Chapter- 8

Views of Trade Unions, Employers and Labour Inspectors

8.1: Introduction:

In the present study efforts were made to look at the implementation of labour legislation from an overall point of view. Other than enforcement authority the other important aspects are the role of trade unions, employers and labour inspectors. Views of all these are put together in this chapter to understand the implementation of labour laws.

8.2: Trade Unions:

Efforts were made to bring women workers in the fold of trade union movement in India from the very beginning. But women either look upon work as a temporary expedient or, since they already bear double burden had no time to take active interest in the activities of the unions. In addition to these factors low educational levels, social status, traditions, inhibitions and attitudes of the employers also play an important role in women’s active participation in the activities of trade unions.
8.2.1: Union at Work-Place:

Table 8.1 gives information about existence of workers union at the work place of women of different industrial groups.

Table 8.1

Industry Wise Distribution of Women on the Basis of Existence of Union at Workplace (%)

<table>
<thead>
<tr>
<th>Industrial Classification</th>
<th>Union Existence</th>
<th>Yes</th>
<th>No</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>(1)</td>
<td>(2)</td>
<td></td>
</tr>
<tr>
<td>Machinery</td>
<td></td>
<td>14</td>
<td>36</td>
<td>50</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(28.0)</td>
<td>(72.0)</td>
<td>(100.0)</td>
</tr>
<tr>
<td>Chemical</td>
<td></td>
<td>9</td>
<td>41</td>
<td>50</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(18.0)</td>
<td>(82.0)</td>
<td>(100.0)</td>
</tr>
<tr>
<td>Hotels</td>
<td></td>
<td>23</td>
<td>2</td>
<td>25</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(92.0)</td>
<td>(8.0)</td>
<td>(100.0)</td>
</tr>
<tr>
<td>Transport and Communication</td>
<td></td>
<td>34</td>
<td>16</td>
<td>50</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(68.0)</td>
<td>(32.0)</td>
<td>(100.0)</td>
</tr>
<tr>
<td>Call Centres</td>
<td></td>
<td>0</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(0.0)</td>
<td>(100.0)</td>
<td>(100.0)</td>
</tr>
<tr>
<td>Community, Social and Personal Services</td>
<td></td>
<td>56</td>
<td>19</td>
<td>75</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(74.7)</td>
<td>(25.3)</td>
<td>(100.0)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td>136</td>
<td>164</td>
<td>300</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(45.3)</td>
<td>(54.7)</td>
<td>(100.0)</td>
</tr>
</tbody>
</table>

Out of total 300 respondents, 136 (45.3%) women had workers' union at their workplace and the remaining 164 (54.7%) women did not have workers union at all. Industry wise condition shows that in three industries more than 68% of women have workers' union at their workplace. These industries were hotels, transport and communication and community, social and personal services. Trade union has not made
much dent in case of machinery and chemical industries where less than 28% of women reported the existence of union. The condition in case of call centres is much worse than others as they do not have the union at all.

8.2.2: Union Membership:

Table 8.2 gives information about membership to union among women of different industrial groups.

Table 8.2

Industry Wise Distribution of Women on the Basis of Membership to Union at Workplace (%)

<table>
<thead>
<tr>
<th>Industrial Classification</th>
<th>Yes</th>
<th>No</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(1)</td>
<td>(2)</td>
<td></td>
</tr>
<tr>
<td>Machinery</td>
<td>12</td>
<td>2</td>
<td>14</td>
</tr>
<tr>
<td></td>
<td>(85.7)</td>
<td>(14.3)</td>
<td>(100.0)</td>
</tr>
<tr>
<td>Chemical</td>
<td>7</td>
<td>2</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td>(77.7)</td>
<td>(22.3)</td>
<td>(100.0)</td>
</tr>
<tr>
<td>Hotels</td>
<td>16</td>
<td>7</td>
<td>23</td>
</tr>
<tr>
<td></td>
<td>(69.5)</td>
<td>(30.5)</td>
<td>(100.0)</td>
</tr>
<tr>
<td>Transport and Communication</td>
<td>25</td>
<td>9</td>
<td>34</td>
</tr>
<tr>
<td></td>
<td>(73.5)</td>
<td>(26.5)</td>
<td>(100.0)</td>
</tr>
<tr>
<td>Call Centres</td>
<td>0</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td></td>
<td>(0.0)</td>
<td>(0.0)</td>
<td>(100.0)</td>
</tr>
<tr>
<td>Community, Social and Personal Services</td>
<td>49</td>
<td>7</td>
<td>56</td>
</tr>
<tr>
<td></td>
<td>(87.5)</td>
<td>(12.5)</td>
<td>(100.0)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>109</strong></td>
<td><strong>27</strong></td>
<td><strong>136</strong></td>
</tr>
<tr>
<td></td>
<td><strong>(80.1)</strong></td>
<td><strong>(19.9)</strong></td>
<td><strong>(100.0)</strong></td>
</tr>
</tbody>
</table>

Out of 136 respondents who have union at their workplace, 109 (80%) women have membership to union. The remaining 27 (19.9%)
women did not take the membership in spite of having union at their workplace. Out of six industries in case of machinery, chemical, transport and communication and community, social and personal services 73-87% women were members of trade union. It is closely followed by women from hotels where 69.5% women have taken membership to union. It reveals that in spite of having union at their place all the women have not opted for its membership. As women from call centres did not have union, the question of membership doesn’t arise in their case. It is an ironic reality that involvement of women in trade union is negligible even in industries where employment is in large numbers.

8.3: Views of Trade Unions:

In order to understand the views of the trade unions regarding implementation of laws like Maternity Benefits Act, Equal Remuneration Act and others, interviews of officials of the unions were taken. These officials were working for the union in various capacities like president, secretary and treasurer. The interview of union officials from industries like hotel, educational institution, and manufacturing industries was taken. Except one union the remaining unions claimed that they belong to particular political parties. They were met either at union office or at working place. The membership to these unions at plant level ranged between 60 workers to 2000 workers. Two of the officials informed that
in their units other unions are also working who belong to other political parties.

1. Equal Remuneration:

All the union officials agreed that they receive complaints from women employees regarding the secondary treatment by the employers towards women in case of salary hike, i.e., yearly increment, promotion, training and transfer. According to them knowledge of rules about increments, promotion, training and transfer is very poor especially among women workers. Officials reported that whenever they receive such cases of discrimination, first of all the matter is discussed with the concerned women worker. Her eligibility conditions and service conditions of the company are checked. After the discussion, union's officials approach the employers with detailed information and necessary records. According to them the unions have succeeded in large number of cases in ensuring what is due to women workers. Unions claimed that they too have observed that either woman does not get the benefits, or there is delay in getting benefits. Whenever there is delay they do not get the benefits with back dated effect. If employers continue to deny these benefits to women workers unions help them to take the matter to the court. Unions reported that this practice of delaying the benefits is found fairly common among employers.
2. Maternity Benefits and Related Aspects:

In case of denial of maternity benefits as well as denial of leave and wages in case of abortion and miscarriage unions follow the above given procedure of approaching and trying to settle the matter peacefully. The last option is to approach the court. According to one union even if employers provide crèche at work place it is practically difficult to bring small babies in crowded buses and trains. Therefore they support crèche allowance by the employers.

3. Night Work:

Wherever there were women on night work according to unions they don't have any specific problems as such because already employer has taken enough care of it like facility of food, safety, transport facility night duty allowance etc.

4. Sexual Harassment at Work Place:

One union mentioned of receiving two cases of sexual harassment of verbal nature. In that case union called the persons concerned and gave warning to them. Union officials said that they don't have women's wing to take issues of women separately. They were aware of the problems of involving women in union activities due to their household responsibility.

5. Awareness among Workers:

Unions display the provisions of various concerned laws to create awareness among workers. They also arrange for notice boards, lectures,
distribution of pamphlets to inform workers about the activities of the unions.

6. Suggestions:

To improve the implementation of the laws, union's officials have given suggestions they are:-

- Separate machinery at plant level to ensure speedy dealing with the issues and healthy relation at work place.
- Heavy fine to be imposed who don't follow the regulations.
- Uniformity in maternity benefit provisions all over the country.
- The information about labour inspectors and meetings of workers with labour inspectors should be displayed on factory notice board.
- Separate independent vigilant body to look after the effective implementation of the guidelines in letter and spirit consist of retired judge, social worker, union leader, lady doctor a member of NGO to deal with women's issues.

8.4: Views of Employers:

In order to understand the views of the employers towards the enforcement of the concerned Acts, interviews of employers were taken.

1. Maintenance of Records:

Employers reported that they do maintain the records such as attendance register, salary register, leave record, record of advances, record of maternity benefit etc. Employers said that they do not fine their employees for their mistakes or misconduct. If such cases are reported
employees are given only warnings by the employers. Therefore any records of fine are not maintained.

2. Recruitment:

Employers while recruiting consider age, education, and merit of the applicants. In addition, they assess the knowledge of English language, communication skill, personality, zeal to learn new things and adaptability to new work culture. Women are selected on the basis of either performance in the interview or written test. In some cases there are both tests as well as interviews. Appointments are made as and when required.

Though employers follow the same recruitment procedure for both men and women while appointing, they reported that there is equal preference for men as well as women for certain types of jobs. According to them men can be given outdoor work for which they do not grumble or complaint. They do all sorts of work. Importantly they can be put on shift duties including night. They do back office, front office, paper work, over time and government liaison job also. In their case problem of safety and security is different. Moreover by nature itself men are physically strong. For certain jobs men are more suitable, e.g. carrying material and spare parts, lifting, assembling, loading and unloading, transfer of goods, outdoor delivery to customers, maintenance and servicing of machineries, supervision. However some employers also reported that men are more suitable in jobs like accounting, maintaining records, marketing and
sales of products, bank work, and collection of payments. Employers complained that women observe working time rigorously while majority of men stay in office for completing the work.

The employers said that they prefer to appoint women for certain jobs where maintaining good relation with customers, dealers and suppliers is required. They said women can do these jobs better due to their sweet voice, softness, smiling and pleasant personality, politeness and good convincing power. If there are women at the sales counter, customers usually do not argue for petty matters. Women are suitable for front-office jobs like receptionist, booking office, telephone operator, clerical jobs, computer-related work, filling, weighing, packaging and cleaning etc. Women are preferred for jobs within the factory or office. They prefer women where they do not have to wait beyond fixed working hours. According to the employers, even women prefer day time duties with fixed hours. Employers reported that they don't mind appointing women on higher post if they are suitable.

3. Salary:

According to the employers the salary hike for both men and women are based on certain criteria like qualifications, years of service, area of specialization, performance, nature of job, target achievements, points and grade gained, marketing and sales skill, hard work, dedicated and committed work, customer appreciation, over-time work, outdoor
work, waiting beyond working hours to complete the work, etc. They claimed that there is no gender based discrimination.

4. Promotion:

The employers said that if the promotions are time-based or based on qualifications there is lesser chance for discrimination. Promotions are granted automatically once these conditions are satisfied. They maintained that there is no discrimination on the basis of gender.

5. Training:

The employers provide training to their employees depending on the cadre. They maintained that there was no discrimination in giving training.

6. Transfer:

The employers reported that both men and women are transferred equally on the basis of requirements of the posts and vacancies available without any discrimination.

7. Maternity Benefits and Related Aspects:

The units are covered either by Maternity Benefits Act or ESIC or both. But maternity benefits are provided to women employees on satisfying certain conditions. These are not necessarily the official conditions. Certain employers like to give these benefits on the basis of nature of employment like permanent staff, completion of two to four years of service in the unit without break in service, etc.
All the employers reported of paying all the benefits such as maternity leave of two to three months, partial salary, no salary but security of job, no payment of medical bonus etc. It shows that the provisions of the Acts are not implemented properly.

In case of miscarriage the applicants were given two weeks of leave and full wages in the previous year. According to the employers, abortion is a women's own decision. Women can take their accumulated leave or leave without salary whereas miscarriage is an accident which takes place in spite of medical treatment and care is required in such cases.

The employers reported of providing women employees their due allowance and promotions during maternity leave.

Crèche facility is not provided by any of the employers due to various reasons like number of women employees are less, women have grown-up children, women have alternative arrangements and number of women married and having children are very few. In addition in city like Mumbai there is a problem of space and it is too expensive. Already units have difficulty to accommodate growing staff and required materials. Even women do not prefer to bring their children in crowded buses and train where they themselves travel with great difficulty.

According to the employers, people often do not like to disclose cases of adoption. Therefore they don’t approach even to get the maternity benefits. But if someone approaches the authorities, benefits are provided.
8. Night Work:

The employers' views on night duty were mixed. According to some employers government should lift its ban on women night work in all occupations. It is high time government changes its mindset because it is the need of the hour. Its specific advantages are: more job opportunities to women workers; women can be rotated in all shifts, good salary package, solves the problem of unemployment, better use of machinery and equipments, enhances the production, and beneficial to women, family, unit as well as the nation. Now-a-days employers provide world class facilities including safety and security arrangements. Therefore there is no need to worry about women's safety and security. Women should be given freedom of occupation. It helps in use of women's skill, talent, and knowledge. It helps in providing all types of services 24-hours. There is nothing to worry because all the industries irrespective of permission will not work day and night. They decide on the basis of need, feasibility, profitability and other factors. Some employers raised objection against night duty on the grounds of insufficient safety and security system, unsafe traveling, moreover family responsibilities. They felt that if unit has to work in the night it can be managed by men.

9. Facilities to Women under Night Duty:

The employers said that they do provide various facilities to night duty women employees such as transport, balanced food, permission to rest in between, security, gym, recreation, stress-busters (provision of
learning dance, acting, massage chair, entertainment, picnics and parties) provision of higher studies, medical facilities, counselor, night duty allowance, rest room, full bed, a day break after night duty. Separate facilities of rest room and toilet are provided for men and women. Remaining facilities are common. According to all the employers these facilities are adequate for their staff.

10. Sexual Harassment at Work Place:

According to the employers, in recent years no cases of sexual harassment are reported. According to them if any cases are reported they will follow Supreme Court guidelines. One employer reported that two cases of sexual harassment were received some 10 years back. They were handled by the management itself. Later the entire unit has been converted in to all women unit. Men were transferred to other branches.

11. Suggestions:

All the employers are aware of labour laws. They have recommended measures to improve working conditions for women workers. They are as follows:

- A proper social security system on the part of the employers, though in collaboration with government.
- Better transport facilities for women workers.
- Better safety and security provisions.
- Appointments of women labour inspectors.
8.5: Views of Labour Inspectors:

In order to understand the views of enforcing agency in implementation of concerned Acts, labour inspectors were interviewed. The officers were contacted at their office situated at Office of the Commissioner of Labour, Commercial Centre Tardeo, Mumbai. All these officers have been working from last 20-30 years in this labour department of Government of Maharashtra. Their experience in Mumbai ranges between 8-16 years. They discussed the availability of benefits with reference to women workers in organised sector and unorganised sectors.

1. Area of Jurisdiction:

The area of jurisdiction of these officers covered Andheri, Bandra, Santacruz, Parle and Elphinston Road. These officers have the experience of working with various types of workers like agricultural workers, mathadi workers, brick kilns workers, construction workers and workers in different industries. They have dealt with issues like insurance for workers, education of workers, unionisation and so on. Various kinds of complaints are received by officers viz. those related to minimum wages, child labour, removal from job, non-payment of salary, labour disputes, safety provisions and others.
2. Procedure of Prosecution:

When the employer practices discrimination in wage rates among men and women for same nature of work or deny maternity benefits and other facilities prosecution takes place. Once the complaint is received from women workers, prosecution procedure starts. Labour inspectors prefer the enforcement of the acts through persuasion rather than penalties. Only in case of serious and repeated breaches prosecution proceedings are launched. After detailed enquiry both the parties are called to the office of commissioner of labour. They try for reconciliation. If any of the party is not satisfied then the case is sent to labour court. Otherwise matter will be settled at the office itself. Even in case of the employer who frequently breaches the rule, officers try for conciliation. If he/she does not follow the warnings then they approach the court.

3. Maintenance of Records:

Labour inspectors reported variations in the maintenance of records by employers. They also found that while certain kinds of records were maintained by the employers there were lapses in maintaining certain other types of records. The labour inspectors reported that employers maintain all the records related to production, expenses, raw material, stationary, stocks, attendance register and others. Units wishing to start night shift is required to take the permission from the Commissioner of labour. Once the permission is granted they maintain all the related records. However officers found that there was lacuna on
the part of the employers in maintaining records like register of wages, bonus, gratuity and HRA, register of overtime, register of maternity benefits and others. Officers observed that employers do not maintain accurate information. Many times they give wrong or incomplete information. To avoid giving facilities, employers try to hide the details from the officers. According to them compared to other parts of Maharashtra, employers in Mumbai are at least aware of the rules and regulations.

4. Equal Remuneration:

Surprisingly in the last five years only two complaints of wage discrimination favouring men were registered with these officers. Both were reported from women working for two different big industrial establishments. In case of one woman in spite of serving the company for more than seven years she was not given her due promotion whereas men were given their promotion regularly. She approached the officers during one of their visits. Accordingly the case was studied and action was taken. In another case woman was receiving salary much lesser than male colleague where both were doing same nature of work. In spite of appealing to employer a number of times, nothing was done. Ultimately she approached the officer with the complaints. In those cases both the parties were called before labour commissioner for conciliation and matter was settled. Both women were given justice. No other complaints are registered regarding gender discrimination in appointment / hike in
salary / promotion / transfer in the last 4-5 years. Officers have reported
number of reasons as to why women workers do not approach them.
They felt that compared to other places generally in Mumbai equal pay
for equal work is practiced by the employers. Discrimination in salary for
the same nature of work is not found widely. Women have a tendency of
not reporting any type of discrimination. Women workers in Mumbai are
better aware of their rights compared to other parts of the state. If any
discrepancies are found they fight it out with the employers. Women who
have access to union approach them to settle the matter. Sometimes
women find it expensive, humiliating and time consuming with rounds of
talk and visit to officials. In some cases the prospect of working in the
same place with the same employers makes women hesitate to approach
them. Therefore in case of ill treatment women prefer to shift to new job
rather than complain. Comparatively job opportunities being more in
Mumbai women shift to new jobs than complaining and fighting the case.
Employers have been found to follow unwritten rule of not appointing
women on certain posts. Some jobs are reserved for men and some for
women. Accordingly appointments are made and wages are given for men
and women. Very often women are appointed for lower cadre jobs.

According to officers differences in wages are more in unorganised
and rural area. In rural areas differences in wages are practiced not only
on gender basis but also on other reasons like giving lighter work, break
during work to take care of their babies or to attend household work or to
attend to relatives or being left early. Some women are allowed to come late for work after doing household work etc. In some cases children are brought to workplace where entire family is at work. Due to such concessions women are paid less than men. Some employers have a bias towards women as incapable and incompetent which account for their low wages. Women accept wage cuts thinking that they are paying price for the concessions they get from the employers.

5. Maternity Benefits:

According to inspectors in organised sector these facilities are extended either under Maternity Benefit Act or ESIC Scheme. Women getting salary of less than Rs.10,000/ are automatically covered by ESIC Scheme. However officers too agree to the fact that facilities provided by the employers vary considerably such as variations in leave, medical bonus, salary etc.

In case of maternity benefits also the number of cases reported were very few. Officers have received in the last five years 15-20 cases of denial of maternity benefits. All the cases were settled at the office itself. Here also when maternity benefits are denied women do not complain to the concerned authority. Generally women are retained in their job during pregnancy/delivery. Wherever possible women do adjust among themselves and employers also make some internal adjustment. According to officers the situation is very bad in unorganised sector. Women workers from agriculture, brick kilns, construction, beedi
workers women in small units and women in interior parts of the state often suffer. In those places when inspectors visit the work place women do not answer. They act as if they are outsiders. They move away from workplace with children if any at the instruction of employers. They do not discuss any of their problems. They are the women who have many problems and are denied all the benefits like minimum wages, equal salary, maternity benefits etc. In such cases even if they complain and win the case it is difficult for them to work under the same employer. Women with extreme poverty can’t think of losing job and income under any conditions. According to officers crèches are denied in both the places of rural and urban areas. In Mumbai it is mainly due to space problem. But in rural areas also crèches are not provided by the employers on other grounds. But employers in those places give nursing break. In return to that they pay lesser salary to women.

6. Night Work:

According to officers government is already planning to remove ban on women’s night work. This is a welcome move showing acceptance to changing conditions. Gradually government will provide infrastructure to facilitate the same. No cases were reported from women working on night duty.

7. Sexual Harassment at Work Place:

No cases of sexual harassment at work place were reported to officers. Many times women complain about such cases at the police
station. However so far they have conducted more than 50 meetings to form complaint committees at different places in Mumbai and more than 30 committees are formed at different places. But those committees also have not received any complaints from women.

8. Awareness among Workers:

The responsibilities of labour inspectors is not only to see the implementation of provisions but also to create necessary atmosphere in which responsibilities are understood and accepted for observance of provisions. During their visits to work places they try to reach workers and explain the laws. If anybody comes up with a complaint then it is certainly looked into.

9. Difficulties:

It is strange that some times even for officers, entry into big establishment is not easy. They too have to approach the employer through appointment. Sometimes they too experience difficulty in getting the documents. They have instances where after much persuasion employers introduced the provisions. However most of the labour inspectors expressed general satisfaction at the cooperation they receive from the employers.
10. Suggestions:

For effective implementation of laws officers have given various suggestions for women workers, employers as well as labour inspectors. They are as follows:-

- Appointment of more labour Inspectors.
- Appointments of more women labour Inspectors.
- Proper training to officers.
- Frequent orientation courses, seminars and training covering updating knowledge of new acts, amendments etc.
- Heavy penalties for errant employers.
- Heavy penalties to control habitual defaulters.
- Awareness creation programmes for women workers.
- Provision of pocket book giving necessary information of concerned laws.
- Display of main provisions of the acts on the notice board at work place in a simple language.

8.6: Conclusion:

Though in case of 45% of women union exist at work place, only 80% of them have taken its membership. Due to low involvement of women in trade union, serious grievances are dealt at individual level by women. It leads to further problems at work place for those who dare to complain.
The interview with trade union officials highlighted the influencing role of political parties on trade unions at work place. However the existence of multi unions at work place is the cause of concern. It may cause for disintegration among the workers. In case of denial of salary at par with men, promotion, training etc., trade unions try to settle the matter peacefully at plant level. Only in extreme conditions they ask the women workers to approach the court. They extend their help by providing legal assistance to women workers. They have pointed out the household responsibility as the main cause for poor participation of women workers in union activities. The cases of sexual harassment have been handled independently by the unions. Therefore there is a need of working women to empower themselves by increasing their involvement in union activity and sensitizing the unions on women’s issues.

From the discussion with employers it was observed that there are clear biases on the part of the employers against women. Firstly many of them prefer to employ men. Employers are not enthusiastic about employing women. Secondly even when they want to employ women it is mostly for unskilled, semi-skilled or clerical work and not for managerial posts. Thirdly they are reluctant to make them permanent on jobs. Fifthly they try to avoid paying maternity benefits and salary at par with men on some or the other.

The discussion with labour inspectors shows that the employers do not maintain the required records to avoid the benefits to women. It
proves that the problem of discriminatory treatment is universal with wide prevalence in unorganised and rural areas. The difference is women in Mumbai fight it out or search for another job without wasting time in appealing and meeting the officers. Whereas women in rural area are scared of losing job and income and remain submissive. Officers agree to the existence of variations in providing maternity benefits to women workers. It also shows that employers deny the benefits on some reasons or the others. Therefore there is an urgent need to make the enforcing agency powerful and efficient to extend the facilities to all.