

LAW AREA NAME : LABOUR
SECTION NAME : LABOUR ATROCITIES
SUB SECTION NAME : EQUAL REMUNERATION

LAW IN BRIEF

There is a practice in many work areas to pay the woman lesser than the man for the same work done by her. There has always been discrimination in the matters of employment and related areas. The disparity in payment of remuneration has long been envisaged by the Constitution makers and hence they had made a provision in Article 39 of the Constitution that the State shall direct its policy towards securing equal pay for equal work for both men and women. The Equal Remuneration Act provides for payment of equal remuneration to men and women workers and for removal of discrimination in the matter of employment.

LAW IN DETAIL

Remuneration means the basic wage or salary and any additional emoluments either in cash or kind, payable to a person in respect of employment or work done in such employment.

Equal work means work for which the skill, effort and responsibility required is the same whether done by a man or a woman.

It is the duty of the employer to pay equal wages for equal work done by men or women. It does not allow the employer to reduce the wages of any worker for the purpose of complying with the provisions of the Act.

No discrimination must be made in the matter of recruitment or any condition of service subsequent to recruitment like promotions, training or transfer.

Any employer who discriminates in the matter of equal payment or recruitment or other provisions of the Act is punishable with fine of not less than Rs 10,000 up to Rs 20,000 or with imprisonment for not less than 3 months up to 1 year. For subsequent offences it may extend to 2 years.

The Act however does not apply in cases where

- The terms and conditions of women's employment are affected by any compliance with any other law regulating the employment of women or
- Any special treatment is accorded to women in connection with the birth or expected birth of a child or
- The terms and conditions relating to retirement or death or any provision regarding marriage or death are given special treatment

PROCESS FOR SOLUTION

Complaint Under which Section ?

Section 4: Duty of employer to pay equal remuneration for same work or work of a similar nature.

Section 5: No discrimination while recruiting men and women workers.

Whom to complain / where to complaint?

A complaint may be made to the appropriate authority appointed by the Government by

- The worker or
- A legal practitioner or
- Any official of a registered trade union authorized for this purpose
- An Inspector appointed under section 9 of the Act.

A Metropolitan Magistrate or a Judicial Magistrate of the First Class is eligible to try offences under the Act.

The Magistrate may take up the case on its own or on receiving a complaint either from

- The appropriate government
- The aggrieved person
- Any recognized welfare institution or organization

Even a Public interest litigation may be filed for discrimination in payment on grounds of gender.

How to file the Case ?

The complaint to the authority appointed under section 7 of the Act must be made in triplicate in Form A for contravention of the provisions of the Act and in Form B for non-payment of equal wages

The authority will listen to both the parties and after making the necessary inquiry, direct the payment of the difference in the amount actually paid and the amount payable under the Act. Or direct the employer to comply with the provisions of the Act.

What Next ?

Either of the parties may appeal to the appellate authority as notified by the Government under the Act within 30 days of the original order.

ALTERNATE REMEDIES

Alternatively, a Public Interest Litigation may be filed in the court of law or the Legal services authority may be approached for getting appropriate relief and legal aid.