

NEW SYLLABUS

# LABOUR LAWS

PRAKASH N. CHAUDHARY



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# **LABOUR LAWS**

**For BBA : Semester VI  
As Per New Syllabus w.e.f. 2015**

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## **Preface ...**

For the growth of any industrial or business organisation, one requires money, material, machinery and men. Out of these, management of human resource is the challenging task. The constitution of India ensures healthy relations between managements of enterprises and workers. Social security of industrial workers in the form of their health, safety and welfare is also one of the tasks of the government. In this context, regulating relations between employers and employees became the subject matter of industrial or labour laws. Labour laws, therefore, has become the integral part of the human resource management.

'Ignorance of law' cannot be pleaded as defence in any court of law. Hence, it is essential for all individuals who are working in the business organisations, more particularly in Human resource departments to possess the basic knowledge of labour laws relevant to their business. The students of commerce and management discipline are prospective business executives and HR managers. They are also prospective entrepreneurs. Hence, they are expected to know the legal environment of a business. Therefore, we find the subject of 'Labour Laws' in the curriculum of commerce and Management courses of most of the universities in the country.

The process of globalisation has made substantial impact in the field of Human Resource Management. In this context, it gives me immense pleasure in presenting this book to students and teachers from commerce and management discipline.

This book has been specially written as per the new syllabus prescribed for B.B.A. Semester – VI and made effective from the academic year 2015-16. Care has been taken to arrange the topics strictly as per the syllabus. Questions for preparation of the examinations are also provided. This book will also be useful for the students preparing for P.G.D.B.M., M.B.A., B.B.A., B.B.M., LL.B., C.A., C.S. and I.C.W.A, examinations and for professionals and teachers teaching the said subject.

I express my deep gratitude towards all those writers whose books, articles, thoughts have been referred to in preparation of this book. They are duly acknowledged in the bibliography.

I am very grateful to Shri. Dineshbhai Furia and Shri. Jignesh Furia for their confidence in me and motivating me to write this book. A special mention of Ms. Supriya Singh is necessary here, for her persistence and getting this work done on time.

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And finally, my sincere thanks are amply due to my parents, brothers, sister Nirmala, wife - Shruti and my children Ms. Ovi and Master Anushtubh for always being there to provide the much needed encouragement, appreciation and support at every stage.

The readers have given a very good response to my earlier books written for B.Com and B.B.M. Courses. I hope this book will also serve the purpose for which it has been written.

Any criticism or suggestions for further improvements in the book will be gratefully acknowledged and appreciated.

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# Syllabus ...

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- 1.1 History and Evolution of Labour Laws in India
- 1.2 Labour Policy of India
- 1.3 Classification of Labour Laws and an Overview of Labour Laws
- 1.4 Unfair Labour Practices
- 1.5 Labour Laws in the Unorganised Sector
- 1.6 Authorities under the Labour Laws in India (Ministry of Labour and Employment – Government of India, Chief Labour Commissioner Labour Courts / Industrial Tribunals, (Appointment, Qualification, Disqualification, Rights and Duties)
- 1.7 International Labour Organisation

## **2. The Employees Provident Funds and Miscellaneous Provisions Act, 1952 [10L]**

- 2.1 Scope, Application and Definitions
- 2.2 Schemes under the Act
- 2.3 Chapter II of the Act (Employee Provident Fund Scheme, State Board, Appointment of Officers, Employees Pension Scheme and Fund, Employee Deposit Linked Insurance Scheme, Inspectors.)
- 2.4 Membership of the Fund

## **3. The Employees State Insurance Act, 1948 [10L]**

- 3.1 Scope, Application and Definitions
- 3.2 Chapter II of the Act (ESI Corporation, Standing Committee, Medical Benefit Council, Principle Officers)
- 3.3 Chapter III of the Act (Finance and Audit)
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## *Chapter 1 ...*

# An Introduction to Labour Laws In India

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### **Contents ...**

- 1.1 Introduction
  - 1.2 History of Labour Laws
  - 1.3 Labour Policy of India
  - 1.4 Classification of Labour Laws and An Overview of Labour Laws
  - 1.5 Unfair Labour Practices (ULPs)
  - 1.6 Authorities under the Labour Law in India
  - 1.7 Labour Laws in the Unorganised Sector
  - 1.8 International Labour Organisation
- Questions for Discussion
- 

### **Learning Objectives...**

- To study the history and evolution of labour laws in India
  - To learn the labour policy of India
  - To understand the classification of labour laws
  - To explain the unfair labour practices
  - To describe labour laws in the unorganised sector
  - To study the authorities under the labour laws in India
  - To have an overview of working of International Labour Organisations
- 

### **1.1 Introduction**

In the field of 'Law', the terms 'Industrial Law' and 'Labour Law' are used interchangeably. The 'Industrial Law' is a broader term which covers all-legislations relating to the industry. In the narrower sense, the term industrial law is confined only to those laws which have bearing

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on industry in its relation to or as affecting labour. In this context, the term 'Industrial Law' is synonymous with 'Labour Law'. However, in the present book the 'Industrial Law' and 'Labour Law' are considered to be the same. The term Industrial Law is used to denote laws passed for the purpose of regulating the conditions under which work is carried on in factories and other establishments and the relationship - between employers and workers. At the outset, the Labour Law covers the issues relating to labour and its employment. It is relating to the employment, non-employment, wages, industrial relations, social security, working conditions and labour welfare etc.

Labour law is also called as Employment law. It is the body of laws, administrative rulings, and precedents which address the legal rights of, and restrictions on, workers and their organisations or employers. As such it tries to regulate the relationship between trade unions, employers and employees or workers. In other words, Labour law defines the rights and obligations as workers, union members and employers in the workplace. In general, labour law covers following issues:

1. Industrial relations –recognition of unions, labour-management relations, collective bargaining and unfair labour practices;
2. Health, safety and welfare of workers at work place
3. Working conditions, including general holidays, annual leave, working hours, unfair dismissals, minimum wage, payment of wages, layoff and closures, strikes and lock-outs.
4. Machinery for settlement of industrial disputes etc.

Functioning of labour laws takes place at two levels:

1. At collective level, labour law aims to regulate the relationship between employee, employer and union.
2. At individual level, labour law talks about workers' rights at work place, The trade unions were instrumental in protecting labour rights in the 19th and 20th centuries. They were also active in creating pressure on the government for getting various labour legislations enacted.

Industrial relations have substantial impact on the social and economic development of India since the industrial revolution.

### **Need for Labour Law**

The Industrial Law or Labour Law is basically needed for the following purposes:

**1. Health, safety and welfare of the workers:** The workers working in industry are exposed to certain risks in the factories or mines etc. Hence, laws are necessary for the health, safety and welfare of the workers.

**2. Protection of labour:** Law for the protection of labour is necessary because, being economically weak, industrial worker may accept lower wages, long working hours or

unhygienic conditions of work and it is likely that employer would impose harsh and oppressive terms as per his wish.

**3. Encouraging Trade Unions:** If workers' unions are formed, the workers can effectively discuss certain issues with the employer. Their bargaining power would increase and hence law is necessary to encourage the formation of trade unions.

**4. Settlement of industrial disputes:** Many times industrial disputes result into strikes and lock-outs which are harmful not only to the employers and workers but also to the nation's economy. Therefore for the quick settlement of industrial disputes laws are needed.

**5. Social security:** As the level of earnings of the workers is low, it becomes very difficult for the workers to face illness, accident, unemployment, old age. Hence, some laws are needed to provide some kind of protection or security in case of such inevitable situations.

### Objectives of Labour Law

The broad objectives of industrial or labour law are twofold:

1. To improve the service conditions of the industrial workers so as to provide them basic amenities of life and
2. To maintain good relations between employers and workers so as to have industrial peace which would result into prosperity of the nation.

This does not mean that in labour laws restrictions are imposed only upon the employer. There are various provisions which have been made to restrict unfair labour practices, such as strikes, go-slow, indiscipline etc. The labour laws are based on a few fundamental principles, such as social justice, social equity, international uniformity and national economy.

As we know, ignorance of law is no excuse. Hence, it is essential for everybody who is involved in the industrial activity in any capacity to know some basic principles of labour laws. Thus, the employer, manager, occupier of the factory, supervisors, staff of the Human Resource Department of the company etc. will be benefited if they have basic knowledge of law. Even the workers should know at least some basic provisions of labour laws to know their rights and obligations. On the similar lines the commerce students are also expected to know fundamental principles of industrial law so as to equip themselves to enter into business world with more confidence. Labour legislations have played a major role in dealing with the economic and social challenges of the modern world of work and aim to fulfill following objectives:

- 1. Productive economy:** It establishes a legal system that facilitates productive individual and collective employment relationship, resulting in to a productive economy;
- 2. Industrial harmony:** By providing a framework within which employers, workers and their representatives can interact with each other on work-related issues, labour laws serve as an important mechanism for achieving harmonious industrial relations at workplace.

- 3. Socially acceptable legal framework:** It provides a clear guarantee of fundamental principles and rights at work which are socially acceptable and establishes the machinery through which these principles and rights can be implemented and enforced.

It is observed that the labour legislations can fulfill these functions effectively if they are responsive to the conditions on the labour market and the needs of the stakeholders involved. For this purpose it is necessary that concerned stakeholders are closely involved in the formulation of the legislation through processes of social dialogue. The involvement of stakeholders in this way would be of great help to facilitate its application within and beyond the formal structured sectors of the economy.

## 1.2 History of Labour Laws

Labour law emerged out due to the demands of workers for better conditions, and due to efforts on the part of employers to restrict the power of workers in factories.

Employers' costs can increase if workers unite and are successful in getting higher wages, or by laws imposing costly requirements, such as health, safety or welfare measures for workers. Moreover trade unions can initiate industrial disputes and gain political power - which some employers may not like. These conflicts of interests among workers and managements would create industrial conflicts resulting into industrial unrest which is not good for any nation as the national productivity would adversely affect. And this is not good for any country and hence balanced labour laws can be of great help for any nation in such scenario.

At international level, The International Labour Organisation (ILO) was one of the first organisations to deal with labour issues. The ILO was established as an agency of the League of Nations following the Treaty of Versailles, which ended World War I.

The Treaty of Versailles was one of the peace treaties at the end of World War I. It ended the state of war between Germany and the Allied Powers. It was signed on 28 June 1919. The first annual conference (referred to as the International Labour Conference, or ILC) began on 29<sup>th</sup> October 1919 in Washington DC and adopted the first six International Labour Conventions, which dealt with hours of work in industry, unemployment, maternity protection, night work for women, minimum age and night work for young persons in industry. The prominent French socialist Albert Thomas became its first Director General. The ILO became a member of the United Nations system after the demise of the League in 1946.

Labour laws in the India evolved with the growth of industry. In 18<sup>th</sup> century India was not only a great agricultural country but a great manufacturing country too. In those days, Asian and European markets were fed by the looms supplied by India. However, the British government in India discouraged Indian manufacturers and tried to encourage manufacturers as a matter of policy, they wanted India to provide only raw materials to

industries in England. As a result in 20<sup>th</sup> century, the national movement was started in India and there was a common demand and insistence for Indian goods. The leaders of national movement gave slogan of *Swadeshi* and asked people to boycott goods of foreign origin. During these days, Indian economists advocated for free trade and commerce of local goods. An attempt was also made to put forward a theory of economic development and planning suited to conditions of our country. As a result, after thirties planning was accepted by the national movement as its economic ideology. Finally, planned industrialisation became the goal of country.

**Evolution of Labour laws in India:** The history of labour legislation in India is interwoven with the history of British colonialism. The labour legislations enacted by the British were primarily intended to protect the interests of the British employers. Considerations of British political economy were naturally predominant in making some of these early laws.

Various legislations were passed from 1863 onwards to regulate the employment in the plantation industry. This happened in Assam as recruitments in this industry were full of hardships over there. Recruitment used to be there through professional recruiters and workers were not allowed to leave the tea gardens by the Planters. Thereafter the Factories Act was passed in the year 1881.

**1. The Factories Act, 1881:** It is a well-established fact that Indian textile goods offered stiff competition to British textiles in the export market and hence in order to make Indian labour costlier the Factories Act was first enacted in 1881 because of the pressure brought on the British parliament by the textile manufacturers of Manchester and Lancashire. Thus India received the first stipulation of eight hours of work, the abolition of child labour, and the restriction of women in night employment, and the introduction of overtime wages for work beyond eight hours.

**2. The Trade Unions Act, 1926:** This Act provided immunity to the trade unions against certain forms of civil and criminal actions. It also facilitated registration, internal democracy, a role for outsiders and permission for raising a political fund subject to separate accounting requirements.

This Act facilitated unionisation both in organised and the unorganised sectors. It is through this law that the freedom of association, one of the fundamental rights under the Constitution of India, is realised.

**3. Trade Dispute Act, 1929:** The earliest Indian statute to regulate the relationship between employer and his workmen was the Trade Dispute Act, 1929. Provisions were made in this Act for restraining the rights of strike and lock out but no machinery was provided to take care of disputes.

**4. The Industrial Disputes Act, 1947:** The original colonial legislation underwent substantial modifications in the post-colonial era because independent India called

for a clear partnership between labour and capital. The content of this partnership was unanimously approved in a tripartite conference in December 1947 in which it was agreed that labour would be given a fair wage and fair working conditions and in return capital would receive the fullest co-operation of labour for uninterrupted production and higher productivity as part of the strategy for national economic development and that all concerned would observe a truce period of three years free from strikes and lockouts. Ultimately the Industrial Disputes Act (brought into force on 01.04.1947 repealing the Trade Disputes Act 1929) has been proved to be important legislation.

- 5. The Minimum Wages Act, 1948:** This Act has laid down the provisions stating the methods to fix or revise the minimum rates of wages in scheduled industries in the respective state. The advisory committees consisting of the representatives of employers, employees and independent members would advise the government on the issue of fixation or revision of the minimum wages in the concerned employment. This Act guaranteed the minimum rates of wages especially in the unorganised sector.

The Factories act was enacted in the year 1881 and The Mines act was enacted in the year 1901. Unfortunately these laws protected the interest of employers than that of workers. However in 1923 the workmen's Compensation Act was enacted to protect the interest of the workmen in real sense of the term.

Thereafter various other legislations were passed in the interest of social security of the workers. Such as, Laws related to Industrial Relations such as: Employees' State Insurance Act, 1948, Employees' Provident Fund & Miscellaneous Provisions Act, 1952, The Maternity Benefit Act, 1961 etc. Laws were also made to regulate the labour-management relations such as, Trade Unions Act, 1926, Industrial Employment Standing Order Act, 1946, Industrial Disputes Act, 1947.

Even the laws were also enacted to ensure wages to workers by enacting Payment of Wages Act, 1936, Minimum Wages Act, 1948, Payment of Bonus Act, 1965, Working Journalists (Fixation of Rates of Wages) Act, 1958 etc.

Laws related to Working Hours, Conditions of Service and Employment were also enacted such as: Factories Act, 1948, Plantation Labour Act, 1951, Mines Act, 1952, Working Journalists and other Newspaper Employees' (Conditions of Service and Misc. Provisions) Act, 1955, Merchant Shipping Act, 1958, Motor Transport Workers Act, 1961. Etc.

### **1.3 Labour Policy of India**

Labour policy of India has been strongly influenced by the Directive Principles of State policy enshrined in the Constitution of India and also by certain ILO conventions adopted by the member countries including India.

**Constitutional framework with regard to labour laws:**

Labour is a concurrent subject in the Constitution of India which means that both the Union and the state governments are competent to make laws on labour matters and administer the same. Hence, many laws relating to labour have been passed by the Indian Parliament.

These labour laws can be categorised as under:

- (1) Labour laws enacted by the Central Government, where the Central Government has the sole responsibility for enforcement.
- (2) Labour laws enacted by Central Government and enforced both by Central and State Governments.
- (3) Labour laws enacted by Central Government and enforced by the State Governments.
- (4) Labour laws enacted and enforced by the various State Governments which apply to respective States.

The Constitution of India provides various provisions for the rights of the citizens and also lays down the Directive Principles of State Policy which are nothing but the guidelines to be followed by the state while conducting its activities. These Directive Principles provide:

1. Adequate means of livelihood
2. Equal pay for equal work for men and women
3. Right to work,
4. For securing the health and strength of employees, men and women;
5. That the tender age of children are not abused;
6. That citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
7. Just and humane conditions of work and maternity relief are provided; and
8. That the Government shall take steps, by suitable legislation or in any other way, to secure the participation of employee in the management of undertakings, establishments or other organisations engaged in any industry.

These are the Directives to the legislature and executives, who are committed to make, interpret and enforce law.

Labour policy in India has been formulated to suit therequirements of planned economic development and social justice. The policy is mainly framed to fulfill two objectives,

1. Maintaining industrial peace,
2. Promoting the welfare of labour.

**Labour Policy Highlights**

- Creative measures to attract public and private investment.
- Creating new jobs

- New Social security schemes for workers in the unorganised sector.
- Social security cards for workers.
- Unified and beneficial management of funds of Welfare Boards.
- Reprioritisation of allocation of funds to benefit vulnerable workers.
- Model employee-employer relationships.
- Long term settlements based on productivity.
- Vital industries and establishments declared as 'public utilities'.
- Special conciliation mechanism for projects with investments of ₹ 150 crores or more.
- Industrial Relations committees in more sectors.
- Labour Law reforms in tune with the times. Empowered body of experts to suggest required changes.
- Statutory amendments for expediting and streamlining the mechanism of Labour Judiciary.
- Amendments to Industrial Disputes Act in tune with the times.
- Efficient functioning of Labour Department.
- More labour sectors under Minimum Wages Act.
- Child labour act to be aggressively enforced.
- Modern medical facilities for workers.
- Rehabilitation packages for displaced workers.
- Restructuring in functioning of employment exchanges. Computerisation and updating of data base.
- Revamping of curriculum and course content in industrial training.
- Joint cell of labour department and industries department to study changes in laws and rules.

**Labour policy reforms in India:** Labour policy reforms in India are due for a long time, as the context in which they were framed has changed drastically. The Laws framed mainly to cater the manufacturing sector, do not address the problems of the service sector, which today, accounts for 55 percent of our GDP. The outdated and inflexible nature of labour laws protects a handful of say 6-7 percent of the workforce, seriously hampering employment generation capacity of the organised sector and most of the 10-12 million youth joining labour force every year, are forced to join informal economy, where the working conditions are pathetic and earnings are also low.

**National Policy on Safety, Health and Environment at Work Place:** Government of India Ministry of Labour and Employment has recently formulated NATIONAL POLICY ON SAFETY, HEALTH AND ENVIRONMENT AT WORK PLACE. On the basis of these Directive Principles of State Policy as well as international instruments, Government of India is committed to regulate all economic activities for management of safety and health risks at

# Labour Laws



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