

The State and its Social Security Agenda

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Abstract:

“A Person, who is having a high degree of responsibility upon his shoulders, shall not be at liberty to sacrifice it for his mere personal greed”

Cook v Deeks [1916] UKPC 10

Presently, due to changing population dynamics and macro-economic reasons the social security program for the aged ones and the working classes in India is devoid of respect, compassion, and gratitude. In addition to the demographic pressure, the system is under strain and needs to be reform. Nowadays, there is also an increasing trend towards privatization of social security due to the rapid aging of the population and other socio-economic factors. Thus the social security agenda under the present system became confusing which again needs to be clarified. With the rapid transformation of social and economic structure, there is increasing pressure on the state to take suitable measures to provide social security with a focus on the elderly as well as the unorganized sector. Therefore the government agencies have to think twice to continue with the present system. Keywords: Society, Security, state policy and social security agenda

I. INTRODUCTION

After independence, the major challenge before the prevailing government in India at that time was to establish a welfare state and to ensure complete structural social security to all creeds, classes within its territory especially to working, labour as they are the partners in the making of new India. For securing the same in 1964,¹ the International Labour Organization Convention (ILO) on Social Security has been ratified by India also it has legislated different Acts for ensuring social security among all. Such as:-

1. Employees State Insurance Act, 1948
2. Workmen's Compensation Act, 1923
3. Employees Provident fund and Miscellaneous Provisions Act, 1952
4. Maternity Benefit Act, 1961.
5. Payment of Gratuity Act, 1972, etc
6. The Payment of Wages Act,

In India, retirement benefits, in one form or the other, are currently available to only about 13% of the working population, including Government employees. This leaves 93% of the unorganized sector uncovered by any formal pension provision.² Pensions without funds have been a major setback worldwide. The Central and State governments are now seeing pension obligations as pressure because the traditional support systems for old people are gradually dwindling. The concern about social protection through low coverage rates is widely circulated. The statutory scheme has often been successful in covering the formal sector. The community-based schemes, on the other hand, have reached out to the occupational groups, rural workers, and disabled

members of the community who are outside the pale of state-sponsored welfare programs. Looking purely from the angle of fiscal sustainability of the States and the magnitude of the problem structural reforms are necessary for new employees, parametric changes are unavoidable for the existing employees as well as pensioners that, on an average, Government employees in India (mainly in Group 'D' and Group 'C' categories) are earning more than other counterparts. It was well settled now that Government employees are in a better position to save for the future when compared to the average employees in a large number of private organizations, especially those working in informal/tiny sector, Small and Medium Enterprises/ service sector organizations, etc. The Preamble to the Constitution of India specifies some specific social-economic goals and the liability to achieve those lies on the state itself. It also empowers the state to make laws and any special provision for women and children. It advocates that the Right to life with dignity is one of the basic human rights and no one can be deprived from his life or personal liberty except according to procedure established by law.³ Thus to protect the dignity and integrity of an individual along with ensuring equal opportunities for all, a large number of legislations have been enacted for assuring social security, employment, equal wages, and protection from exploitation. Yet, the social protection mechanism in India is rudimentary.

II. WHAT IS MEANT BY RETIREMENT BENEFITS?

The term “*Retirement Benefits*”⁴ can be defined as the termination of one's employment that gives an advantage or improves one's life in terms of money, wealth, etc upon reaching a certain age or for health reasons, whether it may be

¹ International Labor Organization “Equality of Treatment (Social security) Convention, 1962 (Adopted: Geneva, 46th ILC session, June 28 1962)

² Ministry of labour and Employment, *Unorganized Workers*, 69 (Annual Report 2018 - 2019)

³ Article 21, The Constitution of India, 1950

⁴ Brayn A. Garner, “Worker”, 1460 (Black's Law Dictionary, 8th ed., 2004)

voluntary or involuntary.⁵ For instance, if an individual got retired at an age of 62 to 65 years, then he needs the income for 20 years more to meet its daily ends. However, they may delay their retirement until and unless they would reach the minimum eligibility age for securing social security benefits, even when they find it difficult to continue, especially when they are in poor health and their work demands them to be more physically fit. Thus, when we talk about retirement, we are not talking about the last stage of life or old age because an individual may be engaging in earning his bread and butter even at the age of the '80s and '90s. It is only the retirement from the post or the office or from the work in which an individual is engaged. But in reality, not all people imagine a healthy and prosperous individual retirement account that can support them in their golden years. Investing in a retirement plan is mainly based on the assumption of the average life span of an individual which is generally calculated between 80 to 100 years of age. It is presumed that when an individual reaches the age of his retirement he is only earning what is required by him to maintain his future well-being.

III. THE BENEFITS UNDER RETIREMENT PLAN

The Ministry of Labour and Employment under the supervision of the Government of India has established a Social Security division to focus on the framing of policies for attaining social security among the working class of organized sectors. Under the constitutional mandate of Article 41, the government has agreed and adopted the view that there would be no justice without social security and also there would be no peace and prosperity among the working class without social justice.⁶ Under Article 41 of the Constitution, it is the duty of the State that it shall within its economic limits will take effective measures for securing:-

- a) Employment for all,
- b) to explore education and
- c) Social security in case old age, sickness, and disablement

Therefore, the government of India has offered social security benefits to workers through the enactment of various social welfare schemes and labour legislation it has also initiated efforts to uplift the worker of unorganized. Legislative enactments like:-

1. The National Rural Employment Guarantee Act, 2005.
2. Unorganized Sector Worker's Social Security Act, 2008
3. The domestic workers (registration, social security, and welfare) Act, are an example of the same.

Under the government initiatives and Article 2, of the International Convention on Equality of Treatment (Social security) Convention, 1962, the social security benefits/branches include:-

- a) Medical Care
- b) Sickness benefit
- c) Maternity Benefit
- d) Invalidity benefit
- e) Old – age benefit
- f) Survivor benefit
- g) Employment injury benefit

Since independence, various measures have been adopted by the government to tackle the basic needs of the working class like minimum wages, Maternity benefits, protection from prohibition, and abolition. The government has also enacted legislation for formulating schemes that apply to them directly or indirectly. Social security board at the national and state level has been also constituted. Apart from benefits provided to the unorganized sector under the Unorganised Workers Social Security Act, 2008. There are three categories of Pension plans to which an individual can subscribe, the National Pension Scheme, Pension plans, and products that are offered and provided by insurance companies and by companies dealing in mutual funds. The National Pension Scheme is the central government initiative and the other two are regulated by IRDA and SEBI respectively. Unemployment benefit and Family benefit. Favorable human conditions for the employees, In-service allowances, in-service and post-service educational and medical facilities for employees and their dependents, Retrial benefits, Protection of environment, and other charitable programs initiated and provided by the corporations is a part of its Corporate social responsibility and denial and no fulfillment of the same is the violation of Individuals fundamental right under Article 21 of the Indian Constitution.⁷

IV. ISSUES AND CHALLENGES OF THE WORKFORCE IN THE COUNTRY

In 2020 India is going to be known as the youngest country in the world. Half of the working population of the country is aged about 15 years and above. Even the retiring age under the relevant framework is around 60 to 62 years and 65 years in some cases. Yet India stands in the medium human development category under the UN survey and ranked at 130th position out of 189 nations. As per the data available out of the total workforce of 4.25 crores, approx 50% are self-employed, 30 % are casual workers, 16.5% are salary earners, and the rest 3% are contract workers. Hence, based on available labour statistics, the status of their economic and social condition following issues and challenges has been noticed:-

1. The demographic shift of workers employed in unorganized sectors.
2. Lack of knowledge as to the "Rights" and about the pension schemes introduced by the government.
3. Old and outdated Labour legislation.

⁵ S.L Salwan & U.Narang, *Legal Dictionary*, 40 (Academic (India) Publishers, New Delhi, 14th ed, 2003)

⁶ Article 41, the Constitution of India, 1950

⁷ Samal Chand Tiwari Son of Late Prem v. State Of U.P., Through Secretary, Allahabad High Court , 6, Dec 2005

4. A lot of paperwork and compliance under existing labor laws
5. Lack of uniform pension system
6. Hire and Fire policies of corporate
7. There is no universal formal method to ascertain the actual population of working class

V. THE PRESENT SITUATION

The overall unemployment rate throughout the country exits at 8.5%. Those who are employed mostly belong to the Industrial, government, service sectors and are graduate, postgraduate, and are Ph.D. scholars. From April 2018 to March 2019 India's social security region where 93% of the workforce counts to the unorganized sector, records 7, 50,400 subscribers who invested in the National Pension Scheme out of which 6, 53,059 subscribers belong to the organized sector and 97,341 subscribers are from unorganized sector and this shows that in India pension scheme or a retirement plan is not an active part of people's life. Apart from government employees nobody counts it as an important aspect of his life. The rate of labour force participation plays a key role in the study of factors that are required to ascertain the composition of human resources. In the era of digitalization, almost all the State Governments do not have any proper arrangements to collect and monitor the data relating to pensioners. This inadequacy leads the agencies constrained from properly assessing the future pension liabilities of the States. It is well known that lots of individuals that have been reported as workers or as employed in annual reports and publications of the ministries are not employed on regular basis. The problem subsists in proper identification of the labour force. There is no universal formal method to ascertain the actual population of the working class. Without actual numbers, it is difficult to provide complete security, especially to the working class. No doubt that rapid growth is necessary for exploring incomes and employment but at the same time it is not only the measure of national development.

VI. CONCLUSION

The governments in our country keep claiming that under the strength and spirit of the Constitution of India, they have given or are giving high ends for ensuring social security to millions of working people as well as non-working people. But in reality, the working class of the unorganized sector is facing endless challenges to meet their day-to-day basic need. Insecurity in employment and demographic shift makes it more difficult for us even to fulfill their social obligations. A plethora of service rules and conditions are much more difficult to keep with. The situation became worse when one is hired on contract job on employer condition the fear of remaining unemployed leave an individual with no option other than that of accepting the unfair. Even wages are not adequate to lead a happy and dignified life. For decades it always remains a win-win situation for an employer on both sides in terms of employment and in terms of taking services of the employee. In such a scenario planning a retirement plan

or dream of it is far – far away. Also that the labour laws in the country have ended up benefiting only workers in the organized sector and it creates barriers to the growth of the small sector to grow as a large sector which would then can create more and more jobs. Thus the labour laws in the country have created regulatory barriers in excess to the startups and this prevented India from creating job and income and from taking full advantage of its demographic assets. All over the world, the working population of a country is considered as the backbone of its economic development and growth. A happy and prosperous workforce is said to be the game-changer in the corporate world. Thus, to meet the challenge of extending social welfare to each class of workers there is an urgent need of organizing the unorganized workforce in the mainstream so that the unorganized workforce does not get affected by demographic shifts. And this will increase productivity and will lead to economic progress.