

The Legal Effects of Collective Bargaining in Employment Contract in India

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ABSTRACT

This paper explores the legal implications of collective bargaining on employment contracts in India. Collective bargaining, as a cornerstone of labor relations, serves as a mechanism for negotiating terms and conditions of employment between employers and employees. In the Indian context, where labor laws are robust and protective, understanding the legal effects of collective bargaining is crucial for stakeholders in employment relationships. Through a comprehensive examination of relevant statutes, case law, and practical implications, this paper elucidates how collective bargaining agreements influence the rights, obligations, and enforceability of employment contracts. It delves into the role of collective bargaining in shaping wages, working conditions, benefits, and dispute-resolution mechanisms within organizations and industries. By analyzing the intricate interplay between collective bargaining and the legal framework governing employment contracts, this paper highlights the significance of collective bargaining as a means to achieve fairness and equity in labor relations. It provides insights for employers, employees, policymakers, and legal practitioners to navigate the complexities of employment contracts and foster harmonious labor-management relations in India.

KEYWORDS: Collective Bargaining, Employment Contract, Negotiation, Labour relation.

INTRODUCTION

Collective bargaining plays a pivotal role in shaping the legal landscape of employment contracts in India. With its roots deeply embedded in labor law and industrial relations, collective bargaining represents the negotiation process between employers and employee representatives to establish terms and conditions of employment. In the Indian context, where labor rights are safeguarded by a comprehensive legal framework, understanding the legal effects of collective bargaining on employment contracts is crucial for both employers and employees. Collective bargaining not only influences the content of individual employment contracts but also impacts the broader dynamics of labor relations within organizations and industries. By facilitating negotiations on wages, working hours, benefits, and other terms of employment, collective bargaining serves as a mechanism for balancing the interests of employers and employees, thereby fostering a more equitable and harmonious workplace environment.

In this essay, we delve into the legal ramifications of collective bargaining on employment contracts in India. We explore how collective bargaining agreements influence the rights and obligations of parties, the enforceability of contractual provisions, and the resolution of disputes arising from employment relationships. By examining relevant statutes, judicial precedents, and practical implications, we aim to elucidate the intricate interplay between collective bargaining and the legal framework governing employment contracts in India. Through a comprehensive analysis, we seek to shed light on the

significance of collective bargaining as a tool for achieving fair and mutually beneficial outcomes in the realm of employment relations. By understanding the legal effects of collective bargaining, stakeholders can navigate the complexities of employment contracts with greater clarity and confidence, thereby promoting a more conducive environment for sustainable labor-management relations in India.

COLLECTIVE BARGAINING

Collective bargaining is the process by which all of a company's or organization's workers or employees attempt to guarantee that their terms and conditions of employment are satisfied through negotiations. One form of negotiation that takes place between employers and employees is collective bargaining. The primary goal of this kind of process is to ultimately arrive at a conclusion and an agreement that would aid in regulating working conditions at the workplace. In this Employers and employees are the only parties engaged in collective bargaining, so to speak, it is a bipartite process. Third parties don't get involved. Those who are directly affected regulate the terms of employment. The only activity that takes place between employers and their employees collectively is collective bargaining. For the successful process of collective bargaining they are some essentials are required which are discussed further below.

PRE-REQUISITES OF COLLECTIVE BARGAINING

The following requirements must be met for the collective bargaining process to function effectively:

- 1. powerful negotiator:** Stable and strongly united trade unions are necessary for collective bargaining to be successful. The first crucial prerequisite is the existence of a registered or officially acknowledged trade union as a potent collective bargaining agent. Only a trade union with strong unity can be a productive partner in the collective bargaining process because it gives its members the confidence to negotiate with a wealthy and powerful employer.
- 2. Favorable Political Environmental:** The political environment in which both the government and the general public genuinely believe that collective bargaining is the best way to settle labor disputes and that it is the best way to resolve grievances is necessary for the collective bargaining process to function effectively.
- 3. Ability to give and receive:** Collective bargaining, like all forms of negotiation, is a process that benefits both sides and is beneficial to both. It won't work unless both sides have a willing and accommodating attitude towards compromise. Collective bargaining as a process cannot be effective or successful if one of the parties only wants to “take” and does not want to “give”.
- 4. Honouring agreements:** Effective collective bargaining typically hinges on how well the deal is carried out. A successful collective bargaining agreement is documented and needs to be abided by by both sides. It needs to be carried out equitably and kindly¹.

EMPLOYMENT CONTRACT

The terms of employment between an employer and employee are outlined in an employment contract. It includes obligations, guidelines, and requirements for joining an organization under an employer and participating in production². Concentration includes a clause stating that the employee is receiving training and that a specific sum of money will be spent on the training process. By this date, the employee must

¹ Dr. S.R. Myneni, Labour Law 1, Asia Law House, 2020.

² Gokulapriya, Analysis Of Contract Workers In Labour Law, Legal Service Of India, (Apr 19, 2024, 9:29 A.M), https://www.legalserviceindia.com/legal/article-10585-analysis-of-contract-workers-in-labour-law.html#google_vignette.

work for the company for the duration of the contract and reimburse the training costs and expenses incurred in the event of a job violation.

Terms of Employment Contract

Employment relationships can be stated explicitly or impliedly in India. Having a documented employment contract is not required. An employment contract does not have a set format³. The labor laws of India do not define "terms of employment" legally. Generally, terms of employment are decided by:

- Employment contracts.
- Employer's human resources (HR) policies.
- Applicable laws

Laws exist in India that regulate the Employment Contracts are:

- Payment of wages⁴, bonus, and gratuity.
- Minimum wages⁵.
- Minimum requirements on leaves, holidays, and working hours.
- Resolution of industrial disputes.

All factories and commercial establishments in some states, such as Karnataka, Haryana, and Tamil Nadu, are subject to the Industrial Employment (Standing Orders) Act, 1946 (Standing Orders Act)⁶, which mandates that covered employers adhere to a set of minimum standards for employment conditions that are outlined in model standing orders. The employment conditions covered by the model standing orders include:

- Classification of workmen.
- Publication of working hours, holidays, pay days, and wage rates.
- Shifts.
- Work from home.
- Attendance.
- Rights and liabilities of employers and workmen.
- Transfer policy.
- Medical aid and examination.
- Secrecy.
- Disciplinary action.
- Grounds of suspension and termination from employment.
- Redressal mechanisms.

Workers (nonmanagers) in "industrial establishments" (as defined by the Payment of Wages Act, 1936) with at least 100 employees are covered by the Standing Orders Act. However, depending on state-specific modifications, the definition of covered employees may change.

Typically, employers and employees sign employment contracts that outline the terms of employment. Employers' HR policies also contain extra employment service requirements. Indian employment contracts usually include clauses that describe an employee's:

- Tasks and obligations.

³ Legalmatch, <https://www.legalmatch.com/law-library/article/employment-contract-law.html>, (last visited Apr 21, 2024).

⁴ The Payment of Wages Act, 1936, No.4, Act of Parliament, 1936 (India).

⁵ The Minimum Wages Act, 1948, No.11, Act of Parliament, 1948 (India).

⁶ The Industrial Employment (Standing Orders) Act, 1946, No.20, Acts of Parliament, 1946 (India).

- Payment.
- Duty to maintain confidentiality.
- Intellectual property assignment

If India's labour laws are more favourable to the employee, they will override the contractual terms.

ALLOWED MODIFICATION

Employee consent for changes to employment contracts is typically required, and it can be either express or implied, oral or written⁷. Employers often seek express, written consent to avoid disputes and establish the legitimacy of any changes. However, employers may make unilateral changes under specific conditions: if the contract grants them the right to do so, and if the changes comply with relevant laws. Changes affecting conditions listed in the Fourth Schedule of the ID Act⁸ necessitate a 21-day notice to impacted workers and labor authorities. While obtaining employee consent can mitigate legal risks, it's crucial to ensure that any changes are enforceable. This often involves providing consideration, which can be financial or non-financial. Indian contract law requires consideration to be real and not illusory, though it doesn't specify the sufficiency of consideration for amending employment contracts. Additionally, valid consideration can relate to past, present, or future obligations and doesn't need to be of equal value to the benefit received.

AMENDMENTS PERFORMED BY THE EMPLOYERS EXCLUSIVELY

If non-contractual terms of employment are not covered by the ID Act's Fourth Schedule⁹, employers may unilaterally alter them. Unless there are contractual requirements or statutory rights, the employer may unilaterally alter corporate policy. Employers are not permitted to unilaterally alter a worker's contractual terms of employment unless doing so would benefit the worker. Any contract, even those that change already-existing contracts, must have the approval of both parties and be paid consideration, according to Section 10 of the ICA¹⁰.

If the required steps are taken, an employer may unilaterally alter the terms of the conditions of service under Section 9A of the ID Act (see Section 9A Notice Requirement). Nonetheless, if there is a dispute regarding the terms of employment, the employer cannot negatively alter the terms of service (Section 33, ID Act¹¹). Workers have the option to remain in protest if they are unwilling to accept a unilateral modification to their terms of employment.

The doctrine of acquiescence is an equitable doctrine under which a party's conduct may amount to assent when a party:

- Has a right.
- Witnesses their rights impacted adversely.
- Does not actively or passively protest during and after such violation. It was held in the case of *Chairman, State Bank of India v. MJ James*.¹²

Labor courts, which generally favor employees, might require both:

⁷ Impact, <https://www.impact-london.com/news-events/negotiating-your-employment-contract-all-you-need-to-know/>, (last visited Apr 20, 2024.)

⁸ The Industrial Disputes Act, 1947, No.14, Acts of Parliament, 1947 (India).

⁹ Id.

¹⁰ The Indian Contracts Act, 1872, No. 9, Acts of Parliament, 1872, (India).

¹¹ Id., §33.

¹² *Chairman, State Bank of India v. MJ James*, (2021) 11 JT 378.

- The employer to prove sufficiency of notice and that the employee has full knowledge of the change.
- The employee's active acquiescence to the change, including:
 - i) absence of resistance; ii) continued employment.

However, the risk associated with an employer treating an employee's deemed acquiescence as the employee has accepted the change is high and may lead to litigation in the future. Employees may pursue a civil remedy as per section 73 of The Indian Contracts Act, 1872 for contractual violation against their employer if the employer unilaterally modifies the terms of the employment contract. The employee has the option to pursue damages or status quo restitution. The suggested modifications are void and unenforceable if the employer disregards Section 9A of the ID Act's requirements (see Section 9A Notice Requirement).

In accordance with the process outlined in the ID Act, an employee may also file an industrial dispute and demand reimbursement for the altered service condition. A conciliation officer hears the case initially for conciliation. If conciliation is unsuccessful, the failure report is sent to the relevant government agency, which is usually the state government in the case of private employers. After reviewing the report, the government authority may, if appropriate, refer the dispute to the industrial tribunal or the labour court for resolution. The employee's demand may be granted by the court, or the parties may agree to a mutually agreeable settlement to resolve the disagreement. (ID Act, Sections 2A and 10).

CONCLUSION

In conclusion, collective bargaining plays a pivotal role in shaping fair and equitable employment contracts. By enabling workers to negotiate terms and conditions collectively, it promotes a balance of power between employers and employees. This process not only fosters better working conditions, wages, and benefits but also enhances job satisfaction and productivity. Additionally, collective bargaining contributes to organizational stability and fosters a sense of mutual respect and cooperation between labor and management. As a cornerstone of modern labor relations, collective bargaining remains essential for ensuring that employment contracts reflect the needs and rights of both workers and employers in today's dynamic workplaces.

REFERENCE

1. Dr. S.R. Myneni, Labour Law 1, Asia Law House, 2020.
2. Constitution of India, 1950.
3. The Industrial Disputes Act, 1947, No.14, Acts of Parliament, 1947 (India).
4. The Minimum Wages Act, 1948, No.11, Act of Parliament, 1948 (India).
5. The Industrial Employment (Standing Orders) Act, 1946, No.20, Acts of Parliament, 1946 (India).
6. The Indian Contracts Act, 1872, No. 9, Acts of Parliament, 1872, (India).
7. Impact, <https://www.impact-london.com/news-events/negotiating-your-employment-contract-all-you-need-to-know/>, (last visited Apr 20, 2024.)
8. Gokulapriya, Analysis Of Contract Workers In Labour Law, Legal Service Of India, (Apr 19, 2024, 9:29 A.M), https://www.legalserviceindia.com/legal/article-10585-analysis-of-contract-workers-in-labour-law.html#google_vignette.
9. Legalmatch, <https://www.legalmatch.com/law-library/article/employment-contract-law.html>, (last visited Apr 21, 2024).