

LABOUR RESEARCH

May-June-2019



*Editorial***CONSOLIDATION OF LABOUR LAWS**

The Labour Laws enacted in India are based on the continuous evolution of the industrial relations in order to take care of the social security of the working class. The basis is of course, the legacy left over by the British rulers. However most of the labour laws enacted by the Imperial regime was to protect their own interest in the colony and to take care of the British Rulers in United Kingdom. When the country attained independence the Central Government had a tremendous challenge before it in order to ensure a better living condition to the entire population of the country. The successive Government took upon themselves the welfare of the common man and several social security measures were brought in with a view to provide basic necessities to the working class. The various enactments which has come up after the independence were towards the advancement of the welfare of the working class as a whole based on the struggles launched by the working class. The social security measures such as superannuation benefits, medical facilities, the safety and security of the workers in the working places, the benefits to the women and child workers, the guarantee of certain reliefs to the workers, the working hours, the hygienic working condition, the educational facilities to the ward of the workers, the workmen compensation in case of accident and sudden death of the bread winner of the family both inside the factory as well as the factory complex, the housing accommodation, etc., were the priorities.

The trade unions in the organized sector as well as unorganized sector have played a great role in moulding several labour laws in order to ensure a fair and equitable compensation system, job security, provision of better working conditions for women and children, the minimum wages, the working hours, the weekly and general holidays etc., The trade unions have also taken care of several areas where the Government was not keen to enter and provide succour and comfort to the working class. The benefit of the credit societies, the housing societies, the welfare societies are the outcome of the Trade Union's continuous efforts towards advancement of the welfare of the working class in the country.

The amendment or improvement to labour laws needs the support and co-operation of the Government, the employers and their associations, the trade unions in particular the Central Trade Unions in order to seek any changes in the existing

labour laws. These changes are expected to be for the betterment of the working class and advancement of their living condition. With the advent of the market economy based on the Liberalization, Globalization and Privitization since 1990's there has been constant reminder from the corporate world that the country can progress only when they are provided union free atmosphere in the working place. The argument of the corporate world is that the foreign investment are shying away from our country due to excessive support of laws to the trade unions and the working environment should be such that there should be no interference of the trade unions. The Government has been supporting the corporate lobby. The new sectors of the economy in particular the employees in the IT Sector are denied the right to form the trade unions by using the power of hire and fire in the industry.

There is a continuous pressure by the Corporate units for rationalization of the labour laws with an intention to take away some of the rights available under labour laws. The Government has now started advocating for the consolidation of the labour laws so that it can push forward its agenda of taking away some of the rights available to the trade unions. Our members may recollect when the Government came out with certain modifications in regard to payment of Provident Fund balance at the time of the resignation by the employees before the attainment of 60 years. This led to sporadic strikes in such a massive manner in particular the Garment workers in Bangalore; the Government had to withdraw the amendment immediately and retain the earlier provision with certain favorable modification. Now, the present Government is having a mega plan of consolidation of all the labour laws into one enactment and in the process to ensure their own agenda is pushed while making comprehensive amendments and consolidation to the labour laws.

The practice of involving the trade unions while deciding the changes in the labour laws is given a

go by, by the Government and it is taking unilateral decisions on several occasions leading to unrest amongst the workers in the country. The Ministry of Labour is expected to call a tripartite meeting of the representatives of the Government, the industrialists and the unions whenever they want to bring any legislation affecting the working class in the country. Unfortunately, more than 93% of the workers are unorganized. They are not represented by any one and the Government takes unilateral decisions affecting the entire working class in the country. In the recent past, the Government lost a few cases in the Supreme Court in particular in regard to the fixation of Pension for those retired under Pension Scheme, and as well as the contribution towards the Provident Fund - where the industrialists were denying the workers the legitimate contribution in respect of some of the allowances thereby affecting the accruals in the Provident Fund. The Supreme Court has directed for correction of this position. Thus, there are a number of cases where the Government has lost the case when it comes to the question of the social security measure available to the working class.

The current session of the Parliament is considering bringing a comprehensive bill covering the consolidation of the labour laws much against the trade unions including the unions in the financial sector. We have already extended our support to the struggles launched by the Central Trade Unions opposing the changes proposed by the Government in the name of consolidation of the Labour Laws which are detrimental to the interest of the working class in the country.

We need to step up our campaign against the ill advised moves of the Government. We cannot be a silent spectators to the changes that are proposed by the Government which are against the interest of the working class as these labour laws are the achievement of the working class through sustained struggle and sacrifice over a long period of time. ■

TO SEEK A FAVOUR IS TO BARTER AWAY ONE'S FREEDOM

ON THE JOB LABOUR MIGRATES TO ITS LAST RESORT

Estimates from the January-April 2019 Consumer Pyramids Household Survey show that there were 404.25 million people employed in India. This was 1.5 million less compared to the 405.77 million estimated to be employed during January-April 2018 and 4.7 million lower than the 408.91 million employed during January-April 2017.

During January-April 2019, 36.6 percent of the total employed persons were engaged in agricultural activities. Ninety percent of these were into crop cultivation. The rest were engaged principally in horticulture, livestock, fishing, forestry or allied activities.

Over the past one year, while the total number of persons employed in some manner or the other declined by 1.5 million, the number of persons employed in agricultural activities increased by 5.1 million — from 142.8 million to 147.9 million. This implies a rather substantial 3.6 per cent increase in employment in agriculture in the comparable rabi months of 2019 and 2018.

Most of the increased employment in agriculture has come from crop cultivation. Of the aforementioned 5.1 million increase, 3 million have gone into crop cultivation. Crop cultivation has seen a 2.3 per cent increase in employment in the 2019 rabi season. Livestock saw an increase of 1.9 million in the number of persons employed or a hefty 87 per cent.

Given that fame prices have been depressed and the livestock business has not been particularly attractive because of restrictions on meat consumption and cattle trade, there is no good reason for people to throng to these sectors for employment.

There are two possible explanations to this odd migration to tend to farms and livestock.

First, it is likely that employment did not actually increase in agriculture, but the sector merely absorbed the excess labour as it had no other place to go to. Farmers did not actually call out for more labour. But, family labour landed up in farms when they had

no other place to go to. As we shall see further below, all non-agricultural sectors have seen a fall in employment.

A family farm always has scope to absorb some unpaid labour although such additions may not increase any production or profit. There is always an extra patch of the farms to tend to or the need to take the cattle to graze a little farther. Farm work can be spread thinly over available labour and keep everyone "employed" when there is no alternate work available to them.

Evidently, the extra hands on the farms did not serve much purpose. Rabi sowing in 2019 was four per cent lower than it was in 2018. Foodgrain sowing was down 4.5 per cent, pulses were down nearly six per cent and oilseeds were down marginally too.

The second reason could be that the PM -KISAN scheme that promises a unilateral payment of ₹ 6,000 per family per year could have drawn some people back to the farms. The scheme was announced on February 1, 2019 and was to be implemented immediately.

Mining and manufacturing together accounted for 10 per cent of the total employment. In both these sectors, employment declined, albeit by a whisker. So, there were no additional jobs in these sectors.

The real estate and Construction sector, which is usually a provider of employment to low-skilled farm labourers who try to move out of the labour surplus farmlands, shed 4.6 million jobs between January-April 2018 and January-April 2019.

This failure of the construction industry to absorb farm surplus labour is, possibly, the biggest reason why there is an increase in employment under agriculture. Even the orders of magnitude of the loss of employment in construction and the addition of employment in agriculture match at around 5 million.

Finally, the services sectors shed 1.7 million jobs. Here, three segments are responsible for the fall in

NEVER BEND BEFORE THE INSOLENT MIGHT

employment in services — retail trade, hotels and restaurants and the IT industry. Retail trade employs 56 million people and it has been a big absorber of labour in recent times. But, its rate of absorption of labour has been falling. In 2017, it absorbed an additional 10.4 million persons. In 2018, this fell to 3.7 million. And, in January-April 2019, this sector absorbed only 3 million additional persons over the employment a year ago.

The travel and tourism industry provided employment to an estimated 20 million persons during January-

April 2019. But, this was 2 million lower than the 22 million jobs it provided a year ago. The IT industry lost an estimated 1.4 million jobs in 2018. And in early 2019, it lost another 0.2 million jobs. The fall in employment in the services sector is new and worrisome. It strengthens the view that consumption expenditure growth is slowing. And, the broad sectoral fall in employment strengthens the view that the economy's growth has slowed down in 2019.■

*The author is the MD & CEO of EMIE
Source: Business Standard*

LOK SABHA PUSHES AHEAD WITH LABOUR REFORMS, PASSES WAGE CODE BILL

- * **Lok Sabha clears bill despite opposition concerns over gender disparities in pay, a single minimum wage**
- * **the bill seeks to merge four labour laws on wages, two of them dating back to 1936 and 1948**

Pushing ahead with labour reforms, the Lok Sabha on Tuesday passed the wage code bill in the face of concerns over a single minimum wage and gender disparities in pay.

The bill seeks to merge four labour laws related to wages, two of them dating back to 1936 and 1948. It aims to make provision for a national mandatory minimum wage but does not announce one. It makes provision for application of minimum wages for both informal and formal sector workers. It also aims to rationalize the number of wage types from around 2,000 categories to around 200 and reduce the influence of inspectors on companies, a constant demand from employers for years.

Opening the discussion in the Lok Sabha, labour and employment minister Santosh Gangwar called the bill historic, saying it aims to transform old and obsolete labour laws into more accountable and transparent ones.

Gangwar said the bill seeks to universalize the payment of minimum wage and timely payment of wages. "Those who were out of the ambit of minimum wages will get legislative protection of minimum wages after the bill becomes an Act," he said.

Suresh Kodikunnil, a Congress parliamentarian and former junior labour minister said there is no need to codify the labour laws and that the government is only doing it to benefit employers. He said the bill was brought in without enough deliberations and does not make provision for higher income for workers keeping in mind their need and consumption pattern. He said the bill stays away from prescribing a respectable national minimum wage in sync with 7th Pay Commission-fixed minimum wage of ₹18,000 for government employees.

An internal committee of the labour ministry had suggested a national minimum wage of ₹375 per day based on July 2018 price plus a housing allowance for city-based workers. It had also suggested an alternative region-wise minimum wage ranging from ₹342 to ₹447 per day.

However, Gangwar on Tuesday said a tripartite committee will decide on the minimum wage without explaining why the bill fails to prescribe a minimum wage.

DEFEND THE ECONOMIC SOVEREIGNTY OF THE COUNTRY

K.R. Shyam Sundar, a labour economist and professor at XLRI Jamshedpur said the bill has four key pain points. “The draft wage code of 2017 had talked about minimum wage but in 2019 it talks about a national floor level. The difference is: floor level means the lowest of the low wage without taking into account the requirement or consumption pattern. This floor level should go,” he said.

Sundar said the bill fails to put in place a model to fix minimum wages taking into account suggestions of the Indian Labour Conference of 1957, a court order in 1992 and committee recommendation in 2019.

The bill also does not make it explicit on how it aims to reduce gender discrimination in salary

payments and reduces the monitoring mechanism of those who violate the rules.

However, the provision for a minimum wage for all workers—formal and informal—itself is net positive. Besides, it removes the ₹24,000 threshold under the Payment of Wages Act thus making all employees part of the code. Also, the bill extends the time period for settlement of wage disputes to three years, up from six months to two years earlier.

The Economic Survey presented in Parliament on 4 July has said that a well-designed minimum wage system “can be a potent tool for protecting workers and alleviating poverty, if set at an appropriate level that ensures compliance”. ■

EMPLOYMENT CONDITIONS WORSEN

Labour market conditions deteriorated during June 2019. The unemployment rate rose to 7.9 percent in June 2019. It was lower at 7.2 per cent a month ago, in May. And it was much lower at 5.8 per cent a year ago in June 2018. The unemployment rate in June 2019 was, in fact, the highest in 33 months, that is, since September 2016. The June 2019 unemployment rate also confirms a steadily rising trend in the unemployment rate seen since July 2017.

The unemployment rate had risen sharply initially during the month of June 2019. During the week ended June 9, the unemployment rate was at its peak at 9 per cent. But it has climbed down steadily since then. It was 8.5 per cent in the second week and then it fell further down to 7.4 per cent and finally to 7 per cent in the last week.

The delayed monsoon could have played a role in the initial rise in the unemployment rate in June. The southwest monsoon finally hit the Kerala coast on June 8, seven days late compared to its usual expected date of onset. Total rainfall precipitation in June was 36.4 per cent below normal.

The delayed arrival of the monsoon and its poor precipitation seems to have impacted both, labour

participation and unemployment rate in rural India. Rural labour participation rate which had risen from 43.7 per cent in April to 43.8 per cent in May, fell marginally to 43.7 per cent in June 2019. And in spite of this fall in the labour participation rate in June, the unemployment rate in rural India rose to 7.7 per cent during the month.

Progress of the monsoon during the remaining months of the season will play an important role in determining condition of the labour markets in India till the kharif harvesting season is over, that is, till around October.

In June, however, the fall in labour force participation rate in rural India was offset by an increase in the ratio in urban India. Urban labour participation rate has risen steadily from 40.3 per cent in April to 40.6 per cent in May to 41 per cent in June.

As a result, the overall labour force participation rate inched up to 42.8 per cent in June from 42.7 per cent in May and 42.5 per cent in April.

The increase in the unemployment rate in June is partly the result of this increase in the labour participation rate. While labour did move into the labour markets, the markets could not absorb them

SUCCESS COMES TO THOSE WHO DARE AND ACT

entirely. This is evident in the employment rate (also called the worker participation rate). The employment rate was 39.4 per cent in June 2019.

This is the lowest employment rate we have recorded since we began measuring employment/unemployment statistics in January 2016. A similarly low employment rate was also recorded just two months ago in April 2019.

The employment rate is perhaps, the most important labour market statistic. It is the proportion of the working age population that is employed. In June 2019, only 39.4 per cent of these were employed. Another 7.9 per cent were looking for jobs but were unable to find any. The former is too low and the latter is too high. Both these numbers also show that the employment and unemployment situation in India continues to deteriorate.

As of the first quarter of 2019-20, the employment rate was 39.6 per cent. This is the lowest quarterly employment rate at least since 2016. This ratio had improved smartly during the March 2019 quarter to 39.9 per cent from 39.7 per cent in the previous quarter. But this increase could not be sustained and the ratio fell to its lowest level in the June 2019

quarter. The employment rate has been falling steadily since the June 2016 quarter when it was 43 per cent,. Over the past three years, the employment rate has declined by 3 percentage points. This also implies a fall in total employment.

The fall in employment has had an impact upon the labour force participation rate which has fallen even more sharply than the employment rate. The labour force participation rate was 47.3 per cent in June 2016. It was 42.8 per cent in June 2019.

This steady deterioration in the employment conditions in India can be stemmed or reversed only if the investment climate improves. India however, seems to show no signs of any improvement on this front. CMIE's CapEx database indicates that new investment proposals were 19 per cent lower in 2018-19 over a year ago. New investment proposals turned out to be much worse during the first quarter of 2019-20.

Given that the monsoon predictions this year are not great, the continuing fall in investment enthusiasm does not augur very well for employment prospects in the near future. ■

Source: Business Standard,Dt.2-7-2019

EMPLOYEES ARE PROUD, BUT FEEL BASIC ISSUES ARE YET TO BE ADDRESSED

As the country celebrates 50 years since bank nationalization, bank employees will be proud that they have contributed to nation-building. Still there are basic issues close to the bankman's heart that are yet to find redressal, observes Jyothi KP, Vice-President, All-India Bank Officers' Confederation, Kerala, and a National Executive Committee member.

Various committees: The Banking Companies (Acquisition and Transfer of Undertaking) Acts of 1970 and 1980 provide that the Central Government, in consultation with the Reserve Bank of India, may make a scheme, *inter alia*, for amalgamation of any nationalized bank with any other nationalized bank or any other banking institution. Various committee, including

Narasimhan Committee (1998) constituted by the RBI, Leeladhar Committee (2008) chaired by the RBI Deputy Governor, and the Nayak Committee (2014) constituted by the RBI, have recommended consolidation of public sector banks (PSBs) given underlying benefits/synergies.

Taking note of this and potential benefits of consolidation for banks as well as the public through enhanced access to banking services, the government, in order to facilitate consolidation among PSBs to create strong and competitive banks, serving as catalysts for growth, with improved risk profile, has approved a framework for proposals to amalgamate PSBs through an Alternative Mechanism.

The following amalgamation/mergers have already

WORK IS WORSHIP, DO YOUR DUTY

happened post-nationalisation and some more are reportedly in the pipeline. This creates stress for the employees since they are scared for their existence and job security, observes Jyothi.

Bankman's perspective: Giving a bank employee's perspective, Jyothi recalled the banking sector was in the red in Q4 of 2018-19 with a loss of ₹ 20,817 crore. In 2017-18, they had reported a massive loss of ₹ 85,000 crore forcing lenders to make provisions for bad loans and clean-up-of the books.

Till such time a project is commissioned in line with the approved schedule, banks should not be forced to categorise such projects as NPA, notes Jyothi.

In the event of classification of big-ticket advances as NPAs, the government should pro-actively help banks in realising the public money. It should initiate steps to declare suomoto 50 top NPAs of each banks as willful defaulters and to publish their names and photos. For implementing SARFAESI provisions, many bank officers are targeted, even personally. By merely targeting the bank officers responsible for executing the Act, the political fraternity is missing the point to bring amendments to the act itself.

The humongous challenge of realizing the NPAs is telling on PSB bottomlines. This is also subjecting the desk officers to unreasonable amount of work pressure and stress. Irregular working hours, stress on account of financial risk in routine work schedules, technical problems of software, and IT-related issues add to the worries of the already traumatized bank

employees. In many cases, their retirement benefits are withheld. Many are arrested and are not aware as to why the arrest is happening in the first place, evening leading to suicides. According to section 5 of the Banking Regulation Act, banking means' accepting, for the purpose of lending and investment of deposits of money from public, repayable on demand or otherwise and withdrawal by cheque, draft, order or otherwise.

Para-banking blues: However, sale of para-banking products and implementation of government schemes take away the lion's share of working hours of an average PSB employee.

As mentioned earlier, when the balance sheet turns red, all blame is shoved on the desk-level officers for non-profitability /non-performance. Yet, when it comes to wage revision, the question of profitability arises. The settlement takes place between Indian Bank's Association (IBA) AND United Forum of Bank Unions (UFBU).

The IBA represents bank managements and the UFBU, officers employees, and staff organizations. The Charter of demands had been submitted in a time bound manner and the IBA had agreed to complete the process of negotiations expeditiously within the time-frame so as to reach the settlement before October 2017. However, since five major bank managements have not given full mandate for negotiating wages up to scale VII, the AIBOC is not participating in the talks now.■

Business Line 19-07-2019

REBUILDING THE REFORM CONSENSUS

India is among the world's fastest growing economies. Yet, many economic challenges remain. Corporate investment and exports-twin engines that typically propel growth in most economies are sputtering. The labour market is tepid. Jobs are scarce. Tax buoyancy has failed to materialise. Banks are undercapitalised. Increasingly. Non Banking Finance Companies (NBFCs) have started showing signs of stress. And the debt-fuelled consumption binge has come to an

end. How did we reach this -growth without story? The question is both important and urgent. To paraphrase Nobel Laureate Paul Romer, once one starts thinking about these questions, it is difficult to think about anything else. Puja Mehra's The Lost Decade chronicles the policy choices that provide a coherent explanation of some of these puzzles.

The first interesting thing about the book is its periodisation. There is a strong temptation to see

FORTUNE FAVOURS THE BRAVE

economic outcomes solely through the lens of electoral politics. The author admits that she was asked initially to write a book on the economic performance of the National Democratic Alliance (NDA) government, starting from the swearing-in of Narendra Modi in 2014. This temptation should be resisted. Given the institutional continuity in key ministries, economic cycle rarely coincides so neatly with the electoral cycle.

By taking a longer horizon like a decade as the unit of study, and by subdividing this decade into four sub-periods –which roughly coincide with the change of guard at the finance ministry — this book has captured the policy regime switches more cogently.

The periodisation pays off not only in explaining the growth dynamics, but also in the discussion of the policy-making process. A discussion of nearly every major policy decision in the last decade follows. Without being exhaustive, the list of topics discussed includes management of the global financial crisis and the taper tantrum, fiscal stimulus, food inflation, policy paralysis during United Progressive Alliance(UPA) regime, Goods and Services Tax(GST) and the inflation targeting monetary homework, twin balance sheet crisis and last but not the least, demonetisation.

In each case, the discussion is at once panoramic and detailed. Complex issues are elucidated. For example, the way issues surrounding GST are summarized is a treat to read. In any case, the book is a ready reckoned of sorts for students of contemporary economic history.

Development economists have an idea called path dependence. It explains how minor chance events end up having a disproportionately large impact on macro outcomes. For want of a nail, the kingdom is lost. Ms Mehra argues, convincingly in my view, that similar chance events- such as the bypass surgery of the then Prime Minister Manmohan Singh—had a large impact on the policy choices during the second UPA government. It affected the ongoing V-

shaped economic recovery and ultimately proved to be the undoing of the UPA regime. This is a provocative and sharp hypothesis which future historians would like to revisit and debate.

Some observations go beyond the cut and dried world of economics textbooks. My favourite anecdote is about the erstwhile Planning Commission. When Prime Minister Narendra Modi decided to dismantle this relic of the planning era, he held a meeting with the chief ministers to discuss the role of the institution and the possible alternatives.

One would have assumed that much of the discussion would revolve around the relevance of planning in a liberalised economy Chief ministers would discuss pros and cons of the institutions such as the Planning Commission and finance Commission for distributing resources in a federal polity. No such luck. In reality, the most pressing complaint chief ministers made to the prime minister concerned the seating arrangement In Planning Commission meetings Apparently, the seating arrangement had placed non-elected officials centre stage, which chief ministers, being elected representatives, thoroughly resented.

Ms Mehra notes: "When a big institution cracks, it doesn't crack on its big failures. It cracks on bruised egos and status symbols.' An interesting, yet understudied insight Perhaps the time is ripe for some behavioural economist to write a treatise on the role of such ego management devices in institution-building.

The last Decade tells a story that is riveting and worrisome in equal measures. It is well documented, analytical and interspersed with delightful nuggets. At the same time, the thrust of the book is that the economic reforms that steered the Indian economy towards the growth turnpike have run their course. As the author notes, "We need to rebuild the consensus for a steady stream of reforms." Incrementalism is not sufficient and there is no time to lose. The reviewer is associate research fellow (economics) at Takshashila Institution. Views are personal.

STRONG REASONS MAKE STRONG ACTIONS

NUMBER OF EMPLOYEES UNDER DEFINED BENEFIT DROPS

Retirement costs for public sector banks is gradually dissipating as the ratio of employees who are in defined contribution is 60% today as compared to 10% in FY11

The year FY2019 saw the gap between retirement assets and liabilities remain at similar levels as in recent years. Retirement costs contribute to 17% of the overall staff costs. Present value of future liabilities have increased by the slowest pace at 5% year-on-year (y-o-y), employee payouts have increased 20% (y-o-y) and share of active employees who are part of defined benefits continues to decline suggesting that the issue of retirement costs for public banks is gradually dissipating.

Broad trends unchanged on retirement liabilities

FY2019 saw the gap between pension assets and liabilities remain similar to that of previous few years as the gap has been largely funded. There's likely to be some degree of mismatch as there is a timing difference between contribution and P&L charge. The contribution to the scheme was 70% of the P&L impact as compared to 150% in FY2017. Operating expenses remain at elevated levels with retirement costs 17% of the total staff costs for the bank. Gratuity is a lesser concern as its cost is only 2-5% of the reported staff cost.

Lower increase in actuarial losses

The overall actuarial losses were quite low in FY2018. On the liabilities side, banks have maintained their long term interest rate. However, the recent decline in interest rates implies a higher share of contribution from the employer. Banks have reported a net loss which could imply some revaluation of liabilities. However, once plans reach full maturity, this would start to reverse. The increase in liabilities could also be on account of long-term life expectancy. One key observation to note would be the comments made by BoB post acquisition of Dena and Vijaya Bank. It remains to be seen if the variables that are reported to us

and the actual costs are hugely different across banks.

Employee mix is changing

As we have been highlighting in the past few years, the employee mix is positive for public banks. Given the extent of disclosures and variability of changes to many variables on the defined benefit obligation, we think that it is very hard to get accurate data from the available data. However, we indirectly look at the various disclosures: (1) share of benefits paid in the overall fund (2) share of interest costs to current service costs and (3) move to switch to defined contribution from defined benefits for new employees. At this point, we are seeing strong signs of this showing a possible mature plan.

Employees in defined contribution may have crossed 60%

There is evidence that the ratio of employees who are in defined contribution to total employees is 60% today as compared to less than 10% in FY2011—a function of new hiring. On the other hand, we think the ratio of active employees to those who have retired is likely to reverse in the next few years. Our discussion with banks indicates that active employees in the defined benefit scheme have declined to less than 40% levels from 65-70% levels in FY2011. This will also result in keeping the average cost/employee at closer to current levels. We do expect quite a few public banks to report single digit growth in average staff costs in the short term.

Edited extracts from Kotak Institutional Equities Research.■

Source: Financial Express,Dt.26/7/2019

MAN IS THE ARCHITECT OF HIS OWN FUTURE

CSR AT GUNPOINT

The government's plan to appropriate unspent CSR amounts of companies is retrograde

In a clutch of new amendments to the Companies Act, the NDA government has sought to tighten the screws on the CSR obligations of India Inc. The amendments approved by the Cabinet seek to convert the soft provision under section 135, which requires companies to have a Corporate Social Responsibility (CSR) policy overseen by their boards, into a hard-line statutory requirement. Under current law, companies meeting certain financial thresholds are required to constitute an internal CSR committee which formulates policies to ensure that 2 per cent of average profits are spent on CSR. On failure to spend this amount, the board owes an explanation in the annual report.

The amended law, in contrast, requires companies to sequester 2 per cent of their profits towards CSR, with unspent balances appropriated to the Central coffers if unspent for three years. Companies will also be penalised for slip-ups in spending this quota and the Centre can 'direct' them to spend it.

The amendments are retrograde on several counts. A company's profits belong to its shareholders and there's no reason why a for-profit private enterprise should be expected to be good at executing social projects, which is the remit of the elected government.

This is indeed why CSR was brought in as a self-regulatory provision. Even if the government expects companies to chip in with its welfare efforts, subjecting their CSR obligations to a

yearly quota and a short three-year deadline is counter-productive. Companies taking up genuine projects deserve time to thrash out the most cost-efficient mode of delivering social impact. Those that have no genuine intent merely use the annual quota for tokenism and diversion. As to the large unspent amounts reported by companies, the Centre needs to introspect if it has imposed one too many arbitrary conditions. Apart from a restrictive list of items under Schedule VII which are considered as 'eligible' CSR, the rules cap CSR overheads at 5 per cent, discourage employee volunteering and disallow CSR spending as business expenses. Revisiting some of these unnecessary rules may help in better compliance. The government should also realise that, even as it seeks to hold companies accountable to a high bar on CSR, its own track record in utilising its myriad cesses is nothing to write home about.

While there's no disagreement with the belief that private enterprises ought to be more socially responsible, India Inc can render a far greater service to society by being compliant with tax laws, not cutting corners on labour or environmental laws, paying its MSME dues on time and treating its lenders and shareholders fairly.

The government already takes its pound of flesh from India Inc by way of the highest corporate tax rate in the world and there's no justification for more back-door levies. The global wave towards ESG investing is mounting pressure for companies to be more socially responsible; the government must do its best to encourage this trend in India. ■

Source: Business Line.Dt:26/7/2019

WORKERS OF INDIA, UNITE

**[2019 (161) FLR 586]
(MADRAS HIGH COURT)
ABDUL QUDDHOSE, J.**

W.P. (MD) No. 4032 of 2015 and M.P. (MD) No. I of 2015

March 4, 2019

Between

M/s. ADEMS (KTDC CONTRACT)

and

R.P.F. COMMISSIONER-II, NAGERCOIL

Employees' Provident Funds and Miscellaneous Provisions Act, 1952— Sections 14-B and 8(f)— Proceedings under section 14(B) of Act.—Initiated by respondent against petitioner for default committed by him-And the impugned proceedings is an ex parte order and said ex parte order passed on first hearing date itself-And the P.F. contribution together with interest have been paid by petitioner to respondent though belatedly—However as no opportunity was given by respondent to petitioner and principles of natural justice had been violated-Therefore, the impugned order and consequential order are hereby quashed—Matter is remanded back to respondent to decide afresh.
[Para7]

JUDGMENT

ABDUL QUDDHOSE, J.—This instant writ petition has been filed challenging the ex parte order dated 30.7.2014 in TN/NGL/ 79601/ 14-B/ 159/PDC(3)/2014 and the consequential order dated 14.1.2015 passed in TN/NGL/79601/ PDC/8-F/2015.

2. The respondent has initiated proceedings under section 14(B) of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (herein after called as Act, 1952) against the petitioner for default committed by him in the payment of Provident Fund Contributions. The respondent after issuance of the show-cause notice to the petitioner, which was duly acknowledged by him, initiated proceedings under section 14(B) of the Act, 1952 and fixed the date of hearing on 25-7-2014. Since the petitioner failed to appear before the respondent on 25.7.2014, by the impugned proceedings dated 30.7.2014, the respondent levied damages under section 14(B) of the Act, 1952 for the period from 02/2013 to 10/2013 against the petitioner. Aggrieved by the ex parte proceedings dated 30.7.2014 and the

consequential order dated 14.1.2015 under section 8(f) of the Act 1952, the instant writ petition has been filed.

3. Heard. Mr. Hema Kartldkeyan, learned Counsel appearing for the petitioner and Mr. K Gurunathan, learned Counsel appearing for the respondent.

4. It is the case of the petitioner that they have paid the provident fund contributions as well as interest to the respondent though belatedly. It is also their case that they are not liable to pay damages under section 14-B of the Act, 1952 as there is no mens rea and deliberate intention to pay the provident fund contribution belatedly.

5. The learned Counsel for the respondent would submit that the petitioner has deliberately avoided to appear before the respondent on the first hearing date on 25.7.2014. According to him the petitioner has acknowledged the receipt of summons dated 4.7.2014 sent by the respondent. According to him, the petitioner, despite having been given sufficient opportunity neither disputed the default nor sought time to file his reply nor sent any representative to appear before the respondent on the first hearing

A GOOD MAN DOES NOT ARGUE, HE WHO ARGUES IS NOT A GOOD MAN

date i.e., 25.7.2014. He would further contend that the Act 1952 is a beneficial legislation to protect the interest of employees, whose right will have to be protected. It is also his submission that even though the impugned order was Passed on 30.7.2014, till date they are unable to recover the damages awarded under section 14-B of the Act, 1952.

6. Admittedly the impugned proceedings is an ex parte order and he said exparte order was passed on the first hearing date itself. It is also not in dispute that the provident fund contributions together with interest have been paid by the petitioner to the respondent, though belatedly. Section 14-B of the Act, 1952 gives power to the respondent to recover damages from the petitioner establishment for delayed payment of contributions. It is also the case of the petitioner that there is no mens-reas or deliberate intention on their part to pay the provident fund contributions within the stipulated time prescribed under Act 1952. That being the case, the petitioner should certainly be given an opportunity to place all his objections before the respondent for the effective adjudication of the claim made by the respondent for recovery of damages under section 14-B of Act.

7. In the instant case, no such opportunity was given by the respondent, since the petitioner was

set ex parte on the first hearing date itself. The respondent has violated the principles of natural justice. Therefore this Court is of the considered view that the impugned order dated 30.07.2014 and the consequential order dated 14.1.2015 of the respondent are hereby quashed and the matter is remanded back to the respondent for fresh consideration and after giving sufficient opportunity to the petitioner to place all objections available to him under law and the respondent shall pass final orders within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that the petitioner shall co-operate with the respondent in all respects for the effective adjudication of the dispute.

8. In view of the order passed in this writ petition the petitioner is directed to withdraw the statutory appeal filed against the impugned order dated 30.7.2014 as well as the consequential order dated 14.1.2015.

9. With the aforesaid direction, the writ petition is disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous

Petition is closed. ■

Petition Disposed Of.

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