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**LAWS RELATED TO WAGES**- Palak Poddar<sup>1</sup>**ABOUT THE TOPIC**

Indian Constitution provides ways to secure the payment of the workers and guaranteed their payment on time. The Code of Wages, 2019 got the legislative approval on August 8<sup>th</sup>, 2019. It was made to give social justice to the workers employed by prescribing the minimum amount of wages paid to any workers, to check upon their safety measures and to provide those benefits time to time accordingly to them. The Wage Code consists of 69 Sections divided into nine chapters. The code is applicable on the labour employed by any factory or if the employers are by any ways covered under any of the Code of Wage. Also the code is applied on both the organized and an unorganized sector. The Code of Wage Act combine four Acts under which Indian Labours can be governed, each one of them with different categories that includes wages, social security, industrial safety, welfare, and industrial relations. The Acts are:-

1. Payment of Wages Act, 1936
2. The Minimum Wages Act, 1948
3. The payment of Bonus Act, 1965
4. Equal remuneration Act, 1976

The salient features of wage codes are:-

1. Uniform applicability: - The Payment of Wages Act is applicable only on the employees who are already receiving the amount wages that are equal to or below the statutory limit and Minimum Wages Act are applicable on scheduled employment. The Wage Code anticipate uniform applicability of the provision of timely payment of wages and minimum wages to all the employees irrespective of the wage ceilings and sectors.

2. Definition of Wages:- The term “Wages” defined under the four acts that is Payment of

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<sup>1</sup> Student at Jamnalal Bajaj School of Legal studies, Banasthali Vidyapith, Jaipur

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Wages Act, The Minimum Wages Act, The Payment of Bonus Act and Equal remuneration Act is slightly different for each other, thus to avoid the legal proceedings and conflicts the meaning of wage is properly defined by The Wage Code. As per the Section 2 (y) of the Wage Code “Wages” means all remunerations, whether by way of salaries, allowance or otherwise, expressed in terms of money and includes basic pay, dearness allowance and retaining allowance if any.

The “wage” definition also states the list where the term wage doesn’t includes in among other things like value of house accommodation, supply of electricity, water, house rent allowance, bonus payable under any law, contributions to pension or provident fund, sums pay for special expenses, remunerations payable under any rewards or order of Court or Tribunal or settlement between parties, overtime gratuity payable, retrenchment compensation, and other retrial benefits.

3. Difference between “employee” and “worker”:- Under the Wage code the employee and workers are separately defined. The employee is in broader sense than that of worker. The “worker” is any person except an apprentice worker employed by an industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire and reward where the term of employment can be expressed or implied and also includes working journalists and sales promotion employees, but excludes persons who are managerial or administrative side or who is employed in supervisory capacity drawing a monthly wage exceeds Rs.15,000 or any amount notified by the Central Government time to time.

An “employee” is any person employed other than apprentice on wages by an establishment to do any skilled, semi-skilled, unskilled, managerial, manual, operational, supervisory, administrative, technical or clerical work for hire or reward, whether the term of employment is implies or expressed.

4. Minimum Wages: - Earlier the minimum wages are provided only to the scheduled employers under the Minimum Wages Act, now under the Wage Code the Government is allowing to pay it in all industries. Now the State Government fixes the floor Wage after taking into view the minimum living standard of the workers. The State Government cannot fix the Wage less than the floor wage stated by the Central Government, and if the Wage is settled before of the floor wage and later on found that the floor wage is higher than the Wage rate then the government can’t reduce those rates. These minimum wages are to be revised and reviewed

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by the appropriate Government in every five years.

5. Equal Remuneration: - Just as the Equal Remuneration Act, The wage Code now stated non-discrimination against all genders with respect to wages by employers or for purpose of recruitment, with respect to same or different nature of work. Only difference was that the Wage Code prohibits discrimination among all genders whereas The Equal Remuneration Act prohibits the defined genders that is male and females only.

6. Payment of Bonus: - Earlier under the Payment of Bonus Act the applicability is limited to employees who were earning an amount of Rs.21, 000 per month, whereas under Wage Code the Government is allowed to fix the wage for determining the applicability. There are also some disqualifications mentioned under the Wage code for those who are not be able to get the bonus like person involving in theft, riots, violent behavior, dismissal from any job due to sexual harassment at that place and frauds.

7. Inspector cum facilitator: - Earlier the process of passing legislation had inspectors to carry out inspections and examinations to ensure agreement of the enactment. Whereas under Wage Code the Inspector is replaced with Inspector cum facilitator who shall be a facilitator towards compliance but not just only an inspecting authority. The Inspector-cum-facilitator is required to provide the employer an opportunity to rectify the non-compliance within a specific period of time before going into an actual proceedings. The Government also provide the scheme under which they provide calling of information and web based inspection related to inspection.

8. Time bound resolution of claims: - The Wage Code prescribed a limited period of time that is three years for filing of complaints by an employee. The dispute of fixation of bonus and eligibility of payment for bonus is considered as in industrial dispute. An employee or any registered trade union registered if which the employee is a member or the Inspector cum Facilitator can file an application for claims under the Wage Code against the notifying authority. The authority shall decide the amount within a period of three months. Appeals can be filed within a period of ninety days, which the authority has to be dispose of within thirty days.

9. Offences and Penalties: - The Wage Code are not strict and only applicable imprisonment for

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the second and subsequent offence. Quantum of fine for contravention under the Wage Code have been increased. The offence punishable under the Wage Code not only with imprisonment only and should be compound by the gazette officer as appointed by the appropriate government.

### **Payment of Wage Act, 1936:-**

According to the Wage Code the payment shall be given to the employee in current currency notes or coins, by cheque, payment through any online mode, or crediting the wage directly into the employee's bank account. There are also exceptions in certain industries and other establishment that they only pay their employees through check or directly in their bank accounts.

Different kind of wage periods like daily, weekly, monthly, quarterly, yearly are fixed for different industry. The Wage Code also deduct on the various ground like including fines, absence from duty, etc. but the total amount deducted shall not be exceeds to the 50% of the total amount of wage the employee gets. In case of death the amount dues are to be paid to the person nominated or to be deposited to the specified authority within a period of three months to six months. The earlier Act did not provide any resignation cases.

### **The Minimum Wage Act, 1948:-**

The Minimum Wage as under the Wage Code has accepted for all the employees and also to the employees who were earlier out of this benefit. Every employee will get the minimum amount of wage as guaranteed by the appropriate Government, no less amount shall be paid to them. Here the appropriate government is central government and state government. The central government set up the minimum amount of wage in public sector and the state government will set the amount of minimum wage for the people belonging to the private sector. The word "floor wages" is included in the wage code which allows the authority that is central government to fix the floor price by taking into the account the minimum living standard of each and every employee belonging to the different are and geographical background. The minimum wage which is settled by the central or state government can't be less than the floor wage amount. In any case in which if the minimum wage is more than the floor wage then no person is allowed to reduce in that amount or to make any kind of deduction in that minimum wage amount also. The minimum wage amount shall be revised and reviewed in every five year which is must. The minimum wage rate is to be fixed by daily, weekly, or monthly basis. The

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appropriate government shall also have the power under the Wage Code to set the tenure of work and also provide a rest day for the employees apart from the working days. In case any worker work more than the hours or days they normally have done then they are entitled to have more amount of wage and that amount is almost the half of the amount of minimum wage.

**The Payment of Bonus Act, 1965:-** Payment of Bonus as given under Wage Code is required only when there is at least 20 employees working on that establishment or industry, or at that day 20 employees have been employed on that date or in that particular accounting year. The Wage Code prescribes that the employees can only draw the amount of wages as prescribed by the Central or State government will be entitled to get an annual bonus. The bonus amount will be at least 8.33 percent of the employee wages or Rs.100 whichever is higher among both. An employee can received a maximum bonus of 20 percent of wages earned by the employee in an accounting year. There is also an exception of the bonus in Wage Code that if any employee can be found sexually harassing a women at work place then that employee will not be entitle to get the bonus amount.

**Equal Remuneration Act, 1976:-** Here Equal remuneration under Wage Code provides payment of equal wage for work of similar nature to male and female workers and for not making discrimination against female employees in the matter of transfer, training and promotion, etc. central government is the appropriate government for the equal remuneration. This Act basically provides equality to both male and females and helps the females facility that they can sue due to if the get sexually harassed or they exploit any female worker than they can be sued. Earlier there were no laws for females and female works have been treated so badly and also they don't receive the amount as per the work they do also. The employer should not discriminate their employee on the basis of gender for the same amount of work they have been handled and same nature of work. There are certain hazardous places which are harmful for women and children under Wage Code they also get the protection from this. This act settled the gap between the male and female employees in industries and in any establishment.

#### **Punishment for Offences Under Wage Code:-**

Under the Wage Code if any employers in any case pays the amount to the employee that is less than the amount due to him then that person shall be punished with fine which may extend to Rs.50,000 as per the case may be. If the same employer shall be seen to repeat the same mistake

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within the time period of 5 years from the date of first or subsequent offence the that very employer is punishable with imprisonment which may extend to 3 months or with fine which may extend to Rs.1,00,000 or with both. If there is any contravention in the other provisions of Wage Code then that person will be punishable with fine amount which may extend to Rs.20,000. In case of repeated offence of the same provision the person shall be punished with imprisonment which may extend to 1 month or amount of fine which may extend to Rs.40,000 or with both. If any employer in any establishment made the non-maintenance or improper maintenance that employer shall be punished with fine which may extend to Rs.10,000.

#### **Time limit of payment of wages under the Wage Code Act, 2019:-**

The new wage code provides the time limit to the employers on which they have to pay to various category of employees. The employer shall be paying to their employees who engages in as:-

Daily wage labour: - at the end of the shift.

Weekly wage labour: - on the last day of the working week.

Fortnight basis: - on the second day after the end of fortnight.

Monthly basis: - before the expiration of seven day of the succeeding month.

#### **Impact of Labour Law on various sectors:-**

Labour Law practice for lawyers: - The Central Government aims to increase the ease of doing business and has focused more on reducing the compliance work relating to wages. While maintaining a single register to record wages, the compliance work is reduced to more accuracy. The litigation and the advisory aspects of labour law is going to increase the time limit for prosecution of matters related to labour law has been increased from 12 months to 3 years this resulting into increase of work in litigations related to labour law. This Code also empowers the trade union to file a class action claim against the employer. Due to increase in the punishment of the offences by the employers, the due diligence has to be given importance as the minor offence can cost the employer the huge amount of loss. The employers have to ensure that the wages are to be paid on the 7<sup>th</sup> of the next month to avoid being punished and the bonus has to be paid to the employees mandatorily either by cheque or by bank account transfer only.

**Sectors of the economy:** - There is a standard impact of Code of Wage on all sectors of the economy as the code made it mandatory for the establishment working in various sectors or the

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industry irrespective of the wages of the employee and the number of members working in an establishment. There is a provision of a Code of wage also which allows the employees to launch direct prosecution on the employers under the law prevailed by the Wage Code, but it can only be done if the prosecution is signed by the inspector who is responsible for the inspection of the establishment. All the employers of any industry or in any establishment has working in different sectors has to take the most precautions and also focus on due diligence because of the reasons. Traditionally tax was the annual change quotient for most employees that impacted their take home pay benefit but going forward under this code law also have impacted. One of the objective that the government has to set out is to increase the benefit to the employees and widen the coverage. Moreover one need to see the fine print to assess the react impact.

**Private companies:** - The Wage Code will lead to increase in gratuity payment and employers contribution to their retirement corpus. Private companies prefer to keep the allowance components higher and the basic salary lower. This will not be allowed under the new rules of wages. Those who are working under any private sector likely to the cut to their take home salary after the new provisions of The Wage Code will came into effect. With the help of this code the government want to create a conclusive environment for investors and to protect the rights of workers and to provide better social security to them as the year of Corona virus pandemic has created a massive disaster in the economy also result very loses in every sectors of the economy. The Wage Code not only provides the social security to organized sectors but also to informal sector workers like gig and platform workers. This means that the entire workforce of over 50 crore in the country would get social security coverage under the new legal framework or the Wage Code.

**Conclusion:** - The Code is made up with the intention of making a balance between employer and employee. The codes that contains portions of the repealed legislations are easily replaced their obsolete provision. The code make the clarity in the provisions and confidence to the business community. Thus it is important for both the employer and the employees to know about the Wage Code though it created an impact on both of them, also help them to be aware from each benefits for them. This impacted on employees whose basic salary is currently less than the statutory wage ceiling as well as international workers. It's a good move done by the Indian Government to make India more formal economic country and attaining the aim to make

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India's a \$5 trillion economy. Human resources, legal, financial and business users should also be aware with this code and calculate impacts on their operations. This code is the best way made by the Indian Government for the employees and simplify the Labour Laws dealing with wage payment, the provisions of equal opportunity and remuneration. This Act is made to do easy of any kind of business, reduced multiplicity of legislations, inspections are easier, brought unorganized labour under its preview, aim at the reduction in dispute and to bring out use of technology more transparently. Considered the consolidation of the four acts to be the most positive step towards doing a great business under the economy.



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