



## Contract Labour in India: Issues and Challenges

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### ABSTRACT

*India is marching towards becoming superpower in the world. To turn into super power, the government has initiated the programmes and opened its market for industries to set up their business. It is known fact that Indian labour market is cheap as compare to other countries. Hence, for industries India became suitable place to open businesses. Moreover, it is painless to engage contract labour without taking much responsibility. Not only the private entities but also the government agencies are also engaging contract labourers. This article tries to portray whether the purpose of the Contract Labour (Regulation and Abolition) Act, 1970 is accomplished or not and what are the issues and challenges for contract labour in India.*

**KEYWORDS :** contract labour, establishments, appropriate government

### Introduction:

With the dawn of industrialisation, the Indian and the foreign companies have been asking for more and more suppleness in engaging employees. They demand flexible laws to sustain in the cutthroat competition in the market. In case of losses, the employers do not want to take any responsibilities of the employees' future. Hence, the employers require workforce without any obligations. In some businesses, the temporary workforce is required and to carry out the requirements of the market. To satisfy the needs of the market cheap contract labour is easily obtainable in India.

Before 1970, there was no special law to protect the interests of the contract labour. Therefore, Indian parliament enacted "*The Contract Labour (Regulation and Abolition) Act, 1970*"<sup>1</sup> and the central government framed the Contract Labour (Regulation and Abolition) Central Rules, 1971 under the Act. However, in *Gammon India Limited vs. Union of India*<sup>2</sup>, the Act and the Central Rules were challenged before the Supreme Court on the ground that they were constitutionally invalid. But the Act & Rules were held valid by the Supreme Court and said there is no unreasonableness in the measure. Finally, the Act & Rules were enforced from 21 March 1974.

### The Act aims:

- To regulate the employment of Contract Labour in certain establishments and
- To provide for its abolition in certain circumstances.

### Provisions of the Act:

**Applicability:** The Act and the rules made thereunder are applicable in following cases:

Every establishment/contractor where 20 or more workmen are employed or were employed on any day in the preceding 12 months as contract labour and to every contractor who employs or who employed on any day of the preceding 12 months, 20 or more workmen.

It does not apply to establishments where the work performed is of intermittent or seasonal nature.

An establishment wherein work is of intermittent and seasonal nature and performed more than 120 days and 60 days in a year respectively.

It also applies to establishments of the Government and local authorities as well<sup>3</sup>.

**Appropriate Government:** Section 2(1) (a) of the Act defines 'Appropriate Government'. As per this section, the Central and State Government get the jurisdiction to abolish and regulate contract labour.

**Setting of the Advisory Board:** The Central Government and State Governments may set up Central and State Advisory Contract Labour Boards. If any matter referred to the Board concerning the administration of the Act, then it is duty of the Board to give advice to

the respective governments on such matters. The Boards are authorised to constitute committees if required<sup>4</sup>.

**d) Registration of Principal Employer and Licence by Contractor:** The establishments covered under the Act are required to be registered as principal employers with the appropriate authorities. Every contractor is required to obtain a licence from the licensing officer to undertake or execute any work through contract labour. The licence granted is subject to conditions like hours of work, fixation of wages and other essential amenities in respect of contract as prescribed in the rules<sup>5</sup>.

**e) Welfare and Health of Contract Labour:** The Act has laid down certain amenities to be provided by the contractor to the contract labour at the establishment which includes canteens and rest rooms, arrangements for sufficient supply of wholesome drinking water, latrines and urinals, washing facilities and first aid facilities etc. In case if the contractor fails to provide these facilities, the principal employer is liable to provide the same<sup>6</sup>.

**f) Responsibility for Payment of Wage:** The contractor is required to pay wages as per the laws. Further, the Contractor shall ensure disbursement of wages in the presence of the authorised representative of the principal employer. If the contractor fails to pay wages either in part or in full, the principal employer is liable to pay the same. The contract labour that performs same or similar kind of work as regular workmen will be entitled to the same wages and service conditions as regular workmen as per the Central Rules, 1971<sup>7</sup>.

**g) Penalties:** For contravention of the Act or any rules made thereunder, the punishment is of the imprisonment for a maximum term upto 3 months and a fine upto a maximum of Rs.1000.

**h) Enforcement mechanism:** The organization of the Chief Labour Commissioner (Central) also known as Central Industrial Relations Machinery is an apex organization for maintaining harmonious industrial relations mainly in the sphere of central Government. It was charged with duties of prevention and settlement of industrial disputes, enforcement of labour laws and to promote welfare of workers in the industrial establishments falling within the sphere of the Central Government<sup>8</sup>. At the state level, the Commissioner of Labour is responsible for implementation of various labour laws.

**Issues & Challenges:** In the recent past, due to the LPG<sup>9</sup> model of development contract labour has undergone a noteworthy change over the last few years. The employers prefer to engage contract labour instead of regular worker because of flexible labour market, no responsibility towards contract labour, market based engagement, maintaining efficiency, less indiscipline etc. In doing so, there is a gross violation of the rights of the contract labour.

In changing economical scenario, the contract labour in India face innumerable problems at workplace. The Act & Rules made it obligato-

ry that the contractor shall provide facilities like sufficient supply of wholesome drinking water, a sufficient number of latrines and urinals, washing facilities and first-aid facilities. If contractor fails to provide mentioned facilities then the Principal employer shall provide the facilities. However, in many cases it is found that the contractors are not bothered to follow the laws and difficulties arise to impose the liability on the principal employer because he simply says that it is not his responsibility and that is of the contractor. In this burden shifting game, contract labour suffers.

It is common practice not to pay wages to contract labourers as per the law. There are various conflicting issues between the contractor and the labourers about the wages. The Minimum Wages Act, 1948 and the Payment of Wages Act, 1936 are grossly violated by the Contractors. The wages are not paid on time and also not as per the laws. A weekly off is given without pay. Beside this, the register of wages-cum-muster roll rarely properly maintained. For overtime wages, the labourers depend upon the mercy of the contractor. All these issues are faced by the contract labour.

There is a constant demand from the trade unions that the Act should be amended to provide for automatic absorption of contract labour in the event of prohibition of employment of contract labour. The employers' organizations strongly oppose automatic absorption of contract labour. They say such a step would lead to capital-intensive measures like mechanization, automatization, etc. and would lead to fall in employment. Their view is that the employers should be given flexibility to determine the composition of the workforce for the industry to survive in the competitive environment.

In addition to this the issue which is constantly in debates is of punishment. The punishments for contravention of the provisions of the Act and the Rules are lesser in today's time. There is no deterrence hence it leads to exploitation of contract labour on large scale.

Further, according to the trade unions, contract labour should not be abolished in non-core activities of an establishment and should be allowed to be parceled out to specialized agencies, which have grown rapidly, for better time management, better operational efficiency and high percentage of consumer satisfaction.

There are conflicting demands from the trade unions and the employers' organizations. The trade unions in India are demanding absorption of the labourers as permanent employees. Whereas the employees are expecting an amendment to the Act, 1970 to relax the norms for engaging contract labour. The Rajasthan State Government paid the heed to the demand of employers and recently amended the Act<sup>10</sup>.

The Central government and some state governments are also in favour of amendments to the Act to open labour market for the employers with less restriction from the government side. This is a welcome move for the employers. On the contrary, the labour communities including various trade unions denounce the amendments on following grounds:

The spirit of these amendments to the labour laws<sup>11</sup> is nothing but to allow the employers to retrench/ lay off permanent labourers or announce closure/ shut down at will and opt alternative to engage contract labourers on mass scale without any constraint. Hence it is a big challenge for the labourers to get permanent job in businesses.

The recent amendment to the Act support employers to alter the permanent labour force in any business into contract labour<sup>12</sup>. In near future, it would be difficult for labourers to fight for their rights through the trade unions.

By citing the reasons like the economic crisis, the existing workers are removed from services through closure, lay-off, shut-down. The contract labours are engaged by the employers through the contractors without any responsibility. If such practices followed everywhere, the labour force in India would become plaything in hands of employers.

It is also alleged that these amendments of labour laws are aimed to create a jungle raj<sup>13</sup> in workplaces giving the capitalist class full autonomy to ransack and utilize the workers.

Labourers and their organisations also predict that the small and medium enterprises will increase in numbers because the recent amendments to the Act permits manifold factory licences at the same address, resulting into factories within factories<sup>1</sup>.

#### **Conclusion:**

At last a very basic question arises about the purpose of the Act, whether is it to protect the rights of labourer or for the benefit of the employer. The Central government & some state governments approach towards labourers and the recent amendment clearly give message that the governments are not concerned about contract labour and their rights. On the other hand, the employers deny many legal rights to workers which are basic for the working conditions and welfare of the workers. In this kind of scenario, hoping good future for contract labourers in India would be a dream.