

DUTIES OF EMPLOYER UNDER EQUAL REMUNERATION ACT

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Introduction

In India, the Vedic period gave equal status to men and women, yet this ideology had a structural move over a period. The men have dominated the position of ladies in the general public. At the season of Independence, the inequality imbalance was obvious, and the framers needed to address this as it choose a just republic as a type of governance. Frameworks must be set up for the operation of the democratic forces to ensure equality. The provisions and different enactments have been sanctioned which turned into a bedrock towards guaranteeing equal opportunities to men and ladies. At the point when we put equal opportunities at one place the line of activity required is equivalent compensation for a similar work managed without reference to the gender. To make this enactment a win, the onus is on the employer for effectively and efficiently implementation.¹

The work of ladies has been expanding step by step finished the years. Besides, the works which were considered sexual orientation particular experienced an ocean of progress. Ladies were generally observed as less profitable than their male partners. The general point of view of ladies was that they weren't as genuine as men in their work as family and home are their fundamental need. Monetary reliance is the significant reason for the ladies to have a frail haggling power. This more often than not influences the business to underestimate them, and the wage rate would be unequal.

The work of ladies has been expanding step by step over the years. Besides, the works which were considered gender specific underwent a sea of change. Ladies were generally observed as less productive than their male partners. The general point of view of ladies was that they weren't as genuine as men in their work as family and home are their main priority. Economic dependency is the significant reason for the ladies to have a low bargaining power. By this employee take for grant and the wage rate would be unequal.

In the modern times, the ladies are never again limited to insignificant occupations or the customary works. They are utilized at standard with men and to secure their interests and

¹ <https://blog.iplayers.in/duties-employer-equal-remuneration-act-1976/> access on 15th January 2018 at 7:00pm

guarantee they get a reasonable chance, statutory acknowledgment is given through various enactments, instituted both at focus and state levels. The Workmen Compensation Act, Payment of Wages Act, Factories Act, Minimum Wages Act, The Equal Remuneration Act, Maternity Benefits Act, ESI Act, and so forth are a portion of the enactments went for guaranteeing equal wages without gender bias.

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 into the wage structure. Women have been oppressed economically. The contributory factors sociological, physiological, moral and mental accelerated the gravity of the problem. In the post independence era a new chapter of social recognition and upliftment of women was opened. The State has taken considerable pains to relieve the oppressed class by providing appropriate safeguards by way of protective legislations. The object of these legislations 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 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 the victim of unequal treatment and exploitation. The concept of equal pay for equal work is one of the Directive Principles of State Policy enshrined under Article 39 (d) of the Constitution of the India which envisages that the State shall, in particular, direct it's policy towards securing that there is equal pay for equal work for both men and women. The principal implies that where all things are equal, that is, where all relevant considerations are the same, persons holding identical posts may not be treated differently in matter of their pay merely because they belong to different departments.

Constitutional Validity

Sexual orientation Justice is an essential element of each civilized society. It's not any more the mainstream outlook that the female is a weaker sex. To soak up this guideline in the general public, different different steps were taken at the worldwide level

1. The Convention on Elimination of all form of Discrimination, 1979 has it's the main objective to prevent discrimination especially in the case of women.

2. The International Labour Organization held in 1951 a Convention concerning Equal Remuneration for Men and Women Workers for the Work of Equal Value.
3. The Universal Declaration of Human Rights, under Article 23 ensures that everyone without any discrimination has the right to equal pay for equal work.

At the national level, certain enactments were sanctioned by the British India. Be that as it may, it's the national pioneers, freedom fighters and intellectual and the democratic movements sweeping the world over brought about positive changes in the position of women and in achieving equality.

1. The Preamble of the Constitution provides for Justice and Equality to all.
2. Article 14 equality before law
3. Article 15 guarantees a right against discrimination
4. Article 15(3) recognizes 'protective discrimination' to bring women at par with men in all possible respects.
5. Article 16 provides right to equal opportunity regarding public employment irrespective of the sex of the person.
6. Article 39(a) states that the citizens, men, and women, equally, have the right to an adequate means of livelihood.
7. Article 39(d) "that there is equal pay for equal work for both men and women".
8. Article 42 requires the state to make provision for securing humane conditions of work and maternity relief.

The Doctrine of 'equal pay for equal work' isn't a key right however its a Constitutional right. Equal remuneration for men and women is the privilege of a representative with no qualification. The Act of Equal Remuneration, 1976 was established to comply to the arrangements of Directive Principle of State Policy (DPDP) under Article 39. The Act, being an advantageous enactment, guarantees adequate payment or remuneration to be made irrespective of the physical strength of employee and removing the scope of social and economic injustice merely on the ground of sex, thereby working to establish a just society in the country.

Sailent Features Of Equal Remuneration Act

1. Any settlement or any agreement with the employee that is detrimental to the employee isn't allowed.
2. The objective of the Act is to provide for protection against discrimination of women workers on the ground of sex, about the payment of equal remuneration in the matter of employment.
3. The Ministry of Labour and The Central Advisory Committee are responsible for enforcing this Act.
4. Meaning of equality of work: The equality of work is not based solely on the designation or the nature of work but also on factors like qualifications, responsibilities, reliabilities, experience, confidentiality, functional need and requirements commensurate with the position in the hierarchy are equally relevant.
5. When the employer doesn't comply with the provisions of the act, he will be liable to pay fine, imprisonment, or both.
6. Restricting the employer to create terms and conditions in a contract of service or work of labor contrary to equal pay for equal work doctrine and the provisions of Equal Remuneration Act.
7. The Act doesn't make a distinction like employment or the period of employment and applies to all workers even if engaged only for a day or few days.
8. No overriding effect is given to any agreement, settlement or contract to the provisions of the Equal Remuneration Act.
9. The Act is a Central Legislation and applies to the whole of India.

Duties Of Employer Under This Act

1. Section 4: The duty of the employer to pay equal remuneration to both men and women workers for same work or work of similar nature

1. No employer shall pay to any worker, employed by him in an establishment or employment, remuneration, cash or in kind at rates less favorable than those at which he pays remuneration to the workers of the opposite sex for performing the same work or work of a similar nature.
- The rate of remuneration of any worker will not be reduced to avoid complying with Section 4(1).

- In respect of any establishment, the rates of remuneration payable before the commencement of the Act for men and women for same or similar nature work is different only on the ground of sex, then the highest of the rates will be payable after the commencement of the Act.

2. Section 5: No discrimination to be made while recruiting men and women workers

For any recruitment or any condition of service after enrollment like advancements, preparing or exchange, for the same or comparable nature work, the business won't make any discrimination against ladies aside from where the work of ladies in such work is precluded or confined by or under any law until further notice in drive.

3. According to the Section 8: Maintaining a Registrar

Rule 6 read with Section 8 provides that: The employer has to maintain proper registers and relevant documents of all the employees and workers as prescribed by law in Form D. The Form needs to have:

- category of workers
- Description of work
- No, if men employed
- Number of women employed
- Rate of remuneration
- Components of remuneration.

The Indian Courts have assumed a noteworthy part in maintaining the regulation and guaranteeing legitimate implementation of the social enactments for the advantage of the class of individuals the enactment was sanctioned for.

1. A point of interest case in the light of equivalent pay for rise to work was the Judgment given by the Hon'ble Supreme Court on account of Randhir Singh v. Union of India. Here, the Court embraced a sociological belief system andn strayed from strict translation to liberal elucidation for the workers. The court, for this situation, depended on "communist" as conceive in the Preamble to the Constitution in choosing the case, and it was held that the rule of equivalent pay for measure up to work was deducible from article 14 and 16 of the Constitution

of India, might be appropriately connected to the instances of unequal size of pay in light of characterization, however those illustration an alternate size of pay do indistinguishable work under a similar boss." Here, the court watched that "equivalent pay for meet work" is deducible from Articles 14 & 16, comprehended in the light of the Preamble and Art. 39(d).

- In the case of *M/s Mackinnon Mackenzie and Co. Ltd. v. Audrey D'Costa and other*, 1987

In the given case, a lady representative was separated while installment of compensation as the business battled that the woman was functioning as a Confidential Stenographer and is a piece of an alternate class. The court dismissed the request of the business that the lady was in an alternate class. It held, 'If just ladies are acting as Confidential Stenographers it is on account of the administration needs them there. Ladies are neither uncommonly fit the bill to be Confidential Stenographers nor precluded by virtue of sex to take the necessary steps relegated to the male Stenographers. Regardless of whether there is a training in the foundation to name ladies as Confidential Stenographer such practice can't be depended on to deny them measure up to compensation because of them under the Act.' Therefore, the Court connected the Equal Remuneration Act to allow break even with pay to female stenographers.

Conclusion

Section 16 of the Act engages Government to make statement as to any distinctions being carried on in installment of compensations to the men and ladies in any foundation in light of factor other than sex or sex. Additionally, in such cases Employer ought not be considered dependable under this Act.

The Central Government executed this Act identifying with work being carried on under its circle or expert like, work in Postal Department of India, Railway, and so on. The Central Government executed this Act at State circle where livelihoods are carried on by State Governments like Traveling, Electricity divisions, and so on where requirement of this Act is finished by authorities of the State Labour Departments.

The Equal Remuneration Rules, 1976 were surrounded by Central Government on eleventh March, 1976 under the arrangements of this Act. The Rules additionally accommodates protests and claims under the Act and furthermore accommodates distinctive structures as

example of such grievances or cases. The topic of legitimacy of these Rules was chosen in *Minerva Talkies Vs. Territory of Karnataka* (1988).

