

## **Working Paper**

### **‘Apprentice Vs Workman’ under Industrial Employment Laws in India**

#### **Critique & Remedial Measures.**

**By**

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#### **Abstract**

One of the key indicators of healthy Industrial Relations (IR) or Employee Relations (ER) is absence of disputes or grievances between two major partners in Industry i.e. Labour & Management. Cordial, smooth, peaceful and harmonious Industrial Relations (IR) in turn is one of the most vital prerequisite for the success of an industry contributing towards the growth of an economy & national prosperity. The issue relating to legal status of an employee in an industrial organization is an important determinant indicating the state of industrial relations in an organization. The legal status of human resource in an industrial organization i.e. Whether an employee is a workman or a trainee workman (i.e. an apprentice) is a very crucial aspect and a sensitive issue in managing people and in particular handling employee relations in an organization and hence is an important facet of human resource management since it has legal & other HR-IR implications. The subject matter of this research paper is one such areas having bearing upon the IR/ER in an industry.

The research paper is an original work of the author and a library research (from authentic case law reporters/journals) based on the review of the statutory/legal provisions of Industrial labour law, Standing Orders and Landmark Apex (Supreme) Court Rulings as applicable to and relevant for Industrial Establishments & Employments in India whether in public or private sector.

The Researcher has scanned and perused the applicable employment laws and court rulings relating to the legal status of an employee particularly an apprentice Vs workman and its implications for the Industry and an attempt is made to critically evaluate the law and the case law to find out the shortcoming if any and to suggest remedial measures to decide 1) the status of an apprentice in an industrial organization and 2) the labour law benefits/facilities which may be or may not be made available to an apprentice. Researcher has noticed few gaps or shortcomings in the legal status of an apprentice (trainee workman) under labour laws in India and hence this work/paper is honest attempt to remove those gaps. The remedial measures and the corrective steps suggested in the paper are innovative and creative and the researcher hopes that if these ideas are adopted, it would certainly help in changing the dynamics of ER/IR Management and

would be in the interest of all the stake holders of an industry. The attempt made is relevant to the theme “Managing Human Resources at the Workplace” of this international HR conference and the topic of the paper falls under the sub-theme, “Issues in Industrial Relations”

**Key Words: - Apprentice, Workman, Legal Status, IR Issues & Implications, Remedial Measures.**

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### **Introductory Background**

One of the key indicators of healthy Industrial Relations (IR) or Employee Relations (ER) is absence of disputes or grievances between two major partners in Industry i.e. Labour & Management. Cordial, smooth, peaceful and harmonious Industrial Relations (IR) in turn is one of the most vital prerequisite for the success of an industry contributing towards the growth of an economy & national prosperity. The issue relating to legal status of an employee in an industrial organization is an important determinant indicating the state of industrial relations in an organization. The legal status of human resource in an industrial organization i.e. Whether an employee is a workman or a trainee workman (i.e. an apprentice) is a very crucial aspect and a sensitive issue in managing people and in particular handling employee relations in an organization and hence is an important facet of human resource management since it has legal & other HR-IR implications. The subject matter of this research paper is one such areas having bearing upon the IR/ER in industry in India.

### **Objectives**

1. To critically evaluate the statutory law and the case law (court rulings) to find out the shortcoming, flaws (if any) about the legal status of an employee in an industrial organization particularly whether an employee in a workman or a trainee workman (i.e. an apprentice and
2. Researcher has noticed few gaps or shortcomings in the legal status of an apprentice (trainee workman) under labour laws in India and hence this work/paper is an attempt to remove those gaps and suggest remedial measures to be taken.
3. To suggest remedial measures to decide a) the status of an apprentice in an industrial organization and b) the labour law benefits/facilities which may be or may not be made available to an apprentice.
4. To suggest steps to do away with confusions & controversy with regard to engagement of apprentices in Industry and help to stop the unfair practices with regard to such engagement by suggesting labour law reforms.

## **Research Methodology**

The research paper is an original work of the author and a library research (secondary data from authentic case law reporters/journals and bare Acts) based on the review of the statutory/legal provisions of Industrial labour law, Standing Orders and Landmark Apex (Supreme) Court and High Court Rulings as applicable to and relevant for Industrial Establishments & Employments in India whether in public or private sector. The Researcher has scanned and perused the applicable employment laws and court rulings relating to the legal status of an employee particularly an apprentice vis-à-vis a workman in industrial organizations in India.

## **Results & Conclusions.**

The status of an apprentice is confusing & controversial under industrial employment laws in India particularly with regard to their coverage and entitlement of benefits under the labour laws. The researcher has found shortcomings or lacunae in the labour regulations and also inconsistency in the court rulings particularly in the landmark Supreme Court Judgment in U.P State Electricity Board Case-2005 I LLJ 117 SC. With due respect the Apex court has misread the provisions of Apprentices Act. These gaps in regulations lead to strained Employee or Industrial Relations leading to industrial conflicts & disputes. Industrial employers also misuse, abuse & exploit the present legal system to their advantage and deny labour law benefits & permanency status to industrial trainees.

The Researcher has suggested concrete steps to overcome the above problems & to resolve the issue thereby helping to reduce industrial unrest & bring harmony in employee relationships. The core suggestion or solution to the problem is to make registration of 'designated trade' apprentices compulsory (which is presently not compulsory) exempting them from benefits of labour laws and all other apprentices whether under standing orders or under employer's own scheme are to be treated as workman for all purposes & benefits. The Apex Court judgment needs to be reviewed & modified and suitable changes to be made under Industrial employment regulations more particularly under apprentices act.

## **References**

- 1) Citations/Quotations on Definitions of Apprentices.
- 2) Citations/Quotations on relevant legal provisions of employment laws in India.
- 3) Citations/Quotations on related court rulings/case laws in India.
- 4) List of Books/Journals referred.
- 5) List of Bare Acts/regulations referred.