



WORKMEN IN THE FALLIBLE WORK SYSTEM

An analysis of Indian laws regarding lay-offs, retrenchment, and wrongful terminations

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Abstract

It took a pandemic— it took one seriously devastating pandemic for Indians to realize how transient their jobs were.

In the year 2020, when the pandemic massively struck India, middle-class Indians were more afraid of losing their jobs than they were of losing their lives. As the 21 days lockdown extended to become an uncertain exile, private entities ruthlessly terminated their employees and workmen to cut costs. Instead of sharing the misery at the time of an epidemic, the companies were more concerned at keeping their profits as they sent dozens of terminating letters on the grounds of 'natural calamity'; and the companies which did retain their employees did so by reducing their salaries by half.

Even before the covid-19 pandemic, Indians suffered from the worry of being dismissed without cause by their employers who threatened to use technicalities and loopholes of the Indian legal system to get them out as per their whims. More often than not, legal jargons were weaponized by the lawyers of the company to befool the laymen into believing that they were terminated for breach of contract; if this did not work, false accusations and low-grade tactics were used to push them out.

Job security is essential in a country like India, where a majority of the people depend on a single source of income and cannot afford to lose their lively hood. This paper is an attempt to highlight the lacunas that the employers often exploit and get away with, all because there were too many definitions and complexity in the laws than what a layman can understand. The major focus of this paper would be on the laws regulating lay-offs, retrenchment, and wrongful termination.

Introduction

Every venture has its hurdles. When an industry is involved in any form of economic generation, it is bound to have ups and downs. As each enterprise requires inputs that get depleted on use and are scarce, the employer has to cut down on the element which is in abundance, to reallocate the spending— unfortunately, such abundant element is often the labour.

Therefore, the Indian labour laws provide certain options to the employers to ensure that his company or any endeavour, where he employs a large number of people, doesn't become economically impotent. The two popular choices opted by the employer are— layoffs and retrenchment.

Layoffs and retrenchments are both legal practices in India and they require certain rules to be followed. If the rules of terminating the employee for temporary (layoff) or permanent (retrenchment) are not followed, such termination falls in the category of illegal dismissal or wrongful termination.

The misery of employees and workmen lies in the verbatim of the legislations which govern the arena of labour law. There are multiple and complicated definitions



describing a person who works under an employee; there are gaps in the laws which are illegally filled with the technical know-how of the employer's lawyer, and above all, there is the friction of slow and long trials.

To understand the above contention, one must look at the existing laws first.

Layoff laws in India

'Layoff' is defined under section 2(kkk) of the Industrial Dispute Act, 1947.

In simplest terms, workmen are said to be laid-off when their employers are unable to provide them with work on the grounds of shortage of raw material or power, accumulation of stock or breakdown of machinery, or natural calamity.

The conditions required for the provision of lay off to be applied are:

1. There must exist an inability or refusal from the side of the employers.
2. Such inability or refusal must stem from a shortage of raw material, power, accumulation of stocks, breakdown of machinery, or natural calamity.
3. The names of the workmen to be laid off must be borne in the muster rolls of the industrial establishment.
4. Such workmen mustn't have been retrenched.

If a worker, whose name is present in the muster rolls, is present during the appointed working hours and is not assigned any work within 2 hours of his presence then such worker is said to be laid off for that particular day. In case the worker has not been given

work in the first half but is furnished with tasks in the second shift, then such worker is said to be laid-off for the first shift.

Unlike retrenchment, a lay-off is supposed to be temporary. According to sec 25C of the ID Act, the maximum days for which a worker can be laid-off is 45 days; and the worker who has been so laid off is entitled to be compensated with the amount which equals 50% of the total basic wages and dearness allowance— the amount which such worker would have earned had they been not laid-off.

The compensation of layoff can only be availed by the workmen if—

- i. Their name is borne of the muster roll of the industrial establishment.
- ii. They have rendered one year of continuous service under the employer.
- iii. They are not a *badli* or casual workers.

This is as per the rules enunciated by sec 25C of the ID Act.

However, in the case of *Vijaykumar Mills Ltd. v. Labour Court and Anr*¹, a different stance was taken towards badli workers. Badli worker means a substitute who is working on behalf of someone whose name is present on the muster roll. In the above-mentioned decision, it was held that if the *badli* workers' names appear on the muster roll or they have completed one year of continuous service under the employer, then they too are entitled to layoff compensation.

Sec 25 C also dictates that if, on expiry of 45 days, the layoff prolongs or the employer is not able to provide work to the laid-off

¹ 1960 SCC OnLine Mad 354 : (1960-61) 18 FJR 286 : (1960) 2 LLJ 567



workmen; then it will be a lawful obligation of an employer to retrench the laid-off workers in accordance to sec 25F.

The compensation paid to the laid-off employee is set off against the compensation payable for the retrenchment.

Section 25B of the ID act revolves around the concept of 'continuous service'. A workman is entitled to lay-off compensation if they have provided their services to the employer, uninterrupted, for one year. Interruptions caused due to accidents, authorized leave, medical emergencies, legal strikes, or terminations of workers without their fault are not taken into account.

There is an exception to the rule of 'continuous one year service'— when the workman, during the period of 12 months, had rendered his service for 190 days in case of being employed in the mine and 240 days in case of other employment.

Compulsory Permission from Authority

After the amendment of 1984, it is compulsory for the employers of the industrial establishments with not less than 100 workers (not being seasonal or where work is performed intermittently) to seek prior permission from a competent authority to lay off workmen.

For asking permission to lay-off, the employer must make an application, regarding reasons for lay off, to the concerned authority and a copy of the same must be provided to the workmen to be laid off. After such application, an inquiry is made by the authority. The decision of the

authority after the inquiry should be communicated to the employer and employees to be laid off; such decision is then deemed to be final and binding for one year from the date of such order².

If after 60 days of such application, no order is communicated from the side of the competent authority or the government, the permission shall be deemed to be granted³.

As per sec 25M of the ID, Act which governs the permission required for mass layoff— if an employer doesn't seek permission or goes ahead with layoff despite refusal by the competent authority, then such layoff shall be illegal and laid-off workers will be entitled to the benefit of not being laid off.

Compensation how avoided?

According to section 25 K the ID Act, establishments that carry out seasonal work and where work is performed intermittently are exempted from the compulsion of paying lay-off compensation. Also, industrial establishments, where on an average working day less than 50 workmen are employed, are exempted.

Workmen, too, forfeit their right to lay off compensation when—

- i. Where they fail to accept an alternative working arrangement in the same establishment from where they were laid off, or another establishment belonging to the same employer within 5 miles radius of the former establishment.
- ii. Such alternative arrangement, in the opinion of the employer, did not

² Abanti Bose, *A Comparative Analysis of Lay-off and Retrenchment*, Ipleaders, (July 06, 2021),

<https://blog.ipleaders.in/comparative-analysis-lay-off-retrenchment/>

³ Sec 25M(5), Industrial Dispute Act 1947



require any additional skills or previous experience; provided that the wages normally paid are paid for the alternative work also.

- iii. If they do not present themselves in the establishment for work at the appointed time during normal working hours at least once a day.
- iv. if the layoff is due to strike or slowing down of production by the workmen involved in another part of the establishment.

Analysis

A layoff is usually followed when the industrial establishment cannot afford to pay a large staff due to shortage of power or raw material, or accumulation of stocks, or break down on machinery.

Due to the pandemic, a lot of private enterprises cut down on their workmen to keep their businesses from going bankrupt amidst no production. These layoffs were brutal and provided almost pennies in name of layoff compensation.

Even before the pandemic, the condition was no better. Indian economy that always 'almost' survives a brutal year, the industries tend to suffer and the workers suffer even more. In the year 2017, major IT and Telecom companies like Tata Teleservices, Wipro, Infosys, and Capgemini accumulative handed out unemployed status to thousands of workers⁴.

Even though layoff is supposed to be exercised to keep the company running and is supposed to be temporary— more often than not the 45 days limit expires which lands more people on the graph of unemployment.

⁴ Layoff/ Laid off and Retrenchment- Definition-Rule Position-Differences,

On the expiry of the said period, the employer has the obligation to retrench the laid-off workmen thus leaving more people jobless, without their fault.

Due process is to be followed for mass scale layoffs for sure, but does that benefit the worker in the economic condition where there are no other job alternatives available?

Retrenchment laws in India

Retrenchment comes into play when the company is cutting down on costs to survive.

According to sec 2(oo) of the ID Act, Retrenchment is when the services of the workmen are terminated by the employer for reasons whatsoever, otherwise than on punishment or for disciplinary actions.

It does not include—

1. Voluntary retirement of the worker
2. Retirement of the workman on reaching the age of superannuation, if stipulation regarding same is mentioned in the contract between the employer and workman.
3. Termination due to non-renewal of contract on the date of expiry, if such condition is mentioned in the contract between the employer and the workman.
4. Termination on the grounds of continued ill-health.

It is important to note that the employer must proceed with the retrenchment as per the requirements mentioned under section 25F of the ID, Act. It states that no workmen employed in the industry, continuously for

<https://www.whatishumanresource.com/layoff-laid-off-and-Retrenchment>



one year, under the same employer can be retrenched unless:

- i. The workman was given one month's prior notice in writing indicating the grounds for being retrenched by the company and the period for the notice has expired; or the workman was paid wages for the period of notice, in lieu of such notice.
- ii. The workman was paid retrenchment compensation equivalent to fifteen days' average pay for each year of continuous service or any part thereof in excess of six months' pay.
- iii. Notice to appropriate government or authority was served as per prescribed manner.

Sec 25F (c) makes it mandatory for the employer to send a notice to the appropriate authority, mentioning the reasons for such retrenchment and that too in the manner prescribed by the rules under the Act.

Further, if the industrial unit employs a hundred workmen or more on an average day for the preceding twelve months, then the employer is required as per sec 25N of the ID Act to make an application to the State Government seeking prior permission for retrenching the workmen. The employer, in the application, must mention his reasons for causing retrenchment.

Also, every State has its legislation called The Shops and Establishment Act which carries provisions for notice of termination, either with or without cause. Notice requirement under these acts must be strictly adhered to; breach of these prescribed procedures leads to termination being declared as invalid.

Often when an industrial establishment decides to go ahead with retrenchment, it does so on a mass scale. In such a situation, it must follow the principle of last-in-first-out. In other words, the employer has to retrench the newest workmen before retrenching the old ones.

Interpretation of 'retrenchment'

- In the landmark case of *Hariprasad Shivshankar Shukla v. A.D. Divikar*⁵ the definition and scope of the term 'retrenchment' were clarified. I was held that the definition of retrenchment in sec 2(oo) and the term retrenchment in sec 25F of the ID Act has no wider meaning than what they ordinarily connote. That is to say, its meaning doesn't go beyond the discharge of surplus labour or staff by the employer for any reason whatsoever, otherwise than as a punishment inflicted by the way disciplinary action. In furtherance to this, it would not include termination of services of all workmen on the bonafide closure of industry or change of ownership or management thereof.
- In the case of *Bhikku Ram v. The Presiding Officer, Industrial Tribunal-Cum-Labour Punjab & Haryana High Court*⁶ it was observed that if the employer resists the claim of the workmen by invoking sec 2(oo)(bb), the burden lies on the employer to show that though the employee has worked for 240 days in twelve months before his termination, as such termination is according to the terms of the contract of

⁵ 1957 AIR 121

⁶ (1997) 3 SLR 336 (P&H) (DB)



employment or on the grounds of non-renewal of such contract. It is also to be shown by the employer that the workman was hired for a specific job to be performed which is no more required.

In this case, the bench did not refrain from diving into the definition of 'retrenchment'. It was of the opinion that the breakdown of section 2(oo) expands the semantics of retrenchment. 'Termination,.....for any reason whatsoever' are the keywords. Whatever the reason for termination may be, every termination spells retrenchment.

Furthermore, the honourable justices could visualize how the employers can abuse the sec 25F r/w sec 2(oo) by using suitable verbal devices. Hence, the court clarified how 'retrenchment' was no longer terra incognita but an area covered by an expansive definition. It means 'to end, conclude, cease'

- The Supreme Court in the case of *Delhi Cloth and General Mills Co. Ltd. v. Shambhu Nath Mukherjee*⁷ the Apex court was of the view that even 'striking off the name of the workman from the muster rolls' for being absent without leave would amount to retrenchment. Hence, reasons for termination through retrenchment are not limited to economic reasons like redundancy.

Termination and Unfair Labour Practices

There is no uniform manner in which employees/workmen in India are terminated. Most of the establishments have their termination policy enshrined in their employment contract while the enterprises which do not have contracts are governed by the labour law legislation. However, it is to be kept in mind that Central laws regarding labour shall prevail over the employment contracts, when necessary. Indian labour laws don't explicitly demand the employment contract to exist in physical written form, therefore it becomes crucial that the State's labour laws have jurisdiction where there is no written agreement present.

The various forms of termination are as follows—

1. Voluntary termination

This is when the employee terminates his employment by the means of turning in his resignation. The reason for ensuing voluntary termination can be personal or it can be professional reasons, in which case it shall count as constructive dismissal.

Constructive dismissal takes place when the employee is dissatisfied with his/her/their workplace. Factors that influence such dismissal are low wages, unsafe working conditions, unavailability of necessities like washrooms, sexual harassment, etc.

It is unfortunate how professional grievances can turn a workplace into a hostile zone. Many a time, people in management express their grudges against their employees by dwelling

⁷ AIR 1982 SC 1150



in office politics which ultimately creates a toxic environment making the targeted employees uncomfortable; in a manner, these tactics are used to bulldoze any employee, on their own will, out of the establishment.

Also, employees may be forcefully discharged by asking for their resignation. Forceful discharge also falls in the category of constructive dismissal⁸.

2. Involuntary termination

Involuntary termination takes place when the employer ends or terminates the employment of his workmen and employees for certain reasons on proper grounds.

It includes dismissal due to breach of terms and conditions present in the employment contract; layoffs and downsizing; retrenchment and cut down due to redundancy.

The terminated employees in such cases become entitled to get compensations and unemployment benefits.

During the covid pandemic, thousands of people faced layoffs and retrenchment due to prolonged lockdowns and the closing down of many establishments.

Another circumstance where India witnessed large-scale layoffs was during the demonetization period. Due to the shortage of currency notes of low value, the demand for various commodities dramatically fell causing an imbalance in the demand and supply graph. Many companies like Lava, Intex, Micromax, and even Foxconn⁹ had to lay off a few thousand people to cope with such circumstances.

With the age of modernization and technology, several low-grade jobs have become automated; employers expect their employees to be tech-savvy, irrespective of their age or understanding limit. Termination of services for the reason of digitization and automation has also become a key contributor to unemployment levels. In 2017, tech giant Infosys released 9000 employees due to automation¹⁰. Digitization caused

⁸ Naina Bhardwaj, *Due Process for Terminating an Employee in India*, India Briefing, (Sept. 09, 2021) <https://www.india-briefing.com/news/due-process-terminating-employee-india-14363.html/>

⁹ Gulvin Aulakh, *Hit Hard by Demonitization, Foxconn Puts a Forth of its India's Worker on Bench*, The Economic Times, (Dec 26, 2016) [https://economictimes.indiatimes.com/tech/hardware/foxconn-puts-a-fourth-of-india-](https://economictimes.indiatimes.com/tech/hardware/foxconn-puts-a-fourth-of-india-workers-on-bench/articleshow/55929675.cms?from=mdr)

[workers-on-bench/articleshow/55929675.cms?from=mdr](https://economictimes.indiatimes.com/tech/hardware/foxconn-puts-a-fourth-of-india-workers-on-bench/articleshow/55929675.cms?from=mdr)

¹⁰ Avik Das, *Infosys 'releases' 9,000 Employees Due to Automation*, The Times of India, (Jan. 20, 2017), <https://timesofindia.indiatimes.com/business/india-business/infosys-releases-9000-employees-due-to-automation/articleshow/56678827.cms>



redundancy in the biggest engineering firm of India, L&T, led to 14,000 employees being shed in their large scale retrenchment drive¹¹.

3. Wrongful termination

In the case of *Kalyanasundara Nadar v. Muthuraman*¹², A high-grade teacher of permanent position was illegally terminated. While the management claimed that the teacher has voluntarily terminated his employment by signing on the register, entering his request for dismissal. Later, it was found by the court that the employee had given his signature for the grant of increment whereas his signature regarding voluntary dismissal was fraudulently obtained.

This is just one of the instances where the management, or the employer, had played tricks to fulfill their purpose.

As mentioned above, all the terminations are wrongful, whether by the way of layoff or retrenchment, if the due process prescribed for them is not followed by the employer.

Apart from disregarding the procedure of law, employers often manipulate the ignorance of their employees and create rules for their establishment that fall in the category of unfair labour practices.

According to sec 2(ra) of the fifth schedule of ID Act, 1947 threatening workmen with dismissal on the grounds of him joining a union, or urging someone to join a union or participating in the strike is considered as an unfair labour practice. Similarly, falsely implicating a workman in a criminal case or abusing an employer's right to terminate a workman also fall in the same category.

Terminations that are made on the above-mentioned grounds can be challenged in court as wrongful dismissal.

But does this stop the tyranny of the employers who ride on the backs of their unearned ego and power? Though, the parliament on its part has created a safeguard against unfair labour practices under sec 25U which dictates that person who commits such actions face incarceration for a term extending up to 6 months or a fine of 1000 INR or both; but it appears to be a slap on the wrist when it should've been a slap on the face.

The Loopholes and Drawbacks

1. During the pandemic, the Ministry of Home Affairs directed the employers to refrain from terminating the employment of the employees. While most of the notifications were advisory in nature Order No. 40-

¹¹ Rachita Prasad, *In One of the Biggest-ever Layoffs, L&T sheds 14,000 Employees from its Workforce*, *The Economic Time*, (Nov. 23, 2016, 09:45 AM IST), <https://economictimes.indiatimes.com/industry/indl>

-goods/svs/engineering/in-one-of-indias-biggest-ever-layoffs-lt-sheds-14000-employees-from-its-workforce/articleshow/55570052.cms

¹² 1967 SCC OnLine Mad 380



3/2020-DM-I(A), which was issued by MHA in the exercise of its power under sec 10(2)(I) of the Disaster Management Act 2005, was passed directing all employers— whether in Industries or shops or commercial establishments— to pay wages on the due date without any deduction for the period for which their establishment was under lockdown. This direction bound the employers to pay the wages to their workmen¹³.

However, this did not cover all the employees who worked in the industrial establishments. According to the order of MHA, the wages had to be paid to workmen who 'drew wages' at their workplace. As the aforementioned order did not define the term 'workmen', other legislations were used for interpretation.

The Payment of Wages Act, 1936 (the POW Act) defines the term 'wages'. Under this legislation, the workmen working in an industrial or commercial establishment are divided into two classes— one which draws wages and others which don't. Many employees in the managerial, administrative, and supervisory positions and those who drew above the salary limit of Rs. 24000/month (sec 1(6) POW Act) were not covered

under this legislation as eligible for availing benefits of the Order¹⁴.

Similarly, the definition of 'wages' and 'workmen' in other legislations—namely the ID Act, Factories Act 1948, and Shop and Commercial Establishment Act (the SCE Act)— created a separate category of workmen who ought to be paid and those who couldn't avail the benefit.

- i. The ones who had to be paid were—Employees of an industrial establishment that are workmen.
- ii. Employees of shops and commercial established who were not exempted by the SCE Act of their respective states.

Now, situations like epidemics don't hit people depending on their acquired salary. In India, most employees depend on their sole salary to pay off their debts, rent, medical bills, grocery, school/college fees, electricity bills, etc. Thus there aren't many people who can do away with not receiving their salary just because they are not covered as workmen under the said legislation.

In cases where the notifications, orders, legislations, or any law doesn't

¹³Animay Singh, *Covid-19, Unlawful Termination and Withheld Wages: Employee's Perspective*, Simpliance, (July 22, 2020), <https://www.simpliance.in/blog/covid19-unlawful-termination/>

¹⁴Jidesh Kumar, *FAQ's For Indian Employers: Can Employees Be Terminated Due to Covid-19?*,

Mondaq, (Apr 25, 2020),

<https://www.mondaq.com/india/employment-and-workforce-wellbeing/923218/faq39s-for-indian-employers-can-employees-be-terminated-during-covid-19>



specifically define a class— the multiple definitions available at hand can be exploited to avoid certain people from being paid. The above instance is one such example.

It is a utopian ideal that an employer will always have bonafide intent while dealing with his employees. Such persons are out there to profitably run their business and not for charity, hence they are more likely to adhere to any legal technicality which saves them money. Due to the multiplicity of definitions defining workers, workmen and employees may at times lead to exploitation of gray areas where there is a lack of specifications.

2. There is no standard way of terminating an employee. Given the structure of Indian Labour Laws, employees can be terminated either by the terms of the contract between them and their employers or through the provisions of Indian Labour Laws. Though it must be noted that the Labour laws are given more significance than the provisions of labour contracts. Thus the legality of the termination policy must be checked.

Sadly, the majority of the Indian workforce is unaware of the State laws' precedence over their employer's rules. The contract signed between employer and employees mention the grounds which can lead to termination. Time and time again it has been observed that the terms mentioned are ambiguous. E.g., dismissal on the grounds of

misconduct, insubordination, actions against the policy of the company, etc. Due to the lack of clarity, it is left on the management to decide if an action constitutes is one going against the company policy. The management discretion is more inclined towards the employer than towards the employee.

To understand this contention, let's look at the example of some unfair labour practices that can be found in the termination policy.

According to sec 2(ra) of the fifth schedule of the ID Act, threatening a workman with discharge or dismissal if they join a trade union is considered an unfair labour practice. It interferes with the constitutional right to form an association under article 19 of the Indian Constitution.

But there are several establishments, mostly private schools, that have a strict policy against forming an association. Even if it is not expressly mentioned, any action taken in furtherance of the trade dispute is termed by the management as 'misconduct/insubordination/violation of disciplinary regulations' leading to the dismissal of such an employee.

This can definitely be challenged in court, but middle-class people cannot afford to revolt with their hand-to-mouth situation.

3. In India, there doesn't exist a uniform or centralized scheme which provides unemployment insurance apart from a



few governmental schemes that deliver minimal unemployment benefits.

The Employees' State Insurance Corporation (ESIC) extends two unemployment benefits schemes, namely— (1) Rajiv Gandhi Shramik Kalyan Yojna (RGSKY) and (2) Atal Beemit Vyakti Kalyan Yojna (ABVKY)¹⁵.

Apart from these schemes, the available unemployment benefits are scarce; and the two which are present are faulty. The major source of the discrepancy lies in the fact that they are applicable to factory workers who have been employed in a factory that usually employs 10 workmen on an average day. This leaves out other sectors which have meagre job security or are vulnerable to getting closed for certain reasons.

Also, a lot of factories do not employ at least 10 employees a day—so employees in such factories miss out on the unemployment benefits.

Additionally, RGSKY provides benefits that are only available to the insured person for only 12 months; and such benefits can only be claimed once. This is not helpful in scenarios where the person is subjected to a prolonged period of unemployment like it was seen during the pandemic.

4. Lack of awareness among the workmen and employees, regarding their rights, leads to employers taking advantage of their naivety. A huge portion of the Indian workforce is not literate and those who have proper education are uneducated about the laws of the land. Further, the laws governing the workforce are complicated and cannot be understood by the layman. So it would be futile to blame the general population for their ignorance towards the legal technicalities.

Way Ahead

The Indian Parliament took an immense step in 2020 as it compiled several labour laws into three main Codes— The Code on Wages, The Occupational Safety, Health and Working Conditions Code, and The Code on Social Security.

1. Uniformity of the definition is a must to prevent malicious interpretation of different definitions and using it as per one's convenience; Specific definitions are required to enable the employees or workmen to understand their standing and how labour policies benefit them instead of waiting for the company's lawyers to find how the policy should not benefit them.
2. The terms and conditions mentioned in the employment contract must be clear and specific. No scope for misappropriation of stated rules should be left. In order to keep up with the dynamic nature of professional needs, the contract and

¹⁵ Prachi Dutta and Rudranil Patil, *How Do Unemployment Benefits in India Fare Against Those in Other Countries?*, The Wire (June 02, 2021),

<https://thewire.in/labour/unemployment-insurance-india-us-uk-covid-19-pandemic>



the article of association of the establishment must be timely revised.

3. More schemes for unemployment benefits must be proposed and passed. The scheme should have a wide scope so as to include as many workplaces and employees/workmen as possible within its objective.
4. Each industrial establishment must provide workshops to its employees regarding technological advancements and digitization before deciding to move forward with mass termination on the grounds of digitization and automation of services.

In case retrenchment becomes necessary, unemployment benefits with a limited duration of aid must be provided with alternative vocational training offers so as to help the unskilled unemployed worker get employment in some other field.

5. Awareness as to the rights of the workmen/employees can be generated by awareness drives organized by legal aid amongst the illiterate workforce and HR conferences for the educated workers.

commenced should not be on improper grounds.

Thus, while the amendments and judgments have widened the scope of what can be classified as layoff and retrenchment; it has simultaneously created a boundary to ensure proper and just terminations.

Labour laws in India are very comprehensive. But they still have certain lacunas, created by ambiguous and complicated language, which are often moulded and distorted by employers to meet their ends. It can be assumed that the courts can point out the mala-fide intention and wickedness and grant relief to the workman, but here is what we must consider first— will the workman approach the court? Can he/she/they afford to follow up the trial and appeal? Do all the lawyers who represent them have the bonafide aim of providing them justice or are they benefiting from long trials? It is essential to keep this question in mind when advising that one must approach the remedy without simplifying a complicated bundle of laws.

It took a pandemic for the Indians to realize how transient their jobs are and such lessons once learned should not be forgotten.

Conclusion

Labour laws are meant to regulate the employer-employee relationship. The relation between those who seek service and those who seek to provide such service must have a balance when it comes to rights and obligations.

As said and upheld in several cases, a layoff is an obligation of the employer and not a right. Also, while it is upon the management to decide who works in their establishment and who doesn't, but retrenchment