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**DEPARTMENT OF BBA**

**SYBBA**

**SEM-III**

**SUBJECT – LEGAL ASPECTS IN HUMAN RESOURCES**

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**Chapter No. 1 INTRODUCTION**

**Chapter No. 01 - INTRODUCTION**

* **Introduction**

The Ministry of Labour and Employment is one of the oldest and important Ministries of the Government of India. The main responsibility of the Ministry is to protect and safeguard the interests of workers in general and those who constituté the poor, deprive and disadvantage sections of the society, in particular, with due regard to creating a healthy work environment for higher production and productivity and to develop and coordinate vocational skill training and employment services.

Government's attention is also focused on promotion of welfare and providing social security to the labour forqe both in organized and unorganized sectors, in tandem with the process of liberalization. These objectives are sought to be achieved through enactment and implementation of various labour laws, which regulate the terms and conditions of service and employment of workers. 

Under the Constitution of India, Labour is a subject in the Concurrent List where both the Central and State Governments are coqnpetent to enact legislation subject to certain matters being reserved for the Centre.

## **Meaning of Employer**

* An employer is an individual or an organization in the government, private, non-profit, or business sector that hires and pays people for their work.
* An employer is the authority which employs and pays employees for their labor. It may be an individual person or it may be a company representing many people.
* The employer is the party which will typically define the terms of employment and write the contract. They are then obligated to provide the agreed-upon compensation to workers for any labor they perform that is contained within the terms of their contract.
* An employer is also the party legally liable for work conditions, maintaining labor laws and handling any legal action an employee may pursue.

## **Meaning of Employer**

* An employee is a person who has agreed to be employed to work for some form of payment under a contract of employment.
* An 'employee' is a term for workers and managers working for a company, organization or community. These people are the staff of the organization. In general, any person hired by an employer to do a particular job in exchange for payment is an employee, but there are different kinds of employees.
* In other words, any individual who works part-time or full-time under a contract of employment, whether oral or written, express or implied, and has recognized rights and duties is called as employee/ worker.

**Rights of Employees**

* Right to have an Employment Agreement: It is a written document containing  terms and conditions of employment and establishes the rights and obligations of the employer and employee. A well-written agreement can prevent any unforeseen dispute between the employer and employee.
* Right to Leave: An employee is entitled to leaves and holidays. Generally, there are 4 types of leaves available to an employee in India: Casual leave, Paid leave, Sick leave and other leaves.
* Right to be protected against sexual harassment, discrimination and harassment.
* Right to fair and timely remuneration and bonuses for work performed, after making the requisite deductions like TDS, Provident Fund, etc. 
* A female employee is entitled to Maternity leave as per the Maternity Benefit Act, 1961.
* Right to gratuity under the Payment of Gratuity Act, 1972 paid to an employee at the time of retirement, termination, resignation or employee's death. It is paid in recognition of service to the company, to employees’ who have completed at least 5 years of continuous service.
* Right to Provident Fund: Under the Employees' Provident Funds & Miscellaneous Provisions Act, 1952, employees have the option to keep a part of their salary invested in EPF, which is transferred directly by the employer in the PF accounts.
* Notice Period: 'In case the employer wishes to terminate the employment of an employee, then a notice has to be served to the employee to prepare them for such termination. An employer cannot terminate an employee without giving a notice period. Employee shall get an opportunity of being heard.

### **HR Policy: Meaning**

* HR policies are also defined as that body of principles and rules of conduct which govern the enterprise in its relationship with employees. Such a policy statement provides guidelines for a wide variety of employ­ment relationships in the organization.
* A policy is a guide for repetitive action in major areas of business. It is a statement of commonly accepted understanding of decision-making criteria. Policies are set up to achieve several benefits. By taking policy decisions on frequently recurring problems, the top management provides the guidelines to lower-level managers.

**Armstrong has defined HR policies as follows**:

"Human resource policies are continuing guidelines on the approach the organization intends to adopt in managing its people. They define the philosophies and values of the organization on how people should be treated, and from these are derived principles upon which managers are expected to act when dealing with human resource matters.

**Need and Importance of HR Policies:**

**1. To Achieve the Objectives of the Organization**: Policies guide the employees to take action for achieving the objectives of the organization. Hence/ they must be known and well understood by everyone in order to concentrate efforts on the objectives.

**2. To Bring Uniformity in Decisions**: HR policies furnish the general standard on which decisions are taken. Various line authorities take decisions in an organization keeping in view the HR policies. Thus, uniformity of action is maintained .in similar cases.

**3. To Delegate Authority**: HR policies make delegation of authority possible, which means assigning the work to others and give them authority to do it. HR policies help executives at various levels of decision taking to act with confidence without consulting the superiors every time. HR policies give a manager liberty to choose the alternatives provided and to decide upon the action.

1. **To Achieve Better Control**: HR policies specify relationships among organization, management and workers. Therefore, each group works for the achievement of the larger objectives of the organization without any policy conflicts. Thus, HR policies provide better control.
2. **To Evaluate Efficiency**: HR policies serve as standards in execution of work. Efficiency of a group may be evaluated by its performance in the light of the policy. After assessing whether organization has achieved the desired results set in the policy, HR policy may be amended or a new policy may be formulated in the light of the actual performance.
3. **To Create Confidence among Employees**: HR policies provide the workers a security against exploitation and create confidence in employees who may know where they stand in the organization. 
4. **To Motivate**: HR policies introduce the employees to the objectives of the organization. It guides the workers in achieving the objectives. They work enthusiastically and with loyalty to achieve those objectives. 

**8**. **To Guide the Management**: HR policies provide guidance to management in relation to the HR problems. HR policies decide how to get the work done by the people or how to behave with them.

**Legal Issues Related to HR in an Organization**

1. **Confidentiality**: The first great challenge that an HR professional faces is the need to maintain confidentiality. Human beings are always willing to speak to people and socialize.

Therefore, it is difficult to keep a secret. Maintaining confidentiality in a workplace is both an ethical as well as a legal responsibility. If you fail to maintain confidentiality, you will not just lose your reputation but also lose your job. E.g.: personal addresses/ phone numbers of employees, etc,

1. **Verification**: In many organizations, human resource professionals have to shoulder the responsibility of verification. HR needs to carry out a background check of each individual with respect to their social, economic and criminal background, A legal check of this kind helps the organization to retain its reputation, It also helps to prevent the hiring of drug addicts or individuals with a criminal background into the organization. This step in the process of hiring must be dealt with by HR professionals with extreme care.
2. **HR Violations Regarding Discrimination**: 1. HR departments are cautious about avoiding discrimination in general.

2. The most obvious include gender, race, sexual orientation, and religion. At the same time, you must also watch out for possible discrimination against marital and family status, disability, and even veteran status.

3. it is incredibly important for HR departments to remain up-to-date on all of the potential discrimination landmines around the workplace.

1. **Workplace Policies on Different Health Issues**: 1. There are all sorts of people looking out for job opportunities and this also includes individuals with certain special medications.

2. The companies need to take these individuals into account while making decisions regarding insurance, remuneration as well as work-related policies. In some cases, the organization may need to make special considerations.

3. A human resource executive should be able to understand all such policies as well as their implications. There are certain health conditions that are very different from the routine health problems.

4. The HR professional should understand where which concessions should be applied and who should get special health-related allowances.



1. **Labour Rights and Implications**: 1. Every individual has certain labour rights that give them security when they work in an organization. Every organization has to abide by these laws and rules and make sure that the workers get their basic rights while working in an organization. 

2.An employee deserves a proper remuneration and a notice period of specified duration before being removed from a job. The HR professional makes sure the organization makes policies that abide by these laws.

3. Firms that plan not to abide by this need, specifies the facts in the joining letter so that  the employee is prepared for anything. An HR professional shoulders the responsibility of dealing with such issues.

1. **Tax Laws of Organization**: 1. Every organization that runs in a nation has to abide by the nation's tax laws. The company is also subject to tax deductions just like all the  employees.

2. Making the best policies that help the organization as well as the ernployeesr needs to be supervised by human resource executives.

1. **Laws Of the Organization**: 1. While there are very few chances of legal implications of the laws of the organization, one needs to consider the impact of the laws on the employees as well as the management.

2. Some laws may displease the employees and if the displeasure increases, it will directly impact the performance of an organization.

3. The laws of an organization also decide how long the employees prefer to stick to the organization.

On being an HR Executive, you are expected to assess the way in which each organizational law affects employees.

4. The overall impact of the change in law and the ways to tackle the negative impacts

should be gauged by an HR professional. These may include trivial laws related to break timings and leaves or serious laws regarding remuneration and bonuses.

