CHAPTER – I

INTRODUCTION
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1.1 STATEMENT OF THE PROBLEM:-

The research area of this study is to examine the Impact of Liberalisation, Privatisation and Globalisation on Industrial Employment Laws. In the year 1991, the Government of India has adopted the policy of economic reforms, introducing free market economy. This policy is recognized as Liberalisation, Privatisation, Globalisation for short referred as LPG. It is inclusive of introducing new technology, modernisation, exit policy and the like. The Government of India continued to urge the Industries to improve efficiency and productivity, to reduce the cost of production, to compete in foreign trade, thereby entering a new era of industrial growth. In order to achieve the success in economic reforms, it is imperative for the Government to establish harmonized relations between the labour and capital. In a free market economy the demand and supply play an important role in the working of industries which necessitates adjustment in work force.

India has adopted a policy of planned economic development, after Independence. To achieve this it has tried to follow a policy of protected economy and import substitution. India pursued the path of a socialist republic. Before 1991, the Indian economy had been in a crisis. According to J.S. Sodhi, India has been witnessing a high rate of inflation, decelerated industrial production, fiscal indiscipline, very high ratio of (internal and external) borrowing to Gross National Product (GNP) and a dismally low level of foreign exchange reserves. In early 1991, the foreign exchange reserves had

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become so low that it was barely sufficient to meet three weeks imports.

The then Government in fact had taken the extra ordinary step of pledging gold to meet the country’s foreign exchange requirements. When the economic crisis really reached its peak in 1990, the successive Governments have been highly concerned with the problems, particularly related to foreign exchange reserves and repayment of loans. As short terms solutions to these problems the Government approached the World Bank and the International Monetary Fund (IMF) for additional loans. The request was acceded but with a major stipulation that India will opt for a free market economy which meant dismantling its regulated regime. It was left to the present Government to accept (there was not much option though) the “conditionalities” of the World Bank and the IMF. While accepting these conditions the Government announced a series of economic policies beginning with the de-valuation of rupee. It was followed by announcement of new industrial policy and trade and fiscal policies.

This new economic policy for short referred to as NEP has wide impact on the economic, industrial and industrial growth and industrial relations in the country. NEP implies a policy of liberalisation with a greater role for the private sector. It encompasses deregulation, withdrawal of subsidies or state support to public enterprises, abolition of obstacles in the way to investment by withdrawing provisions of Monopolies and Restrictive Trade Practices Act (MRTP) and also made the flow of foreign direct investment (FDI) smooth in India by withdrawing restrictions imposed by Foreign Exchange Regulation Act (FERA). The basic purpose of NEP is to facilitate investment by the Corporate Sector within the country and permit free flow of foreign investment with a view to imbibe hi-technology and integrate the Indian economy with the World economy.
Though NEP was announced in July 1991, in fact this NEP was in continuation with and further extension of the policy of Liberalisation which was initiated since 1975. The then Prime Minister Mrs. Indira Gandhi did not want to make a sharp departure with the past policies of protected economy. Hence a process of mild liberalisation was initiated by her in 1975 and a number of industries were thrown open for participation by large business houses and companies covered under the MRTP Act and FERA. The international and national situation then prevailing did not permit a major change in the industrial policy thereby changing the role of industrial sector. Licensing procedures were modified and unauthorized capacities created by the corporate sector were regularised.

The Government exempted medium entrepreneurs from the licensing provisions of Industrial Development and Regulation Act (IDRA) in a number of industries. The principal objective of the Government was to raise production and the objective of checking concentration of economic power was relegated to the background.

After this the Industrial Policy of 1980 extended further the process of liberalisation. Under the IDRA automatic expansion facility was made available universally. The Government decided to launch a drive to revive the efficiency of public sector undertakings and thus a mild attack was made on the public sector.

According to Economist Ruddar Dutt\(^2\), the more intense phase of liberalisation was started in 1985 when Shri Rajiv Gandhi assumed office as Prime Minister. The principal measures taken by him were as follows:--

i. Liberalisation of licensed capacity in the name of reaping economies of scale and undertaking modernisation;

ii. Government raised the asset limit of MRTP Companies from Rs. 20 Crores to Rs. 100 Crores.

iii. As a consequence, 112 companies came out of the purview of MRTP Act, leaving 379 units under MRTP Act.

iv. Non-MRTP and Non FERA companies were not required to obtain industrial licenses under IDRA, for projects involving investment in fixed assets up to Rs. 50 Crores if they are located in centrally declared backward areas and up to Rs. 15 Crores if they are located in non backward areas.

Congress (I) Government under Shri. Narasimha Rao has further intensified the policy of liberalization by: -

a) Opening of the economy to the private sector in areas hitherto reserved for the public sector.
b) Facilitating foreign investment and import of foreign technology.
c) Abolition of the ceiling on assets for MRTP companies thus facilitating expansion of MRTP companies and dominant undertakings.
d) Reviewing the policy with respect to public sector undertakings, thus

i. Limiting public sector to strategic, high-tech and essential infrastructure.

ii. Referring sick Public Sector Undertakings (PSU) to Board of Industrial and Financial Reconstruction (BIFR).

iii. Disinvesting a part of the share holdings of the PSUs.

iv. Granting greater autonomy for PSUs through the instrument of Memorandum of Understanding (MOU).

v. To develop a safety net for workers who are likely to be retrenched as a result of measures to close down sick units or rationalisation of the staffing pattern of PSUs.
In the view of Dr. Shridhar Pandey, the regime of economic planning in the country had begun four decades ago with a glorious vision of a resurgent India striding firmly on the path of progress while ensuring an equitable distribution of the nation’s wealth. The inevitable compromises that had to be made in order to bridge the gap between that vision and the reality of our limitations steered the country towards the beguiling alternative of deficit financing. The mounting burden of borrowings, both domestic and foreign, brought the economy to the brink of insolvency in early 1991. Thus imprisoned by its own economic policy of stringent controls and protectionism India faced economic collapse.

This led to the announcement of the NEP in July 1991 with the avowed objective to sharply reduce the stifling atmosphere of regulatory and bureaucratic control and create a new environment for market oriented growth, linking the economy to the world market. In the industrial sector a New Industrial Policy (NIP) was announced on July 24 1991 as an integral part of NEP with a view to improve the productivity and efficiency of industries. Since then all major parties including, ironically, the communist party are more for the market and investments, which is the fuel of the trade. But they also find it hard to banish the confusions of the past and the unproductive vested interests therein.

It seems that in the wake of economic liberalisation, pressures and tensions in the industrial relations system in the country have increased. Industrial relations of any country depend upon industrial strategies or policies. These industrialisation strategies affect society and labour and influence human resource. As per C.S. Venkata Ratnam these strategies and policies should thus contend with the contextual elements of the labour market to ensure economic and industrial development in harmony with social and

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human progress. The key players of industrial relations are unions, employers and Government. It is a question to which an answer be found out through this research work, as to the extent of their traditional roles to be performed by these key players in the changed economic situation; and also to study the need to change the labour laws to suit the present industrial relations system.

The policy objectives of 1991 Industrial Policy states that, the Government is pledged to launching a reinvigorated struggle for social and economic justice, to end poverty and un-employment, to build a modern, democratic, socialist, prosperous and forward-looking India. Such a society can be built if India grows as part of the world economy and not in isolation.

Foreign investment and technology collaboration will be welcomed to obtain higher technology, to increase exports and to expand the production base. The Government will endeavour to abolish the monopoly of any sector or any individual enterprise in any field of manufacture except on strategic or military considerations and open all manufacturing activity to competition.

The Government will fully protect the interests of labour, enhance their welfare and equip them in all respects to deal with the inevitability of technological change. The Government believes that no small section of society can corner the gains of growth leaving workers to bear its pains. Labour will be made an equal partner in progress and prosperity. Worker’s participation in management will be promoted. Workers co-operatives will be encouraged to participate in packages designed to turn around sick companies. Intensive training, skill development and up-gradation programmes will be launched.

The policy objectives further provided that, the Government will continue to visualize new horizons. The major objectives of the NIP package will be to build on the gains already made, correct the distortions or weakness that may have crept in, maintain a sustained growth in productivity and gainful employment and attain
international competitiveness. The pursuit of these objectives will be tempered by the need to preserve the environment and ensure the efficient use of available resources. All sectors of industry whether small, medium or large, belonging to the public, private or co-operative sector will be encouraged to grow and improve on their past performance.

In furtherance of the above objectives, the Government took a series of initiatives in respect of the policies relating industrial - licensing, foreign investment, foreign technology agreements, public sector policy, MRTP Act and the like.

India signed General Agreement on Tariff and Trade (GATT) in the year 1993. Articles IV and V of the GATT paved the way for economic integration of different countries. As a natural consequence of being a signatory to GATT India has become a member of World Trade Organisation (WTO).

According to Dr. R.S. Kulkarni, the GATT and the membership of WTO compelled the Government to have fresh look at the existing provisions in certain labour laws and particularly industrial relations legislation.

The subject of this study is to examine the impact of LPG on industrial employment laws. The Liberalisation essentially involves a greater role for the market forces in the functioning of the institutions without interference of the State. The Privatisation is equated to transfer of ownership from the public i.e. State to the Private Sector or transfer of control over the assets, and liabilities through leasing where ownership is retained, leaving management of assets activities to private parties. The Globalisation involves global economic integration of free market of goods, services and capital.

The practice of LPG involves rapid technology changes, requiring response in terms of change in method, trade, services,

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5 Dr. R.S. Kulkarni, Multinationals & Labour Policy in India, 1995 1C L R 12.
globalisation of economy, liberalisation of trade and industry. It emphasizes on international competitiveness therefore it is necessary to bring the existing laws in tune with future market needs. However, the successive governments are very cautious to bring about the changes in Industrial Relations Legislations including the laws relating to lay-off, retrenchment and closure.

According to Jagdish Bhagwati, “The Globalisation is beneficial but an important question remains how quickly an economy move towards increased integration into the world economy?” Accordingly there are serious debates throughout the country about the need for changes in labour laws for 21st century. All these precious and valuable labour rights which have been acquired by the working classes in India, are through very hard and long drawn struggles against the colonial rule. The function of the law is to serve the needs of the society. There are numerous protective laws in favour of labour. However, there does not exist any safeguard in the interest of industry. The protective labour laws are contained in chapter VB of the Industrial Dispute Act, 1947 (IDA) imposing restriction in the matter of lay-off, retrenchment and closure of industry. Section 9A of the said Act is described as unproductive, imposing barriers on change. Section 11A of the same Act, gives plenary powers to the Labour Court to interfere with the punishment on the ground of dis-proportionality or otherwise without valid and justifiable situation is not conducive to discipline. It is canvassed that the law relating to strike, lock-out and go slow requires to be suitably modified to promote industrial peace.

Another area wherein this researcher wants to study is The Contract Labour (Regulation and Abolition) Act, 1970 (CLRA) therefore it is necessary to examine the impact of the recent decision of the Apex Court in reference to contract labour. It is held that unless it is undisputed or indisputable that there is employer

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employee relationship between the parties the question of unfair labour practice cannot be enquired into. In the event of abolition of contract labour, the contract workers engaged by the contractor have no right to get the status of regular employee of the principal employer. 9

In this regard Neeraj Jain 10, has critically commented that the gigantic western corporations and financial institutions have entered infrastructural agricultural financial sectors in India which has a disastrous impact on the living standards of hundreds and millions of Indian people and low paid and casual jobs are available to them.

In the era of globalization with the application of core and non-core parts of industry, the contract workers would bound to be increased immensely. The permanent workers would be constrained to opt for Voluntary Retirement Scheme (VRS) which is not regular laws and can not be enforced against the fundamental rights of the people. In the opinion of Dr. K. Madhusudhan Rao 11, if the right to livelihood of employees are to be affected by any provision of the state, such provision must be enacted either by the legislative organ of the state or these provisions must be framed under delegated law making power so as to make them qualify the test of Articles 14, 19, 21 of the constitution. The legislative protection to workers in India and workers in other countries would be one of the aspects of study. It is necessary to examine the provisions of the Constitution of India in Part III and Part IV. The present laws are enacted within the ambit of above provisions of the Constitution of India. The modification thereof requires constitutional validity. The same is determinative by political sanction also.

9 Cipla Ltd., V. Maharashtra General Kamgar Union & Ors. 2001 I C L R 832, Steel Authority of India & Ors V National Union Waterfront Workers & Ors. etc. 2001 III CLR 349.


This research study is regarding the present labour laws whether they are sufficient to meet the challenges emerging out of LPG in general developing countries and in particular reference to India. Despite the rapid steps of globalisation, the primary need for India is optimum use of technology and maximum utilization of man power to continue for many more years ahead. The changes in the labour statutes concerning employment, non-employment, terms of employment, conditions of labour are required to be framed in conformity with this need.

The Government of India has introduced National Rural Employment and Guarantee Bill on 21st December 2004 a step towards Umbrella Legislation for social security to unorganized sector. The Hon'ble President of India Dr. A.P.J. Abdul Kalam on the eve of 55th Republic Day assured that the Government would create an employment of 67 million unemployed youths. The Government has moved to overhaul labour laws to adjust workforce in textile industries in proportion to export order fixing working hours for a week, lifting the ban on women workers in night shifts. It is to be seen whether the illustrations as above would come in reality in future and same would fulfill the nation's need in reference to LPG.

1.2 SIGNIFICANCE OF THE STUDY:-

Pandit Jawaharlal Nehru is called as founder of modern India. On every facet of national endeavour his vision and ideas have long lasting impression from independence. It is because of his initiative India has emerged as a major industrial nation of the world. The goals and objectives set by Pandit Nehru for the nation were rapid agricultural and industrial development with expansion of opportunities for gainful employment. Amongst these objectives removal of poverty and attainment of self-reliance also remained valid till today. Any industrial policy of India should be in
realization of these objectives. Accordingly the Industrial Policy of 1991 is framed which will be gainful for national reconstruction.

It is significant to study the impact of this industrial policy of 1991 upon industrial employment laws in India while fulfilling the Nehruvian ideologies within fifteen years or so. Globalisation of the economy has its impact on the society as a whole and industrial employees are part of the society. This policy may have adverse or good effects upon the industrial employment. Today’s picture of employment seems to be affected by liberalization trends. Giant multinationals have stepped in India with their advanced technology and huge financial capacity. Thus competition for industrial establishments within and outside the country has increased. For many companies there is a question of their survival. Otherwise also mergers and acquisitions are on large scale. As per the rule that ‘Survival of the fittest’, only those corporations who have strong capacities in all respects can survive. Those who have survived or could survive, have to adopt the change in employment policies. They are bound to make structural adjustments. This structural adjustment is through downsizing by implementing exit policy. This has affected not only industrial employments but also in central and state Government employments. On this background VR Schemes are introduced with certain benefits. Some of the workers found these schemes beneficial in the short run. But they cannot visualize the dark side of such schemes. Without violating the provisions of IDA these VRS are implemented. This has made labour laws obsolete.

Another issue relating to this NEP is that there is increase in casual or contract labour. With recent judicial pronouncements as in the case of Steel authority of India\(^{12}\) the employer has no liability to absorb them in the same employment. So the employer can hire and fire the employees easily. Thereby become free from all liabilities under labour welfare statutes.

\(^{12}\) Steel Authority of India Ltd. v National Union Water Front Workers (2001) 7 SCC 1
With the core and non-core parts of the work, employer can concentrate only on core activities. So he need not to look after non-core activities such as canteen, sweeping and the like.

Another trend in employment is that of outsourcing. Now there are number of specialized agencies available which provides special services. So getting the work done through outside agencies has also increased. Different kinds of services can be obtained from outside agencies, the responsibility of the employer for appointing specialized employees gets reduced.

From various surveys, it is pointed out that only 8% workers are working in the organized sector. Because of these changing trends in employment, this number will further get reduced and employment in unorganized sector will increase. So the need is felt to make laws to protect workers in unorganized sector. At the outset there may be some positive effects of this NIP like employees by accepting work on contract basis, can change the job easily and can accept the new highly paid jobs. Opportunities for women in employment have also increased.

On this background it is significant to study the impact of liberalisation, privatisation, globalisation upon industrial employment laws.

1.3 OBJECTIVES OF THE STUDY:-

Globalisation is the professed goal of the ongoing economic programme in India. The liberalisation, privatisation, globalisation, economization, democratization shows the three powerhouses of change in the universe. In the entire global history for the first time the different economies have come together to give a practical shape to the concept of global village.

The 1991, Economic Policy has its own implications for industrial development, industrial relations, industrial employment
matters in the country. The formulated objectives of the research area are –

1. To evaluate the need for the new economic policy and trading system.

2. To study the different five year plans for appropriate understanding with relation to the economic and industrial policies of the government and consequences of these policies.

3. To critically study the changing trends of the economic policies and the industrial relations in India specifically on employment, non-employment and terms of employment and concerned.

4. To analyse the purpose of research through comparative study of the industrial relations in China.

5. To enumerate and evaluate in tune with this policy in industrial sphere several changes like structural adjustment by downsizing, exit policy and the like taken into the consideration in the research study.

6. To give a comprehensive and authentic review with regard to the economic policy, nature of employment like secured, insecure, unsecured and non-secured employment and on the other hand labour laws and its impact on employment in the country.

7. To study the changing circumstances in industrial employment in the country and its impact on trade union movement, changing of jobs like white collar workers, blue collar workers and the background, strength and future of the trade unions, so as to help the executive, the legislature, judiciary and the society in a more constructive and dynamic manner. So that this research study may lead to find out quality of employment.
1.4 HYPOTHESES :-

The following are the plausible hypotheses formulated to conduct the study.

1. Industrial employment in the country depends upon economic and industrial policy and there is a rational relation and nexus between the two.

2. Because of the rigid and mandatory statutes in India, there are certain bottlenecks in their implementation. Besides uncommitted administrators do not analyse and assess the gravity of the problem of unemployment and its impact on social life.

3. The Government has failed in duty to keep the labour laws in tune with the changing economy.

4. The judiciary through its activism has given setback to the principles of social justice as enshrined in the Constitution.

5. The prevailing global restraints on economy read with provisions of The Industrial Disputes Act, 1947 and other enactments are insufficient to provide secured employment to growing young population of the country.

6. The Liberalisation, Privatisation and Globalisation Policies would further alarmingly detract economic balance in the society in general and the working class in particular as a result trade unions have lost their strength.

1.5 LIMITATION OF THE STUDY :-

The area of research has its own significance at Global level. The very title of the study shows it as universal in nature but it has been confined within the country. Because repercussions of the Liberalization, Privatisation and Globalisation are more on the
employment sector in general and industrial employment at particular, due to that effect the impact of the research area is more essential in the modern day context. There is plethora of Industrial Employment Legislations but the relevant provisions under this labour legislation considered rigid. Accordingly there are various debates, conferences, seminars throughout the country regarding the needs of the day for changes in Industrial Employment Law for 21\textsuperscript{st} Century.

1.6 REVIEW OF THE LITERATURE :-

The literature in connection with the present problem is reviewed from the earlier studies. Published works on different aspects of globalisation and industrial sector and their laws are the main source, with counted for the purpose to ascertain the views and conclusions of earlier workers regarding the statutes relating to globalisation and its impact upon various factors. The review is alone to focus their views at a contemporary.

Prof. Raj Bhala’s\textsuperscript{13} book is a treatise on the General Agreement on Tariffs and Trade (GATT). Each research article in this book explains GATT and its legal, economic, business and political aspects. It contains clarification and discussion relevant to interpretative and adjudicatory decisions. It provides useful facts for all countries regarding the above subject and also the court decisions. This book is dealt with legal, economic, business and political aspects of GATT but not the aspect of employment.

Aaditya Mattoo and Robert M Stern\textsuperscript{14} have jointly written some essays throwing light on Indian economic and trade policy reforms. They have highlighted India’s interests and concerns with respect to international trade. Also suggested the ways that India could deploy its domestic reform agenda in the Doha Round

\textsuperscript{14} Aaditya Mattoo and Robert M Stern , India and The WTO , Oxford University Press, New Delhi, 2003.
negotiations. This book is an authority for policy makers and market participants. But they have not discussed impact on industrial employment in India.

Homi Katrak and Roger Strange\textsuperscript{15} have jointly published the papers which were presented at a conference on the WTO and Developing Countries held at Kings College, London in 2002. Through these essays a good appraisal of some of the ways in which the WTO has an impact upon the lives of the people in the developing countries, is made. Various aspects of the Agreement on Trade related issues of Intellectual Property Rights are also studied. This book has great contribution in focusing on the impact on plant variety protection. Even the effects of the agreement on the availability of pharmaceuticals and the like have also been pointed out. This book has a wide variety of knowledge and information but has not covered the WTO’s impact upon labour laws.

B.M. Sharma and Roop Singh Bareth\textsuperscript{16} have jointly revised and edited the version of papers contributed to the national seminar on the theme of “Good Governance, Globalization and Civil Society” held in the Department of Political Science.

These very informative research papers are concerning to specific sub-themes in the backdrop of Indian political Scenario which examined the live problems of Indian democracy. The eminent scholars of political science have written papers on the concepts of good governance, globalization and civil society in the light of the experiences of the political masters, captains of industry and non-government social reformers. Though Globalization is a multifaceted concept, through this book it has been discussed in the distinctive forms political, economic, social and cultural aspects. The legal aspect has not discussed in these essays.

Scholars like Dev Nathan, Govind Kelkar and Pierre Walter collectively published this Volume of the book. To them globalization has profoundly affected both the ways of life and livelihood, of indigenous people worldwide. This volume explores two major consequences of globalization for indigenous populations. Firstly the role that their resources play in the provisions of environmental services required by outside communities and secondly, the civilizational change of privatization that accompanies the globalization of the market systems. This book has direct relevance in the areas development, economics, anthropology, environmental studies and forestry. This book is a very good reference book for policy makers, activists and development professionals dealing with the related issues.

Warren J Samuels' book consists of essays on theory and policy concerning social science, particularly regarding the proper and competent role of government in the economy. The learned author has analysed issues relating to political economy in a non-judgmental and non-ideological way. In these papers a thorough study is made to identify the deepest levels of conduct of official and government, the rule of law, the nature of property, rules and markets, deliberative and non-deliberative choice and the operation of selective perception and also of the intellectual fraud in politics. A legal aspect has not covered in any of the essays.

Jarrod Wiener has stated that 'Globalization' is neither a coherent theory nor a research programme, yet the debate about it has raised some serious questions about the viability of the state. In his book the author has concentrated on the aspects of sovereignty. He has reached a conclusion that challenges to sovereignty are from the deregulation and liberalization. Author Jarrod Wieners has made

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a comprehensive study in international relations without any reference to industrial employment.

R.S. Saini\textsuperscript{20} has mentioned that for the last few decades, the world has fast moved from internationalism to a stage of globalization. It is reflected in the increased interdependence between states on a worldwide scale, free mobility of people, goods services and capital across borders, fast transfer of information and knowledge. The main focus is on the essential underlying conditions and the concrete steps needed to establish a system of global governance. He has also analysed the issues of global economic interdependence, worldwide poverty and inequality, transnationalisation of terrorism and organized crime, crisis of environment and also the spiritual dimension of greater global interdependence. Thus except legal aspect this book has made highly informative concerning different aspects of globalization.

Sheela Rai\textsuperscript{21} has made a study of a very important aspect of GATT and WTO regarding dumping of goods. She has narrated that with dumping of goods, it has become a serious threat to the Indian economy. This book is a thoroughly researched and updated for the countries to take anti dumping measures to protect domestic industries in the current shift towards open economies and free trade movement between countries. The role played by the Panel and the Appellate Body constituted under GATT, in regulating the exercise of this right by the countries and control protectionism and promote free trade between countries. With globalization dumping of goods in other countries is also increased. Thus no focus on industrial law is made, only anti dumping measures and rights available are discussed in this book.


Jeanne X Kasperson and Roger E. Kasperson in their jointly edited book have considered the challenges posed by global environmental risks. They have reviewed the capacity of knowledge systems to identify and characterize such risks, and the competence of human society to manage the unprecedented complexity. Various chapters enlist different scales of analysis to explore the manifestation and cause of global environment risks in all the diversity of their regional expression.

Throughout the book the editors gave prominence to the vulnerability of people and places to environmental degradation. With free trade and market, the use of modern technology has increased. This has made a threat to the global environment. While considering employment threats this book has covered environmental aspect, of the impact of globalization.

Powerful corporation's investment profiles and regulatory strategies have been discussed by Dale D Murphy. He has discussed entire structure of regulatory competition through the concept of economics, political science and also the studies of regulatory capture and examinations of transaction costs. Firms regulatory strategies and the roles of international institution also been highlighted. This book reveal on how business and governments actually interact. International economic law has been discussed without referring industrial law.

The procedures and practices to implement the provisions relating to tariff negotiations and renegotiations, followed by the contracting parties to GATT and the members of the WTO has been reviewed by Anwarul Hoda. This book has also dealt with some issues on such technical aspects as rectification, consolidation and implementation of harmonized system for commodity description
and coding system. Impact of GATT and WTO upon industrial employment and the like issues are not discussed in this book. It is its merit which provides for tariff negotiations and renegotiations under the GATT and WTO.

Globalisation has also made impact upon the intellectual property rights. This subject has been jointly discussed by Shahid Alikhan and Raghunath Mashelkar\(^{25}\) in their famous book. It is unique in its emphasis on the techno-economic impact of intellectual property rights in enterprise competitiveness. These scholars in this subject have covered number of current issues that pose challenges to the intellectual property system. The techno-economic impact on industry has not been dealt with in this book.

The book edited by Peter Drahos and Ruth Mayne\(^{26}\) arose out of the considerable and growing controversy surrounding the new global system of intellectual property rules that govern rights over knowledge. With the shift to the new knowledge economy these rules are becoming the focus of one of the intense struggles to reform globalization. In fact this book is a reproduction of the papers presented at the seminar on the subject of Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) Only the aspect of growing controversy in global system regarding intellectual property rights has been covered and the industrial relations aspect in global context has not been studied.

Soren Kjeldsen\(^{27}\) in his book gives a comprehensive presentation of economic theories of international trade and investment. These classical theories can be dated back to the beginning of modern economic science were influenced by ideas of perfect competition. The author has taken into account how simultaneous states of free trade and capital movements may lead to greater economic inequalities, contrary to what was expected.


Without referring to labour law issues relating to employment, complicated economic issues are discussed.

1.7 METHODOLOGY USED:-

The problem is selected with great interest, necessity of keeping the significance and the impelling in the present era of globalisation where every individual from the society is affected. After adoption of new economic policy in 1991, Indian economy became open for foreign investors. Import and export of goods and services made easy, stringent provisions of law were dropped. So this increased competition within and outside the country. The problem under study is whether the present labour laws are sufficient to meet the challenges emerging out of LPG and in particular reference to developing country like India. Despite the rapid steps of globalisation, the primary need for India is optimum use of technology and maximum utilization of man power. For this purpose it is necessary to study as to the present labour laws whether they are suitable or not in changed economic circumstances.

In the legal research, the most suitable method is the hypothetico-deductive method. The nature of the problem being socio-legal and concerning economics, therefore it is not possible to study it by purely experimental method. However, doctrinaire method is used for the study because Law is a social science and the problem at hand deals with industrial employment condition under new era of globalization, therefore the scientific methods are applied in this study.

The relevant material from the primary and secondary sources and material and information is collected from both vertical and horizontal sources, i.e. both legal and non-legal sources, like law books, journals, original judgments of the Supreme Court and High Courts, Planning Commission Reports, Labour Commission Reports, Five Year Plans, Recommendations of Statutory agencies.
documents, other periodicals, reports papers published at seminars and relevant matter published in news papers, material from different books on economics, statistical data, material from political science, sociology, economics and the like.

The data collected from different sources on impact of liberalisation, privatization and globalisation on industrial employment laws, is analysed and scientifically and statistically treated so as to arrive at definite conclusions regarding exact impact of this on industrial relations concerning employment and labour laws. Some of the relevant provisions of the statutes and documents so collected are appended.

1.8 SCHEME OF THE STUDY:-

The present study is confined to cover all aspects of labour and Industrial Laws concerning changed nature of industrial employment. There is increase in Gross Domestic Product (GDP) but decrease in employment. This is known as jobless growth. These aspects have been dealt with special focus on the prevailing circumstances in India mainly highlighting different legal provisions and present trends in judicial activism.

The entire study is divided into six chapters covering requisite dimensions of the problem. The first chapter covers the introductory part consisting of significance of the problem including methodology followed by hypothesis formulated, literature reviewed and plan of the study.

The second chapter broadly deals with international perspective of globalization and economic reforms of 1991 in India. In this chapter a comparative study of China’s Policies of globalisation of their economy and its effect on industrial relations has been undertaken. A brief comment is made on legal provisions introduced by this fast growing economy to protect the interest of
their workforce. A review of pre-1991 industrial policies and liberalization trends is also narrated.

With the adoption of NEP in the beginning of nineties in India, it has become imperative for the Government to bring about a few structural changes in the various sectors of the economy. In order that the NEP becomes more successful in terms of achieving its objectives, like globalisation and establishment of market friendly economy; in the industrial sector, a NIP was announced on July 24, 1991 as an integral part of NEP. This was with a view to improve the productivity and competitive efficiency of industries.

This policy called for a lot of painful structural adjustment in the industrial field with a view to improve the productivity and competitive efficiency. In order to reduce the impact of painful adjustment on labour, Government has enunciated several measures towards labour welfare. Although the basic truth remains unchallenged, that the NIP rendered thousands of people jobless and aggravated the problem of unemployment. This aspect has been studied in the third chapter under the heading of Voluntary Retirement Scheme the fallout of Globalisation.

Chapter IV is separately devoted to the question of contract labour and outsourcing. This study is undertaken, by considering the recent five-judge bench judgment of the Supreme Court in the case of the Steel Authority of India overruling the three judge bench judgment in the Air India Statutory Corporations case. In the changed economy and consequent changes in technology and management, there will not be a fixed number of posts in any organization for all the time. Today there is fundamental change in the nature and perception of employment. The management’s attitude of hire and fire the workers, has increased. Another policy of outsourcing the work operations is also on rise. This change in

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28 (2001) 2 LLJ 1087.
the nature of employment is because of the globalisation of our economy.

Following from the above effects of globalisation of the economy, it is incumbent to study the future of the Trade Union movement. The entire law of industrial relations is so structured as to enable workers to organize themselves and play a useful and constructive role in the growth and development of the establishment in which they work.

In the present scenario due to the change in technology, job losses are more. The man is replaced by machine, in addition to this with the two parts of the production being made namely core and non-core parts and also outsourcing of the work. It is feared that industrial establishment will function only for the purpose of assembling the parts of the product. On this background the traditional role of the trade union has also changed. This important area of the research has been studied in chapter five of this thesis under the heading the future of trade union movement in India.

The last chapter brings out conclusion and suggestions with the hope that they may be useful to the Legislature in enacting an updated and wholesome law, to the Executive for its proper implementation and to the Judiciary for executing them with effective decision making to the ends of justice for 21st century.