



**PROVISIONS REGULATING
EMPLOYMENT OF WOMEN IN
FACTORY : FACTORIES ACT, 1948 &
SOCIAL SECURITY**

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Introduction

Factories Act got enforced on 01.04.1949. The Preamble of the Factories Act, 1948 states that it is an act to consolidate and amend the law regulating labour in factories. This Act especially looks after the well-being, safety and fitness, simple provisions of working hours, holidays, lights, and ventilation i.e. lay down the provisions for the welfare of the people hired in a factory.

Maintaining in thoughts the unique requirements of women, special provisions in regard to women and children like maternity leave, partition, separate area and many others, has been provided under the Act. Chapters like health, safety, provisions regarding unsafe methods, welfare, working hours, annual leave provisions, special provisions were laid down to make it a comprehensive Act and to cope with even the tiniest want of the worker hired into the manufacturing facility.

India's hard workforce will quickly come to be prominent within the world. In keeping with the facts provided by way of the workplace of Registrar trendy & Census Commissioner of India, as in step with Census 2011, 'the total variety of women employees in India is 149.8 million and

female employees in rural and concrete areas are 121.8 and 28.0 million respectively'¹.

Out of general 149.8 million female employees, 39.5 million girls are running as cultivators and some other 61.5 million are agricultural people. Of the remaining women employees, 8.5 million are in family enterprises and 43.7 million are classified as different employees.

Factories Act broadly speaking lays down provisions for all grownup (whether or not male or lady) teens, toddler employees (child now not under 14 yrs.) in numerous respects. The facilities and provisions enacted in general are for every employee however few provisions had been particularly laid down for lady people.

Labors are being subject to misuse and discrimination and their human rights being broken so the want emerged for an order of the legal guidelines for all of their's assurance and safety. Working women form a noteworthy share of society, amongst people, the state of women is especially helpless & hapless as a result numerous administrative enactments were given in all paintings resolutions which cope with troubles of women who work. Women essentially require few provisions due to the scenario for them at the workplace.

The Second National Commission on Labor, 2002

The commission has additionally justified the protective discriminatory law advantageous for women by way of recommending that all such regulations are vital for female employees.

¹ Ministry of Home Affairs , *Census Data of India*, OFFICE OF THE REGISTRAR GENERAL &

CENSUS COMMISSIONER (Spet. 16, 2021, 11:02 AM), <https://censusindia.gov.in/>.



As our honorable Prime Minister Mr. Narendra Modi rightly cited in certainly one of his speeches,

“Women constitute 50% of our population and if they do not come out and work, then our country will never grow at the pace we all envision it to grow, and for that very reason, governments over time have taken special care to enact and amend laws to ensure greater participation of women in the growth story of India”.

From time immemorial females have been faced with biased tests. In this era too, as an ever-increasing quantity of younger educated girls moves into clerical employment, their odds of confronting ruthless conduct from males, at numerous work associated dimensions, have increased.

Prohibition of work in Hazardous Occupations:

Section 22(2)² of the Factories Act, 1948 prohibits females to work with machinery in movement or in any case in any way.

Additionally section 87³ of the Factories Act, 1948 empowers the State government authorities to restrict employment of women in dangerous operations.

The Factories Act additionally prohibits the employment of ladies in pressing cotton in which a cotton opener is at work. There may be a proviso that in case the feed end of a cotton-opener is in a room separated from the transport cease by means of a partition to the roof or to such peak because the inspector

may additionally in any specific case specify in writing, females may be employed at the aspect of the partition wherein the end of the feed is situated beneath section 27⁴.

Section 34⁵ states that maximum Permissible Load To safeguard females against the risks springing up out of lifting to heavyweight, the Factories Act authorizes the appropriate Governments to restore the most load that may be lifted through women. Regulations framed by using all the state Governments (except U.P.) have made constant the subsequent maximum weights for females hired in factories.

Turning point precedents:

In *Pearson v. Belgium Co. Ltd*⁶, The question changed into whether a woman may want to clean the imobile components of a gadget if the system as a whole is in motion. The courtroom held that even imobile parts of the machine couldn't be wiped clean by way of a female if the machinery as a whole is in motion.

Additionally, In *Richard Thomas and Baldwins Ltd. v. Cummings*⁷, the courtroom noted that there could be no breach of statutory duty if any harm happened while the machinery was not enclosed, if the powergot fully cut off and the machinery got under repair and the parts had not been in motion however were moved by way of hand for repair functions.

² The Factories Act, 1948, § 22(2).

³ The Factories Act, 1948, § 87.

⁴ The Factories Act, 1948, § 27.

⁵ The Factories Act, 1948, § 34.

⁶ *Pearson v. Belgium Co. Ltd*, (2004) 56 SCL 385 (India).

⁷ *Richard Thomas and Baldwins Ltd. v. Cummings*, UK C. No. 61, 1952.



In a landmark case of *B.N. Gamadia v. Emperor*⁸, the Bombay high court located that the provisions of the sections aren't complied with if the door is split among the two elements of the room and opened by using a women hired at the same time as the door is shut, however now not locked or if other effective means are taken to save you the door from being opened from a female.

In *Triveni K.S. and Others v. Union of India and others*⁹, section 66(1)(b) of the charter turned into a challenge to be discriminatory on the idea of gender. The High court held that girls have to now not be hired for his or her very own safety and welfare for the duration of the night shifts changed into an ideology of an erstwhile age that turned out to be out of tune with present day necessities for equality, in particular between sexes. In regards to an exception furnished to the fishing and canning industry, this somehow postulated that it might seem a ridiculous announcement that girls in those sectors could be completely secure but nonetheless no longer safe in the fabric industry. Consequently, section 66(1)(b) of the Act became unconstitutional by the High Court and proclaimed that females in the fishing industry need to additionally receive extra or much less the identical safety as a number of those provided for.

Latrine and Urinal Facilities Separate conservancy facilities are provided to women workers in Factories Act, 1948. The Factories Act, 1948 makes it compulsory for each factory to keep a sufficient number of latrines and urinals of the prescribed type separately for women and men employees.

⁸ *B.N. Gamadia v. Emperor*, (1925) 27 BOMLR 1405 (India).

Such facilities are to be comfortably located and accessible to people at all times at the same time as they're in the factory. Every latrine is needed to be undercover and so partitioned off as to comfortable privacy with an appropriate door and fastenings.

Sweepers are required to be hired to maintain latrines, urinals and washing places hygienic as well as clean. Preferred construction of the latrine lodging to be supplied for women and men workers are contained within the guidelines framed by way of the involved nation government.

The Factories Act, 1948¹⁰ (“Factories Act”)

The aims & objects of the Act:

To guard the interest of people and guard them from exploitation, the Act prescribes strict requirements in regards to protection, welfare and operating hours of workers, other than the other provisions. The Factories Act's objectives are to defend the workers employed in factories from unfair exploitation by means of their employers. Proper operating conditions include ensuring health, safety, welfare, proper operating hours, leave, and other such advantages.

Exclusive Provisions for women employees:

There also are several different facilities to be presented to factory people, such as women's washing and bathing facilities, bathrooms (separate latrines and urinals for ladies) and canteens. Separate public application amenities can be offered for ladies at work. A female worker shift timing now need not be altered except after a weekly holiday or a

⁹ *Triveni K.S. And Ors. vs Union Of India (Uoi) And Ors.*, (2002) (5) ALT 223 (India).

¹⁰ The Factories Act, 1948



completely exclusive holiday. As a result, employees (females) now have the right to acquire as a minimum a 24-hour prior information of her change in shift timing. Female workers are prohibited from working in a dangerous profession, from pressing cotton wherein a cotton-opener is at work and from proscribing the maximum allowable load.

The Factories Act additionally stipulates the employers using 30 or extra lady employees to offer for checks for kids of the women employees, aged 6 years and under.

No woman employee shall be allowed to work in a factory besides between 6 a.m. and 7 p.m. The State Governments might also by means of notification range the boundaries as set out on this point, however in no situation will female employees be allowed to work between 10 p.m. and 5 a.m.

In 1987, the Act was amended, establishing safeguards in opposition to its use and managing of unsafe materials and protocols for the status quo of hazardous industries.

The Equal Remuneration Act, 1976 (“Equal Remuneration Act”)

Here once more, we find discussions and instances of wage discrimination, wherein females are paid much less than their male counterparts. This is the scenario around the globe, even in developed nations.

Article 39¹¹ of our constitution directs that “States shall, in particular, have policies towards securing equal pay for equal work for both men and women.”

Under the Equal Remuneration Act:

Employers shall pay the same pay to a male and a female who carry out the identical or

similar work. Employers could not legally discriminate among men and women in the recruitment manner except if there is a legal restriction to the employment of females in respective sectors.

Whilst girls represent a large chunk of the present workforce in India, they may be nonetheless missing out in work participation (the share of ladies employed is still low) in addition to the quality of the employment.

One of the reasons for this lack of female labor participation is the lack of appropriate jobs being provided, i.e. the disparity among what they could do and what is there for them to do.

The question of protection is another reason for low women participation within the subject of employment. Proper and good governance and law enforcement is a need if the goal is to boost the women's sense of safety and thereby encourage more females to take in jobs.

An additional problem is that the sectors where women are employed which includes “domestic work” that may be included in the ambit of “unorganized sector” and that is troublesome within the understanding that there is no sturdy set of rules for their place of work in this sector; this a supplementary factor that leads to the shortage of ladies within the active group of workers, as it's particularly difficult to clearly preserve a process not to mention build a career.

This susceptible role of girls in terms of detrimental situations that may be worsened due to any possible dismissive situation makes things even more defeatist for women

¹¹ INDIA CONST. art. 39.



as they already face an unequal working environment in several workplaces.

They must cope with childbirth and related troubles, they have got additionally to deal with home responsibility, which is intrinsic in a patriarchal society that is not traditionally expected of men in the workforce

Provisions in regards to working hours

Section 66¹² of the act says that the working hours of women in a factory shall be between 6 AM to 7 PM only for the protection and maintenance of well being of the female workforce of a factory

For the protection and nicely-being of the girl gender, their running hours in a manufacturing facility will be between 6 A.M. to 7 P.M. best. it's also provided in this section that there will be no alternate shifts besides after a weekly off day or another leave.

Additionally, it is established in subsection 2 of section 66¹³ that special provisions may be established in factories of fish curing or fish canning to prevent damage to material by way of employment of women beyond regular hours but only by the state government.

Provisions with respect to the safety of workers

To ensure the safety of the women workers in a manufacturing facility, female employees are exempted from the work of lubrication of equipment in movement. It shall be performed through a specially educated adult

male worker who should be wearing tight-fitting clothing to avoid the clothing getting caught in the operating machine.

Section 22(2)¹⁴ of the Act especially mandates at the factory owner that no female or younger individual shall be allowed to clean, lubricate or modify any part of the equipment when it or any subsequent parts of the machine are in motion. These Provisions are intended to prevent the women from exposure to dangerous harm that can be as a result of operating or performing maintenance of a machine in operation.

Section 27¹⁵ of the act establishes that there is a prohibition of employment of ladies and kids near “cotton openers”. Women and children cannot be hired in any part of the factory where pressing of cotton takes place at the operation of one exception that the place between the feed end and transport end extends to a specific height and is subject to the permission of Inspector legal beneath the Act.

The act under section 34¹⁶ gives the power to establish rules regarding the maximum weight that can be lifted, carried or carry out any movement by men, women, children and adolescents inside the factory to the state government

It’s a statutory directive that no one shall be employed to carry a weight that can cause them harm.

Provision with respect to the welfare of workers

¹² The Factories Act, 1948, § 66.

¹³ The Factories Act, 1948, § 66(2).

¹⁴ The Factories Act, 1948, § 22(2).

¹⁵ The Factories Act, 1948, § 27.

¹⁶ The Factories Act, 1948, § 34.



Section 42¹⁷ of the act establishes that for maintaining the safety and welfare of the women workers there should be separate and adequate facilities for washing shall be provided for the privacy of the female employees

Section 48¹⁸ Establishes that in an instance with her more than 13 moccasin factory the owner of the Factory should provide a suitable room for the use of children under the age of six this provision is keen to increase the efficiency of the women workers by way of providing a facility where women workers can perform the tasks without worrying about their children these rooms should provide adequate ventilation lighting accommodation and be under the charge of women who can look after those children

Provisions with respect to the health of workers

There is a provision for separate inclusion enclosed areas for the toiletry needs of both men and women under section 19(1)(b)¹⁹ of the act. This provision also maintains that this accommodation should meet the requirements of being adequately ventilated and illuminated

Provisions with respect to annual leave with wages

Section 79 (1)²⁰, explanation 1 maintains that each woman worker who has laboured for a duration of 240 days or extra in a manufacturing unit will be allowed to leave with their respective earned remuneration and in case of a woman employee, that shall receive a maternity leave of up to 12 weeks.

The state government has the power to private or strictly private of women children and adolescents in the manufacturing process or operation where the state is of the opinion that their respective manufacturing process or operation is carried out in a factory which exposes any person to serious bodily harm or injury. The state has this power under section 87(b)²¹ of the act.

Conclusion

In today's age of women empowerment every element of society, be it public Or private, is trying to uplift women and raise voice against discrimination, from ensuring equal opportunities raising voices against harassment and discrimination and promoting equality and shared responsibility in the household and promoting the protection of women in every field. The above-mentioned provisions in the act establish rules and provisions so that women can work more safely and comfortably in the workplace

WomanHood is traditionally seen as an obstacle in the path of many women and their professional lives on that note the above mentioned special provisions I've been established in several beneficial pieces of legislation to empower women and encourage them to be a part of the workforce in an efficient flexible way by providing flexible working hours, accommodation facilities for their children, protection of women from dangerous work and catering to essential needs and many such provisions that serve to be overdue and the need of the time.

¹⁷ The Factories Act, 1948, § 42.

¹⁸ The Factories Act, 1948, § 48.

¹⁹ The Factories Act, 1948, § 19(1)(b).

²⁰ The Factories Act, 1948, § 79(1).

²¹ The Factories Act, 1948, § 87(b).



India is one of the founding members of the ILO and in continuation of that effort the country has tried to maintain the efforts to prescribe to the standards provided by ILO. The special rights provided to women in various labour laws (i.e. The Factories Act, 1948, The Mines Act, 1952, The Plantation Labour Act, 1951, The Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996, The Beedi and Cigar Workers (Conditions of Employment) Act, 1966, The Contract Labour (Regulation and Abolition) Act, 1970, The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979, The Maternity Benefit Act, 1961, The Employees' State Insurance Act, 1948, The Employees' Provident Funds and Miscellaneous Provisions Act, 1952, The Payment of Gratuity Act, 1972, and The Workmen's Compensation Act, 1923, Minimum Wages Act, 1948, Payment of Wages Act, 1936 and Equal Remuneration Act, 1976) are excellent examples

Nevertheless, it is imperative to acknowledge the fact that several detective legislations have been redundant or counterproductive in nature such as depriving women laborers of their flexibility and their right to choose whether or not they would like to work at a certain time by prohibiting of work at night. It should also be noted that due to this legislation women cannot work overtime or work the night shift even if they are willing to work which leads to a huge lapse in the attempt to provide equal opportunity of employment to women.

The legislation is trying to solve social issues through legal means by-laws which are counterproductive inside legislation's in the

realm of a safer environment at night would prove to be more productive and empowering.

It should also be noted that the country needs to bolster and develop effective implementation and rest mechanisms and this can only be achieved if there is a redressal of each and every complaint at the grassroots. This will ensure the implementation of specific provisions and establish more sustainable outcomes.
