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ENFORCEMENT OF THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946 IN IRON FOUNDRIES AND ENGINEERING INDUSTRIES OF AGRA DIVISION

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Abstract:

The Industrial Employment (Standing Orders) Act, 1946 is an important piece of legislation in the field of Industrial Relations in India which was enacted by the Parliament of India to require the management to clearly and precisely define the conditions of employment of workmen discharging similar functions in the same industrial establishment under the same management on the matters like working hours, pay days, holidays, leave, stoppage of work, disciplinary proceedings etc.. This survey study empirically investigates the level of enforcement of provisions of the Industrial Employment (Standing Orders) Act, 1946 at the plant level in 100 factories (57 iron foundries and 43 engineering establishments) of Agra, Mathura, Firozabad and Mainpuri districts of Agra Division of Uttar Pradesh state of India. 500 workers-05 workers from each factory were also interviewed. Observation Schedule, Interview Schedule and Interviewed Guide were used to collect data. This study makes conclusions regarding provisions relating to subsistence allowance, application of model standing orders, scheduled matters and penalty.

KEY WORDS: *Standing Orders; Labour Legislation; Subsistence Allowance; Model Standing Orders; Industrial Relations; Penalty.*

INTRODUCTION

Prior to the enactment of labour laws, the situation, as it prevailed in many industrial establishments was that even terms and conditions of service were not reduced to writing, nor were they uniform in nature, though applicable to a set of similar employees. This position was wholly incompatible to the notions of social justice, in as much as there being statutory protection available to the workmen, the contract of service was often so unilateral in character that it could be described as mere manifestation of subdued will of the workmen to sustain their living at any cost. An agreement of this nature was an agreement between two unequals, namely, those who invested their labour and toil, flesh and blood, as against those who brought in capital. The necessary corollary of such an agreement was the generation of conflicts at various levels disturbing industrial peace and resulting necessarily in loss of production and sometimes

even closure or lockout of the industrial establishment.

In order to overcome this difficulty and achieve industrial harmony and peace, the Industrial Employment (Standing Orders) Act, 1946 was enacted requiring the management to define, with sufficient precision and clarity, the conditions of employment of workmen discharging similar functions in the same industrial establishment under the same management and to make those terms and conditions widely known to all the workmen before they could be asked to express their willingness to accept the employment.

This survey study investigates the enforcement of certain provisions of the Industrial Employment (Standing Orders) Act, 1946 at the ground level in iron foundries and engineering industries of Agra Division of U.P. State of India.

The Supreme Court of India (1969) very nicely explained the concept of employment in Industrial Law, clarified pointedly the applicability of general principles of law of contract and indicated as to how the process of transformation from contract to status has been functioning through various labours law enactments.

Monga (1978) stated that it is only through such studies at the micro level that fruitful assessment of the efficiency of labour laws and their implementation at the plant level and impediments in the course of their enforcement, if any, could be identified.

Saxena (1982) found that labour laws are not implemented properly in the industries. He made a plea for adoption of labour legislations and to maintain harmonious human relations.

Kennedy (1966) stated that in view of the vastness of labour legislation in India and the absence of proper emphasis on its enforcement, it can be said that many of the actual practices are in conflict with avowed goals and labour relations.

Basu (1974) mentioned about certain provisions of labour laws in manufacturing industries in India being flouted and not implemented.

Kerk (1981) observed that labour legislations, government control or regulations had hardly any impact on the working conditions of the workers in the industrial units regardless of the fact that they are in the factory sector or the

non-factory sector.

Jugale (1992) found that workers are being exploited mainly because legislative provisions and court awards are not being implemented by the sugar industry.

Ishwaran (1964) stated that the fast deteriorating industrial relations in the country and penetration of militancy in them candidly conveys the limitations of legislation in achieving the objectives envisaged by its framers.

METHODOLOGY

This survey study was conducted in 100 factories (57 iron foundries and 43 engineering industries) of Agra, Mainpuri, Mathura, and Firozabad districts of Agra Division of U.P., India. These Factories were selected through convenience sampling and 500 workers-05 workers from each factory, were also chosen through random sampling technique. Interview Schedule, Interview Guide and Observation Schedule were used to collect information and data from workers, occupiers, lawyers, trade union officials, premises of factories and labour officers.

ANALYSIS AND INTERPRETATION

Table 1: The Rate At which Subsistence Allowance Is Paid To The Workers

S. No.	Period	<50%	%	50%	%	75	%
1.	First ninety days	02	25.0	06	75.0	-	-
2	Period exceeding Ninety days	02	25.0	05	62.5	01	12.5

Section 10 A of the Industrial Employment (Standing Orders) Act. 1946 lays down that where any workman is suspended by the employer pending investigation or inquiry into complaints or charges of misconduct against him, the employer shall pay to such workman subsistence allowance-

- a) at the rate of fifty percent of the wages which the workman was entitled to immediately preceding the date of such suspension, for the first ninety days of suspension; and
- b) at the rate of seventy five percent of such wages for the remaining period of suspension if the delay in the completion of disciplinary proceedings against such workman is not directly attributable to the conduct of such workman.

Table 1 shows the rate at which subsistence allowance was paid to the workers in the factories surveyed in this study. Subsistence allowance was paid to a suspended worker at the rate below 50% of the ordinary wages of the workers in 4% of the factories for the first ninety days of suspension. And for the period exceeding ninety days of suspension, 11% of the factories paid subsistence allowance at the rate of 50% of the ordinary wages for the first ninety days and even for the period exceeding ninety days of suspension. The table categorically points out that in one factory only, subsistence allowance was paid at the rate of 75% of the ordinary wages for the period beyond ninety days of suspension.

Table 2: Showing Whether Model standing Orders Ever Made Applicable

S.No.	Response	Foundries	%	Engg. Ind.	%	Total
1.	Yes	02	66.7	01	33.3	03
2	No.	12	60.0	08	40.0	20
	Total	14		09		23

Section 12 A of the Industrial Employment (Standing Orders) Act, 1946 provides that for the period

commencing on the date on which this Act becomes applicable to an industrial establishment and ending with the date on which the Standing Orders as finally certified under this Act come into operation under Section 7 in that establishment, the prescribed model standing orders shall be deemed to be adopted in that establishment. Table 2 shows that Model Standing Orders had been made applicable in only 3 out of 23 factories wherein the Industrial Employment (Standing Orders) Act, 1946 was applicable. Model Standing Orders were never made applicable in 20% of the factories, of which 60% were iron foundries and 40% were engineering industries.

Table 3: Reasons for Application of Model Standing Orders

S.No.	Reasons	Foundries	%	Engg. Ind.	%	Total
1.	Before certification of standing Orders when the Act became applicable for the first time	01	50.0	01	50.0	02
2.	Failure to submit draft Standing Orders in time	01	100.0	00	100.0	01
	Total	02		01		03

Table 3 depicts that 2 out of 3 respondents said that Model Standing Orders were made applicable in their industrial establishments because Standing Orders could not be certified for a few months just after application of the Industrial Employment (Standing Orders) Act, 1946. One respondent told that he was unable to submit the draft Standing Orders in time, therefore, the Model Standing Orders were made applicable to his factory.

Table 4: Penalty Ever Imposed For Violation

S. No.	Reasons for penalty	Foundries	%	Engg. Ind	%	Total
1.	Failing to submit the draft standing orders in time	08	80.0	02	20.0	10
2.	Modifying Standing Orders otherwise than in accordance with the Act.	02	66.7	01	33.3	03
3.	Contravention of the Standing Orders	02	50.0	02	50.0	04

Section 13 of the Industrial Employment (Standing Orders) Act, 1946 lays down penalties and procedure. Section 13(1) provides that an employer who fails to submit draft standing orders as required by Section 3, or who modifies his standing orders otherwise than in accordance with Section 10, shall be punishable with fine which may extend to five thousand rupees, and in the case of a continuing offence with a further fine which may extend to two hundred rupees, for every day after the first during which the offence continues.

Section 13(2) provides that an employer who does any act in contravention of the Standing Orders finally certified under this Act, his industrial establishment shall be punishable with fine which may extend to one hundred rupees, and in the case of the continuing offence with a further fine which may extend to twenty-five rupees for every day after the first during which the offence continues.

Table 4 contains data regarding penalty ever imposed against the factory for violation or non-compliance of the provisions of the Industrial Employment (Standing Orders) Act, 1946. Penalty was imposed for failing to submit the draft standing orders in 10% of the total industrial establishments, of which 80% were iron foundries and the remaining 20% were engineering industries. 4% of the factories- 50% foundries and 50% engineering industries were penalised for contravention of the Standing Orders,

whereas 3% of the factories were penalised for modifying Standing Orders otherwise than in accordance with the provisions of the Industrial Employment (Standing Orders) Act, 1946.

Data contained in table 5 shows the matters incorporated and followed as certified in the Standing Orders. In all the 19% of the factories wherein the certified Standing Orders were available, the matters incorporated and followed as certified in the standing orders included classification of workers; period and hours of work, holidays, pay days and wage rules, attendance and late-coming; entry from certain gates and liability to search; closing and re-opening of different sections of the factories; termination of employment of workmen; suspension and dismissal for misconduct and certain other rules. Matters relating to shift working were incorporated and followed in 04% of the total factories, of which 75% were foundries and 25% were engineering industries. Matters relating to conditions and rules for leaves and holidays were included in the Standing Orders in 15% of the factories, of which 60% were foundries and 40% were engineering units. Matters connected with temporary stoppage of work and rights and liabilities of the employer and workmen were incorporated in only 04% of the factories consisting of 50% foundries and 50% engineering units.

Table 5: Matters Incorporated and Followed As Certified In the Standing Orders

S. No.	Matters	Foundries	%	Engg. Ind.	%	Total
1.	Classification of workmen	11	57.9	08	42.1	19
2.	Period and hours of work, holidays, paydays and wage rules	11	57.9	08	42.1	19
3.	Shift working	03	75.0	01	25.0	04
4.	Attendance and late coming	11	57.9	08	42.1	19
5.	Conditions and rules for leaves and holidays	09	60.0	06	40.0	15
6.	Entry from certain gates and liability to search	11	57.9	08	42.1	19
7.	Closing and reopening of sections of factories	11	57.9	08	42.1	19
8.	Temporary stoppage of work and rights and liabilities of the employer and workmen	02	50.0	02	50.0	04
9.	Termination of employment employer and workmen.	11	57.9	08	42.1	19
10.	Suspension or dismissal for misconduct	11	57.9	08	42.1	19
11.	Means for redressal of workers grievances	07	63.6	04	36.4	11
12.	Other additional rules, if any	11	57.9	08	42.1	19

Means for redressal of workers grievances were provided for in 11% of the factories, of which 57.9% were foundries and 42.1% were engineering industries.

Table 6: Reasons for Not Incorporating and Following Any of the Matters in Standing Orders

S.No.	Reasons	Foundries	%	Engg. Ind.	%	Total
1.	Absence of working conditions/ requirements	09	60.0	06	40.0	15
2.	Trade Union or workers did not want	02	28.6	05	71.4	07
3.	Protection of interests of the factory	03	50.0	03	50.0	06

Above table 6 describes the reasons for not incorporating and following certain matters in Standing Orders. 15% of the respondents- 60% foundries and 40% engineering industries told that they did not incorporate and follow certain matters because there was 'absence' of such working conditions and/or requirements. 7% of the total respondents said that they could not incorporate and follow certain matters because trade union(s) and workers did not want these matters to be incorporated and followed. Protection of interests of the factories was the prime reason for not incorporating and following certain matters in 6% of

the total industries, which included 50% foundries and 50% engineering industries.

CONCLUSIONS

1. Subsistence allowance was paid to the suspended workers in 08% of the factories. The rate at which subsistence allowance was paid to the workers was below the prescribed limit.
2. Model Standing Orders were never made applicable to 20% of the factories. However, they were made applicable to 3% industries only.
3. Various reasons for application of Model Standing Orders were: (i) before certification of the Standing Orders when the Act became applicable for the first time, and (ii) failure to submit draft Standing Orders in time.
4. Penalty was imposed against 10% factories for failing to submit the draft standing orders; and 4% factories were penalised for contravention of the Standing Orders. Penalty was imposed against 3% factories for modifying the Standing Orders otherwise than in accordance with the Act.
5. Except a few matters, all matters included in the Schedule appended to the Industrial Employment (Standing Orders) Act, 1946 were incorporated and followed as certified in the Standing Orders. The reasons for not incorporating and following matters as certified in Standing Orders were (i) absence of such working conditions and requirements (15%); (ii) trade union or workers did not want them to be incorporated (07%); and (iii) protection of interests of the factory (06%).

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