

Exploring Contractual Employment Trends in India

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Abstract: *Presently, India's economy is one of the most rapidly expanding in the globe. Foreign direct investment and the rate of industrialization have increased exponentially. This has resulted in the emergence of numerous new service sectors, small, medium, and large-scale industries, among others. As the customer base expands, so does the demand. In order to accommodate the increasing demand and meet the requirements of customers, Do these industries' entrepreneurs demand round-the-clock production? While machines and money are essential resources, personnel, a critical resource, also plays a crucial role in this regard. Human resources can be classified into three distinct forms: staff, on-roll team members, and contractual labor. Numerous manufacturing sectors rely heavily on contractual labor to reduce manpower costs and administrative expenses; the trend of employing contractual labor increases annually. Drawing upon secondary sources of information, this paper endeavors to shed light on the present state of contractual labour in India and outline the safeguards established by the government via Contract Labour Acts.*

Keywords: Labor Laws, Contractual Labour, Informal Sector;.

I. INTRODUCTION

In general, "workers employed by or through an intermediary on the work of any establishment" is what is meant by contract labor. This type of labor can be differentiated from direct labor by the manner in which wages are disbursed and the nature of the employer-employee relationship. The organization supplying labor to the contractor bears no direct liability for the employees who are contracted by the contractors. Organizations utilize contract labor as a means to reduce headcount and to benefit from the scalability and flexibility it affords in workforce management. The inception of contract labor can be historically linked to the rise of small-scale industries that deemed it economically impracticable or unviable to perform every stage of the production process internally. As a result, these industries outsourced a portion of the work to contract laborers. During the Colonial era, British employers and their representatives relied on intermediaries to facilitate the hiring of contract labor. Despite the controversy surrounding its use in India, contract labor has emerged as a substantial and expanding sector-wide employment option, employing individuals in a variety of occupations (skilled, semi-skilled, and menial positions). Companies must exercise caution and be knowledgeable of the laws that regulate their relationship with contract labor when employing such personnel. This article will examine the fundamentals of contract labor utilization and the potential hazards that should be circumvented in order to foster a harmonious work environment within the organization. In the manufacturing and services sectors, the Contract Labour (Regulation & Abolition) Act, 1970 (Act) authorizes businesses and establishments to utilize contract labor via contractors. Such an engagement may only pertain to tasks that are not integral to the company's primary operations, as stipulated in its memorandum of association. Contract labor is an expanding and substantial type of employment. Utilizing contract labor has been a widely observed and longstanding practice on a global scale.

Objective of the Study:

- To provide an overview of the legal responsibilities that employers have under the Contract Labour Act.
- To outline the contractual labor rights.

- To provide an overview of the current state of contract labor in India.

Research Methodology

The investigation is entirely grounded in secondary sources of data, which serves as an exploratory foundation pertaining to the research subject. This study's sources consist of textbooks, e-journals, and web portals, among others.

Literature Review:

In general, "workers employed by or through an intermediary on the work of any establishment" is what is meant by contract labor. This type of labor can be differentiated from direct labor by the manner in which wages are disbursed and the nature of the employer-employee relationship. The principal employer has no direct relationship with the contract labor. It operates in a manner that is not comparable to other categories of labor, such as temporary, permanent, or casual. The contract labor system functions on the principle of a triangular relationship, wherein the user enterprises, contractors (including subcontractors acting as intermediaries), and the laborer are all involved. The personnel are sourced from an external organization or individual and are employed by the establishment or contracted to perform its duties. They are not listed on the muster register of the principal employer or establishment and are not remunerated directly, in contrast to direct labor.

Legal Definition

Contract labor is defined legally in India by the Contract Labour (Regulation and Abolition) Act of 1970. As per the provisions outlined in Section 2(b) of the Contract Labour Act, 1970, an individual is considered to be engaged as "contract labor" when they are engaged by a contractor, with or without the principal employer's knowledge, to perform work related to the establishment. The phrase "employed in or in connection with the establishment's work" does not imply that the task delegated to the employee must be an integral element of the principal employer's operations or be incidental to them. Additionally, employees who are contracted by a licensee for its own gain are not classified as contract laborers. Likewise, a contract laborer does not refer to a permanent employee of the contractor who may be assigned to various establishments at the contractor's discretion.

Significance of Contract Labour

Contract labor is an expanding and substantial type of employment. Utilizing contract labor has been a widely observed and longstanding practice on a global scale. The inception of contract labor can be historically linked to the rise of small-scale industries that deemed it economically impracticable or unviable to perform every stage of the production process internally. As a result, these industries contracted laborers to perform a portion of the work. Contract workers are predominantly associated with the unorganized sector due to their limited or nonexistent social security benefits, lack of bargaining power, and frequent participation in hazardous work activities that pose risks to their health and safety. Frequently, their employment security is minimal or nonexistent. However, advantages of the contract labor system include lack of work continuity, difficulty in ensuring closer employer supervision, higher output or productivity of such employees, cost effectiveness, flexibility in manpower deployment, and the ability to concentrate on core competencies.

According to a March 2014 Hindustan Times article, contract employees comprise 46% of the personnel at the leading industrial corporations in India. Input costs, such as labor, must be managed with adaptability if businesses are to preserve operational efficiency. Therefore, they prefer to maintain variability in order to maintain a competitive edge. Before reaching a conclusion, one must, nevertheless, have a comprehensive understanding of the legal, social, and capability dimensions of contract labor in order to comprehend its necessity for businesses. Contract labor laws are codified in the Contract Labour Act of 1970, and the Industrial Disputes Act of 1947 defines the mechanism for resolving disputes.

Pre Independence Status

Contract laborers were regarded as an exploited segment of the working class, primarily because of their own lack of organization. As a consequence, the Whitley Commission (1860) implicitly advocated for the elimination of contract

labor. Contract laborers were subject to criminal liability for breach of contract service under the Workmen's Breach of Contract Act 1959, in addition to the numerous disadvantages they endured prior to 1860. The government subsequently established numerous committees to examine the socioeconomic conditions of contract labor, including the Bombay Textile Labour Enquiry Committee, the Bihar Labour Enquiry Committee, and the Rega Committee, among others. Contract labor was added to the definitions of "workers" in the Factories Act of 1948, The Mines Act of 1952, and The Plantations Labour Act of 1951 as a consequence of these findings.

Salient Features of the Contract Labour Act Act 1971

Scope and intent: The legislation establishes regulations pertaining to the utilization of contract labor and, in specific situations, proposes its elimination. It applies to all establishments that had 20 or more contract employees on any given day during the previous 12 months, as well as to all contractors who had 20 or more contract employees on that day or earlier. This provision does not extend to establishments that exclusively perform casual and intermittent work, provided that the total number of days worked per year does not exceed 60 and 120, respectively. (Section 1) **Advisory Boards:** The legislation mandates that the central and state governments establish Advisory Contract Labour Boards (CSABs) to counsel their respective governments on issues pertaining to the implementation of the legislation. (Sections 3 and 4) **Registration and licenses:** It is mandatory for the establishments that fall within the scope of the Act to obtain registration with the relevant authorities as principal employers. It is mandatory for contractors to acquire a license and shall not perform or engage in any contract labor work except in compliance with the terms and conditions of the license issued by the licensing officer. As stipulated in the regulations, the granted license is contingent on conditions pertaining to work hours, compensation determination, and other contract-related necessities. (Section 7 & 12) **Amenities for contract labor:** The Act mandates that contractors provide specific amenities to contract labor, including but not limited to provision of canteens and rest rooms, adequate supply of potable water, lavatory and urinal facilities, washing facilities, and first aid facilities. The principal employer is obligated to furnish these facilities in the event that the contractor fails to do so. (Section 16, 17, 18, 19, and 20) **Wages Payment:** The contractor is obligated to remunerate employees and is responsible for ensuring that wages are disbursed in the presence of the principal employer's authorized representative. In the event that the contractor fails to remit wages in whole or in part, the principal employer assumes responsibility for making the necessary payments. Contract laborers who perform the same or comparable types of work as permanent employees will be entitled to the same wages and working conditions as permanent employees, in accordance with the regulations. (Particular 21)

Rights of Contract Labour

The legislation establishes the entitlements of contract laborers in order to safeguard them against any form of exploitation. These rights guarantee them an equivalent standing to the labor force and any infringement of them is subject to legal redress. Security is provided for contract workers with regard to their welfare, health, wages, and social security. Any agreement reached between the involved parties that is incongruous with the provisions of the Act or detrimental to the laborers will be deemed void.

Contract laborers are entitled to the wages and allowances specified for their work at the establishment, including overtime pay. It is due without delay following the conclusion of the wage period. Its compliance with the Minimum Wage Act is required.

Additionally, contract laborers are entitled to safety precautions within the establishment and prompt medical attention in the event that they sustain an injury on the job. They are entitled to a variety of amenities, including restrooms, canteens, laundry facilities, and first aid stations. The female employees are granted access to designated lavatories and washrooms.

They have the right to be excluded from employment in any occupation that is prohibited by law.

Current Scenario of Contractual Labour

The magnitude of the contract workforce at Maruti Suzuki, the largest automotive manufacturer in India, serves as an indicator of the corporate sector's reaction to the evolving labour market dynamics. Contract employees comprised an increasing proportion of the automobile manufacturer's total personnel from 32% in 2013-14 to 42% in 2015-16.

Contractual labor accounted for approximately 55% of the 537 million tonnes of coal mined by public sector behemoth Coal India in 2015-16. It is anticipated that this ratio will rise to a minimum of 58% during the ongoing fiscal year.

The Centre continues to be a major employer of contract labor. The Seventh Pay Commission estimates that the Central Government spent 300 crore rupees on contract or transient employees in 2012-13.

The rising need for contract laborers corresponds with the worldwide inclination towards flexible employment arrangements. Over the past quarter-century, unionization has declined globally. The phenomenon of workforce dispersion across multiple countries and job outsourcing has become ubiquitous, even among medium-sized enterprises operating in developed nations.

In response to the implementation of flexible hiring policies in developing countries such as China, Bangladesh, Egypt, Brazil, and Colombia, developed nations that possess formidable trade unions have been compelled to enact regulations that prefer temporary employment. Consider the notion of a zero-hour contract, in which the employer is not obligated to provide any specific number of work hours but the employee is only expected to be present whenever the employer requires his or her assistance. The most recent instance of flexible recruiting in the United Kingdom.

According to labor unions, corporations favor contract labor due to the cost arbitrage it provides. Contract employees earn significantly less than permanent employees. Legal professionals highlight deficiencies in the legislation and the divergent interpretations of the law by the judiciary. In its ruling in the RK Panda vs Steel Authority of India case, the Supreme Court stated that employees who have maintained employment for a period of ten years ought to be classified as regular employees. However, the court ruled in a separate case, Steel Authority of India vs National Water Front Workers, that the law did not contain any provision that implied contract workers would be absorbed.

Furthermore, the recruitment procedure for contract employees is arduous. In order to obtain registration, a nationwide organization must disclose the quantity of vendors that provide contract laborers for each office. Subsequently, various states issue registration forms based on this information. This necessitates that each vendor in each location obtain a license. Numerous businesses circumvent the law by employing contract laborers via third-party agents.

Contractual Labour in India

In India, it is customary for organizations, especially those operating in labor-intensive industries such as automobiles, construction, and mining, to abstain from employing permanent personnel for project-based needs. This is due to the fact that terminating such employment necessitates providing advance notice, remuneration, and government notification. It is said that India's rigid labor laws are a significant obstacle for industry. However, businesses have discovered a remedy by employing contract laborers in vast quantities. Recent data provides insights into the scope and frequency of this practice within a selection of India's most prominent publicly traded corporations. Contract labor comprises 46% of the industry workforce and 8.8% of the services sector. Software and financial services comprise the services subsector with the highest proportion of permanent employees. This phenomenon can be ascribed to the specialized expertise required within these industries, as well as regulatory considerations in the banking sector. The telecom industry, however, stands out as a service sector with a substantial 46% contract worker share.

Due to labor-intensive occupations and the fact that current employment laws resemble a matrimonial union in which divorce is not an option, transient workers comprise a greater proportion of the workforce, according to Manish Sabharwal, chairman of Team Lease Services.

The ratio is 47% in the automobile industry, where labor unrest has become more apparent in recent years; sectors where it is even higher include energy and utilities (54%), cement (52%), and energy and utilities (54%). Larsen and Toubro Ltd. (L&T) introduces a bias into the engineering sector total by virtue of its engineering services division's project-based temporary worker recruitment and its substantial size. By excluding L&T's figures, the sector's ratio is 22%; however, by including them, it increases to 75%. Additionally, sectors including consumer goods and pharmaceuticals have relatively modest levels.

In light of the substantial utilization of contract labor by India's most prominent corporations, one can only speculate as to the extent of casualization that will prevail among lesser enterprises.

Indian Govt Policy of 2018 in Context of Contractual Labour

The Union government intends to implement measures to prevent the misuse of the proposed fixed-term contract framework by companies to convert their full-time employees to contract workers. "Once the new law is implemented,

one of them is to ensure that permanent employees in an organization are safeguarded against being converted to temporary workers," a labor and employment ministry representative said under the condition of anonymity. Protective provisions will be incorporated into the executive order on fixed-term employment, which is expected to be issued next month, according to officials. The action is the result of a consultation meeting that the ministry convened on February 15, 2018, during which state government, labor union, and industry representatives participated. At the meeting, each of the twelve state administrations expressed their support for fixed-term contracts. As opposed to employers' associations, three trade unions, the Trade Union Coordination Centre, the National Front of Indian Trade Unions, and the RSS-affiliated Bharatiya Mazdoor Sangh, supported the initiative, according to sources. Other trade unions, on the other hand, withdrew from the meeting in protest of the lack of consultations that preceded the Union Budget announcement of the change. Finance Minister Arun Jaitley declared the government's resolution to permit all employers to hire employees on fixed-term contracts in the 2018-19 budget. Fixed-term contracts enable sectors to recruit personnel for temporary tasks with the intention of terminating their employment upon the conclusion of the project.

The government is beginning to comprehend the practical implications of flexi-staffing. Recently, transient laborers have been permitted in the garment industry. Establishing a monthly minimum wage of Rs 10,000 for contract employees represents an additional stride in this trajectory. "The government recognizes that contract work is now a reality and is working to facilitate it," said Shankar Agarwal, secretary to the minister of labor and employment.

II. CONCLUSION

The Make in India campaign represents a formidable initiative aimed at establishing India as a prominent center for manufacturing on an international scale. Nonetheless, we anticipate that labor concerns will impede its progress. The establishment of guidelines by the company's management for their HR/plant managers that delineate a code of conduct and guarantee equitable treatment for contract workers in comparison to permanent staff is an essential responsibility. The HR department plays a critical role in attracting, selecting, and retaining the company's workforce, including contract workers, permanent employees, and on-the-job workers. It is essential that the HR department identify and implement the most effective HR practices for the entire employee population. However, within numerous sectors, human resource practices primarily concentrate on permanent and roll employees. In contrast, contractual labor HR practices are extremely limited. And in the majority of organizations, contractual employees are not treated equitably. The philosophy of the HR department posits that employees are valuable assets of the organization and should be retained and developed in order to enhance productivity while ensuring job satisfaction. Therefore, due consideration should be given to contractual personnel when formulating HR practices, and the HR department should strive to integrate contractual personnel into the main stream.

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