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Study Of Challenges In Implementation Of New Labour Codes In Msmes

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Abstract:

The Second National Commission of Labor which submitted its report in June 2002, had recommended that existing set of labour laws should be broadly amalgamated the following groups, namely:-

- (a) Industrial Relations;
- (b) Wages;
- (c) Social Security;
- (d) Safety ; and
- (e) Welfare and working conditions.

In pursuance if the recommendations of the said Commission and the deliberations made in the tripartite meeting comprising of the Government, employers and industry representatives , it has been decided to bring the proposed legislation. The proposed legislation intends to amalgamate, simplify and rationalize the relevant provisions of the following four central labour enactments relating to wages namely:-

- (a) The Payment of Wages Act, 1936;
- (b) The Minimum Wages Act.1948
- (c) The Payment of Wages Act, 1965;and
- (d) The Equal Remuneration Act, 1976

The amalgamation of the said laws will facilitate the implementation and also remove multiplicity of definitions and authorities without compromising on the basic concepts of welfare and benefits to workers. The Proposed legislation would bring transparency and accountability which would lead to more effective enforcement. Widening the scope of minimum wages to all workers would be a big step of equity. The facilitation for ease of compliance of labour laws will promote setting up of more enterprises thus catalyzing the creation of employment opportunities.

Keyword: Wages, Labour, legislation, laws, working condition

Objectives of Paper:

- A. To study Importance of MSMEs in Indian Economy.
- B. To study challenges in implementation of new labour codes in MSMEs.

A. Importance of MSMEs in Indian Econom.

Micro, Small and Medium Enterprises (MSME) sector has emerged as a highly vibrant and dynamic sector of the Indian economy over the last five decades. MSMEs not only play a crucial role in providing large employment opportunities at comparatively lower capital cost than large industries but also help in industrialization of rural & backward areas, thereby, reducing regional imbalances, assuring more equitable distribution of national income and wealth. MSMEs are complementary to large industries as ancillary units and this sector contributes enormously to the socio-economic development of the country.

It is classified in two Classes:

Manufacturing Enterprises:- The enterprises engaged in the manufacturing or production of goods. The Manufacturing Enterprise are defined in terms of investment in Plant & Machinery.

Service Enterprises:-The enterprises engaged in providing or rendering of services and are defined in terms of investment in equipment.

On June 1, 2020 , the Cabinet Committee in Economic Affairs approved a revision in the definition of Micro , Small and Medium Enterprises

>Micro enterprise- Investment upto Rs. 1 crore and turnover Upto Rs.5 Crore.

>Small enterprise- Investment upto Rs. 1 crore to Rs.10 Crore and turnover Rs.5 crore to 50 crore.

>Medium enterprise- Investment Rs. 10 crore to Rs.50 crore and turnover Rs.50 crore to Rs.250 crore.

B. Challenges in Implementation of new labour codes in MSMEs

New labour code has made simplification, rationalization and digitalization of various labour laws. But it have created some challenges;

1. **Permission for Lay – off, closure and Retrenchment :**

As per existing Industrial Dispute Act, Every factory employing 100 or more workers is required to take permission from appropriate Government for closure.

As per new labour code, the worker limit is 300 or more. This will allow the factories to lay off or retrench worker any time. In fact these 300 workers includes only permanent employees and not contractual or apprentice workers who are in huge numbers. Apart from this fixed term employment is new form of contractual employment is created.

2. **Challenges in Industrial Relations Act ,2020:**

This Act is about Trade Unions. Many MSMEs having their Trade unions based on skill, region, trade etc. Each union is set up with the motive of welfare of workers. Earlier Trade unions were required to give 21 days' notice of strike. As per Industrial Relations Act, 2020, Trade Unions will need to give notice of strike before 60 days.

Many Trade Unions of MSMEs are unregistered. In this labour code there is no time limit prescribed for registration of Trade Union after its application. This is increasing number of unregistered Trade Unions of MSMEs and weakening collective bargaining power of workers.

3. **Implementation of Industrial Standing Order:**

Industrial Standing Order requires employers in Industrial Establishments to formally define conditions of employment. Presently Industrial Standing order is applicable to establishment having 100 or more workers (50 in Maharashtra). As per new labour code bill, Standing order will be applicable to establishments having 300 or more workers. Many MSMEs are working with less than 300 workers; hence it will keep them away from ambit of Industrial Standing Order.

4. **Re-skilling Fund:**

As establishment can retrench non competent workers easily as per this code, The Central Government is mooted a new re-skilling fund which will require retrenched workers availing the cash benefits under the fund to show proof of re-skilling to the Government.

Though it is a good move, many MSME works are not having formal educational degree and they are having their expertise on the basis of experience. In MSME sector many employees are not interested to invest money and time to train employees. Hence it is very difficult for any retrenched employee to adapt new set of skill after being unemployed.

Furthermore, as per this code, the retrenched workers may be asked to pay back interest on the amount given to them for re-skilling if they are unable to get themselves trained after retrenchment.

5. **Responsibility Gratuity, PF and ESI and Night shift for women on Employer:**

As per Gratuity Act, any employee who completes service of continuous 5 years is eligible for gratuity. As per new labour code, completion of continuous service of 5 years shall not be necessary where the termination of the employment of any employee is due to death or disablement or expiration of fixed – term contract or happening of any such event as may be notified by the central Government.

In Present Scenario, Contractor is responsible for Payment of Provident Fund and Employee State Insurance Contribution of employees. Now new labour code has shifted this responsibility on the shoulder of Principal Employer.

The Act empowers women workers by giving them the choice to decide if they want to work at night. But the rules will spell out the specific conditions that employers will have to provide for if women staffers give their consent to do night shift.

Many MSMEs are already facing financial problems and Industrial unrest. Imposing such responsibility on them will create financial and social burden on MSME entrepreneurs.

6. **Penal Provisions :**

In respect to penalties as well this present code has brought in drastic change in order to ensure that employers don't breach the provisions of the act and pay hefty fines or even undergo imprisonment in case of failure to abide by the provision of the act as now there is more rigorous penal provisions like penalty has been increased from Rs. 50,000 to Rs.1 lakh with imprisonment up to 3 months in case of repeat offence.

Many small enterprises are not capable of paying fine of 1 lakh. This heavy fine may create fear among them which may reduce their spirit of entrepreneurship.

Conclusion

This labour code is of immense importance from the point of view of giving uniform effect to the four major labour laws of this nation. This code has brought in the much needed reforms in the labour sector as the labour sector despite been backbone of our nation is most vulnerable, deprived, exploited and weakest sector of our nation.

This code will enable MSMEs for Ease of doing business and can attract more foreign investment in India which will vibrant Indian Economy.

The Code will create more Job opportunities; ensure skilled man power which will fulfill dream of Atmanirbhar Bharat.

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