**WHO CAN MAKE AND IMPLEMENT THE LABOUR LAWS**

Article 246 (4) of Constitution of India empowers both Centre and State to make any law on labour.  Most of the Labour Laws are enacted by the Parliament of India but they are implemented by State Governments through their administrative machinery. Any organization which is under control of Centre Government as Railways, Defence, Industries, Mines, Banks, etc. are regulated under different labour laws by Central Government Labour Department and State Government Labour Department has no authority on them. In some Labour Laws (Example: payment of Gratuity Act) where the organization on which the law is applicable is situated in more than one State, that law is implemented by Central Government Labour Department.

BRIEF DESCRIPTION OF LABOUR LAWS

Labour Laws as word “LAWS” shows is not a single law but a cluster of different Acts, Rules and Regulations enacted by Parliament of India and different States Legislatures.

 In India Labour Laws covers almost all types of industries. Different Labour Laws are enacted for different type of industries as per the conditions of those industries (as for Dock Workers, Coal Mines Workers, Plantation Workers etc. There are different laws to regulate their employment and conditions of service).

Different Labour Laws are enacted for different subjects also (as for Wages-Minimum Wages Act and Payment of Wages Act, for compensation – Workman Compensation Act, for maternity benefit to women’s – Maternity Benefit Act etc.).

All major Labour Laws are given separately in this programme. Their brief description is given in “LAWS” The Act and any Rule passed by Parliament of India or any State Legislature are also given under “Acts”. Generally the names of LAWS are self explanatory about their purpose – applicability etc.

WHO IS “LABOUR” UNDER LABOUR LAWS

Every person employed in a industry-organization is not “LABOUR” under Labour Laws. There are many exceptions:

 1.        Any person employed in Supervisory or Managerial capacity.

2.        Any person who is taking a salary more than prescribed in that certain Act is not covered under those certain Acts. As in Maternity Benefit Act, a Woman employee is not entitled to get maternity benefit, if her wages exceeds Rs. 6,500/- p.m. Payment of Wages Act is for employee getting wages less than Rs. 1,600/- per month.

 3.        In many laws, a person is entitled to get benefit even if he exceeds the salary limit but his benefits are limited to the limit prescribed in that Act (For example: payment of Bonus Act – a person whose salary exceeds Rs. 5,000/- p.m. is also eligible for bonus but bonus will be paid as he is getting salary of limit prescribed in Act).

4.        Many Labour laws have conditions of minimum number of employee in industry- organization for their implementation in that industry – organization (For example: Employees State Insurance Act is applicable where 10 or more employees are employed).

In brief, most of the Labour Laws are for persons working in lower category which government feels can be exploited easily, so they are to protect them. Many Labour Laws are not applicable on small Industries/Organization. Though there are many laws, which are applicable on establishments employing a single person (For example: Minimum Wages Act).

 LABOUR LAW PROTECTS – EMPOWERS EMPLOYEES ALSO

 It is a great misunderstanding on part of many that Labour Laws are just for labour – their protection – their benefit. Indian Labour Laws has many provisions, which regulate their discipline, and even any punishment for breaking discipline. For example, Payment of Wages Act provides deduction of seven days wages for employee’s unauthorized absenteeism.

 In case of Labour Courts, peoples have general misunderstanding that only labour (workman) can go against employer in it. But the Labour Court Law (Industrial Dispute Act) has cleared provisions that an employer can also go to Labour Court against labour. Provisions are even made for one labour to go against other labour in Labour Court.

Almost all the Labour Laws have provisions to safeguard employer also but this is also clear that most of Indian Labour Laws are bends towards labour.

 PROTECTIONS TO LABOUR:

 Major protection to labour is to give them reasonable opportunity of defence as per natural justice before terminating his services as punishment. Otherwise that termination becomes illegal.

In case of termination   of service not based on punishment and labour has worked for more than a certain period basically compensation as described in Industrial Dispute Act is to be given to it.

 LABOUR should get minimum wages as fixed by law. It should get salary at time. It has also right to get others legal benefit like BONUS, PF, ESI, GRATUITY etc as applicable time to time. It is entitled for paid holidays and leave. Its working hours are fixed.

NO PROTECTION TO WRONG DOER LABOUR:

 Here it is worthwhile to mention that Indian Labour Laws do not favour any wrongdoer labour.

 The employer is free to take action on wrongdoer labour. The labour has only right of reasonable opportunity to defend itself before awarding any punishment by Employer. If after giving opportunity to labour the employer finds responsible for any wrong he is legally authorised to take action against him. THIS action includes termination of service.

 LABOUR COURT IS FOR BOTH –LABOUR AND EMPLOYER:

It is great misunderstanding that only labour can go to labour court against employer. In fact employer can also go against Labour in labour court and court can give relief to employer also.

A labour can also go against other labour in labour court.

WHO ARE NOT UNDER THE PURVIEW OF LABOUR COURT?

 1.        Any agriculture operation except where such agricultural operation is carried on in an integrated manner with any other activity [being any such activity as is referred to in the foregoing provisions of this clause] and such other activity is the predominant one.

 2.        Hospitals or Dispensaries

 3.        Educational, Scientific research or Training institutions,

4.        Institutions owned or managed by organizations wholly or substantially engaged in any charitable, social or philanthropic services or

5.        Khadi or Village Industries or

6.        Any activity of the government relatable to the sovereign functions of the Government including all the activities carried on by the departments of the Central Government dealing with defence, research, atomic energy, and space or

7.        Any domestic service

8.        Any activity being practiced by an individual or body of individuals, if the number of persons employed by the individual or body of individuals in relation to such profession is less than ten,

9.        Any activity being an activity carried on by a co-operative society or a club or any other like body of individuals, if the number of persons employed by the co-operative society, club or other like body of individuals in relation to such activity is less then ten.

 Note- The employee –employer of these establishments can approach civil court for their grievances. But their they have to pay court fee, normally engage a lawyer, has to go through complicated and lengthy procedure, while Labour Courts do not require these.

 TERMINATION WITHOUT PUNISHMENT-WITHOUT COMPENSATION:

 When the service of an employee [Labour] is terminated under following conditions it is not termed as punishment. It also no require any compensation   as required to pay during termination without any punishment.

 1.        Voluntary retirement of the workman; or

 2.        Retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf contained therein, or

3         Termination of the service of the workman as a result of the renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in this behalf; or

4.        Termination of service of a workman on the ground of continued ill health.

 PRACTICAL IMPLEMENTATION OF LABOUR LAWS:

 Practical experience shows that most peoples have not knowledge of their rights. The “PEOPLE” includes both labour and employer. Labour Laws are very less implemented in small Industries. In big Industries, their implementation had gone towards indiscipline, inefficiency and Professional Trade Unionism.

 Labour Department which is created to implement most of these laws is said to be one of the most corrupt Departments of our country. The Labour Courts which are created for speedy disposal of labour matters are failed to give speedy justice. It takes years to decide a case. Poor labour can not afford years for getting justice. If a case is decide in favour of labour, the implementation of that decision is also very lengthy and time consuming which again takes mostly years to implement Labour Court decision.

 Practically the laws and machineries created for the purpose of labour has failed to fulfill most of the aspiration for which they are created. No one is satisfied with them. They need a drastic change for fulfillment of aspirations of Labour – Industry – Society. They should become cause for development of all parts of society.