

*Employee's Basic Rights and Responsibilities in Indian
Organisations*

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Abstract: *Man is born free but everywhere he is in chains, same is the condition of employees who are working in organisations. In general employees have certain basic right in the workplace. All employees have basic rights in the workplace, including the right to privacy, fair compensation and freedom from discrimination. HR laws covers all rights and obligations within the employer-employee relationship. Employee's rights are given by government as legal rights having to do with employment relations between employees and their management. Employees are protected from discrimination in the workplace by HR laws! All employers have a common law duty of care to their employees. The most important protections for employees are the many laws prohibiting discrimination and other forms of wrongful discharges. Employees have moral rights, legal right and contractual rights in the workplace.*

Keywords: *Employment Agreement, Moral Rights, Legal Rights, Contractual Rights, Privacy.*

I. INTRODUCTION

In ancient days there were long working hours, bad working conditions, harassment, exploitation of the employees and hence in those circumstances, industrial laws, the ILO and Royal Commission on Labour focused its recommendations in the improvement of the working conditions, regulation of hours of work, prevention of unemployment, provision of an adequate living conditions, protection of workers against sickness, disease and injury arising out of employment, protection of children, youth, women etc. These provisions are achieved through proper implementation of HR laws. Therefore, the effective utilization of human resources and improved working conditions of employment and it's achievement in organizational objectives.

All employees have basic rights in the workplace, including the right to privacy, fair compensation and freedom from discrimination.(rightsofemployees¹). Those rights include the right to be free from discrimination based on age, gender, national origin or religion during the hiring process. Employee's rights are a group of legal rights and human rights having to do with employment relations between employees and their management, usually obtained under employment law.

HR laws covers all rights and obligations within the employer-employee relationship, whether current employees or former employees. Because of the complexity of employment relationships and the wide variety of situations that can arise, HR law involves legal issues as diverse as discrimination, wrongful termination, wages and workplace safety. Many of these issues are governed by allocable central and state law. But, where the employment relationship is based on a valid contract entered into by the employer and the employee, central and state laws alone may dictate the rights and duties of the parties. (Study.com²)

II. EMPLOYEE RIGHT IN THE WORKPLACE

In most states, employees have a right to privacy in the workplace. This right to privacy applies to the employee's personal possessions, including handbags or briefcases, storage lockers accessible only by the employee and private mail addressed only to employee. Employees may also have a right to privacy in their telephone conversations or voicemail messages. However, employees have very limited rights to privacy in their e-mail messages and internet usage while using the employer's computer system.(Thomson Reuters³)

Some Important Employee Rights Include;

- » Right to be free from retaliation for filing a claim or complaint against an employer.
- » Right to fair wages for work performed.
- » Right to be free from discrimination and harassment of all types;
- » Right to a safe workplace free of dangerous conditions, toxic substances and other potential safety hazards.

As an employee, who are protected from discrimination in the workplace by HR laws. The ILO declaration on fundamental principles and rights at work adapted in 1998, makes it clear that these rights are universal and that they apply to all people in all states – regardless of the level of economic development.(ilo.org⁴). All stages of employment are covered, including;

» *Leave is the right to all employees:* Generally an employee are given the casual leave, sick leave, privilege or earned leave, study leave, maternity and paternity leaves.

» *Right against Sexual Harassment at the workplace:* The law mandates employers to protect their female employees at workplace against any incidence of sexual harassment as per the Sexual Harassment of Women at workplace (prevention) Act, 2013.

» *Work hours and Overtime:* Many laws in India provide for a specific work hour and the amount of overtime wages. The major rules are available in the Factories Act, 1948, The Shops and Establishments Act, 1988 of every state has fixed the maximum no. of working hours 9 hours a day and 48 hours a week. In addition to this, a weekly holiday is necessary for the employees. An interval period of rest for at least half an hour is also available to the employees.

» *Maternity Benefit:* The Maternity Benefit Act, 1961, the law mandated that a female worker was entitled to a maximum of 12 weeks of maternity leave. Of these 12 weeks, six weeks leave is for post-natal leave.

» *Right to get Gratuity:* Gratuity is a statutory benefit paid to the employees who have rendered continuous service for at least five years. It is a lump-sum amount paid to an employee based on the duration of his total service.

» *Right to get Provident Fund:* Employee's Provident Fund (EPF) is a retirement benefit scheme that's available to all salaried employees.

» *Right to get Insurance:* Every employee will have the right to be insured by the employer under the Employee State Insurance Act, 1948, in case of any kind of injury or miscarriage occurring during the course of employment.

» *Right to go on Strike:* The employees are provided with the right to go on a strike without giving a notice, however if the said employee is a public utility employee, then he would be bound by the prohibitions laid down in the Industrial Disputes Act, 1947, under Section 22(1) lays down certain conditions on Strikes by public utility employees, the conditions include giving out prior notice to the employer six weeks before going on such strike.

» *Right to equal pay for equal work:* Equal pay for equal work is a constitutional right and any employer is liable to pay equally to any men, women or temporary staff performing same tasks and undertaking same responsibilities. There can be no discrimination while paying any basis to employees.

» *Right to have all Training & Development:* Right to have all training and orientation as per job specification.

» *Equality in the Workplace:* Right to be treated with respect and dignity. Employment law provides protection for employees against discrimination at work on the grounds of gender, religion or belief, disability and membership or non-membership of a trade union. The legislation is aimed at achieving equality in the workplace by eliminating less favourable treatment on these grounds.

» *Right to get Minimum Wages:* Right to be paid atleast minimum wages as per the applicable rules and regulations of Minimum Wages Act, 1948..

» *Grievance Redressals:* Right to have grievance redressal. A violation of any one among these cause dissatisfaction on his part. Thus, grievance is caused due to the difference between the employee's expectation and management practice. A formal written complaint or allegation by an employee or group of employees made to unfair treatment or violation of a union contract. Any factor involving wages, hours, or conditions of employment that is used as a complaint against the employer. A grievance is a sign of employee's discontent with job and its nature.

» *Right to join union:* The law gives freedom of choice to join a union or not, and to carry out union activities or use union services. Employees are protected themselves through their unions.(worksmart.org⁵)

» *Promotions:* Right to have equal opportunities of employment and promotion regardless of age, gender caste, and economical strata.

» *Right to protect health and safety:* All employers have a common law duty of care to their employees. In addition, under the Factories Act, Mines Act, Motor Transportation Act, Plantation Act, every employer has a duty to ensure that, so far as is reasonably practicable, the health, safety and welfare of employees are protected.

» *Written employment agreement:* An employer must provide a written employment agreement before you start to work. An employment agreement is a legal document, which contains the 'terms and conditions of employment'. It lists the rights and obligations of both, the employer and the employee and is designed to give both parties security and protection. (Veda Valli⁶) The law generally presumes that private sector employees are employed at-will. The "employment-at-will doctrine" means that both employer and employee can end the employment relationship at any time for any reason, unless there's contract between the employer and employee that provides otherwise. The majority of the employees are employment-at-will. This means that every employer has the right to terminate the employment at any time, for any reason, or for no reason at all, so long as the reason is not illegal. This is important because many people mistakenly believe that they cannot be fired without just cause. On the other hand, an employee can quit a job for any reason at any time and does not have to give a reason. There are important limitations to the "employment-at-will doctrine" that protect employees. These limits generally fall into three categories: statutory rights, contractual rights and public policy exceptions. Statutory rights are those rights specifically protected by state or central law. Perhaps the most important protections for employees are the many laws prohibiting discrimination and other forms of wrongful discharges. (Charles J. Muhl⁷).

"Take our 20 best employees away, and I will tell you that Microsoft would become an unimportant company"

– Bill Gates

III. EMPLOYEE RESPONSIBILITY

Within the workplace, employees must be able to perform the work properly. Employees when everyone understands what other team members and department members expect of them, then it is much easier to meet job description requirements and accountability. Admittedly there are a myriad of roles and responsibilities for employees. Employees work in a team. As such they have the responsibility of contributing to the success of the teams. Employees fulfill this responsibility by attending meetings, contributing to decision making and problem solving and participating in organizational projects. Through task delegation, employees are able to accomplish more tasks effectively and within a shorter period of time. (Diana Wicks⁸).

An employee has the role and responsibilities;

- » Perform their work carefully
- » Follow the organizational working hours
- » Follow the instructions of the top management
- » Obey the superior orders.
- » Follow the safety rules while on workplace.
- » Keep business and organizational secrets
- » Take into account the top management interest, and
- » Take the accountability etc.

“One machine can do the work of fifty ordinary men. No machine can do the work of one extraordinary man.”

– Elbert Hubbard.

IV. CONCLUSION

A contract of employment is created when an employee and employer agree on the work the employee will perform and on the salaries to be paid for it and other fringe benefits and conditions. The contract of employment binds both parties.

Employees have moral rights, legal rights and contractual rights in the workplace. HR laws and collective agreements regulate employees' right and obligations. Employees have the responsibility of growing the organization, especially in terms of profitability. When employees neglect their roles and responsibilities, then the profitability of an organization is substantially threatened.

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