

# LABOUR LAW REPORTER

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A PRACTICAL JOURNAL FOR  
**HUMAN  
RESOURCES  
MANAGEMENT**

MONTHLY

**IMPORTANT JUDGMENTS**

**RS.150/-** per issue

- An employee receiving his dues in full and final on resignation cannot withdraw it. *Supreme Court 954*
- Labour Court and High Court committed mistake in ordering reinstatement to a workman who worked only for 227 days in four years. *Supreme Court 942*
- Reinstatement of a daily wager, engaged only in need of work and on day-to-day basis, cannot be directed. *Supreme Court 958*
- Reinstatement of bus conductor, guilty of pilferage, will be highly detrimental to the interest of Corporation. *Supreme Court 930*
- An employer will not be liable to pay compensation if an employee dies of heart attack even on work place when he was suffering from chest disease. *Supreme Court 890*
- Reinstatement with back-wages to a workman, who was engaged on daily-rate basis, erroneously awarded by Labour Court. *Supreme Court 947*
- Labour Court should not grant relief to daily wagers as being work-charge employees. *Supreme Court 885*
- When a statute provides appropriate remedy for redressal of grievances, the claimant has to resort to that forum only. *Supreme Court 892*
- Setting aside dismissal of drunken driver is erroneous. *Supreme Court 930*
- Principle of 'last come, first go' will not be applicable when there is no retrenchment. *Supreme Court 958*
- No formula of universal application can be laid down for delay in seeking the reference of an industrial dispute. *Supreme Court 881*
- Territorial jurisdiction will be at the transferred place since the Industrial Disputes Act does not provide situs of jurisdiction. *Del. HC 905*
- When an employer was not obliged to make provident fund contributions in excess of statutory limit of Rs.6,500, he was entitled to withdraw from its earlier decision. *Ker. HC 935*
- Reinstatement, as directed to a workman relying upon the year of birth as per ESI and PF records, is liable to be set aside. *Karn. HC 927*
- It is for workman to prove that he was not gainfully employed during pendency of proceedings. *All. HC 944*
- An employer liable to pay ESI contribution of 25% on amount paid to contractor with material. *Bom. HC 982*
- Dispute pertaining to wrongful superannuation of a workman will not fall within the scope of section 2(A) of I. D. Act. *Karn. HC 927*
- A probationer has no lien on job and his services can be terminated without holding enquiry. *Del. HC 949*
- Back-wages on reinstatement is not an absolute consequence. *All. HC 944*
- Reinstatement of an employee of 5-Star hotel, guilty of pouring a strong chemical and spoiling costly 65-metre carpet is liable to be set aside. *Karn. HC 970*
- Assistant Manager (Marketing) will not be a 'workman' under I.D. Act. *Mad. HC 979*
- An employer will be liable for ESI contribution on payment made to contractor for constructing new building. *Bom. HC 982*
- On review application by an employer, recovery of provident fund dues by Employees' Provident Funds Authorities will remain stayed. *Uttr. HC 987*
- Order of government granting permission for closure of establishment cannot be interfered by High Court in writ jurisdiction. *Karn. HC 923*
- An employer will not be liable for compensation to dependents of deceased who have failed to prove that he was a workman. *Del. HC 919*
- Termination of a workman will be illegal when shortfall in retrenchment amount has not been rectified. *Bom. HC 901*
- Report of Private Medical Practitioner is not admissible under ESI Act. *All. HC 898*
- ESI Act provides for an examination of injured person to decide disablement benefit only by Medical Board. *All. HC 898*
- When termination of a workman is for misconduct; retrenchment compensation will not be payable. *Bom. HC 902*
- Territorial jurisdiction for industrial dispute will not be at the place where transfer order was received. *Del. HC 905*
- For charge of pilferage proved against a workman, loss of confidence would be primary factor and not the amount of money misappropriated. *Supreme Court 930*
- Filing of writ petition for back-wages after reinstatement will not justify the delay. *Guj. HC 921*

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# HUMAN RESOURCES DEVELOPMENT IS THE KEY TO CORPORATE SUCCESS

by R.S. Jagdev

It hardly needs to be underlined that employees should be treated with respect and decency to win their confidence and sincerity. The concept of 'Master and Servant' is very rapidly changing to that of dignified relationship of 'employer and employee'. Hence an organization should not treat its employees as disposable.

People don't join organisations for life anymore, but to further their own career. A recent study by Prof. Sunil Maheshwari of the Indian Institute of Management (Ahmedabad) has revealed that large number of managers are "no more committed" to their organizations. The study finds that emotional bonding or fat pay cheques are no more sufficient to retain employees long.

"The commitment levels have gone down dramatically. Earlier, the satisfaction levels were high and the employees were committed to the organization. Now, the employees think they deserve more than what is being offered to them", says Maheshwari, who has surveyed around 300 companies across industry sectors in India and the study elicited responses from 4,000 executives.

Thanks to this, says the study, the employee turnover has gone up across the sectors. This is true even for the manufacturing sector, which earlier had a low employee turnover rate.

In the ratings of commitment level, most of the companies scored far below the minimum required level. "Gone are the days when one would spend 25-30 years in one organization. The level of commitment in terms of years spent with one organization has reduced. Career growth is given more importance now.

Maheshwari says that most managers, these days, are job-hopping since they are not emotionally attached to their company. "They want to take risks in trying out new roles. Increments are seldom of any help to retain them", he adds. The study has covered sectors such as information technology, hospitality, textiles besides others.

Also, money is no longer the only motivator for a job change. But perhaps, what's even more

surprising is that job security is lowest on the priority list for today's young achievers and high fliers. These are some of the findings of a survey on 'What drives you to a job', conducted by search firm Executive Access. The drivers in the survey included money, security, career path, empowerment and learning opportunities.



The survey was conducted in five cities with 208 senior executives across various industry verticals taking part in this exercise. According to the results, only 1% of the respondents voted job security as top priority, while 3% gave money as top priority. 'Security is now history', declares Ronesh Puri, managing director of Executive Access.

The ground rules of the human resource management have sea-changed with the advent of globalisation. An HR Manager does not only recruit the employees but also ensures that they fit into organization and are kept motivated to perform to their ability. Employees are usually made to realize that their progress as well as survival depends on their performance and excellence of the organization. The human resource function flows all along the value chain in any organization and has become intrinsic to the working of all departments. Over the years, the HR function and HR management practices have changed as employees decide the fate of any business.

Various factors like globalisation and the increasing visibility of the information technology



sector have also had an impact on HR practices. Globalisation requires that manufacturing companies maintain the highest standards of quality, while the increasing importance of the IT sector means that managing employee costs becomes a major issue. In the IT sector, staff costs account for as much as 40-50 per cent of expenditure, while in the manufacturing sector, it could be 7-10 per cent.

A weak link earlier was that the HR function could not be benchmarked. However, over time even that has changed with a number of benchmarking models - be it in terms of compensation package or people satisfaction levels or recruitment costs or productivity levels - available.

An organization is made up of competencies which we can loosely call 'capital'. Its key components are 'customer capital', 'structural capital' and 'human capital'. No doubt, land and buildings are the most valuable assets owned by households, land and buildings account for 87% in rural areas and 76% in urban areas. It is important, however, that people, at large, and policymakers, in particular, recognize that this is just one way of looking at assets. Another perspective is that the most valuable asset is human capital. The knowledge and skills that individuals acquire and the institutional framework in which these get deployed, so as to interact productively, together determine an economy's capacity to prosper. This is all the more relevant in the knowledge economy, in which the prime determinant of value is the knowledge wielded by workers. Of course, for knowledge to be productive, it has to be embodied in men and machinery. Men and women must enjoy good health to be able to put their knowledge to good use. The ruling alliance's preferred solution as spend more on education and health. Given the state of accountability in the governmental system, there are very valid concerns about the efficacy of such an approach. State failure in delivering health and education reflects dysfunctionality of the institutional framework within which productive resources get deployed. Empowering the disempowered will raise the level of accountability of the government to the people and thus become a direct input to improving the delivery of education and health. Political reform at the grass roots, in

other words, is essential to enhance the value of our most precious national assets.

That is why, it is aptly and appropriately said that a nation or an institution is made by human beings but inanimate buildings and machines do not make good human beings.

Companies should understand the need to benchmark with the best in the industry to prevent others from providing a better environment and growth opportunity for effective retention as the cost and effort of hiring replacements was too high. Four Ps (people, products, processes and profits) are the *mantra* for corporates' success in the modern competitive environment. The focus on first three Ps, people, products and processes in that order, will lead to profits i.e. fourth P.

HR functioning had become absolutely critical for organization it is a matter of survival and making employees best of the best in every way. One can't afford to be a passive watcher anymore. Gone are the days when HR was purely a compliance function. You have to change your mindset about HR. Organisation goals will not succeed if they are not made to work very closely in implementing all aspects from the beginning". Human Resources (HR) will be the single most important determinant behind the success of corporates.

The scene of action has shifted increasingly away from the ivory towers, down into the trenches. The Human Resource Managers are now considered as strategic contributors for the successfully functioning of an organization. They have not only been reporting directly to CEOs but even sit on the Board of Companies. So CEOs must grade up, cease to be just record keepers. They will be assessed more on the basis of how they enable and encourage others within the organisation to succeed. It leads to a redefinition of top management's role: the net result of that will be to lead HR out of the backroom - right into the frontline, into board-rooms. Even jarring local cultures should pose no problem; at best such things should just lead to a modification of corporate culture, not its jettisoning. Thus, the changed scenario is one in which personnel 'management' triumphs over 'measurement'. Nameless, brainless and shameless bosses have to change. The organizations not understanding the importance of its workforce will not survive for long.