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Implications of contractual labour

Contract labour

The labour of workers whose freedom is restricted by the terms of a contractual relation and by laws that make such arrangements permissible and enforceable. The essence of the contract labourer's obligation is his surrender for a specified period of the freedom to quit his work and his employer. Other stipulations cover such matters as repayment of the costs of transportation, housing, training, and other expenses.

Contract labour has been based upon conditions of poverty and upon political and religious intolerance, and it is often expressed in penal codes. Historically, deception, kidnapping, and coercion have been used to obtain contract labourers, with contractual terms often reflecting the disadvantageous position of the labourer. Contract labour still carries implications of compulsion and unfairness, and conditions can approach slavery in their severity.

The state of contract labour in India

Many companies in India often resort to contractual labour to bring down their employee costs. But what has been the impact on contract workers due to such a change?

The efficient and smooth functioning of the labour markets in an economy is a vital macroeconomic phenomenon which ensures wage growth while allowing businesses to have access to quality talent. In India, this is ensured through multiple laws and legislatures that are in place to regulate the labour markets today.

But as external conditions evolve, so do business processes and in turn their human capital structure. In the recent few years, Indian companies have had to undergo similar changes. Increasing competitiveness along with the evolving application of newer technologies has significantly revamped business models. One of the key features over the last decade has been the increasing dependence of the formal sector on contract labourers to ensure profitability and sustenance.

The rise of contract labour

With the tightening nature of business performance, the use of contract labour has gone up in various industries. Labour costs often become a significant amount, directly influencing the bottom line performance of the company. And with many sectors of the economy facing disruptions and a certain level of unpredictability, many opt for contract labour rather than hiring permanent workers. Treating labour costs as a variable rather than a fixed expenditure every year has partly been the reason behind why industries have increasingly preferred contract labourers.

Companies, both private and government-run, have certain advantages when it comes to employing workers on a contractual basis. According to a PTI report, the share of contract workers in Maruti Suzuki's total workforce has grown from 32 percent in 2013-14 to 42 percent in 2015-16. In government-owned bodies like Coal India, around 55 percent of the 537 million tonnes of coal mined during 2015-16 was done by 65,000 contractual workers. This ratio is poised to only go up in the coming years.

Besides paying significantly low wages as compared to permanent workers, companies don't have to offer any other benefits that it would have to give their full-time employees as stipulated by various laws. It also helps companies bypass dealing with trade unions and provides them with an agile talent pool that can be used whenever required.

Contract labour in India, according to many has also grown in recent times due to stringent labour laws in Indian that made it difficult for them to fire workers. Many experts have pointed out how acts like the Industrial Disputes Act provided workers and unions certain job guarantees that the company by-passes by going for contract labour. But such an uncharted growth has repercussions of its own: every year a larger percentage of the working population finds itself employed in conditions that are unregulated with little to no job satisfaction.

To offset the negative impact of excessive dependence on contract labour in its current unregulated state, the government proposed to extend the option of "fixed-term employment" to all the sectors. An option initially limited solely to the apparel manufacturing industry was recently amended by the Labour ministry to be available for all sectors.

Is fixed-term employment the solution?

The concept of fixed-term employment defines the tenure of employment as well as other associated conditions of service and remunerations, which are provided to regular employees under various labour laws. The worker gets employed for a short period and will have access to better working and service conditions as compared to a contract worker. With this move, the government has sought to provide some structure to the way workers are hired.

Aimed at formalizing the interaction between them and their prospective employers, the benefits of such a move remain debatable. With permanent employment becoming a hindrance to easy access to talent on a project basis, fixed-term employment is looked on by many as a solution. It stipulates a limited period of employment and can only be given out for jobs which are deemed temporary. The contract clearly defines details of employment like tenure, nature of service and remuneration which might be similar to the ones provided to full-time employees of the company. It also provides certain guarantees to workers like a two-week notice, depending on the nature of the contract. But it also provides companies with the flexibility to not renew contracts, which would lead to automatic termination, is not applicable for temporary workmen. Although many have welcomed the move, the impact of such a transition is yet to be felt. Contractual employees still remain a forgotten statistic in many employment debates and surveys.

It is also important to note that the rise of an agile workforce across the world is playing out quite differently in India. A superficial look might indicate similarities between the current conditions and the much-touted advent of 'gig economy,' but the reality seems to be far from it. Gig economy is based on the principle that an educated, skilled, and healthy workforce should be able to take any job role or 'gig' and contribute to economic growth, many of such gigs being contractual or temporary. But that is far from the case here. Majority of India's workforce remains low-skilled and as a result are only able to access contractual jobs which remain transactional and low paying. Policies promoting social security and job security are required. These should be supplemented by policies supporting skill creation and improvements in health and education.

Increasing the percentage of the contractual workforce in the formal sector also raises doubts about the nature and sustainability of employment growth. Because contract workers are fired easily, its increasing numbers reflect deterioration in the standard of jobs generated in India.

In addition to creating policies that benefit the contractual workforce to build their skill and live healthy lives, monetary implementations, like the recent enforcement of minimum wage payment in the states of Delhi and Karnataka would help ensure that contract labour working within the formal sector have ways to mitigate the uncertainty that comes with the nature of their work while also helping companies to have access to a well-trained contractual workforce.

Introduction Industrial Relations paradigm in India had dramatically changed following the adaptation of free market policy in the early nineties. With the dawn of liberalization, privatization and globalization (LPG), the country is, by and large, able to preserve a sound and positive industrial relations climate. This is apparent from the statistical figures of Union Government's Labour Bureau, which exhibits drastic decline of industrial disputes from 1,825 in 1990 to 421 in 2008

1 India being the third most preferred global investment destination. Foreign direct investment inflows to India went up to \$32 billion in 2011, which was a 33 percent increase over the previous year.

2 'Liberalization' and 'Globalization' introduced change of business environment, and increased competition among industries for survival. Potential market capacity and availability of workforce lured many MNC's, representing the best brands of the world, to set up their offices in India, giving a tough competition to their counterparts. To compete in this customer driven market economy, industries requires flexibility in managing manpower to address occasional upsurge or slowdown in demand. But the archaic and rigid Indian labour laws, which were enacted 8 – 4 decades back, restricting right-sizing of manpower, are creating hurdles in smooth functioning of industries. These factors are tending industries to hire more and more numbers of contract labours to have greater flexibility to adjust the number of workforce based on economic efficiency, better utilization of resources, optimization of profit and bringing cost effectiveness, despite the of risk of lower worker loyalties and lousy pay.

'Contract Labour' can be distinguished from 'direct labour' in terms of employment relationship with the principal establishment and the method of wage payment. A workman is deemed to be a contract labour when he/she is hired in connection with the work or "contract for service" of an establishment by or through a contractor. They are indirect employees; persons who are hired, supervised and remunerated by a contractor who, in turn is compensated by the establishment. In either form, contract labour is neither borne on pay roll or muster roll or wages paid directly to the labour.

3 During the recent years, employment of contract labour has become a contentious issue and a key reason for the increasing labour unrest. While strikes and protests are common global phenomena but violence and killing is not at all justifiable under any circumstances as it is a pure case of disruption of law and order situation. This surge in violence disturbing industrial relations has become a concerning situation for all. The most recent worst form of industrial unrest was witnessed in the Maruti Suzuki India Ltd., Manesar plant, where workers went into riotous, leaving its General Manager (HR) dead and 100 other officials laid up in hospital with serious injuries.

4 These surging incidents of industrial unrests are for sure denting investor's confidence in the country being a safe investment destination and a preferred global investment hub. It has also led to production and financial losses to companies operating in the country. If left unchecked, this on-going turmoil will surely send wrong signals to foreign and domestic investors, which will directly affect the country's economy and employment generation targets.

One of the major reasons for the rise in industrial unrest could be increasing dependence of industries on contract labour for requirement of flexibility. This segment of worker due to anxiety of job security, lack of social security, exploitation in the hands of contractors, low

wages, unequal treatment by Trade Unions and even abusive behaviour of the permanent workers and supervisors develop rebellion feelings.

Despite the consequences, practice of employing contract labour through contractors and other agencies is prevalent across nations and industries in different occupations including skilled, semi-skilled and unskilled work. Today it has become a global phenomenon, and looking into the market driven economy, organisations has to hire short term or temporary skilled or unskilled manpower to address occasional upsurge in demand. It is all about how we manage the contract labourers today, giving them their right dues. There is no best way but clearly industry associations have to sit down and relook at that equation. Where the contract labour is not paid a decent wage, they have to be paid. It is not possible to bring them up to the same level of regular employees because the skills are different; the kinds of jobs that are done are different.

Historical Background

The historical aspect of the contract labours in India would definitely give a clear picture of how the system of employing contract labour came into being. Contract Labour has its root from time immemorial but the size of contract labour in India has significantly expanded in the post-independence period with the expansion of construction activity following substantial investment in the Plans. During the early period of industrialization, the industrial establishments were always faced with the problems of labour recruitment. Low status of factory workers, lack of labour mobility, caste and religious taboo, language, etc., were some of the problems with which most of the employers in general and British Employers or their representatives, in particular were not familiar. They were unable to solve these problems. Therefore, they had to depend on middlemen who helped them in recruitment and control of labour. These middlemen or contractors were known by different names in various parts of the country.

Contract Labourers were considered as exploited section of the working class mainly due to lack of organisation on their part. Due to this, the Whitley Commission (1860) recommended the abolition of contract labour by implication. Before 1860, in addition to the many disadvantages suffered by the contract labour, the Workman's Breach of Contract Act 1859 operated in holding them criminally responsible in the event of a breach of contract service. Following this, the Government constituted various committees to study the socio-economic conditions of contract labours.

Committees and Recommendations:

- The Bombay Textile Labour Enquiry Committee (1938) stated that “if the management of the mills” did not “assume responsibility for such labour”, there was “every likelihood of its being sweated and exploited by the contractor”; it also recommended the abolition of the “contract system of engaging labour” as soon as possible and “that workers for every department in a mill should be recruited and paid directly by the management”.

- The Bihar Labour Enquiry Committee (1941) condemned the practice of recruiting labour through contractors because they said: “the contractors ordinarily lack a sense of moral obligation towards labour which the employers or the managers are expected to have, and, therefore, do not often hesitate to exploit the helpless position of labour in their charge”.

- The Rega Committee (1946) found that the system of contract labour are very much in vogue.⁶ As a result of these findings, the scope of the definition of “workers” in the Factories Act (1948), the Mines Act (1952) and the Plantations Labour Act (1951), was enlarged to include contract labour. In the case of Standard Vacuum Refinery Company Vs. their workmen (1960) the Supreme Court of India observed that contract labour should not be employed where:

(a) The work is perennial and must go on from day to day;

(b) The work is incidental to and necessary for the work of the factory;

(c) The work is sufficient to employ considerable number of whole time workmen;

(d) The work is being done in most concerns through regular workmen. In the Second Five Year Plan, the Planning Commission stressed the need of improvement in the working conditions of contract labour and thus, recommended for a special treatment to the contract labour so as to ensure them continuous employment where it was not possible to abolish such type of labour. It was discussed at various meetings of Tripartite Committees at which the State Governments were also represented and the general consensus of opinion was that the system of contract should be abolished wherever possible and practicable and that in case where this system could not be abolished altogether, the working conditions of contract labour should be regulated so as to ensure payment of wages and provision of essential amenities.

Based on these views “The Contract Labour (Regulation and Abolition) Act, 1970” was passed by both the Houses of Parliament and received the assent of the President on 5th September, 1970 and it came into force from 10th February, 1971.⁷ National Quantum A total of 384 million persons are employed at various levels and out of the total employed 51% are self-employed, while 33.5% are engaged as casual labour and 15.6% are employed as regular wage or salaried employees.

The VV Giri National Labour Institute in a study on contract labour has estimated that there are a total of 3.6 crore contract labour in the country and out of them 60 lacs are covered under the Contract Labour (Regulation and Abolition) Act, 1970 in both Central and State sphere. Unfortunately there is no precise estimate of contract labour employed in the country but they constitute a substantial segment of the workforce. The number of contract labour and the period of their employment depend on the quantum & schedule of work/project and as such no centralised data on the number of contract labour is maintained.

