

“A STUDY ON EQUAL REMUNERATION ACT, 1978 (CENTRAL ACT 25 OF 1976)”

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ABSTRACT

To prevent discrimination between workers on grounds of gender “The Equal Remuneration Act” in India was enacted. The purpose of this act is to make sure that employers do not discriminate on the basis of gender, in matters of wage fixing, transfers, training and promotion. It provides for payment of equal remuneration to men and women workers, for some work or work of similar nature and for the prevention of discrimination against women in the matters of employment. The object of these legislation is not only to protect the weaker section of the society but also to provide preferential treatment in matters of employment and other fields to uplift the women upto the level of economically self-sufficient. The Equal Remuneration Act, 1976, is based on the jurisprudence that the law shall not discriminate against women in the matter of employment on the ground of their gender. The Act applies to all establishments in respect of number of employees or the amount of wages. The words “child”, “adolescent”, or “adult” would have the same notation both for female and male workers. The exception to this rule is that where the employment of women in such work is prohibited or restricted by any law for the time being in force.

1. Introduction:

Inequality to women has been a perpetual feature in our socio-culture since long. The obvious reason for the same has been the male domination. It has even entered in the wage structure, women have been oppressed economically. The contributory factors sociological, physiological, moral and mental accelerated the gravity of the problem. The state has taken considerable pains to relieve the oppressed class by providing appropriate safeguards by the way of protective legislation. The object of these legislations is not only to protect the weaker section of the society but also provide preferential treatment in matters of employment and other fields to uplift the women upto the level of economically self-sufficient. The consciousness and general awareness as a result of women education has been proved an effective measure. Despite the general awareness on the part of women and active and effective steps through the instrumentality of law, women continued to victim of unequal treatment and exploitation. The objective of the Act is to prevent discrimination against women in the matter of rates of remuneration, promotion, training and transfer, on the ground of their gender. The Act applies to all establishments in respect of number of employees or the amount of wages. The Act equally protects the interest of male workers as well by obliging the employer to pay a male employee at rates not lower than the rates

payable to women workers performing the same work or work of a similar nature. While claiming equal remuneration, what is important to establishment is the existence of similar working conditions in which some work or work of similar nature is performed by both male and female workers.

2. Act not to apply in certain special cases:

- a) To cases affecting the terms and conditions of a women's employment in complying with the requirements of any law giving special treatment to women, OR
- b) To any special treatment accorded to women in connection with-
 1. The birth or expected birth of a child, OR
 2. The terms and conditions relating to retirement, marriage or death or to any provision made in connection with the retirement, marriage or death.[section 15]

3. Duty of employer to pay equal remuneration to men and women workers for same work or work of a similar nature:

- a) No employer shall pay to any worker, at the rates less favourable than those at which remuneration is paid by him to the workers of the opposite sex.
- b) No employer shall, for the purpose of complying with the provisions of sub-section (1), reduce the rate of remuneration of any worker.
- c) The rates of remuneration payable before the commencement of this Act for men and women workers for the same work or work of a similar nature are differently only on the grounds of sex, then the higher, or, as the case may be, the highest of such rates shall be the rate at which remuneration shall be payable, on and from such commencement, to such men and women workers

4. Power of appropriate Government to appoint authorities for hearing and deciding claims and complaints:

1. The appropriate government may, by notification, appoint such officers, not below the rank of labour officers, as it thinks fit to be authorities for the purpose of hearing and deciding-

- 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 similar nature;

And may, by the same or subsequent notification, define the local limits within which each such authority shall exercise its jurisdiction.

2. Every complaints or claim referred to in sub-section (1), shall be decided by the authority appointed under sub-section (1).

3. If any question arises as to whether two or more works are of the same nature or of similar nature, it shall be decided by the authority appointed under sub-section (1)

4. Where a complaint or claims is made to the authority appointed under sub-section(1),it may, after giving the applicant and the employer an opportunity of being heard and after such inquiry as it may consider necessary, direct-

a)In case of claim arising out of non-payment of wages at equal rates to men and women workers for the same work or work of similar nature, that payment be made to the worker, of the amount by which the wages payable to him exceed the amount actually paid;

b) In case of complaint that adequate steps be taken by the employer so as to ensure that there is no contravention of any provision of this Act.

5. Every authority appointed under sub-section (1) shall have all of 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 every such authority shall be deemed to be a civil court for all the purposes of section 195 and chapter XXVI of the code of criminal procedure, 1973(2 of 1974).

6. Any employer or worker aggrieved by any order made by an authority appointed under sub-section (1), 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 and that authority may after hearing the appeal confirm modify or reverse the order appealed against and no further appeal shall lie against the order made by such authority.

7. The authority referred to in sub-section (6) may if it satisfied that the appellant was prevented by sufficient cause from preferring appeal to be preferred within a further period of thirty days but not thereafter.

8. the provision of sub-section (1) of section 33-C of the industrial disputes Act,1947(14 of 1947), shall apply for the recovery of monies due from an employer arising out of the decision of an authority appointed under this section.

5. Cognizance and trail of offences:

1. No court inferior to that of a metropolitan magistrate or a judicial magistrate of the first class shall try any offence punishable under this Act.

2. No court shall take cognizance of an offence punishable under this Act except upon-

a) Its own knowledge or upon a complaint made by the appropriate government or an officer authorised by it in this behalf, or

b) a complaint made by the person aggrieved by the offence or by any recognised welfare institute or organisation.

6. Power to make rules:

1. The central government may, by notification make rules for carrying out the provision of this Act.

2. In particular and without prejudice to the generality of the foregoing pore such rules may provide for all or any of the following matters, namely-

a) The manner in which complaint or claim referred to in sub- section (1) of section 7 shall be made;

b) Registers and other documents which an employer is required under section 8 to maintain in relation to the workers employed by him;

c) Any other matter which is required to be or may be prescribed.

3. 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, for total period of thirty days which may be comprised in one session or in two or more successive sessions and if before the expiry of the sessions immediately following the session or the successive sessions aforesaid, both houses agree in making any modification in the rule or both houses agree that the rule should not be made the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

7. Power to make declaration:

Where the appropriate government is on a consideration of all the circumstances of the case satisfied that the differences in regard to the remuneration or a particular species of remuneration of men and women workers in any establishment is based on a factor other than sex it may by notification make declaration to that effect and any act of the employer attributable to such a difference shall not be deemed to be a contravention of any provision of this Act.

8. Power to remove difficulties:

If any difficulty arises in giving effect to provision of this Act, the Central government may by notification make any order, not inconsistent with the provision of this Act which appears to it to be necessary for the purpose of removing the difficulty:

Provided that every such order shall as soon as may be after it is made be laid before each house of parliament.

9. Penalties:

1. If after the commencement of this Act, any employer, being required by or under the Act, so to do-

a) Omits or fails to maintain any register or other document in relation to workers employed by him,

or

b) Omits or fails to produce any register, muster-roll or other document relating to employment of workers or

c) Omits or refuses to give any evidence or prevents his agent, servant, or any other person in charge of the establishment or any work from giving evidence or

d) Omits or refuses to give any information,

He shall be punishable with simple imprisonment for term which may extend to one month or with fine which may extend to ten thousand rupees or with both.

2. If after commencement of this act any employer-

a) Makes any recruitment in contravention of the provisions of this Act, or

b) Makes any payment of remuneration at unequal rates to men and women workers for the same work or work of a similar nature, or

c) Makes any discrimination between men and women workers in contravention of the provisions of this Act or,

d) Omits or fails to carry out any direction made by the appropriate government under sub-section (5) of section 6,

he shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees or with imprisonment for a term which shall be not less than three months but which may extend to one year or with both for the first offence and with imprisonment which may extend to two years for the second and subsequent offences.

3. If any person being required so to do omits or refuses to produce to an inspector any register or other document or to give any information, he shall be punishable with fine which may extend to five hundred rupees.

10. Conclusion:

The Act prohibits the employer from attaching different rates of payment to the male and female workers for the same work or work of similar nature. While so stipulating, the Act takes care of the difficulty involved in the intended meaning of the expression “some work or work of similar nature” by stating that the differences should not be considered relevant in relation to rates of remuneration.