CHAPTER – III

VOLUNTARY RETIREMENT SCHEME: THE FALLOUT OF GLOBALISATION
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3.1 INTRODUCTION:-

The successful implementation NEP required the Government to bring about a few structural changes in the various sectors of the economy. Globalisation and establishment of market friendly economy were the important objectives of the NEP. As an integral part of NEP, a NIP was announced for the purpose of improving the productivity and competitive efficiency of industries.

As per D.S. Leelavati this policy called for a lot of painful structural adjustment in the industrial field. In order to reduce the impact of painful adjustment on labour, the Government has enunciated the so-called ‘Exit Policy’.

3.2 PROFILE OF REFORM MEASURES:-

For effective implementation of the NIP the industrial licensing has been abolished except for eighteen industries related to defence, strategic concerns and hazardous chemicals. The NIP has also given approval to FDI up to 51 per cent foreign equity in 34 high priority industries like metallurgical industries, electrical equipments, machine tools, industrial instruments, food processing and hotels and the like. Automatic permission for foreign technology agreements in the 34 industries is also provided.

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2 Refer annexure 1.
The Industrial Policy Resolution of 1956 gave the public sector a strategic role in the economy. Massive investments have been made over the past four decades to build a public sector, which has a commanding role in the economy. In furtherance of the same objectives the NIP, kept only eight industries like defence equipment, atomic energy, coal, minerals, oils, mining and the like reserved for the public sector. However there was no bar in opening these areas for the private sector. It was also declared that the sick public sector enterprises will be referred to Board of Industrial and Financial Reconstruction (BIFR) for rehabilitation packages. All these important steps towards liberalisation were taken for the purpose of raising efficiency, foreign investment and competition in the industrial sector.

According to Golakh B. Nath\(^3\) in order to overcome the crisis government has now, nourished faith on the non-resident Indians (NRIs). They are demanding more concessions and government has also promised them to provide it. Therefore NRI investment up to 100 per cent has been allowed for hi-tech areas and 51 per cent for the 34 high priority industries. The government proposed to actively encourage foreign investment in infrastructures like power, extraction, refinery and marketing of oil and gas.

In this regard D.S. Leelavathi\(^4\), has critically analysed that despite several measures towards labour welfare, the basic truth remains unchallenged, that is, the NIP renders thousands of people jobless and aggravates the problem of unemployment. He has further commented that though the advocates of the NIP argue that growth impulses may work towards more investment and employment in the future, it is far less convincing to individual workers whose jobs are at stake. A

\(^4\) supra note 1.
growing rate of unemployment does not guarantee that each displaced workman will find alternative employment.

The so called exit policy aimed at achieving, a more efficient deployment of labour and other resources, a sustained expansion of employment opportunities and an overall rise in labour as well as total productivity. Another reason for formulating this exit policy was to reduce the burden of the structural adjustment on labour. Exit Policy had different components like voluntary retirement with golden handshake, safety net through worker bond scheme, Redeployment Labour Fund (RDLF), National Renewal Fund (NRF) and BIFR.

As per the idea of Dr. Manmohan Singh, Hon'ble Prime Minister of India, 'an exit policy is that which seeks to capture the efficiency gains from structural reforms initiated in the economy'. But he adds: 'it is imperative that workers should be protected from the adverse impact of the adjustment process to the maximum extent possible'. He repeatedly assured that the structural adjustment would be done with a human face, though it cannot mean keeping loss making units intact. The process of restructuring would be through consultations, both tripartite bipartite. He has announced that his Government is committed to protect the interest of labour, enhancing the welfare measures and providing facilities for skill up-gradation, so that, it would be easy to adjust to technological changes.

With these objectives in view, the government had set up Inter Ministerial Working Group headed by J.L. Bajaj, Advisor in the Planning Commission to review the structural adjustment scenario. The committee members were drawn from the Ministries of Labour, Industry, Company Law Affairs, Finance and Economists. It recommended sweeping changes in the Companies Act of 1956, IDA and Sickness Industrial Companies Act (Special Provisions) 1985. Based on the review and recommendations of the group, the
Government has formulated the exit policy to facilitate adjustment by industries and initiated steps to this end taking into account the need for adequate safeguards for workers programmes for redeployment, retraining and appropriate compensation wherever necessary.

This exit policy has implemented in all spheres of employment, but there is an objection to the use of the word ‘exit’. This word has negative implications for labour. Therefore it is rephrased as ‘Redeployment Policy’ or ‘Industrial Restructuring’.

3.3 IMPORTANT ASPECTS OF EXIT POLICY:-

In spite of various steps taken by the Government this exit policy had number of deficiencies and difficulties which arose at its implementation stage. The exit policy required industrial restructuring. The restructuring is meant to reduce the size of the industrial establishment. For that purpose workers were offered VR Schemes. To overcome the situation the government has taken following measures-

3.3.1 NATIONAL RENEWAL FUND:-

The establishment of NRF marks the launching of the process of industrial restructuring. The main objective of NRF is to protect the interest of the workers who may be affected by industrial restructuring. Though NRF started with substantial amount of initial corpus, it is alleged that compared to the great extent of structural adjustment, the size of the Fund is too small to create a safety net for the affected workers. “If most of the workers readily accept the voluntary retirement scheme, the Government will go bankrupt trying to clear their dues”, says Arun Daur economist with the Hind Mazoor Sabha. He adds that

\(^5\) as referred by supra note 1, p 335.
in several plants, the managements promptly withdrew the scheme after they found that the financial commitments were too high.

Arun Daur is of the opinion that the fund cannot effectively and sufficiently subscribe those who quit the industry. The fund started with a hope of mobilising a lot of budgetary support and with more support from the World Bank. But in fact nothing certain can be expected out of this. Thus small size of the fund and uncertainties regarding expanding the size of the Fund constitute a major drawback of the exit policy.

3.3.2 BOARD FOR INDUSTRIAL FINANCE AND RECONSTRUCTION:-

The Government has set up a mechanism in the form of an organisation called BIFR to examine and decide whether the sick private and public sector enterprises could be revived with restructuring or would have to close down⁶.

The role of BIFR in executing the exit policy is not clearly defined. The Board has not acquired adequate powers to enforcing its decisions on banks, financial institutions, the State Governments and other agencies involved in the long drawn-out process of rehabilitating or winding up a sick company. As a result, revival packages take a long time to start its functioning, even after their implementation, the outcome is frustration. The functioning of the Board is also delayed. It is known to the entire Industrial sector. Unless the ambiguities are solved out, the board will not be in a position to implement the exit policy in its true spirit.

3.3.3 POOR PROSPECTS OF EMPLOYMENT GENERATION UNDER THE VIII FIVE YEAR PLAN:-

The exit policy has affected adversely on the level of employment in the country, the Government should have an effective employment generation programme in the VIII five year plan. Thus it is lacking in the policy making for raising employment. Therefore there is lot of social unrest.

3.3.4 LACUNAE UNDER GOVERNMENTAL SYSTEM:-

No structural adjustment programme can be effectively implemented without the support of different political parties. There is a need for systematic reforms in the industrial field, which is required to be communicated to all levels of Government, the employers, employees and the people at large.

Too many parties always have a tendency to oppose almost everything that is done by the government. Without their support it is highly impossible to achieve anything. Sometimes some State Governments do not give active co-operation to the Centre for achieving the desired result of the exit policy.

3.3.5 CREATING AWARENESS AMONG WORKERS AND TRADE UNION LEADERS:-

The leftist trade unions went on for nationwide strike on June 16, 1992, opposing the NEP and NIP. They stated that this NIP is a direct attack on the trade unions and the working class. In the absence of co-operation from the working class, it is not possible to carry out successfully the SAP in the industrial field. Under the strained industrial relations industrial programmes cannot be developed and
effectively executed. Development of suitable work culture is inseparable part for the proper progress of industries trade and economy.

On the background of NIP the Government has to educate the workers and the trade union leaders. NGOs contribute financially and participate in the functioning of the companies in India and abroad. They should be further encouraged. Then and then only industrial productivity and efficiency can be increased.

3.3.6 POOR SOCIAL SECURITY SYSTEM:-

The restructuring of the economy will take time, during the course of this restructuring period; some disorder of employment system may cause loosing of employment by section of the workers. Under the said circumstances some sort of protective net should be provided. This may include non-employment insurance and the like.

In the modern era there is huge competition in industrial sector at national and international level. Due to this the industries have to opt amalgamation and also to implement several structural adjustment policies including the VRS, closures and the like measures. On this background, there should be an effective social security system in the form of unemployment benefits.

3.4 VOLUNTARY RETIREMENT SYSTEM EMERGES AS A SEQUEL TO LIBERALISATION PRIVATISATION AND GLOBALISATION:-

The NIP was released on 24th July 1991; however there was no announcement of the labour law reforms till that date. The main crux of the problem is that the NIP was announced, but the lacuna was created in the sense that the present labour laws were not suitable to the LPG
policies. Among other articles of NIP the Article 15, 16 and 17 of the NIP objectives emphasizes the industrial scenario.

There are various reasons for the change in employment scenario in the country. Among them i) The achievement of objectives of 1991 policy ii) India's membership with WTO were the two main reasons. On April 15, 1994, the Uruguay Round came to a close and the agreement with the WTO was signed on January 1, 1995 the WTO came into existence. India was a signatory to the agreement and became a member of the WTO from beginning.

The WTO has been set up to ensure a free trade regime in the world, and there are certain obligations cast on India as a member of the WTO. According to the norms laid down by the WTO, no one can impose quantitative restrictions on goods imported from abroad. In the beginning, India put restrictions on the import of about 2700 agricultural, textile and industrial products. This became a matter of dispute, before the dispute setting body of the WTO. As a result, India had to remove all quantitative restrictions on imports from April 1, 2001. The rate of tariff has also been reduced. As a consequence of this, Indian industries are facing problems of indiscriminate imports of all types of goods and have to compete with these products in Indian markets. Instead of manufacturing necessary spare and components by the industries it is now cheaper for them to import it. Cheap Chinese goods of all types are available in the Indian market. They are effectively competing with Indian products.

Though non-oil imports have not come in a big way, in some industries like chemicals, plantation, household goods, toys, and the like products have been imported on a large scale and are out pricing Indian products more and more of such goods which are coming to India and if Indian manufactures are not able to compete with them on

\[\text{\footnote{\textnormal{refer annexure 1.}}}\]
price and quality, they will have to pull their shutters down. This is a real threat to Indian industry, and therefore to employment. Already a large number of industries are badly affected as a result of such free and unrestricted imports.

As the imported goods are available at cheap price, it is as if they are merely dumping their goods in Indian markets. The Government of India has to impose anti-dumping duties on them to prevent unhealthy competition. Though this is a complicated procedure, if action is not taken, domestic industries will be significantly dislocated. The urgent steps are required to be taken to protect domestic industries.

As per report of the National Commission on Labour\(^8\) the Indian plantation industry is in great difficulty as a result of import of coffee from Vietnam, tea and the like from Kenya and Sri Lanka, rubber from Malaysia, coconuts from Indonesia and so on. Several organisations of plantation employers in Kerala, Karnataka and Tamil Nadu told the commission that they are on the verge of closure because the prices of imported tea, coffee, etc. are much below the cost of production in Indian plantations. It further added that in the new regime we have to encourage foreign investment and give them treatment on par with local investor. A large number of multinationals have entered the field of low technology, high volume products such as mineral water, ice cream, processed foods and the like will close an area of opportunity to small entrepreneurs. Small units will not be able to compete with them due to their aggressive advertising and modern marketing methods.

This situation has emerged as a result of the Agreement with WTO. The Government is not being able to put any conditions on foreign investors regarding indigenisation of their products, criteria of local contents, ancillarisation and the like.

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A large number of small enterprises have become manufacturers of import substitution items. This is a plus point of NIP. But another restraint on production is the Trade Related Aspects of Intellectual Property Rights (TRIPS) agreement, which will not allow us to copy the designs of products. Moreover as the imported products are freely available, at a cheap rate, the manufacturers are not interested in manufacturing such products, so the production is reduced, defeating comparatively the employment opportunities.

3.5 NEED TO RESTRUCTURE:

On this background it was a high time for enterprises to review their existing business including production for the purpose of deciding to continue or not to continue in the present situation. Industry and labour both enjoyed heavy protection with reference to availability of market, use of technology and work practices earlier to the introduction economic reforms. With declaration of NIP this scenario suddenly changed. The winds of liberalisation and privatisation started blowing, along with them, they brought crisis in the industrial relations setup. The question of survival for the industries was at the stake. And for survival they have to remain competitive. Competition needs change in the technology and or use of more effective technical devices, so that they have to adjust their workforce. Man was replaced by machine, that being the cause that labour become surplus. Unless this excess fat in the organisation is cut, the efficiency and growth cannot be achieved.

To overcome with this situation management of the industries found out a very intelligent solution. That solution is VRS with Golden Handshake. When the existing labour force becomes redundant due to restructuring or rationalisation of an enterprise the effective strategy for increasing productive efficiency is manpower adjustment. Retaining the surplus labour even at a lower wage level will not be a workable
solution. Hence the better option for retrenchment with some practical limitations was VRS. It was thought to be less painful strategy which might prove to be more acceptable for all concerned. But for implementing retrenchment, employer has to follow the law and procedure laid down in Chapter VB of the IDA. Also there was a fear that retrenchment may lead to industrial unrest in the affected organisation.

As per B.P. Guha\(^9\) by offering an attractive package of benefits, VRS enables a firm to rationalise labour strength, attain cost effectiveness and go well into strides once again. Particularly, in times of sluggish business and economic crisis, VRS is found to succeed in helping recovery and stimulating growth in the short run. Once the industry becomes efficient and competitive, there is a promise for future growth in the long run because of increased demand for goods and services at a competitive price.

World over, various developed and developing countries such as USA, Canada, UK, and Japan, Scandinavian countries, China and the like have introduced some kind of Voluntary Retirement or Voluntary Severance Scheme according to their needs. These developed countries have adequate social security measures including employment insurance and the like. After bilateral consultations between trade unions and employees the scheme gets finalised. Therefore such VR schemes may be functioning, more smoothly than our country.

In India there was time when cases of Voluntary Retirement were very few. An employee used to apply for voluntary retirement because of ill-health, family problems, bankruptcy, or desire to start one’s own business and the like. On the other hand, managements have tackled the problems of business recession, industrial sickness or technology

change by resorting to the voluntary retirement strategy as a means to reduce the labour cost and bring about desired change.

Since the NEP came into effect, a large number of industries faced with the problems of uneconomic production and declining business. In an attempt to revive, the enterprises are shedding the labour through VRS. Even for survival and growth of enterprises, the downsizing of manpower is a means to achieve productive efficiency and competitiveness is indispensable.

According to B.P. Guha in present distressing situation there are two hard options before the struggling enterprises either to ‘ship-out’ or ‘shape-up’. In the first alternative the closing down of the enterprise will mean permanent loss of jobs for the workers and loss of invested fund for the entrepreneurs. The second alternative at least gives a chance to the enterprise for survival with reduced manpower and increase cost-efficiency. It also holds out some prospects of re-employment of surplus labour through expansion and diversification of production in the long run.

In view of Kaustav Dey and Pranbesh Ray, "Economic liberalisation has unleashed competitive forces throughout the world, wherein organisations are finding it immensely difficult to achieve their objectives".

Industrial establishments are continuously on the lookout for methods and processes so that they may at least survive if not thrive in today’s world. In such a scenario continuous restructuring has been the key concept adopted by the companies and one of the accepted methods has been human downsizing. Comparatively in other countries downsizing has not been so difficult to implement as it is in India. Indian labour statutes coupled with "social compulsions" of the

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10 supra note 9.
government, have made it virtually difficult to pursue downsizing in this country. In order to avert the rigours of law and to make downsizing more "transparent and optional" employers have adopted VRS to induce employee separation in organisations.

Now the VRS has been emerged as a Golden Handshake. The learned author S.K. Dey Roy has narrated this situation. He says, in their effort of right sizing the workforce, the authorities have lowered the minimum period of service required for voluntary retirement. A tidy sum in the form of golden handshake has been offered to thousands of employees who seek voluntary retirement.

The VRS has been continuously and repeatedly introduced by large and small scale companies, multinational companies throughout the country. The companies set a target to be achieved in reduction of strength. A multinational company like SKF in the recent past intermittently introduced VRS started from VRS 98 to VRS 2005. The companies canvass and impress the workers and address letters to their residential address with an object that the same shall be reached in the hands of their family members. A word is spread that a particular VRS gives the maximum benefit. No such VRS would be introduced in the future. And then employees are tempted to accept the VRS.

In India, VRS has been introduced for quite sometime to induce excess workers to retire prematurely. In the context of industrial relations it implies termination of employer-employee relationship at the conclusion of pre-agreed terms or conditions or on attaining age of superannuation. Thus voluntary retirement relates to a situation when a worker, for one reason or other, resigns from his jobs and thereby terminates the employer-employee relationship prior to the maturity of terms and conditions of employment. It is a premature termination of employment.

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VRS is a legally more hassle free way to downsize than retrenchment, which makes it more attractive to the management. By offering an attractive package of benefits, VRS enables the firm to rationalise labour strength, attain cost effectiveness and go well into strides again. According to the chairman of a large non-banking company\textsuperscript{13}, in times of sluggish business and economic crises, VRS is found to help recovery and stimulate growth. In his words “the success of the VRS in his company had given him an opportunity to restructure the business all over the country to make it highly competitive in the finance industry”.

Some scholars like Aiyer and Swaminathan\textsuperscript{14} argue in favour of VRS as a profitable proposition. They say that “VRS is not a financial burden, but it is an immensely profitable investment....” Golden Handshakes typically amount to around 1.5 to 2.5 years to pay plus the fringe benefits. If a company pays Rs. 500 crors in VRS, it saves Rs. 200 Crores annually in its wage bills; it means it is getting a whopping return of 40 per cent in its outlay. No other outlay can yield such a high return.

But media\textsuperscript{15} published that the companies short on cash should therefore float bonds for VRS offering attractive rates of 18 per cent since they get an internal rate as attractive as 40 per cent. This will still leave them with a surplus of 22 per cent, which can put in bond reduction on redemption reserves. Within five years the reserve will be large enough to redeem the bonds. So VRS will pay for itself in a very short time span.

In order to remain competitive after the new economic policy around the 90s, companies’ quantitative and qualitative needs of existing as well as future manpower changed. Most of the companies

\textsuperscript{13} Financial Express, Calcutta, Aug. 31, 2000.

\textsuperscript{14} Aiyer and Swaminathan S. Vol.XXX (23). 'Economic and Political Weekly'. June 10 1995 p. 359.

\textsuperscript{15} Times of India, Sept. 12, 1993.
wanted to reduce costs to remain competitive. Hence public and private
sector corporations' undertakings have introduced VR Schemes, as the
basic component of labour adjustment strategies.

In a global competition the first casualty for the companies was
the number of workers employed and since 1992 many Indian
corporations have resorted to downsizing by introducing VRS.

The Report of the National Commission on Labour\textsuperscript{16} also has
cited few names of the companies who have implemented VRS. The
commission reviewed that VR Schemes are spreading very fast, and has
affected many enterprises in different sectors like ACC, ANZ Grindlays
Banks Ltd., Asia Brown Boveroy, Ashok Leyland, Air India, Avery
India, Bajaj Auto Ltd., Bates Clarion, Bharat Heavy Electricals, Bharat
Heavy Vessels, Blue Star, Nicholas Pirmael, Crompton Greaves,
Dharamji Morarji Chemical Co. Ltd., Colour Chem, Glaxo (I) Ltd.,
Godrej Soaps Ltd., Goodlass Nerolac, Reliance Industries, Hindustan
Machine Tools, Hindustan Organic Hoechest, Indian Airlines, Indian
Rayon, Keroes (India) Ltd., Larsen and Tubro Ltd., Mukand Iron and
Steel Ltd., Premier Auto Electric, Phillips, Telco, SKF (Pune), TISCO,
Voltas, Escorts, Daewoo (I) Ltd., ITDC and the like. About 99000
workers of Nationalised Banks obtained VRS. A large number of Hotels
in ITDC, Taj, Oberio and Welcome Group have downsized by
introducing VRS for their workers. Indian Railways are also thinking of
reducing their number of workers by 30,000 per year. The commission
further stated that this is not an exhaustive list. But it gives a glimpse
of the grave situation that is developing. The workers have lost jobs as
a result of the closure of lakhs of small scale industrial units. Thus one
can get a very grim picture of the employment situation.

\textsuperscript{16} supra note 8, p 245.
In this regard the report of the Planning Commission on Labour and Employment\(^{17}\) has stated that the acceleration in GDP growth in the post reforms period has not been accompanied by a commensurate expansion in employment. Public sector employment is expected to fall because the public sector is withdrawing from many areas. There is fear that the process of internal liberalization and globalisation is creating an environment which is not conducive to expanding employment in the organized private sector. Existing industrial units are shedding excess labour in order to remain in competition and new technology, which is essential to ensure competitiveness, in typically more automated and therefore not job-creating. The net result of these forces, it is feared, could be a very slow expansion in employment opportunities in the organized sector, resulting in growing frustration among the youth.

The Government knew this grave reality of unemployment. Therefore in recognition to this fact the Prime Minister announced to the nation that the government is committed to "create ten crore employment opportunities over a period of ten years".

According to the Report of the Task Force\(^{18}\) the rate of unemployment as measured by National Sample survey (NSS), it appears to have increased in the 1990s with unemployment, on the basis of current daily status, increasing from 6.03 per cent in 1993-94 to 7.32 per cent in 1999-2000.

Further, the growth of employment has dropped sharply from about 2 per cent per annum in the period 1983 to 1993 to less than 1 per cent during 1993-94 to 1999-2000.

In the wake of LPG many thousands of workers have lost their jobs in the last decade. The exact number of job losses is difficult to be found out. Even the Second Labour Commission on labour also could

\(^{18}\) Ibid, p 11.
not get the information on specific number of closures and loss of jobs. As the State Governments, Trade Unions and Managements of industrial enterprises were not able to give them definite information.

3.6 SALIENT FEATURES OF VOLUNTARY RETIREMENT SCHEME:-

From the various VR Schemes which are declared through newspapers and also from the available information on VR schemes from other sources of material it is clear that VR Schemes which are being executed in the country as an offshoot of liberalization policies executed, contain the following features:-

1. VR Schemes are framed by the Governments under their executive power for the purpose of downsizing their employment. VR Schemes are made applicable to their departments/statutory corporations/establishments even though these three kinds of employees are being governed by different service conditions framed by different authorities under different sources of statutory power. For instance, the employees employed by Government Department are governed by the Service Rules framed by the President or the Governor, as the case may be, under Art. 309 of the constitution which are technically known as delegated legislation. Likewise, employees of the statutory corporation under its rule making power, which is permitted by the respective Statutes, called either as bye-laws or regulations technically known as delegated legislation. In the case of Government employees, covered under the IDA, the standing orders as framed and certified by them under the Industrial Employment (Standing Orders) Act, 1946, govern the employee's service conditions. Employees of the private employers
are also covered by the Industrial Employment (Standing Orders) Act, 1946.\(^\text{19}\)

2. Under the VR Schemes usually employees are offered attractive monetary benefits inclusive of usual terminal benefits as well as 'ex-gratia' benefits. This ex-gratia benefit is offered as a consideration for losing the remaining service.

3. Some of the VR Schemes can be termed as Compulsory Retirement Schemes (CRS). Because once the notice is served to the employees asking them to opt for VRS, if the concerned employees refuse to do so, they are forced to retire adopting coercive methods or retrenched in accordance with the Staff Regulations/IDA, with the usual terminal benefits. In this way an employee is deprived of the ex-gratia amount even though, he is actually losing their service. The employers prepare a list of their workers who remain habitually absent, who do not reach production target, involved in misconduct and/or breach of discipline declare them as losing utility as workmen. Such a bulk tainted workers are easy target for forced VRS, with agreed VRS benefits. The undertakings employing less than total number of 100 workers, retrenchment is effected under Chapter V A of IDA, or if permissible under the terms of service contract. Thus when an element of force or compulsion is involved it takes away voluntariness.

Highlighting on this aspect of VRS the Second National Commission on Labour has narrated that they have been told that in many cases it is a travesty to describe these schemes as voluntary. We are not asserting that all the VR Schemes have suffered from elements of duress. We realize that in many cases the acceptance of VRS has been bona fide, and by free choice.

VRS are implemented through direct compulsion, pressure tactics, innovative forms of mental harassment, compelling employees

to resign by seeking to terminate them and in some cases, physical
torture and threats of violence against themselves or dependants.20

4. Under some of these Schemes, even though the employee has
opted for VR Schemes under one employer by force he is prohibited
from re-employment in the same organisations or any other State /
Central Government Departments/ Corporations and the like. The
employee who intends to opt for VRS should give an undertaking to
this effect. Thus his right to work in future in the same undertaking is
permanently impaired.

3.7 THE LEGAL FRAMEWORK OF VOLUNTARY RETIREMENT
SCHEME FOR EXECUTION OF LIBERALISATION,
PRIVATISATION AND GLOBALISATION:-

The statutory safeguards provided for VR Schemes in The
Income Tax Act shows Legislative activism for enforcement of VRS for
proper implementation of LPG. The legal framework within which
these VR Schemes functions is as follows:-

3.7.1 THE INCOME TAX ACT, 1961 –

Under the Income Tax Act, 1961 certain fiscal concessions are
provided for VR Schemes. Before October 92 an employee retiring
under an approved scheme of the Government was getting the tax
benefit in regard to the amount that he receives as compensation
towards voluntary retirement. The similar benefit was not available to
the employees in private sector retiring under VR Schemes. Hence as
per section 10 (10 C) the compensation received or receivable by the
employee of the Public Sector company, any other company or any

supra note 16, p 248.
authority established under a Central, State or Provincial Act or local authority, or a co-operative society or a university or an Indian institution of technology, or state or central government or institutions having importance throughout India or in any state or states at voluntary retirement, under the Golden Handshake Scheme is exempt under section 10 (10 C).

This exemption is available subject to certain condition. Regarding the quantum of exemption it is laid down that the amount of exemption is the actual amount of compensation received or Rs.5,00,000 whichever is less.

Under Rule 2 B A of the Income Tax Act, certain guidelines are provided by the government for bestowing the exemption from tax on the Golden Handshake Scheme. This applies to an employee, who has completed 10 years of service or completed 40 years of age. All employees including workers and executives of the company can avail of this exemption. It further provides that this scheme of voluntary retirement or voluntary separation should have been drawn to result an overall reduction in existing strength of the employees. The vacancy caused should not be filled up. There are other guidelines which are appended separately.21

Thus the companies can frame different schemes of voluntary retirement for different classes of their employees. However, these schemes have to conform to the guidelines prescribed in Rule 2 B A of the Income Tax Rules. This scheme can be drawn for the purpose of overall reduction in the existing strength of the employees of the company. Therefore even profit making companies also can draw VR schemes.

21 refer annexure 3.
This shows that the Government is boosting VR schemes by providing tax exemption on the amount received in voluntary retirement.

Employment security in India continues to be mainly regulated on the basis of the Industrial Employment (Standing Orders) Act, 1946 and the Industrial Disputes Act, 1947, which is discussed below-

3.7.2 THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946:–

The Industrial Employment (Standing Orders) Act, 1946 sets rights and obligations of employees and employers relating to classification of employees, shifts, working hours, entry and exit, attendance, stoppage of work, leave and holidays, punishments for misconduct, suspension or dismissal, separation on retirement, grievance redressal procedure and the like. Any dispute, claims, demands or grievances regarding the terms and conditions of employment arising from this Act and its breach may become an 'Industrial Dispute' under the IDA.

3.7.3 THE INDUSTRIAL DISPUTES ACT, 1947:–

The important piece of legislation that has attracted all the attention is the IDA. Chapter V-B of IDA is regarding Special Provisions Relating to Lay-off, Retrenchment and Closure in Certain Establishments.

There were no provisions restricting or preventing lay-off and retrenchment in the Act. In respect of closure, by the Amending Act of 1972, S. 25 FFA was inserted in Chapter VA requiring the employers to

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22 refer annexure 3.
give sixty days notice of intention to close an undertaking employing fifty or more persons prior to the closure. However, there was no provision for prior scrutiny of the reasons for such closure. An employer therefore, had unfettered right to close down his establishment subject to the provision of sixty days notice. In view of large scale lay offs, retrenchments and closures resorted to by big establishment, the Central and the State Governments, in order to prevent avoidable hardships to the employees and to maintain higher tempo of production and productivity, it felt necessary to put some restrictions on the employer’s right to lay-off, retrenchment and closure.

With this object in view, the Act was amended by the Industrial Disputes (Amendment) Act, 1976 (32 of 1976) which engrafts Chapter VB containing Sections 25 K to 25 S. Besides Section 25 A has been amended to the effect that Sections 25 C to Sections 25 E will not apply to the industrial establishment to which Chapter VB applies.

The Chapter VB was enacted to alter the existing law relating to lay-off, retrenchment and closure in relation to large industrial establishment falling within its ambit, ‘because it was felt that the existing law enables large scale lay-offs, retrenchments and closures by large companies and undertakings and this had resulted in all round demoralising effect on workmen.’

This chapter also puts strict curbs on employers in effecting lay-off, retrenchment and closure of ‘industrial establishments’ (defined in S. 25 L) employing three hundred or more workmen and provides stringent penalties for contravention of these provisions.

The Amending Act and the relevant rules framed there under came into force with effect from 5th March 1976 (date on which the Amending Act of 1976 came into force) The Amending Act 46 of 1982

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and the Amending Act 49 of 1984 have brought about substantial changes in some provisions of this Act. Section 25 K has been amended to the effect that the provisions of this chapter will now apply to industrial establishments employing 'one hundred' workmen instead of 'three hundred' workmen as before the amendment. Section 25 M has been substantially amended while Ss. 25-N and 25-O have been substituted by new sections. Consequential changes have also been made in S. 25 R.

The 1982 amendment of the IDA to chapter V-B made a provision for prior permission of appropriate Government is applicable to all firms employing 100 or more workers for lay-off, retrenchment or closure. There is an exception for retrenchment resulting from power shortages or national disaster but the penalty for retrenchment or closure without permission includes a fine and imprisonment.

This Chapter VB of the Industrial Disputes Act, 1947 has of late attracted heavy criticism. It has been argued by the employers that this provision in the law which was enacted during the emergency must have gone. It has also been contended that the law originally applied to establishments with 300 or more workers, which later was brought down to 100 or more workers through an amendment in 1982 be repelled. The announcement of the Union Finance Minister in his Budget Speech of 2001 that the ID Act will be amended to see that only establishments with 1000 or more workers would be covered by Chapter VB, has given further fill up to the demand, to scrap it.

So the question arises that can Chapter VB be called a relic of emergency as per the Employers Association has been propagating? The answer to this is provided by Bennet D’ Costa. He narrated that - it is clear that though the Act came into force in 1976 it was further amended in 1982 reducing the number of workmen from 300 to 100 in

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order to make it applicable. In 1984 by Act 49 of 1984 it was again amended. In a reasoned and detailed judgment the five judges of the Supreme Court of India upheld the law in 1992 and were convinced of its fairness and justifiability. Hence this law has stood the test of time. Its validity has been certified by different Governments and most importantly by the Apex Court. To call it a relic of emergency is totally untrue.

The Supreme Court justified the validity of the Chapter VB in Workmen of Meenakshi Mills Ltd. Etc. V. Meenakshi Mills Ltd., & Anr. stating that:

1) Abysmal poverty has been the bane of Indian Society and the root cause is large-scale unemployment and underemployment. This thought was uppermost in the minds of the leaders of our freedom struggle. At the Karachi Session of the Indian National Congress in 1931, it was resolved that “in order to end the exploitation of the masses, political freedom of the starving millions” and that the state has to safeguard “the interest of industrial workers”, ensuring that suitable legislation should secure them a living wage, healthy conditions, limited hours of labour and protection from the “economic consequences of old age, sickness and unemployment”.

The Preamble of the Constitution declares the solemn resolve of the people of India to secure to all the citizens justice-social economic and political. This resolve finds elaboration in the Directive Principles of State Policy contained in Part IV. Article 38 directs that the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political shall inform all the institutions of the national life. Clause (a) of Article 39 requires the State to direct its

\(^{26}\) refer annexure 2.
\(^{27}\) supra note 26.
policy towards securing that the citizen's men and women equally have
the right to an adequate means of livelihood. Article 41 directs that the
State shall, within the limits of its economic capacity and development,
make effective provision for securing the right to work, to education
and to public assistance in cases of unemployment, old age, sickness
and disablement and other cases of undeserved want. Art 43 lays down
that the state shall endeavour to secure by suitable legislation or
economic organisation or in any other way, to all workers, agricultural,
industrial or otherwise, work a living wage, conditions of work
ensuring decent standard of life and full enjoyment and leisure and
social and cultural opportunities.
2) Keeping the aforesaid provisions in view, this Court cited its
observation in Olga Tellis V. Bombay Municipal Corporation 28 "If
there is an obligation upon the state to secure to the citizens an
adequate means of livelihood and the right to work, it would be sheer
pedantry to exclude the right to livelihood from the content of the right
to life. The state may not, by affirmative action, be compellable to
provide adequate means of livelihood or work to the citizens. But, any
person, who is deprived of his right to livelihood except according to
just and fair procedure established by Law, can challenge the
depredation as offending the right to life conferred by Article 21".

In this case, reference has been made to following observation of
Doulgas, J. in Barsky V Board of Regents of New York 29 "The right to
work, I had assumed was the most precious liberty that man possesses.
Man has indeed as much right to work as he has to live, to be free to
own property....... To work means to eat. It also means to live". The
National Commission on Labour, in its report submitted in 1969, has
observed: "The development effort so far has not been adequate to
contain within limits the volume of unemployment in the country. And

28 1985 suppl. (2) SCR 51.
29 374 US 442.
what is more, if a view of the future is taken on the basis of past experience, the economy does not seem to hold out a brighter prospect in this regard”.  

3) As indicated in the Statement of Objects and Reasons for the 1976 Act, the object underlying the enactment of S. 25 N by introducing prior scrutiny of the reasons for retrenchment is to prevent avoidable hardship to the employees resulting from retrenchment by protecting existing employment and check the growth of unemployment which would otherwise be the consequence of retrenchment in industrial establishment employing large number of workmen. It is also intended to maintain higher tempo of production and productivity by preserving industrial peace and harmony. In that sense, S. 25-N seeks to give effect to the mandate contained in the Directive Principles of the Constitution. The restrictions imposed by S. 25 N on the right of the employer to retrench the workmen must, therefore be regarded as having been imposed in the interests of general public. The said restrictions on the right of the employer can be held to be reasonable restrictions. Ordinarily any restriction so imposed which has the effect of promoting or effectuating a directive principle can be presumed to be a reasonable restriction in public interest. A restriction imposed on the employer’s right to terminate the service of an employee is not alike to the Constitutional Scheme, which indicates that the employer’s right is not absolute.

With regard to the nature of the power which is exercised by the appropriate Government or authority while granting or refusing permission for retrenchment under Sub-Section (2) of Section 25-N of the Act, the appropriate Government or the authority does not exercise powers which are purely administrative but exercises powers which are quasi-judicial in nature.

This question dealt with in the Meenakshi Mill’s case as to whether the restrictions imposed by S. 25-N as originally enacted i.e.
before the same was substituted by Amendment Act of 1984. It was held that Section 25-N does not suffer from the vice of unconstitutionality on the ground that it is violation of the fundamental right guaranteed under Article 19 (1) (a) of the Constitution.

S. 25-N of Chapter VB of ID Act is condition precedent to Retrenchment of Workmen. This Section contains 9 clauses and it has been introduced to assure prior scrutiny of the reason for retrenchment with a view to prevent avoidable hardship to the employees resulting from retrenchment by protecting existing employment and check the growth of unemployment which would otherwise be the consequences of retrenchment in industrial establishments employing large number of workmen. The section is also intended to maintain a higher tempo of production and productivity by preserving industrial peace and harmony. This provision gives effect to the mandate contained in the directive principles of the Constitution.  

Within this legal framework VR Schemes have been flourished. Lakhs of workers [unionised and non-unionised] have lost their jobs under the pretext of restructuring of industrial establishment. As an easy, quick and effective way of manpower downsizing without attracting the stringent conditions required to be fulfilled as per labour statute of this country IDA including Chapter V B, VRS has been planned, designed and implemented by employers without hesitation. It is generally observed that non-core work done by permanent workmen and who were unionised is carried out through contractors. Even core work is allotted to small scale and medium industries in highly increased proportion with reduced rate, which serve as cost saving devise and at time such requirement is fulfilled through imports.

According to Kaustav Dey and Pranabesh Ray firms in India as a less difficult route of downsizing, have resorted to VRS in a big way

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31 supra note 11.
in the liberalised economy. However, it is yet to be ascertained how effective had been this method in Indian Organisations. As indicated earlier many employers have projected human downsizing as an imperative for increasing organisational competitiveness (some times survival) and consequently VRS has become the method by which we could implement human downsizing. But what actually has been the effect of downsizing (thus VRS) over the years is still not very clear.

3.8 PREVAILING SCENARIO OF VOLUNTARY RETIREMENT SCHEME:-

The prosperity of the economy depends upon four factors of production. They are capital, entrepreneurship, labour and land. In large economy these factors should work with mutual co-operation. This is the idea behind manpower adjustment. For increasing the productive efficiency of the firm this strategy will prove to be effective. So, the existing labour force becomes redundant due to restructuring or rationalisation of an enterprise. But labour adjustment is not easy because of stringent labour laws of our country. On the other hand it is not so difficult in other countries.

In Workmen of Meenakshi Mills Ltd., Vs. Meenakshi Mills Ltd., & Anr.\textsuperscript{32}, the Apex Court has decided that the organisations in India have to operate within the existing legal framework, which makes it difficult to shed the redundant work force. The legal regulations categorically debar labour reduction without permission and adequate compensation. Whether it is lay-off, retrenchment or closure. Industrial Disputes Act, 1947 clearly constrains the employers from taking any action, which may lead to any form of human downsizing without permission and adequate compensation.

Though theoretically there are no restrictions on the employer’s right for labour reduction, still to obtain permission for labour

\textsuperscript{32} supra note 24.
reduction is dependent upon the whims of the government. Certain political factors are often involved in this.

In today’s era of globalisation, intense competition often requires organisations to restructure, by downsizing the workforce then the only alternative is to implement voluntary retirement schemes. Due to rigid provisions of labour Laws, the only way out is the VR Schemes. Downsizing is feasible due to application of advanced technology.

Even if the employer is in a position to pay the compensation as required under the law for retrenchment or closure, it is extremely difficult to retrench the workers or declare the closure of the undertaking. The reason for this is that under the Industrial Disputes Act, prior permission of the appropriate government be obtained to retrench workers or effect closures in an establishment employing more than 100 workers, generally most of the State Governments do not grant such permissions.

Scholars like Lalit Deshpande and others\textsuperscript{33} have stated that in spite of these obstacles, many enterprises were able to adjust their workforce by rationalisation and technological changes, the process has been tardy. Several routes have been found out, illegal closures by not paying electricity bills etc. All these have only added to the predicaments faced by the workers- they are neither paid their wages nor their due compensation. This has also resulted in significant industrial sickness as well as prevalence of redundancies leading their un-competitiveness. Although unions have generally resisted any legislative or executive move to make closure and retrenchment easier, in recent years unions at the enterprise level are generally found to be accepting the inevitability of adjustment in workforce in the face of globalisation and industrial restructuring.

\textsuperscript{33} supra note 6.
It is mentioned earlier in this chapter that the government has set up a mechanism in the form of an organisation called BIFR to examine and decide whether the sick private and public sector enterprises could be revived with restructuring units. This policy of the government was for the purpose of reviving the unit and maintaining employment. The NRF was constituted to enable enterprises to pay reasonable separation benefits, and assist the workers rendered redundant to verify and redeployment.

Although little labour market reform has taken place, the policy changes and industrial restructuring, automation and the like also have repercussions for labour redundancies. But it is also true that in the absence of a clear cut exit policy, and the delays inherent in existing mechanisms for dealing with industrial sickness, the organised sector continues to carry substantial redundant labour.

On the other hand as per the review of the Indian Express Newspaper\textsuperscript{34}, the new buzzword in this 200 hectare Maharashtra Industrial Development Corporation (MIDC) estate is automation. Over 25 per cent of companies have quality certification and automation and in another two years the entire industry will be automated. This is by way of an example of Pune based industry.

The use of CNC machines (Computer Control Machines) and (instead of manual work) the work is being carried out with the use of electricity. Thus it saves raw material and also reduces labour cost. Thereby with automation the percentage of overhead drops. In this era of global competition use of better technology helps to achieve higher levels of business excellence. Also the global outsourcing for the automotive industry can increase. Instead of permanent jobs, jobs will be available on contract basis.

\textsuperscript{34} The Sunday Newsline, August 20, 2006.
All these development in labour market have their implications for industrial relations in general and industrial employment in particular.

3.9 CONSEQUENCES OF VOLUNTARY RETIREMENT SCHEME ACCEPTANCE:

In the present day scenario VRS is inevitable for obvious reasons. The acceptance of VRS has various effects. According to the survey conducted by Friedrich Ebert Stiftung the consequences of VRS acceptance may be repentance, new employment or self employment.

Vast majority of the workers who opted for Voluntary Retirement Scheme and resigned their jobs are having a bad time. They received lump-sum, the major portion having spent for repayment of loans or expenses, for domestic reasons or on petty unnecessary items. Thereby their standard of living has gone down considerably. And the financial and social burden on the family members is in increased. The reason for this is the ever increasing prices while their income remaining static. After reconciling the situation, they think that there is no question in repenting, because under the compelling circumstances they had to accept voluntary retirement.

It is difficult to manage within the reduced earning, so many of the retired workmen search for new employment. But for various reasons as advance age, shortage of jobs, lack of any specialised skill, they could not get new jobs. From the studies it is evident that only 43% could get the new employment. But it is again difficult to perform that job. These jobs are on contract basis with all its ills, there is no job

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security, payment is very less and the permanent mental tension of losing the job and earning.

In some case worker are fade up with the existing employment for number of reasons. From the study made by scholars it is revealed that about 16% of the workers have desire to start a new business. Thus after accepting voluntary retirement they can remain self-employed. To them, this is a good opportunity. They get handsome amount by way of Golden Handshake, which they can invest in a new business. Among these workers also few get success and others get failure in their new venture. Due to this failure, their financial position is very miserable. Whatever amount they had in their hands has been lost. Nobody can imagine living conditions of these workers and their family members.

The surveys conducted in this subject of VRS indicate that almost all large companies have downsized and many of them have downsized several times. They focus that fewer than one in four downsizing really achieve their objectives of reducing costs, increasing productivity, improving quality and customer service.

The same view has been expressed by the two scholars namely Kaustav Dey and Pranabesh Ray. They have conducted a sample study of nine companies, who had offered VRS as a process of downsizing. These nine companies were selected from a wide variety of sectors and regions. The time period of ten years (1990-2000), within which VRS was offered, was selected so as to capture the picture before and after the implementation of the VR Schemes in the company.

After studying different aspects they came to the conclusion that most of the companies have not been able to achieve their goals, they have thought about while going for downsizing. Gains in productivity and profitability have been either erratic or not achievable.

\[^{36}\text{supra note 11.}\]
Another scholars namely DeMuese Venderheiden and Bergmann\(^\text{17}\), from the university of Wisconsin call this a myth that - "Downsizing increases corporate profitability". In reality, the evidence strongly suggests that downsizing is not a successful strategy that typically improves a company’s financial portfolio. Further it is concluded by stating that even in those countries, where downsizing is an accepted practice with the least of legal hassles, there is no guarantee that downsizing will achieve the desired profitability or productivity. For quick profits the whole exercise should be properly planned with a long time perspective. After all any premature termination of the employer–employee relationship for whatever reason is bound to affect the organisational performance.

From the above mentioned different perspectives, an enterprise needs to seek adjustment and undertake restructuring only when it is essential. And this should take place with mutual understanding. It is true that the problem of unemployment anywhere in the world causes economic risks, social tensions and political uncertainties. Still the winds of liberalisation and globalisation are forcing firms everywhere to produce and deliver superior quality products/services at low costs. Doing more or getting more production with less expenditure has become today’s norm. With the domination of market forces and economic pressures, social considerations are becoming less important. The development has become customer oriented, but not human centred. The success of the corporations is based on human sacrifice. With the acceleration of technology progress human obsolescence is also accelerated. To sum up the reasons for workforce adjustment may be external as well as internal. External reasons may be the structural and other changes in the economy, increased use of advance technology and sometimes some products or the manufacturing process may

become outdated due to change of customer market. The merger and acquisitions taking place in corporate world is also one of the reasons. Certain materials are substituted by other materials. Internal planning and erroneous selection which give effect on internal reasons and before the wake of liberalisation policy wherever in the industrial sector there were excessive employees employed. The employers are of the view that now this is appropriate time to reduce this fat in the industrial organisations wherein the staff is not skilled or adequately trained. They can opt for VRS and lastly but not least labour is subrogated for capital.

These may be the few reasons for VRS or structural adjustment or downsizing. To reduce the pains of this structural adjustment and to ensure smooth implementation of exit policy some steps are required to be taken.

Alternative employment opportunities should be created. The workers should also show their willingness to learn new technology. If possible internal changes should be made in the organisations like locations, functions of the workers. There should be certain programmes or courses for skill learning. Any employer should be able to perform other type of job in cases of requirement of the establishment. Workers appointment should be made only on the basis of skill and not on the basis of survivorship; Government also should undertake programmes or courses for entrepreneurship so that self employment will increase.

This voluntary retirement need to be really voluntary. From the viewpoint of the some of the researchers it is found that the so-called legal hurdles in the form of various clauses of Chapter VB of the Industrial Disputes Act, is elusory. The Government generally adopts case to case approach. So generalisation is not possible. The state Government has its own discretion for granting or refusing lay-off, retrenchment and closure.
"Human obsolescence has become inevitable, but it should be resorted at last resort. Management philosophy and attitudes can make a vast difference. One view is that obsolescence is inevitable. The other view holds that obsolescence is partly avoidable and partly unavoidable, therefore the thinking is: let us do our best to minimize /avert the adverse efforts on the people in our organization. Man made obsolescence needs the ingenuity of homo sapiens to fight against it. Let those in charge of managing people think as if they are the ones affected when considering how to deal with human obsolescence. Let them and let us all stop worrying about the problem and start thinking about a solution. For every problem there is more than one solution. However, let not anxiety lead to a situation whereby the solution to the problem itself is the cause for a hundred other problems."38

3.10 CONCLUSION:-

VR Schemes are not new to our industry. They were in existence even before 1980. But since the end of 1980s the number of VRS started increasing. Year after year they were accelerated and large number of companies, in both public and private sector undertakings including steel industries, coal mines, engineering, pharmaceutical, chemical industries, banking, State and Central Government undertakings, railways and the like have introduced the VR schemes. On the basis of different studies made in the subject following conclusion can be drawn.

VRS could be used as a suitable strategy which enables the industries to generate surplus resources and invest the same for increase of production in existing and new product-lines. On the

background of crisis ridden economy, with high inflation and industrial recession, there was massive un/under employment alongwith acute poverty and malnutrition. Therefore the working class needs more state protection, increasing employment and other beneficial measures.

Contrary to this the NEP measures do not contain any specific reform proposals to integrate the labour in the overall framework of policy changes. Labour policies do not form a part of the adjustment programme. Therefore, liberalisation, modernisation and globalisation may bypass the working class. Antiquated labour laws may continue. In the context of privatisation, employer may be free to informalise labour market, increase work load, working hours and may violate the existing labour laws and conventions. Informalisation of labour market again would de-unionise the existing organised labour force or undermine trade union rights. The World Bank /IMF sponsored structural adjustment programmes imposes heavy burden on the working class in India through reducing employment, wages, income and earnings. Hence despite the merits of a more outward looking free market oriented adjustment programme the working class may not reap the expected benefit, because neither the labour policy has formed a part of the restructuring programme nor they were a party to the policy changes.

Adjustment means to accept the change. In the present context of LPG, firms are following two main approaches to deal with adjustment to remain competitive. The former approach inevitably leads to more incidences of job losses than the later. The greatest challenge today is to ensure that more jobs are created than the job losses. Otherwise the result will be jobless growth or more growth with fewer jobs. In short, economic growth will be at the expense of human welfare.

If proper attention in three areas namely human resources development, labour market flexibility and labour standards, is paid the competitiveness of enterprises and economy will become the means of
social progress. In order to achieve social progress, while maintaining competitiveness of industries, these three factors should be taken care of. India being a socialistic, welfare state, and the underlying idea behind any new policy should be social progress or wellbeing of the society.

According to Starcher G.\(^3\) Human resource development should focus on preparing people to cope with the challenges of adjustment. The growing gap between technology and skills re-emphasises the importance of flexible training, which includes enterprise based training and continuous education. Human resources development and the creation of a highly skilled and flexible workforce are especially important in a global economy, because these enable enterprises, a nation to remain competitive. The author further stated that labour market flexibility and deregulation are controversial subjects. If deregulation results in the dismantling of existing regulations and social protection, it is cause of great concern. Competitiveness should not become an excuse for lowering labour.

In this context, the new vision of the ILO (1990) concerning Decent Work has four core dimensions that are of critical concern for human resource development they are human rights at work place, enterprise promotion for employment growth, social protection and social dialogue.

Throughout the world the restructuring of business is occurring on a large scale. The reason for downsizing of the industrial establishment may be for restructuring, growth, maturity, decline, merger, acquisition, alliances, changes in ownership, technology, products, process, materials, customer preferences and the like.

This restructuring of the workforce should be socially responsible. Because of more meaningful work and a higher quality of

\(^3\) supra note 38 p 240.
life in the workplace is provided, then productivity will increase and thereby profit will increase. For this purpose committed and skilled people are required. It is also true that in the post industrial economy human capital plays an important role. The workers of any corporation are assets of the employers and the employers should be good intelligent, experienced, creative and also expert in the particular field of work.

Under the said circumstances the downsizing has no socio-politico responsibility, but the organisations or corporations are parting with this manpower. It may be affected to the workman in short run but in the long run the entire society will have to face its ill effects. It is an accepted fact that employee satisfaction reflect into customer satisfaction. Hence employees should not be treated as costs and due to downsizing employees can morally suffer.

The IDA and Industrial Employment (Standing Orders) Act, 1946, the provisions there in are considered by employers as bottleneck for generating employment. Once the employees are appointed the employer is under strict statutory liability in the matter of lay-off, retrenchment and closure when the strength of worker is 100 or more. According to this researcher, it is a short sightedness of the employer and considering being risk saving devise in the matter of appointing regular employees. They prefer contract workers or give work contract. This dilemma increasing unemployment is on the rise during the passage of years since 1991, the beginning days of LPG. Such crises are world over in one form or the other.

The researcher has acquainted herself about the details of VRS introduced by Pune based Multinational giants and industrial houses such as Bajaj Auto, Tata Motor, Sandvik, Cummins, SKF Bearing India Ltd., KSB Pump’s. The information she received from newspapers and other sources was inadequate. However it is certain that these industrial houses have reduced their strength of core workers in great number. The questionnaire dispatched to them was not responded and the same
is not referred in this research study. Subject of VRS has multidimensional aspects and where VRS is in vogue or on concluding note there is simultaneously in existence contract labour system. This subject has assumed greatest significance on the background of decisions of the apex court of the country in the year 2001 namely Cipla Ltd., V. Maharashtra Union & Ors.\(^{40}\), Vividh Kamgar Sabha V. Kalyani Steel Ltd., & Anr.\(^{41}\), Steel Authority of India & Ors. V. National Union Waterfront Workers & Ors\(^{42}\).

Next chapter of this study deals with New deal pertaining to Contract Labour a Judicial Perspective.