

Problems of Migrant Workers: A Study of Kurukshetra District of Haryana

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Publishing Date: October 13, 2016

Abstract

There are many problems faced by labour migration. The protection available to migrant workers is very scarce. This paper after analysis and evaluating the statutory provisions in addition to the Rules made there under relating to Inter State migrant workers and judicial approach from time to time gives some suggestions/recommendations for their protection.

Keywords: *Migration of Workers, Problems, Socio- Economic Issues, Kurukshetra.*

Introduction

A worker is a person who puts his physical labour to gain some money or thing in return. The world migrant workers came into picture in the 19th century. The main driving force behind migration is a better standard of living away from home. In the recent decades migration has been taking place amidst increasing global economic, political and social integration which has been accompanied by greater speed and ease of transportation. As the country enters early transitional stage of development, the movement of people is directed from rural to urban areas. This urbanward migration is in response to the creation of new employment opportunities in secondary and service sectors which tend to be spatially located in cities and towns and it is also fueled by improvements in agriculture. In

the later transitional stage of development, the rapid growth of industrialization, transport and communication and other economic and social overheads in urban areas encourage people to migrate in large number from smaller towns to big and specialised metropolitan cities in search of better employment opportunities. The motives of migration are sometimes classified as push factors (which emphasize on the situation at the origin, that is, place from which migration started) and pull factors (which emphasize on the situation at the destination), unemployment, flood, earthquake, draught (i.e. natural calamities) etc. are the push factors. Pull factors that determine migration such as attraction of city life, for education, health, development of backward community, job opportunities and training facilities and so on¹. There are many problems faced by labour migrants. The protection available to migrant workers is very scarce. Responses on certain aspects relating to the welfare schemes provided to the migrant workers through certain legislation by the legislature were sought from the migrant workers through questioners of Kurukshetra district of Haryana for the purpose of the present study. This paper after analysis and evaluating the statutory provisions in addition to the Rules made there under relating to inter-State migrant workers, judicial approach from time to time and the responses sought from the migrant workers gives some

suggestions/recommendations for their protection.

In view of International labour standards framed by International Labour Organization and in the true spirit of constitutional law of India, the Government of India has enacted various labour laws for providing protection to migrant workers. These laws are : Minimum Wages Act, 1948; Contract Labour (Regulation and Abolition) Act, 1970; Bonded Labour System (Abolition) Act, 1976; Employees' Compensation Act, 1923; Maternity Benefit Act, 1960; Building and other Construction Workers (Regulation of Employment and Conditions of Service) Act; Payment of Wages Act, 1936; Equal Remuneration Act, 1976; Factories Act, 1948; The Child Labour (Prohibition and Regulation) Act, 1986 and Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.

Important Problems of Migrant Workers

The study has brought to surface that the migrant workers working in Kurukshetra district are facing many problems. A brief account of such problems is as under:

(1) Lesser Wages: The study has revealed that the migrant workers are getting less wages than the wages prescribed under Minimum Wages Act. Eighty percent of the migrant workers accepted the fact that they are not getting minimum wages fixed by the Government of Haryana. It has also been found during the study that the proper records etc. of the migrant workers and their wages is not maintained by the employer. It has also been found that in no case the migrant workers get more wages than their brothers. Therefore it is evidently clear by the study that the provisions of Minimum Wages Act are not being followed by the principal employer.

(2) Non Regular Payment of Wages: The study has revealed that fifty nine percent of the migrant workmen are not getting regular payment of the wages and other dues at the time they have to leave for their homes. The workers alleged that their employers went on delaying the payments and ultimately they had to go without receiving payments. It is also highlighted by the migrant workmen that no date has been fixed for the payment of dues. Therefore, a sense of uncertainty prevails regarding the payment of wages to them. It clearly implies that the provisions contained in Payment of Wages Act have no meaning for them. It is pertinent to highlight here that the trade unions, their representatives do not come to the rescue of such helpless workers for the simple reason that such workers are not members of trade union.

(3) Denial of Social Security Benefits : The social security benefits provided under ESI Act, the Employees' Provident Fund Act and the Unorganized Workers Social Security Act are denied to migrant workers for the reason that such workers are not regularised and are therefore, not shown on the muster rolls of the industrial units.

(4) Problem of Housing: Housing is perhaps the biggest problem that the migrant workers. It has been revealed by the migrant workers that they prefer to work with an employer who offers free residence with adequate supply of water even if they are paid a little less. In the agricultural employment the facilities offered by the farmers on the tubewells and in the busy seasons when the number of such workers happens to be quite large, the common place in village like panchayat ghar etc. are also used for accommodating the migrant workers in the village. Sometimes a very poor accommodation in the name of residence is provided by the rice shellers and the brick kilns as well. But the migrant workers have to face the problem of housing in industrial units. There has been practically no efforts by the

employers and the Government in this direction.

(5) Long Hours of Work: The migrant workers are subject to work for long hours of work. The small scale units where this category of labour is more engaged are not subscribing to forty eight hours a week work. In such establishments the normal work day for a workman remains to be twelve hours and the same operates for the local workers as well. In the agricultural sector and in brick kilns the hours of work are definitely more and there is no concept of a weekly rest. Therefore, the statutory provisions laid down in this regard are not followed by the employers.

(6) No Equal Wages for Women: The study has revealed that the women migrant workers are not getting equal pay for equal work which is a necessary obligation imposed upon the employer by Equal Remuneration Act. Although male and female migrant workmen are engaged in the work of similar or same nature yet the woman migrant workmen are getting less wages than their male counterparts. Almost all the female migrant workmen have admitted the fact that they are not getting equal pay for equal work.

(7) No Back Journey Allowance: It is a fact that migrant workers have a strong sense of attachment with their home places and for this reason they have to go back at periodic intervals. This taxes them a lot in the name of to and fro, train fares, unpaid holidays and also many times the loss of a job causing thereby some days of forced unemployment after their return at their workplace. The employers never pay the fares for such visits.

(8) Trade Union Apathy: Migrant workers have noticed that the trade unions show a sense of relectancy in taking up the issue relating to migrant workmen. When they need any help they allege that the leadership

favours the local people and their interests are sacrificed.

(9) No Journey Allowance: The study has revealed that a majority of the migrant workmen does not receive journey allowance from the contractors. Therefore, they have to travel from their native place to the place of employment at their own expenses. However, the ISMW Act, 1979 makes it mandatory for the contractor to give them journey allowance.

(10) No Medical Facilities: It is evidently clear from the study that none of migrant workmen had received free of cost medical facilities from their contractor or principal employer. In case they suffer some injuries during the course of work a minimum level of medical facilities are provided to them. In case they raise voice for getting permanent treatment then they have the fear of losing their job. Therefore, they prefer to remain silent than to raise their demand.

(11) No Safe clothing: During the course of study the researcher has found that the contractors do not provide the migrant workers safe clothing as per the nature of work. It implies that the contractors are violating the provisions of ISMW Act, 1979.

Suggestions and Recommendations

In view of the above discussion and after analysing and evaluating the statutory provisions in addition to the Rules made there under relating to inter-State migrant workers and judicial approach from time to time and the responses sought from the migrant workers, the following suggestions/recommendations have been made in this study.

- (1) It must be ensured by the concerned authorities that the provisions of Minimum Wages Act

- are enforced and in no situation migrant workmen should get less wages than the wages laid down under Minimum Wages Act.
- (2) There must be a regular payment of wages to the migrant workmen in all the establishments where they are working. Consequently the provisions of Payment of Wages Act should be followed in their true letter and spirit.
- (3) Being welfare State it is the duty of the State to ensure that social security benefits are not denied to the migrant workmen.
- (4) The problem of housing of the migrant workmen should be taken up on top priority by the concerned authorities. Consequently they must be provided with adequate supply of water and hygienic conditions to live in.
- (5) The concerned authorities must ensure that the migrant workmen are not compelled to do work in excess of the working hours prescribed by the law. In addition to it a weekly rest must also be provided to the migrant workmen. By doing so their health can be protected which will ultimately lead to the enhancement of their working capacity.
- (6) Equal pay for equal work is a Constitutional and statutory requirement. In no case the women migrant workmen should be given less wages than their male counterparts for doing the same or similar nature of work. The concerned authorities must ensure that the principle of equal pay for equal work is followed by those engaging migrant workers.
- (7) The concerned authorities must ensure that the migrant workmen are given the back journey allowance for visiting their native place.
- (8) Although, the migrant workers are not united by way of their union yet the trade unions should show a sense of responsibility by way of taking up the issues relating to migrant workmen.
- (9) It must be ensured by the concerned authorities that journey allowance is given to the migrant workmen for moving from one place to another place.
- (10) The migrant workmen must also get medical facilities, pure drinking water and hygienic conditions to live in. It must also be ensured by the authorities that safe clothing is also provided to migrant workmen.
- (11) The amount collected in the form of provident fund contribution must be delivered to the migrant workmen at the time of leaving their job. He must also be informed regarding the quantum of the provident fund so collected periodically.
- (12) It is the duty of a welfare State to provide social security to the workers. The present laws providing social security to migrant workers are inadequate and merely an eye wash. Therefore, keeping in view the huge size of migrant workmen it is the need of the hour to enact certain laws providing social security to them.
- (13) Section 11 of Inter State Migrant Workmen Act 1979 (Hereinafter ISMW Act) deals with the procedure for making an appeal to an appellate officer. But an analysis of this section reveals that no time limit for the disposal of appeal has been laid down by this section. Therefore, it is suggested

- that the provision should be amended accordingly.
- (14) The power to decide the dispute or disagreement regarding the suitability or adequacy of accommodation referred in Rule 45 should also be conferred upon the officials of the labour department of the State Government because, the State officials can be easily approached by the migrant workmen than the Central Government Officials.
- (15) The appropriate Government should impose heavy fine upon the contractor in case he fails to perform the obligations imposed upon him by the ISMW Act.
- (16) Under section 24 of ISMW Act the imprisonment of two years should be increased upto three years and the fine may be increased from two thousand rupees to five thousand rupees. Such enhancement is justified because of the fact that principal employers and the contractors are frequently violating the provisions of the Act. Therefore, the imprisonment and the fine should be a deterrent factor for them.
- (17) It must be ensured by the concerned authorities that the provisions of Minimum Wages Act are enforced and in no situation migrant workmen should get less wages than the wages laid down under Minimum Wages Act.
- (18) Section 29 of ISMW Act lays down the limitation period for making a complaint under the Act. However, prior sanction of the Inspector is a must for instituting the suit under the Act. It is equally true that seeking prior sanction of the Inspector is a long process, which generally takes a long time. Therefore, keeping in view the interest of migrant workmen it is suggested that the time taken by the Inspector for granting sanction to institute the suit should be excluded from the limitation period of three months provided under the Act. Hence, the Act should be amended to this effect.
- (19) The concerned authorities should leave no stone unturned for the purpose of implementing all the laws enacted for migrant workmen according to their true letter and spirit.
- (20) The National and State Social Security Boards Constituted under Unorganized Workers' Social Security Act, 2008 should be made more effective by way of giving more powers to them.
- (21) The Unorganized Workers' Social Security Act, 2008 must contain a provision for the creation of a Social Security fund for unorganised workers.
- (22) The Unorganized Workers' Social Security Act, 2008 should be amended so as to provide a strong grievance redressal mechanism.

Conclusions

In view of the above discussion it can be concluded that it must be ensured by the concerned authorities that the provisions of Minimum Wages Act are enforced and in no situation migrant workmen should get less wages than the wages laid down under minimum wages act. The concerned authorities should ensure to implementing all the laws enacted for migrant workmen according to their true letter and spiri. It is the duty of a welfare State to provide social security to the workers. The present laws providing social security to migrant workers are inadequate and merely an eye wash. Therefore, keeping in view the huge size of migrant workmen it is the need of the hour to enact certain laws

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