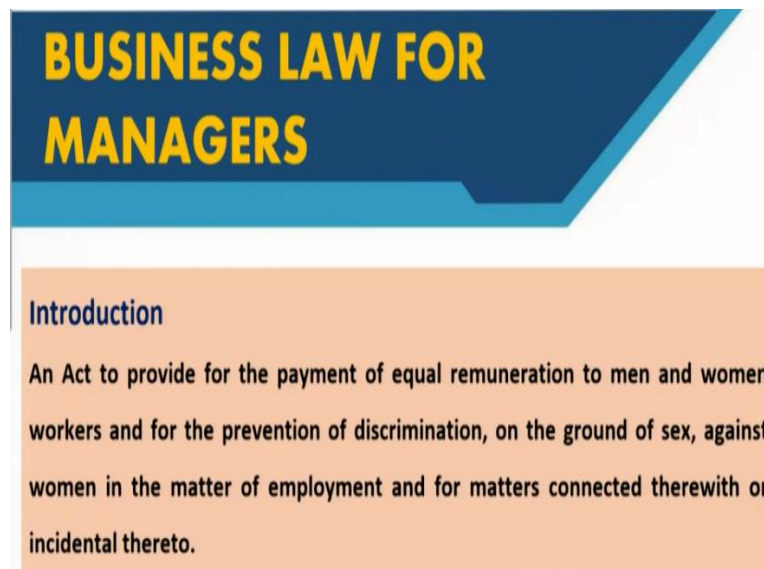


Business Laws of Managers
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Module No- 06: : Legislation on Wages
Lecture No # 30
Equal Remuneration Act

Welcome to lecture 30 this is the last lecture of this module 6 and on previous lecture we discussed about payment of bonus act. And then the last legislation on wages which is going to be equal remuneration Act, which is one of the important legislation and landmark legislations with respect to ensuring that yes, both men and women will be paid for similar wages.

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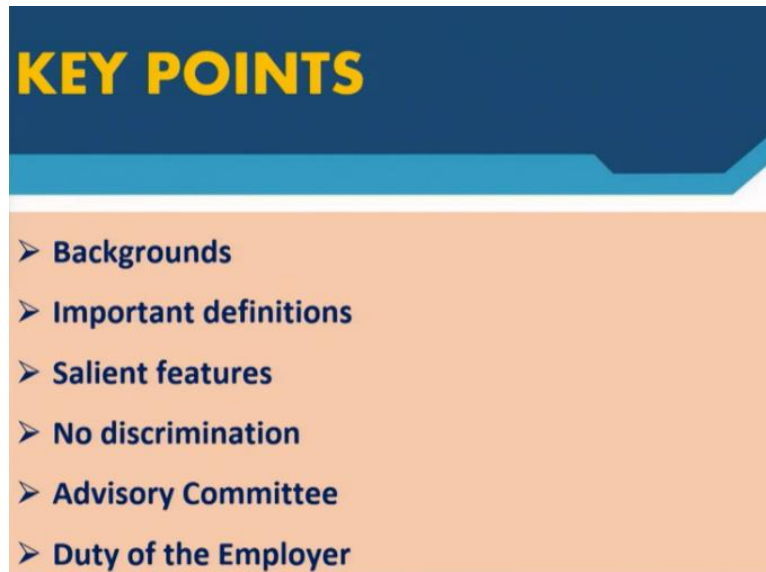


Today we are going to discuss about this equal remuneration act and this act provide for an employer payment of equal remuneration for men and women workers. And the prevention of any discrimination on the basis of sex against women in matter of employment or matters connected therewith. This act was essentially trying to ensure that. Yes, both men and women who are carrying out a similar work or were engaged in a similar work have to be paid an equal remuneration.

We have been historically seen that there are discrimination between men and women in the fixation of salary or a payment of wages. Where we say no similar work being carried out male being paid higher than the women this act come into picture to ensure that there is no

discrimination of payment of wages with respect to gender. Whether the male and female no categorization to be made if they are performing a similar job.

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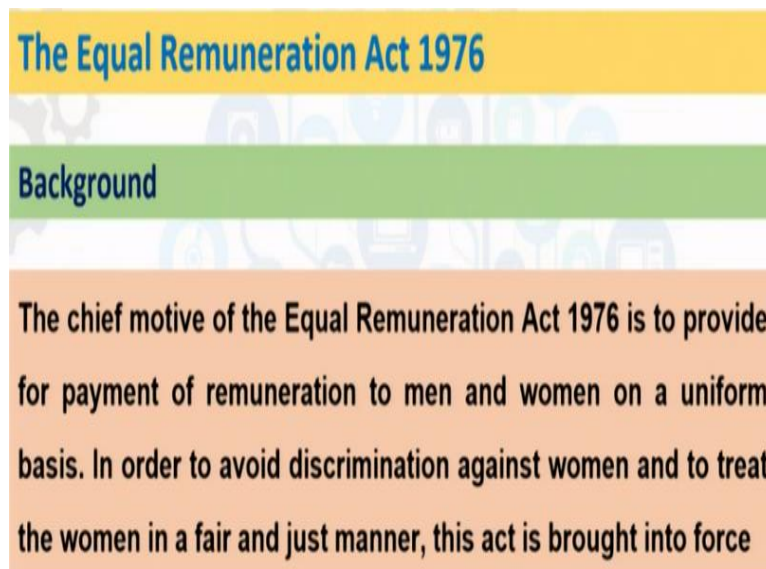


KEY POINTS

- **Backgrounds**
- **Important definitions**
- **Salient features**
- **No discrimination**
- **Advisory Committee**
- **Duty of the Employer**

So what are we going to discuss? We are going to discuss about the background of this particular legislations. Some important definition we also see the salient feature of this particular legislations. We are also seeing what does it talking about no discrimination and advisory committee and duty of the employer and also the responsibility of the inspector with respect to this legislation.

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The Equal Remuneration Act 1976

Background

The chief motive of the Equal Remuneration Act 1976 is to provide for payment of remuneration to men and women on a uniform basis. In order to avoid discrimination against women and to treat the women in a fair and just manner, this act is brought into force

The main motive of this particular legislations or the objective of this particular legislation the equal remuneration act is to provide payment of remuneration. The remuneration we are referring to the overall remuneration, it concludes all wages basic wage any other allowances

to men and women on a uniform basis. So, there should be no discrimination in terms of fixing of the wages.

What we see is that? You know sometimes the factory or a company used to make the differences; they may be paying the basic wage. But maybe they will add additional allowances to men and women in a different rate. So, this act is trying to eliminate those differences and ensure that yes, both of them are paid uniformly. And it is primarily to avoid discrimination against women to treat women in a fair and just manner that they also earn equally to men.

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The Equal Remuneration Act 1976

Important definitions

- **Remuneration**
'Remuneration' means the basic wage or salary and any additional emoluments whatsoever payable, either in cash or in kind, to a person employed in respect of employment or work done in such employment.
- **Same work or work of a similar nature**
Same work or Work of a similar nature means work in respect of which the skill, efforts and responsibilities required are the same, when performed under similar working conditions, by a man or a woman and the differences, if any

Basic Wage + Allowances = Salary

What is the remuneration which has been defined under this Act? Remuneration means it includes basic wage salary and also any additional emoluments whatsoever is payable either maybe in a cash or in kind to a person employed in a particular establishment. So, this remuneration includes as I said, basic wage and allowances whatever may be the allowances. It can be a shift allowance or it can be you know, travel allowance, telephone allowance, whatever your other allowances, we are talking about.

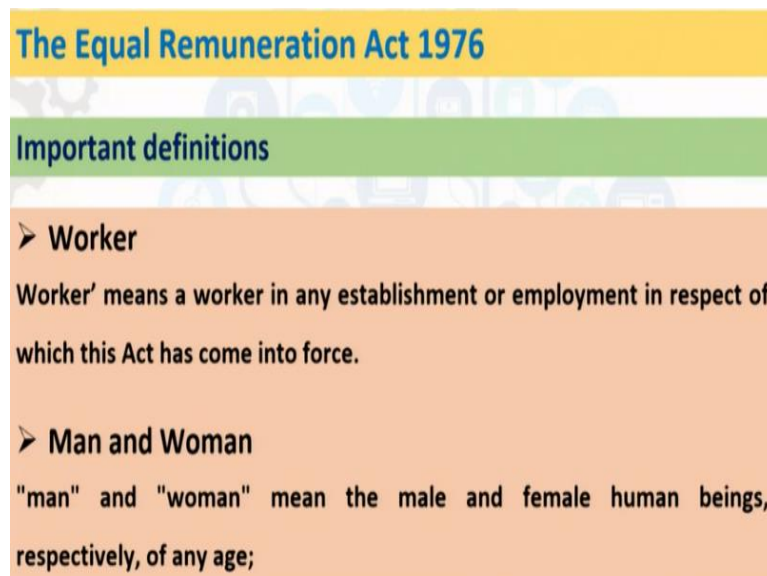
All the elements are also considered a part of remuneration if you are employed in a particular industry if you are qualified to receive this that also amounted as remuneration. Now comes say work or work offers similar and this is also one of the important term which as defined here, what is this concept of same work or work of a similar nature? Which means the work in respect of which a skill effort and responsibilities are same when performed under similar working condition by a man or a woman.

So, this talks about a similar work or work of same work of a similar nature or same work what does it mean it is talking about any work which required a same skill set effort and responds and also when performance similar working conditions. If that; is the case that will be qualified as a same work or a work of a similar nature. If you understand the same workers, maybe for example, manager and manager came the designation looks same.

But there may be somebody working here as a sales manager somebody is working as a production manager that the now the nature of work is different. So where, I cannot consider as a same work or work of a similar nature, where I can qualify? Let us say sales manager one and sales manager two. So, both requires a similar skill similar responsibility and the similar working conditions then it is qualified as a similar work the comparison has to be a similar work in nature.

So, when there is a similar work on the same work they both of them have to be paid at the same remuneration.

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The Equal Remuneration Act 1976

Important definitions

- **Worker**
Worker' means a worker in any establishment or employment in respect of which this Act has come into force.
- **Man and Woman**
"man" and "woman" mean the male and female human beings, respectively, of any age;

And worker who is the worker under this legislation which means any worker means worker was in any establishment employment. The respect to this actor know anybody who is working in the particular establishment are called as a producer, worker. And man and woman which; are directly which is referring to male and female human beings, that is what we are referring to men and women.

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The Equal Remuneration Act 1976

No discrimination

On and from the commencement of this Act, no employer shall, while making recruitment for the same work or work of a similar nature, 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

And now, no discriminate what is this concept of no discriminate? From this commencement or the implementation of that no employer shall while making recruitment. When I was hiring somebody for same work or a work of a similar nature, make any discrimination against women except where the employment of women in such work is prohibited? Now, what is it talking about?

I cannot discount hiring a woman for a particular employment on the basis of their gender, but it is allowed if the particular work is restricted. Example when we were learning about the factories that we said that yes, women are not allowed to work on a dangerous machines right. Or maybe on a heavy work load or maybe weightlifting activities, there are activities which are women are restricted or maybe the cotton openers.

We will discuss about those activities, this Act itself was done and then restricts women being employed in those activities. Then, in this case, if a factory hires only male only man for his employment, then that cannot qualify as discrimination. Unless otherwise for any other employment, there should not be no discrimination in hiring or recruiting a women worker find the particular role.

So, if a factory or if a company purposefully engages are not providing an opportunity to hiring a woman, then that qualifies as exclusion in describe the discrimination that will be qualified as a discrimination practice and discriminatory practice by the organization.

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The Equal Remuneration Act 1976

Salient features

- The Act doesn't make a distinction like employment or the period of employment and applies to all workers even if engaged only for a day or few days.
- No overriding effect is given to any agreement, settlement or contract to the provisions of the Equal Remuneration Act.
- Any settlement or any agreement with the employee that is detrimental to the employee isn't allowed.
- The Ministry of Labour and The Central Advisory Committee are responsible for enforcing this Act.

Now, what are the salient features? These are does not make any distinction like employment or a period of employment applies to all workers even if they are engaged only for a day or a few days. So, there does not make any distinction between the employees whether it is person is employed for one day or a few days or a month. So, it does not look and it no overriding effect is given to any agreement or settlement or contract to any provision of equal denomination act.

Any settlement or agreement with the employee that is detrimental to the employee is not allowed. And you know, Ministry of Labour and central advisory committee are responsible for enforcing this act.

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The Equal Remuneration Act 1976

Salient features

- The equality of work is not based solely on the designation or the nature of work but also on factors like qualifications, responsibilities, reliabilities, experience, confidentiality, functional need and requirements commensurate with the position in the hierarchy are equally relevant.
- When the employer doesn't comply with the provisions of the act, he will be liable to pay fine, imprisonment, or both.

At equality of the workers not based solely on; the designation or nature of the work. But also factors like qualification responsibilities, reliability is experience confidentially functional

need requirements, everything has been considered it is not about the quality of work we say this by the designation purely not goes with the designation alone. You know it also includes the qualifications required responsibilities requires experience required all this will also be considered the quality work.

When an employer does not comply with the provision at that they will be liable to pay fine imprisonment or both. So meaning that yes the same work or the definition of some work or the work of a similar nature has to be strictly implemented meaning that no discrimination to be you know made between men and men women. Provided there are distinguished differences on the requirement or the qualification or designations.

Then there can be different payment can be made otherwise of them have be equally treated. And also know if there is strictly prohibited for hiring women for a particular set of processes then yes, they are allowed to hire only a male employee.

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The Equal Remuneration Act 1976

Advisory Committee

- For the purpose of providing increasing employment opportunities for women, the appropriate Government shall constitute one or more Advisory Committees to advise it with regard to the extent to which women may be employed in such establishments.
- Every Advisory Committee shall consist of not less than ten persons, to be nominated by the appropriate Government, of which one-half shall be women.
- In tendering its advice, the Advisory Committee shall have regard to the number of women employed in the concerned establishment or employment,

*10 Members
5 Members - Women*

Now comes; the advisory committee what is this advisory committee for the purpose of providing an increasing employment opportunity. When women the appropriate government can constitute one or more advisory committee to advice with regard to the extent to which the woman can be employed in such establishment. So as per this legislation, the appropriate government this central government can form lead or form one or more advisory committees to advise them.

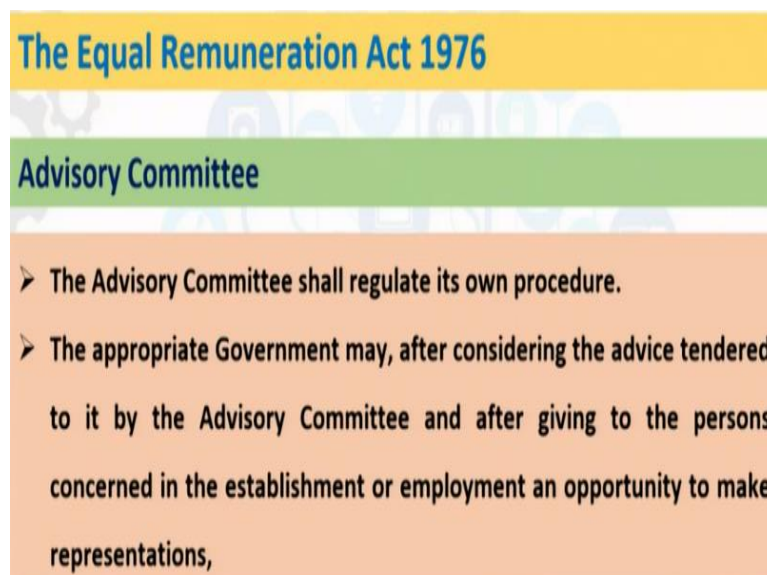
How do we even know encourage and improve employment of women in many establishments? Now, we see you know, gender diversity is being highly discussed topic,

promote gender diversity, and in a woman been encouraged to work in every industry. So it is a responsibility of the appropriate government to identify let us say some industries which are having very less women participation.

They have to set up a committee to see how they can actually promote and encourage women being employed in such industries. Every such committee when they form such committee, that such committee shall not be less than 10 person to be nominated by to the by the appropriate government on this one half shall be women. Let us say a committee has been formed with the 10 members out of this 10 members, at least 5 members should be women.

Then, intending is advised advisory committee shall have to regard the number of women employed in concern establishment or the employment. So, now we have to consider the number of women being employed in the particular industry.

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The slide features a yellow header with the text "The Equal Remuneration Act 1976". Below it is a green header with the text "Advisory Committee". The main content is on an orange background and consists of two bullet points:

- The Advisory Committee shall regulate its own procedure.
- The appropriate Government may, after considering the advice tendered to it by the Advisory Committee and after giving to the persons concerned in the establishment or employment an opportunity to make representations,

The advisory committee shall also regulate this one procedure. For example the way to; conduct the procedures or maybe want to examine. Why women participation or under participation for a moment on the particular establishments or industry sector. So, they can actually make their own procedures to conduct their own day to day activities or how do they approach these things.

So, the appropriate May after considering the advisor and that by the advisory committee, after giving it to a person concerned with the establishment and employment opportunity to make the presentation. So, appropriate government can also consider the advices by the advisory committee. And then propose this to the concern industrial establishments are you

know, group of industrial establishments to implement those suggestions coming from the advisory Committee.

Which; are essentially trying to promote more women participation in those under represented industries. So now we will look at know, maybe I can give an example, in a manufacturing activity, if you would have happened to see a few decades ago, or maybe one or two decades ago, where you would see primarily largely male being employed. Now, if you look at the proportion or percentage of the women participation is ever increasing.

Now, you will be surprised to see the larger manufacturing organizations now have more number of women workers working in a manufacturing plant outnumbering the male counterparts. So, that is the kind of change which has been happening, these are some of the efforts which are resultant of this kind of legislation, which promotes and encourages women participations. By way of ensuring their safety and providing others supports activities so that women is encouraged and allowed to work in those industries or under represented.

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The slide is titled "The Equal Remuneration Act 1976" and has a sub-heading "Duties of Inspector". It contains three bullet points:

- The appropriate Government may, by notification, appoint such persons as it think fit to be Inspectors for the purpose of making an investigation as to whether the provisions of this Act.
- Every Inspector shall be deemed to be a public servant.
- An Inspector may, at any place within the local limits of his jurisdiction, --
 - (a) enter, at any reasonable time with such assistance as he thinks fit, any building, factory, premises or vessel:
 - (b) require any employer to produce any register, muster-roll or other documents relating to the employment of workers, and examine such documents;

Handwritten notes in red ink on the right side of the slide include:

- Other Lesson →
- Appointments letter →
- Salary →
- Salary register →
- Payment records?
- ✓
- Salary register or
- Salary register

Now, we also are going to discuss about the duties of the inspector. So appropriate government by notification has to can apply and think fit to be an inspector for the purpose of making investigations as to whether this provision of the act has been implemented or not. Every inspector can be shall be deemed fit as a public servant and inspector at any place within the limits of his jurisdictions.

So, when we are talking about jurisdictions, it is a geographical jurisdiction. So, the inspector will be appointed on a geographical basis. Within this jurisdiction, he can enter at any

reasonable time with the assistance as he thinks fit, you know, building a factory premises or vessel. So and they can actually ask the employer to produce any register or a muster roll or any other documents relating to the employment of the workers.

So, when we talk about why this also as an effort to see how many women employees are working? And also see there, you know wage records the employment records for example the inspector can examine the offer letter or appointment letter. Why this is important, they will see what is the salary being fixed for the woman workers? Now, they can also verify their salary registered and payment records why this is important?

To verify whatever fixed is same and similarly, they will also compare male counterpart who been provided a similar job and their salary history and payment record to see there is no discrimination on the payment of wages with respect to male and female. As we say, you know same work or similar work, work of similar nature that is asked to be verified. So, the practice inspector can see the proportion of the participation will remain on.

Also see verify all these records to ensure that, yes, the factory practices and no discrimination practice has been existing in terms of employment also.

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The Equal Remuneration Act 1976

Duties of Inspector

- (c) take on the spot or otherwise, the evidence of any person for the purpose of ascertaining whether the provisions of this Act are being, or have been, complied with;
- (d) examine the employer, his agent or 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 the establishment;
- (e) make copies, or take extracts from, any register or other document maintained in relation to the establishment under this Act.

➤ Any person required by an Inspector to produce any register or other document or to give any information shall comply with such requisition.

Handwritten notes:
↓ Hiring Practices
→ Hindering women to apply
Qualification
Skill set

Wherein you know way there are instances where we have seen that no certain, applying no in the end the hiring practice itself. The factors inspector can also see the hiring practices. Are there any practices which are hindering women to apply for the position? So what if they are not even applying it? So, how do you talk about the discrimination? So, the factors inspector

can also examine the hiring practices as it actually hindering the woman in applying for a position.

So, they can also learn spot otherwise evidence of any person for the purpose of you know, ascertaining whether the provision of tracks being implemented, no discrimination exists. And they can also examine the employer is agent or servant. For example, they are engaging in contract agencies, the inspector can examine the contract agencies register their appointment letter, their way of hiring people.

What is the process of hiring is women are being offered in different subcategories and the inspector can also take copies take extracts or any register or other documents in relation to the implement as you have with us act. For example, I have visited many factories where and we were talking about in the minimum wages where we talked about unskilled semi-skilled all categories.

So, there were instances of discrimination which are observed that know many women are hired as an unskilled worker rather, but a women and male workers are hired as a semi-skilled worker. There are a prima facie to see that yes, is there a discrimination based on the gender. So, when we have investigated this pattern, then we are able to find yes work of a similar nature and same work has been performed, but women are hired as an unskilled worker.

And whereas the male counterpart has been hired as a semi- skilled worker meaning that they are paid in a higher level or this is also ground for discriminations. So, the inspector can investigate and take the records to verify whether this qualified to the term of work of similar nature on the same work then if there is discrimination. Then the particular establishment can be sued on the discriminatory practices.

So, any person required by an inspector to produce any register or other document shall have to comply with that requisition and has to produce whatever the document are requested by the inspector.

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The Equal Remuneration Act 1976

Duties of Employer

On and from the commencement of this Act, every employer shall maintain such registers and other documents in relation to the workers employed by him as may be prescribed.

Handwritten notes:

- ✓ → Hiring Policy
- ↳ No Discrimination
- ✓ → Payment - Fixation
- ✓ → Promotion Practices
- Any other
- ✓ Increment
- ✓ Bonus

And now comes the duties of them and what is the duty of an employer? See it is employer's duty that yes, shall maintain all register and other document with respect to employment of the worker. So, what are the documents? So let us talk about right from hiring, what are your hiring policy? Specifically on discuss you know discrimination policy with respect to you know, diversity you have as women and men and also payment we will salary fixation then also about promotion practices.

Any other all this has to be clearly documented policy has to be maintained register has to be maintained. So that they; are complying with the requirement of the equal remuneration practices. There is no discrimination on the hiring policy on the payment or on the promotion practices or increments we are talking about are on a bonus payment, all this we have to ensure that.

Yes, all these documents are registered and maintained by the employer so that they are ensuring that they are complying with this legislation, they are not making any discrimination between male and female employee.

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The Equal Remuneration Act 1976

Power of appropriate government to appoint authorities

1. The appropriate Government may, by notification, appoint such officers, not below the rank of a Labour Officer, as it thinks fit to be the authorities for the purpose of hearing and deciding on
 - (a) complaints with regard to the contravention of any provision of this Act;
 - (b) claims arising out of non-payment of wages at equal rates to men and women workers for the same work or work of a similar nature,
2. Every complaint or claim referred to that shall be made in such manner as may be prescribed

And the power of the appropriate government to appoint authorities the appropriate government through a notification appoint officers, not below the rank of a labour officer. You know, to purpose of hearing and deciding on what the complaints with regard to contravention of any provisions. Let us say that any complaint come from the section of the society or maybe the labour union or maybe from an NGO.

That yes, this particular factory or establishments are engaging in discriminatory practices or maybe paying a different salary, then they can actually appoint a special officer who can actually decide on the complaints made with respect to these activities, and are claiming claim arising out of non payment of weigh at equal rates to both men and women. These officer appointed by the appropriate government can investigate and you know look at it.

And you know, whatever been the claim or the complaints been raised, this officers can make such you know, proper investigations in a manner which are prescribed to them.

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The Equal Remuneration Act 1976

Power of appropriate government to appoint authorities

3. 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 .
4. Where a complaint or claim is made to the authority appointed it may, after giving the applicant and the employer an opportunity of being heard, and after such inquiry as it may consider necessary.
5. Every authority appointed under sub-section (1) shall have all the powers of a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), for the purpose of taking evidence and of enforcing the attendance of witnesses and compelling the production of documents.

And if any question arises whether two or more works are of the same nature or similar workflow shall be decided by the authority appointed. So, that can be a question on whether can we call it as a similar work of nature or the same work that can be clarified by the you know appointed authority. That he or she can actually go visit understand the job description, what are the skill requirements? What are the qualification requirements? What are the experiences required?

And is it can be qualified as are classified as a same worker or work of similar nature or they are both different that way there is any questions to be clarified. Yes, the appointment authority can do that. And where a complaint or a claim is made to the authority appointed, after giving an applicant and employer an opportunity for both parties has to be given and heard with the perspectives. Let us say somebody says there is a discriminatory practice, then the appointed authority has to hear both the parties before he or she makes a decision about it.

So, both of what they have to be heard and then all the document has to be verified. And every authority appointed under this section has the powers of a civil court. Civil for the purpose of taking evidence; enforcing the attendance of the witness reaching or taking the evidences and witness being heard to ensure that yes. There is a fire practice being followed to hearing both parties.

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The Equal Remuneration Act 1976

Power of appropriate government to appoint authorities

6. Any employer or worker aggrieved by any order made by an authority appointed, on a complaint or claim may, within thirty days from the date of the order, prefer an appeal to such authority as the appropriate Government may, by notification, specify in this behalf.
7. The authority referred to, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the period specified, allow the appeal to be preferred within a further period of thirty days but not thereafter

Then any worker or employer aggrieved by an order authority appointed within 30 days of the date of the order up in to such authority to you know make notification on this behalf. So, they can be going for it and I know appeal and if the authority referred to and if it is satisfied. The appeal was prevented by the sufficient cause from preferring then appeal within the period of spread allow, special appeal to be prepared within the next 30 days but not thereafter.

So there is no appointed authority is not given a proper in whether or not a proper diet. And if you are not happy with the outcome, then you can actually go for an appeal within the next 30 days of it.

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CONCLUSION

In this lecture session, discussion has been made on the backgrounds of equal remuneration act, important definitions, salient features, no discrimination, advisory committee, duty of the employer. Learning on all of these will be very good lesson to all learners

These are the references and this legislation is one of the legislation which are very important for promoting the women participation in the underrepresented industries. And also it tries to ensure that yes both men and women who are engaged in the same work or work of a similar nature are paid the equal remuneration. In respect of all practice and are also hiring there is no discrimination on the gender basis.

Which is actually one of the very progressive legislation which promotes more gender diversity ensures women participation in the underrepresented industries. And with this, we are completing this module 6, we discussed on some of the key important legislation on the wages. We will be discussing on the other aspects of religious legislations from module 7 thank you.