

LEGAL ISSUES RELATED TO THE DAILY WAGERS IN INDIA

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ABSTRACT

The issue of daily wages and the difficulty of low wages paid to the laborers is a World Wide reality. Even after independence, the government of India has not been able to tackle the issue of minimum daily wages provided under the act made for the laborers. The concept of industrial wages is different from agricultural wages. The modern concept of wage, theories, and its practice related to the factory system. The daily wage labors not only faced problems in the past but even in the current scenario, as we can see that these people were most impacted during the pandemic. Even though governments came up with plans to help these sections of the society by providing necessities during a pandemic. But due to a huge population, it was not as successful as planned. There should be one nation one rationcard, everyone is equal and entitled to get ration in whichever state they reside for the work. Already the condition was harsh of the daily wage labors and the pandemic made it even worse and its impact can be seen even today as these laborers have migrated from place to place in search of work. Risk referring to COVID is still in the mind of people due to which people are a bit hesitant to give work to these daily wage laborers and if these people get work most of them are being underpaid. The government have been working on the upliftment of labors and even already existed act has been amended for the better of this section of society and more and more awareness programs are made by the government to spread awareness among these people regarding their rights and different programs which can benefit them and uplift there living conditions. Directive Principles Of State Policy also protects the rights of labor. New code has been made on labor law. Standard of living with a minimum wage is a basic need to survive. This appropriate study focuses on daily wage earners and the struggles they face.

Keywords Wage, Minimum wage, Challenges, Standard of living.

1. INTRODUCTION

If we see from ancient times before independence the position of daily wagers was worst than today. Earlier they were harshly treated like a slave as they were in a need of work to survive their family. They used to take work more than hours and more than the wage which they get. They ask for such work to do which costs a huge amount but they pay a nominal amount which is even less than the work which they do. There is no security to get work on the next day. Any type of work they get ready to do because it is not more than living. The death ratio was more at that time, as no work causes them to take this step to do. Any money they take from money lenders but was not able to return is also a cause of death. There was a system of bonded labor they were forced to enter in debtor with an agreement with the creditor. It would amount to serve without wages or nominal wage and there all rights were fridged.

After independence, many laws, acts, rules which were already existed, and new laws are being made and amended for the laborers. The workers get the right to change their job, do what type of work they are interested to do. There was a time when there was a shortage of laborers and in medieval cities, the condition was flexible of employment and wages. The abolition of bonded labor with provisions of the act, if anyone tries the offense then is entitled to be punished.

The International Labour Organisation has, in its convention, prohibited various types of forced labor, slavery, and servitude, and debt bondage. It has called upon the Member States to implement the convention and to

ensure that there is no bonded labor or forced labor in the world¹. Low pay and wage inequality in India, but annual average gross domestic product growth over the past decades, according to the report of ILO. Still, there is inequality growth under the payment or wage of workers, their rights to receive payment.

Wage is an earning of labor. Wage generally refers to monetary benefit, payments on hourly work, and service of workers. Wages are different from Salary. Those who get wages do not have a guarantee of the continuation of work. As there is no security of work whether it will continue to next day or not. There is no security for getting work. Rates are described based on worker's work all will receive a similar amount of rate. Progression in each range may be based on merit the efficiency of work. Wages means all remuneration expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment. The wage and salary structure in an industry is made from lower grades to higher grades according to the work and working skills of a worker². Wages include salary, allowance, or any other component expressed in monetary terms. This does not include bonuses payable to employees or any traveling allowance, among others³.

In ancient times labours were not aware of their right, as many rights have been made for human beings and also for labours but they are unaware of them. Being illiterate and their employers never let them know, if they tell them then they will not do work which is hazardous to their health, wages were provided low according to work taken from them. They never asked how much wage for how much working hours, as their full life is depended on this wage which they get on daily work. There is no security to get the same work or any type of work on the next day. No one's work is secured that's the reason they were tried to know their rights, if they tried to know and tried to go through those rights then no one will keep them as labour as they will surely try to raise their voice. In many industries works were taken from children also as their full family does work to get a meal for their survival, then their children on a low wage were also taken labour, but it is illegal to take work from a child as labour, their age is to get an education, play, etc but their condition made them work as labour. They were not provided with any basic facility like a water tap, washroom, fans, light, etc. In less wage takes more work by giving wages according to work done in quantity, they never see the working works they only see the quantity of material provided to them, no rest time or intervals were given to them. They get workers at a cheap rate, as those labours listen to them and obey their orders as it is they do their work. They never demanded to increase their wage or provide any facility like water tape, fans, etc in fear of getting lost in their work.

According to the Minimum wages Act 1948, the minimum wage rate is fixed for the workers so that their necessities would be fulfilled. "Wages" means any remuneration capable of being expressed in terms of money, which would if the terms of the contract of employment express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment but does not include – supply of light, water, any house accommodation, any PF schemes, traveling allowances⁴. Any minimum wage would be prescribed by the appropriate government of a state. That wage should be paid in cash and all the allowances would not be added to the wage. Working hours are being fixed for the workers in working

¹ V.B.Coutinho, Lectures on Labour Law p.no.187(EBC).

² Justice M.R.Mallick, Labour and Industiral Law Manual p.no.816(Professional Book Publishers).

³ [https://prsindia.org/billtrack/the-code-on-wages-2019\(visited](https://prsindia.org/billtrack/the-code-on-wages-2019(visited) on 21-03-2021).

⁴ Taxmann's, Labour Laws p.no.547.

place for a normal working day etc. If any work has been taken apart from working hours then extra amount apart from wage has to be given.

The condition of migrant workers is worst, they are invisible. They migrate from state to state in search of work. There is no proper data on migrant workers. They are generally employed in the small and informal sector, textile industry, manufacturing, construction sites, domestic workers. They starting working very early age as there is no such proper source of income most of the time they spend on their working place. Their living place is temporary like a hut or living in a slum where one room is shared by 5-6 people. They are invisible as they do not have a proper address or working place. They don't get the benefits of Government Schemes which are made for the lower section of society, whose basic needs are not fulfilled by their wages.

Most of the migrant workers sleep in the footpath they have made a small hut so that there would be shelter in their heads. They move with their family as no option is been left for them. If they get work today does not mean tomorrow they will get it or not. Working in a small sector, informal sector their on daily basis work they have been taken, according to work they keep them. In many industries, daily wagers stand outside in search of work. In construction sites, most of the laboures are migrant labors. They live on the site with their family and all help in the site so that they can get a wage that would fill their family's empty stomach. Most of the time they sleep without food. Many migrant workers were residing under the bridge along with the Yamuna River.

2. CONSTITUTIONAL PROTECTION

2.1 Article 43-Living wage, etc., for workers⁵

It talks about the Living wages for the workers The state shall endeavor to secure by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the state shall endeavor to promote cottage industries on an individual or co-operative basis in rural areas⁶. The state must look over the living wage of the worker. The right to live with dignity is a right of every individual to life.

2.2 Article 14- Equality before law⁷

It talks about Equality before the law which means everyone should be treated equally, whether it is man or woman. Women should be treated equally in the workplace. The same work women also do but didn't get the same wage why this discrimination is done with them. Work, Working hour place of work is same then also this discrimination is done.

2.3 Article 39- Certain principles of policy to be followed by the state⁸

It says men and women have an equal right to livelihood, as both works for their livelihood should be treated the same and equally. Article39(d) says equal pay for equal work for both men and women, both are entitled to get equal pay for their work. In many organizations women are not treated equally in respect of pay as same work and hours they are giving to that organization then also discrimination has been done.

2.4 Article 47-Duty of the State to raise the level of nutrition and the standard of living and to improve public health⁹

⁵ The Constitution of India,1950

⁶ The Constitution of India, 1950.

⁷ Ibid.

⁸ Ibid.

⁹ Ibid.

It says that the state must raise the level of nutrition and living standard and their health, it is a primary duty of the state to look into this.

Various Act Covered under the provisions of Labour Law

1. The Payment of Wages Act, 1936
2. The Minimum Wages Act, 1948
3. The Inter-State Migrant Workmen (Regulations of Employment and Conditions of Service) Act, 1979

This Act deals with the wages of the worker. They have fixed a minimum wage which every worker is entitled to get according to the act and many laws are been made for them.

The drastic condition of daily workers has been seen during the pandemic periods i.e. Covid -19. Everyone who has already migrated from state to state in search of work has to move again back without work no survival. Many laborers were stuck in one place, with no supply of food, no monetary help. To go back to their place no bus a train was there. The government has made a plan, according to that they were going then also many migrant workers, laborers do not get those benefits due to lack of data of those workers. Many people came down to help celebrities among them is Sonu Sood who took initiative to send those workers to their homes. He provided buses and food so that at least they can reach the place where they reside early. Many died due to the virus, starvation, many people got helped from the local people who are can help them by providing basic needs such as Soap, Rice, Daal, Species, etc. The government has made a plan to provide Ration to everyone but one does not have RationCard or Adhar Card and Bank Account more suffered many have died. The government made a scheme in which everyone will get Rasan according to the members of the family but should have Rationcard or adharcard. Below Poverty line people got the amount in their account every month. It helped them to at least get a survival. Many people have got impacted some of their stories are:

It is a story of a young man named Rajesh Singh who worked in a 'mazdoor mandi' in Lucknow Uttar Pradesh. He struggled to afford two nutritional meals for his family, many daily wagers were aside him in search of work, all of whom traveled from a town and village near Rai Barelli and Sultanpur to Lucknow in search of daily wage¹⁰. The trials of this community depend on daily wages for survival.

Like him many people are there who suffered as the small sector owner story is earlier they used to keep 10 workers for daily wage work now condition is such that not more than 3 workers they can keep. As the demand is low, so manufacturing is less, production is less import-export is low in the market, a supply of raw material breaks down. The government has imposed restrictions on mobility. Which affected most to this section of the society, who depends upon daily wage. They earn on a daily wage of around 1200 rupees before lockdown, but now for the same work they are getting around 480 rupees. There is a dropping in the economic condition, due to which countries economy is also affected. The pandemic affected every sector of society, but a huge impact has been seen on wagers whose daily life is fully dependent on the daily work. Many wagers are traveling long hours, in search of work, if less production then how then can keep more worker for that work. The drastic condition has been seen of the daily wagers during the pandemic period. Due to starvation, no help they went outside for the food, they begged so that they can eat something.

Governments Scheme benefits can be only taken by those who have Ration cards. They have all cards by which they get Ration every month, a minimum nominal amount they have to pay that amount for those quantities of Ration. The rate of Rasan has been fixed by seeing the condition of the weaker section i.e. BPL so that they can use those benefits and live alive. Even agencies are trying to help them. Many workers working in industries, factories lost their jobs during the pandemic. No work No pay, they were removed from their work as they were in a huge loss, to recover those losses they have to remove some workers so that they

¹⁰ <https://thewire.in/labour/daily-wage-workers-lockdown-covid-19-wages-government-aid-deep-crisis> (visited on 20march 2021 at 12:05am).

would not pay them for that period time when there was lockdown. To go back to their place they were not having money, at that period hardly anyone could help monetary as everyone was locked inside without work at their home.

Chief Minister of Delhi said no one should die due to hunger during a lockdown. During that lockdown period, they were serving lunch and dinner at shelter homes across a city. They committed to increasing the shelter home, along with will make separate arrangements for food distribution¹¹. The number of people was there who reduced rent or postponed the rent and provided food to them. Million of poor migrated from village to city in search of livelihood and lockdown left them helpless far away from home, without a job¹².

There are millions of migrant workers across the country it is not possible to provide relief to everyone, somehow many have not got how much relief.

3. JUDICIAL PROSPECT

*Randhir Singh v. Union of India*¹³, Supreme Court held that the principle of equal pay for equal work is not expressly mentioned in our constitution as a fundamental right. But it is a goal of Article -14,19,39 of the constitution. The right can be enforced where unequal pay scales on irrational classification.

*FAIC and C.E.S v. Union of India*¹⁴, Supreme Court stated that government can't take advantage of its dominant position and it should be a model employer. SC said that equal pay for equal work depends upon the nature of work done, not upon the volume of work.

In the case of *Abhijeet Kumar Pandey v. Union of India and Anr.*¹⁵ the court directed to frame a scheme for the home-based worker, self-employed worker, and unorganized worker as defined under the Unorganised Workers Social Security Act, 2008, within two weeks.

In the case of *Jana Samparka Samithy v. State of Kerala*¹⁶ where the court has directed them to see upon the well-being and life of the migrant workers.

*Bengaluru Water Supply and Sewerage Board v. A Rajappa*¹⁷ In this case, the dispute was between the applicants of the Bengaluru Water Supply and Sewerage Board, its management, and respondents. In another misconduct, the board fined and paid employees. Respondents went to the labor court to challenge such a fine under Section 33C (2) of the Industrial Disputes Act, 1947, claiming that the imposition of a fine violated an environmental justice law.

The Complaints Board stated that it is a legal entity that serves the citizen, and therefore does not fall under the purpose of the definition of the word "industry" as provided for in the Act. The Labor Court dismissed the proposal and ruled that the board fell under section "industrial" as under section 2 (j) of the Industrial Disputes Act, 1947.

¹¹ <https://www.newindianexpress.com/cities/delhi/2020/mar/24/delhi-government-to-pay-rs-5000-to-daily-wagers-amid-coronavirus-lockdown-2121014.html> (visited on 20-03-2021 at 8:50pm).

¹² <https://www.bbc.com/news/world-asia-india-52360757> (visited on 20-03-2021 at 9:06pm).

¹³ AIR 879, 1982 SCR(3) 298.

¹⁴ AIR 1291, 1988 SCR(3) 998.

¹⁵ 2021 SCC OnLine DEL 1859.

¹⁶ <https://indiankanoon.org/doc/179769697/> (visited on 01-06-2021).

¹⁷ 1978 SCR (3) 207

Board members who were upset by the Labor Court order went to the Karnataka High Court in a written statement stating that the board was not covered under the "industrial" definition as it was headed by the Labor Court. The Karnataka Supreme Court dismissed the case, upholding the order of the labor court.

The board's management went to the Supreme Court on the issue of whether it was compiled under an industrial definition or not. In order to determine the identity of the industry, the Supreme Court set an example of the operation of the industry. This test was called the "triple test method":

- Whether there is any formal work done between the employer and the employee to produce and give all satisfaction and aspirations;
- It is a matter of knowing whether there is a lack of profit behind a company or business;
- Focusing on the employer-employee relationship;
- If the organization is commercial or commercial it will not cease to be an organization in terms of its donor status.

Therefore, an organization with all non-commercial or non-commercial content can be considered an industry. The Supreme Court has issued a decision by the Bangalore Water Supply and Sewerage Board as an industry in terms of each category provided under the Industrial Disputes Act.

*In Bharat Sanchar Nigam Limited v. Man Singh*¹⁸, the respondent employees worked with the appellant company as casual workers on daily wages throughout the year 1984-1985. Due to the non-accessibility of work, their employment was concluded in the year 1986. No prior notice for the same or retrenchment compensation was specified to those employees before dismissing their employment. After five years, they (employees) elevated on an industrial dispute in the year 1991. The appropriate government mentioned the dispute to the labor court for settlement. The respondent workmen were employed as 'daily wagers' and they had simply worked for more than 240 days, High Court measured and provide, a reprieve of reinstatement cannot be said to be vindicated, and therefore, pecuniary compensation would encounter the ends of justice. Supreme Court, Bharat Sanchar Nigam Ltd. Was engaged to pay Rs 2Lakh to each and every single of the respondent's employees in full and final settlement of their claim. However, this dispute affected the industrial relation badly with those workers who were not taken back by the railway company, even after their reinstatement was allowed by the court.

4. CONCLUSION

The condition of daily wagers is worst at this stage, where many laws have been made for them. The wagers are in a need of work, for living a life where on their shoulders other family members' responsibilities are also. If we see the condition of workers working in miles daily wage. Have any government came on the ground to check whether these laws, acts, rules have been followed. What about their safety, health, welfare the manager has to see. For workers working on a construction site, the contractor only pays them wages not

¹⁸ (2012) ISCC 558.

even think about their health, condition of living. They only focus on the work that a worker anyhow completes, in whichever condition he is because he is in a need of wage.

The discrimination on the wage of men and women should not be there, women workers should raise their voice for an equal wage, as when a law is made for it. Then they do some work along with male workers, for the same duration of time then why this much discrimination has been done with them. Do they don't have a family or living standard to live their life? They migrate from state to state in search of work to live a basic standard of life but what they get, one meal in a day or sleep on an empty stomach. Many people are still there who come to help them but till when they will help. The government must see, when schemes have been made for them, then who is enjoying those in their name. Millions of daily workers are there, who traveled miles in search of work, somehow they reach there then also there is no security to get. Their main reason to leave their place is to get work so they can eat and feed their family too. But then they reach the work which they get is not according to their will, then also they do to get a wage. But on the next day, there is no security to get that work even. Many do work on the house as a housemade, gardener, etc to get some amount at least they would not sleep empty stomach. They take advantage of their situation and take twice a work on that single day wage.

The government of India has taken a step for the enactment of legislation as 'the Unorganized Social Security Act, 2008'. This law has been enacted for the unorganized workers working in the unorganized sector to provide them social security. With this enacted many more schemes have been enacted by Government such as old-age pensions, Life Insurance, Health Insurance etc, many more schemes has been made for their betterment.

It's a body when all of us will take a look at this issue then it would function smoothly:

1. If an employer would not harass them on their wage.
2. Easy providing their wages on time would any delay.
3. Providing basic needs in the working environment such as toilet, restroom, water, proper lights and ventilator.
4. Providing some benefits, if they know they can tell them so that they can use them.
5. Without doing any corruption in between, fairly doing work and giving fair wage with minimum wages.

Legislation makes policy, rules for the betterment of workers working in the organized or unorganized sector, then also their rights have been infringed. Making aware them by organizing a camp, skit by which they can get aware about it. Labours are an important part of your day to day life, whether working in factories, shop, construction sites, households, etc. Their rights should be given if anyone tries to infringe or harm them should be punished with a severe punishment along with a fine.

Laws are made and policies are made, revised, amended due to the need and condition of labor. Their conditions make us think more about them having rights than also not aware it's a drawback of our system who not focuses on them. The death rate of labours are also increasing not getting proper wages, taken loan, etc not been able to return the loan with debt then they opt to leave earth ie they die. Its not a solution for this, we can reduce the return rate of the loan for the BPL cardholder or BPL people so that they can easily return the

debt, increase the return period time not much pressure will be applied on them. The Constitution of India has given the right or freedom to everyone to speak or fight for their rights, so the workers should raise their voice if anyone does not provide them, their rights. We should once see and listen to their problem then only we can get in which situation they are living their life while having all rights, laws, act, policies made for them.

The state should strictly function their power, as they perform their duty towards society for human welfare and a marginal section of the society.

The minimum wage is fixed because every worker would get at least that much wage by which they can live a nominal standard of life. Even many took their right from them, as it can be a reason that, they are not aware of about it even if aware then in a fear of not getting work on next day. Always there is a fear in the eye of daily wagers whether today they will get work or not.

Lockdown made their condition more worst, as they work on daily wages to feed and in lockdown every working place was closed, they were having no work to do. Daily wagers do not have a saving, which they would use it. The government made a scheme plan to provide Rasan to everyone but migrant workers were not having their Rasan cards, Adhar cards, they migrate from state to state, city to city, country to country in search of work how come they would have. They were infringed by these schemes during a lockdown, somehow they manage food by staying in shelter homes, staying near rivers, footpath many people came to help them by providing cooked meals at least a day they would not sleep on an empty stomach. Their condition is worst, their children are malnutrition, etc. and anyhow they survived, then managed to go back to their place. They went walking over a road, rail lines, to reach their place. Many died due to trains crushed them they were walking or sleeping under a railway track or line.

The current situation after a lockdown is that many workers started doing work in their place. They found small work by which they can survive by eating twice a meal in a day. Now in cities, there is a shortage of daily wagers. In small industries still, the condition is not stable because they suffered more loss as every individual suffered during lockdown but small industries suffered more. Still, now there are not able to keep that many of workers they used to keep for the same work.

Everyone is equal whether men or women, they should receive the same, amount of wage. No discrimination on grounds of sex.