



KOLKATA KINDLE

Vol. X, Issue 1

March 2022



**KOLKATA
CHAPTER**

Journal of National HRD Network, Kolkata Chapter

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Message from the President – NHRDN Kolkata Chapter



Dear Friends and Colleagues,

On behalf of NHRD Kolkata Chapter, I extend my greetings to each one of you. The year has been mixed in terms of health safety and other global and political challenges, impacting us directly or indirectly. I'm glad that we all are able to keep up our positive spirit to overcome those challenges and get back to normal.

In that context, I would like to also express my thanks and gratitude to the entire members Kolkata chapter for their overwhelming interest, participation and involvement towards making the chapter so vibrant. In our endeavour towards fostering values through inclusivity, collaboration and engagement, the contributions by the Advisory Committee members and the Sub Committee members are commendable. In this short span of six months, we have grown from a membership number of 700 to 900. Number of events and initiatives kept the chapter always busy and created an environment of learning.

This is the first published edition of Kolkata Kindle in this period and I sincerely thank the Editorial Committee and those who contributed through their articles. The articles herein are relevant in the current context of new normal. How human psychology and emotion can play an important role in the changed context has been emphasised upon. The opportunity of learning that the new normal has brought in by going beyond boundaries has been highlighted. It's the 'contextual decision making' in the midst of various dilemmas and the constant effort in uplifting the

morale and engagement of employees, probably the end game we all are looking forward to. This edition also tried to address such aspects. I'm sure you all will find these articles useful, encouraging and in enriching our knowledge base.

Last but not the least, I would like mention the sincerity and dedication by each one of the EC members in our collaborative endeavour to take the chapter forward.

Wish you and your family good health and safety. Take care.

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Designed and Produced at:

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Disclaimer:

“Kolkata Kindle” is the official journal of the National HRD Network, Kolkata Chapter. Views expressed in the journal by authors do not necessarily purport to contribute an official position of “Kolkata Kindle” and/or National HRD Network.

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Editor's Message

Greetings!

The last two years have witnessed multiple waves of the pandemic across the world. Organizations have experienced unprecedented cycles of financial distress and relief. Employees have been caught in mental, emotional and economical upheavals. This is substantiated by the phenomenon of the 'Great Resignation'. Never before have we witnessed such a mass exodus of the working force. Clearly something is unsettling the employer-employee relationship.

The reasons have been stated as many, significant ones being the inability of the employee(s) to handle stress of working 'at home' and not just work 'from home', major technological advances, inadequate social life etc. The underlying theme amongst all of

these is a lack of employee engagement impacting the faith in the organization. This is a major cause of concern and hence, the central theme of this issue. Through the articles presented, we try to understand how to recreate that zing in the organization.

As in the previous issues of Kolkata Kindle, we also bring to you the IR section where questions have been asked by the members and responded to by the HR fraternity helping in the creation of a ready reckoner for the IR issues in organizations. This issue of Kindle also brings with it a new section on Judgement Corner where important decisions of the Court have been collated.

Wishing you a joyful festival of colors

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IMPACT OF EMOTIONAL EXHAUSTION AND WORK OVERLOAD ON JOB EMBEDDEDNESS DURING COVID-19 PANDEMIC



Dr. Nandini Borah

INTRODUCTION

The current pandemic has not just taken a toll on the physical health of workers but also their mental and emotional health. The work from home mandate has blurred the lines between work and family life of employees. And with all the technological systems, employees have become accessible at all hours of the day. At the individual level, changes in daily life patterns and habits combined with the fear of loss of job and income have taken an emotional toll on many. Work as such has become more challenging and stressful with adapting to new technology, balancing home and work front, and adapting to the new lifestyle and changing norms. As a result of this pandemic burnout, business professionals are expecting a huge number of voluntary turnovers. This 'turnover tsunami' has already hit the Indian IT organizations where voluntary turnovers are increasing and is predicted to increase further once the pandemic ends (The New Indian Express, 2021; Taylor, 2021).

In view of the above situation, organizations are facing extreme pressure to engage and retain their talented employees. Employee turnovers cost organizations heavily in terms of recruiting and training new hires and also in terms of lost productivity. Researchers have in the past attempted to ascertain the reasons why employees leave organizations. While several factors have emerged out from the past researches - such as management attitude, level of autonomy, nature of supervision, and so on and so forth - these factors at best are very diverse and do not help explain employee turnover in

totality. Mitchell, Holtom, Lee, Sablynski, and Erez in the year 2001 looked at employee turnover in a different light. They examined what makes employees stay in an organization rather than ascertaining what makes them leave. And eventually, Mitchell et. al. (2001) came up with the concept of '*job embeddedness*' to explain employee turnover in organizations.

This study makes an attempt to understand how the current work situation due to the pandemic affects job embeddedness of employees and in turn affects their turnover intention. The study in particular attempts to understand how emotional exhaustion and work overload impacts job embeddedness.

LITERATURE REVIEW

Job Embeddedness

Job embeddedness, on a symbolic level, represents a 'mesh' or a 'web' where an employee gets 'stuck' due to:

- the **links** the employee has with people and activities;
- the **fit** experienced by the employee to their job and other aspects of life; and
- the ease with which the links can be **broken** (Mitchell, Holtom, Lee, Sablynski, and Erez, 2001).

Thus, job embeddedness has three important dimensions referred to as links, fit, and sacrifice. Links can be referred to the formal or informal connections between a person and other people or

institutions (Mitchell, Holtom, Lee, Sablynksi, and Erez, 2001). Links are established through both work and non-work elements and connects the employee socially, psychologically and economically. The higher the number of links, the greater is the tendency of an employee to be bound to the job and the organization. The fit dimension refers to the compatibility of the employee with the organization. Better the fit, higher the chance that the employee will stay with the organization. While link and fit focus on the connection and comfort of the employee with the organization, sacrifice refers to the cost of the benefits that may be forfeited when the employee leaves the organization. Higher the cost of benefits, higher is the difficulty to leave (Mitchell, Holtom, Lee, Sablynksi, and Erez, 2001). Thus, job embeddedness construct predicts how long people will stay in their jobs. However, job embeddedness is affected by a host of other factors. These factors may strengthen the bond of the employee with the organization thereby making the employee enmeshed in the web, or they may weaken the bonds leading to voluntary turnovers. We look at the impact of emotional exhaustion and work overload on job embeddedness in this paper.

Emotional Exhaustion

Emotional exhaustion is the condition where a person feels emotionally overextended and exhausted by work. It is associated with the feeling of being 'drained' and results from excessive demands of the job and additional hassles one has to go through (Shirom, 1989; Zohar, 1997). Prior research has found that emotional exhaustion leads to counterproductive work behaviours and leads to increased turnover intention (Jackson, Schwab, and Scuhler, 1986); increased counterproductive work attitudes (Jones, 1981; Quattrochi-Turbin, Jones, and Breedlove, 1983; Leiter and Maslach, 1988; Wolpin, Bruke and Greenglass, 1991); and decreased job performance (Wright and Bonett, 1997). Since, the pandemic has forced people indoors, making them work from home, and have led to feelings of job and income insecurity, their connections with the organization and organizational members have weakened. This weakened connection is expected to have a negative impact on job embeddedness. Therefore, the following hypothesis is proposed:

H₁: Increased emotional exhaustion negatively impacts job embeddedness.

Work Overload

Work overload is the condition where an employee has too much to do in a little time (Greenglass, Bruke and Moore, 2003). The phenomenon of work overload is seen as a major stressor in employees (Robinson and Griffiths, 2005). Work overload also results from role conflict and role ambiguity (Low et. al., 2001; Avlonitis and Panagopoulos, 2006) but can also result when employees perceive a lack of clarity in direction, policies and procedure. Due to work from home, many employees are torn between work and home responsibilities. Since the employees are connected through technology, it has resulted in the employee being available beyond working hours and thereby considerably extending the time they devote to work. This work overload is therefore expected to have a negative impact on embeddedness. Thus, the following hypothesis is proposed:

H₂: Increased work overload negatively impacts job embeddedness.

Based on the review of literature and hypotheses developed from it, a conceptual model was developed for the study. Figure 1 represents the conceptual model where work overload and emotional exhaustion are considered to have a negative impact on job embeddedness of employees.

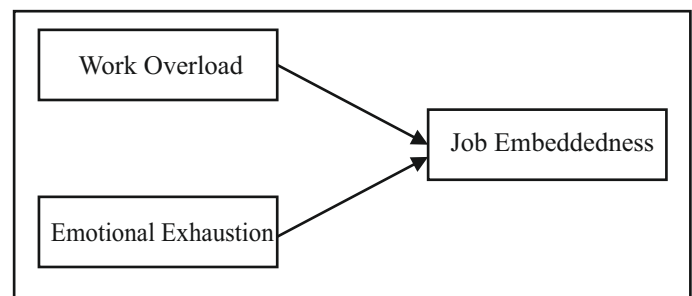


Figure 1: Conceptual Model

METHOD

Participants

A sample of 252 employees from the service sector were considered for the study. The sample was drawn using convenience sampling technique. The average age of the respondents was 43 years and 61 per cent were females and 39 per cent were males. A major proportion of the respondents (72 per cent) were

postgraduates. Majority of the respondents were unmarried (59 per cent).

Table 1: Demographic Profile of Respondents

Demographic variables	Categories	Percent
Gender	Male	39
	Female	61
Education	Graduate	11
	Postgraduate	72
	Doctorate	17
Marital status	Married	41
	Unmarried	59
Average age		43 years

Instrument

Structured questionnaire was constructed to collect data from the respondents. The questionnaire was made using Google Forms and circulated through email and social media to the respondents. Job embeddedness was measured using a 7-item scale developed by Crossley et. al. (2006). Work overload was measured using a 6-item scale developed by Macky and Boxall (2008). Emotional exhaustion was measured using a 3-item scale developed by Maslach and Jackson (1981). The statements in the questionnaire were modified by the researcher to suit the current research context without altering their meanings.

RESULTS

Reliability and validity

Reliability and validity of the instrument was first tested to ascertain the soundness of the research instrument. Table 2 and Table 3 indicate the reliability and validity of the instrument. It can be observed that Cronbach's alpha scores are greater than 0.70 which indicate that the instrument used for the study is internally consistent. Moreover, results of CFA (Confirmatory Factor Analysis) reveal that the AVE (Average Variance Extracted) is greater than 0.50 and CR (Composite Reliability) is greater than 0.70. It can also be observed that square root of AVE values is greater than the corresponding correlation values. The results of CR, AVE and square root of AVE values

indicate that the instrument used is reliable and valid.

Table 2: Reliability and Validity of the Instrument

Name of the variable	No. of items	Cronbach's alpha	Average variance extracted	Composite reliability
Work overload	6	0.723	0.677	0.787
Emotional exhaustion	3	0.843	0.765	0.812
Job embeddedness	7	0.732	0.786	0.834

Table 3: Correlation Matrix and Discriminant Validity Scores of All the Constructs

	Work overload	Emotional exhaustion	Job embeddedness
Work overload	0.781		
Emotional exhaustion	0.769	0.878	
Job embeddedness	0.754	0.742	0.775

Structural Model

Structural Equation Modelling (SEM) was used to evaluate the conceptual model and analysis was done using AMOS. Table 4 indicates the model fit indices which indicate the fit between the data and the model. From the table it can be observed that all the fit indices fall within the recommended values. Since, the data fits the model, further analysis of paths were conducted, the results of which are presented in Table 5. The results indicate that hypotheses of the study are significant and directions of the relationships are as expected.

Emotional exhaustion is seen to have a negative impact on job embeddedness which is significant. Similarly, work overload has a negative impact on job embeddedness which is significant. This confirms the hypotheses set out at the beginning:

H₁: Increased emotional exhaustion negatively impacts job embeddedness (β = -0.384, p = 0.000);

H₂: Increased work overload negatively impacts job embeddedness (β = -0.358, p = 0.000).

Table 4: Model Fit Indices

	CMIN	GFI	AGFI	TLI	CFI	NFI	RMSEA
Recommended values	<3	>0.90	>0.90	>0.90	>0.90	>0.90	<0.08
Measurement model	0.231	0.912	0.956	0.985	0.921	0.975	0.055
Structural model	0.323	0.902	0.932	0.935	0.909	0.962	0.061

Table 5: Structural Model Evaluation

Hypotheses	Relationships	Path	C.R.	p-value	Result
H ₁	Job embeddedness <- Emotional exhaustion	-0.384	-4.751	0.000	Supported
H ₂	Job embeddedness <- Work overload	-0.358	-5.226	0.000	Supported

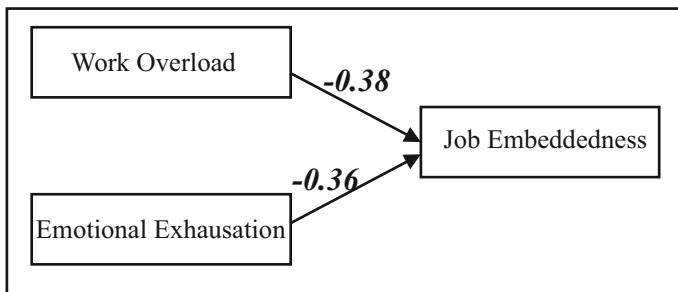


Figure 2: Structural Model

DISCUSSION

The present study intends to determine the impact of work overload and emotional exhaustion on job embeddedness of employees in the context of work from home due to Covid-19 pandemic. From the review of literature, the researcher hypothesized that both emotional exhaustion and work overload would have a negative impact on job embeddedness of the employees. The hypotheses were tested using Structural Equation Modeling (SEM) on data obtained from 252 employees belonging to the service sector. The data was gathered using Google Forms and was circulated using email and social media. The data was first tested for reliability and validity and then path analysis was conducted. The results of the path analysis indicated that work overload and emotional exhaustion had a negative impact on job

embeddedness as hypothesized.

The results obtained from the study have important implications for managers and organizations. Job embeddedness has emerged as a construct that helps explain why employees stay in a particular job. The study indicates that emotional exhaustion and work overload have a negative impact on job embeddedness, which basically translates to the fact that exhausted and overloaded employees will be less likely to stay in the job. This has severe implications for organizations. The pandemic and the associated lockdowns and restrictions have already impacted business conditions. And if employees are emotionally exhausted and overloaded with work, their productivity will decrease and stressed employees are more likely to leave their jobs. Studies have already predicted that a mass employee exodus is on the verge and organizations are going to witness a turnover tsunami. Thus, managers and organizations need to refocus and examine the root causes leading to emotional exhaustion and work overload.

Owing to the work from home mandate, employees' engagement with the organization and their coworkers has reduced. This directly affects the 'links' an employee had built over a period of time. It is also important to note that while employees were

accustomed to going to physical workspaces, they may not necessarily 'fit' into the digital workspace. Lastly, as the fear of loss of job and pay increases (owing to the unstable business scenario due to the pandemic), employees are focusing on stable options for their future which affects the 'sacrifice' dimension of embeddedness. Thus, the managers need to look at ways to embed their employees in the job so that future turnovers due to burnout may be avoided. Steps need to be taken to ensure that employees develop 'links' and 'fit' in the digital workspace in order to embed or enmesh them into the organizational network.

Future research studies may focus on job embeddedness levels of employees working from home. Studies may specifically focus on the antecedents of job embeddedness in a work-from-home setting. Qualitative studies may also be undertaken to get a deeper understanding of employees' psychology while working from home and how it affects their embeddedness in the organization. Lastly, longitudinal studies may be undertaken to examine how embeddedness levels vary while working from home vis-à-vis working in the organizational setting.

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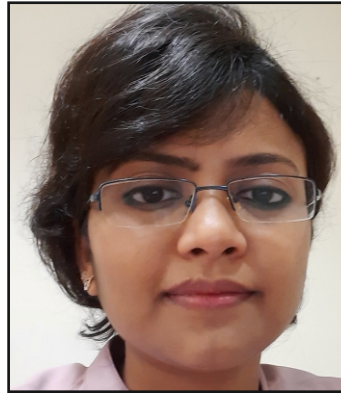
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PSYCHOLOGICAL CAPITAL IN FLEXIBLE WORKING ARRANGEMENT (NATIONAL AND GLOBAL CONTEXT)



Sayantani Basu

INTRODUCTION

This dates back to 2018 –

As an interviewer, I would predominantly ask the question 'Are you willing to relocate?'

Fast forward to 2020 -

I see myself asking 'Are you flexible to work in a hybrid working model?'

With the onset of the pandemic, this paradigm shift in the thought process of HR professionals can be captured as a growth mindset where hybrid Flexible Working Arrangement (FWA) is encouraged and the same is being incorporated in HR policies and practices of organizations focusing on well-being and performance of employees and employers. Flexible Working Arrangements can be portrayed as various working modes accommodating remote workplace and distributed work timings; different from the traditional work schedules of an organization (Austin-Egole, Iheriohanma and Chinedu, 2020). The common types of Flexible Working Arrangements are on-site critical, on-site flexible, and remote work (Russell, Connell and McGinnity, 2007). Flexible Global Working Arrangement (FGWA) is depicted as circumstances wherein employees are required to travel internationally over a period ranging from one day

to one year depending on their job responsibilities and roles (Jooss, 2020). FGWA entails global mobility in multinational MNEs for International Business Travellers (IBTs), Flexpatriates, Short Term International Assignees (STIAs), International Commuters, and Rotational assignees. Given the disruption that the pandemic has brought about, employees are faced with challenges at professional as well as personal front; hence the enhancement of growth mindset with an emphasis on Psychological Capital gains importance for both nationalized and global employers. According to Carol Dweck - in a growth mindset, individuals consider that their abilities can be enhanced through commitment and hard work which in turn develops their talent further through learning and strengthens the resilience power that is crucial for achievement (Dweck, 2015). Herein, we bring in resilience, of Psychological Capital, as the differentiating competency to sustain through the VUCA (Volatile, Uncertain, Complex and Ambiguous) times for flexible workers in various forms.

PSYCHOLOGICAL CAPITAL

Psychological Capital has emerged stronger than ever before in today's unprecedented times because of its 'HERO' factors that drive an individual's resilient approach towards their personal and

professional demeanour in a more effective manner. HERO is dissected as **H**ope, self-Efficacy, **R**esilience, and **O**ptimism. The pandemic has brought in new working arrangements to accommodate the unprecedented volatile, uncertain, complex, and ambiguous environment, which was once a distant reality for most organizations. Various studies involving meta-analyses of Positive Organizational Psychology Interventions (POPIs) propose that an organization's interventions that focus on the development of various elements of Psychological Capital have been found to be extremely effective in enhancing work psychology and well-being (Donaldson, Chan and Villalobos, 2020). As organizations embark on the journey of globalization and diversity, PsyCap has been studied to have a significant impact across nations and cultures (Burhanuddin, Ahmad and Said, 2019). The findings of the study (Donaldson, Chan and Villalobos, 2020) suggest that Psychological Capital influences diverse work arrangements across many countries. This study across 15 diverse nations, further claims that Psychological Capital predicts flexibility, efficiency, proactivity, and overall productivity at work. A 'state-like' feature of PsyCap was invested which depicts that PsyCap can be developed and measured (Burhanuddin, Ahmad and Said, 2019). PsyCap is coined as the amalgamation of competencies and psychological capacities that are measurable, improvable, and effectively manageable for performance improvement in today's workplace (Luthans, 2002). Luthans defines PsyCap as a concept that goes beyond human capital (what you know), social capital (who you know), and financial capital (what you have). According to a study (Donaldson, Chan and Villalobos, 2020), PsyCap can be effectively incorporated to design human resource practices and Positive Organizational Psychology Interventions (POPIs). Research on work outcome

(Avey, Reichard and Luthans, 2011) posits desirable and undesirable aspects of individual attitude that can be translated to draw a framework for human resource practices in various work arrangements (Donaldson, Lee and Donaldson, 2019). Therefore, PsyCap being an enhancement tool to build positive psychological impact, when combined with effective human resource interventions would certainly augment efficient work arrangements for flexible workers across the globe.

FLEXIBLE WORKING ARRANGEMENTS

Flexible Working Arrangements can be divided into national and global contexts depending on the nature and mode of operation of the organization.

In the national context, say private banking sector, it is observed that Flexible Working Arrangements have been bifurcated depending on the nature, flexibility, and criticality of work -

- On-site Critical: Work from the designated workplace as per working norms.
- On-site Flexible: Hybrid work model with 3 days/ week work from the workplace.
- Remote Model: Work defined remotely on all days.

Flexible Global Working Arrangement (FGWA) can be classified as -

- International Business Travellers: Travel on business trips that last for 1 to 3 weeks predominantly
- Flexpatriates: Travel for short assignments for usually 1 to 2 months
- International Commuters: Travel internationally for 1 to 2 weeks.
- Rotational Assignees: Travel in work shifts usually for 2 to 4 weeks
- Short-term International Assignees: Travel on international assignments for 3 to 12 months.

Table 1: Classification of Flexible Global Working Arrangements

Classification of flexible global working arrangements

	International Business Travellers	Flexpatriates	International Commuters	Rotational Assignees	Short-term International Assignees
Definition	Employees who take multiple short international business trips to various locations without accompanying family members.	Employees who travel for brief assignments, away from their home base and across cultural or national borders, leaving their family and personal life behind.	Employees who travel internationally on a weekly or bi-weekly basis from a home location to a foreign location without accompanying family members.	Employees who work on a shift cycle, i.e., working a designated number of days abroad followed by a designated number of days off.	Employees on international assignments that are longer than business trips yet shorter than typical corporate expatriate assignments.
Purpose	Knowledge transfer, negotiations, discussions, meetings, conferences.	Project-based, problem-solving, skill/ technical transfer.	Employment in a country abroad.	Employment in a country abroad often in remote or hardship locations.	Skill/technology transfer, problem-solving, management control, development.
Duration	Usually 1-3 weeks	Usually 1-2 months	Usually 1-2 weeks	Usually 2-4 weeks	Usually 3-12 months
Location	Multiple Countries	Multiple Countries	1 country	1 country	1 or a few countries
Relocation	Without family	Without family	Without family	Without family	Usually without family
Compensation	Depends on the company's travel policy, home country responsibility, no tax implications.	Depends on the company's travel policy, home country responsibility, no tax implications.	Depends on the company's travel policy, foreign country responsibility, taxation may be an issue – depending on dual liabilities.	Depends on the company's travel policy, home country responsibility, taxation may be an issue – depending on dual liabilities.	Depends on the company's travel policy, home country responsibility, taxation may be an issue – depending on the duration.
Repatriation	Not relevant	Not a problem	Not relevant	Not relevant	Usually not a problem
IHRM involvement	Negligible	Little involvement	Negligible	Negligible	Little involvement
Structural and relational embeddedness	High number of connections, weak relationship	High number of connections, strong relationship	No intra-firm boundary spanning	Limited number of connections, strong relationship	Moderate number of connections, strong relationship
Advantages	Flexibility, simplicity, cost-effectiveness, global boundary spanners, maintenance with home country relationships.	Flexibility, simplicity, cost-effectiveness, global boundary spanners.	Flexibility, maintenance with home country relationships.	Flexibility, cost-effectiveness.	Flexibility and simplicity, cost-effectiveness, global boundary spanners.
Disadvantages	Separation/travel stress; time zone differences; host country relationships limited to work colleagues.	Separation/travel stress; time zone difference; lack of social integration at home and host locations.	Separation/travel stress; host country relationships limited to work colleagues.	Separation/ travel stress; host country relationships limited to work colleagues.	Separation stress; lack of social integration with host country nationals.

Studies by (Lewis, 2003) as well as (Kotter and Sharma, 2016) suggest that work performance is better when FWAs are employee-driven rather than employer-driven.

Employee-driven flexible work practices are based on employees' perceptions of work-life balance through flexible leave arrangements, choice of work timings, etc.

Employer-driven flexible work practice entails cost-effectiveness with high-performance-driven work through stretched shifts, overtime, etc.

CHALLENGES

The dogma created around FWA has a profound effect

on the well-being and productivity of employees and employers. While the platform of Flexible Global Work Arrangement apparently portrays a work-life balance, yet the stretched hours of work to meet organizational expectations, in turn, proves to have an adverse effect on mental health. Individuals are torn in between work and family expectations in the end. However, there is a conflicting understanding of flexible work arrangement in the national context wherein productivity and performance has been enhanced to an extent owing to returning the favor to the organization.

Research states that most of the theoretical framework used to explain the effects of frequent mobility global

workers have shown their concern on the challenges of international assignments and their experiential learnings. While global work assignments by MNEs have considerably focused on cost-effectiveness, the same has a derogatory effect on the well-being of the employees. Moreover, the Conservation of Resources (COR) theory and Job Demands-Resources (JD-R) model highlights the resource crunch which also has an adverse effect on the well-being of individuals employed on international assignments. Also, studies show that remote work has impacted work deliverables since most individuals work in silos due to the absence of in-person interactions.

Theories like social capital, social support, and perceived organizational support emphasize the perceived support required for Flexible Global Workers. The global mobility decision of Flexible workers can be understood through Family Systems theory.

CODES OF HR

HR policies and practices don't show many formulations for the Flexible work model in nationalized context while there is a need for an Integrative International HR policy for Multinational MNEs.

Berkery, Morley and Tiernan (2017) posited that Human Resources Management (HRM) practices that increase workforce flexibility may boost productivity and innovativeness, and ultimately could lead to increased financial performance, which can manifest itself as increased profitability.

HR policies need to be streamlined in a fashion such that it incorporates the mental and physical well-being of the employees.

The following points are needed to be considered when designing HR practices in nationalized setup –

1. Communicate -

The crux of any healthy relationship is communication. With limited face-to-face interaction, communication holds much relevance when remote working is considered. Though online induction becomes handy and easily accessible yet when new members join the team

they should be given a forum to approach any member, hence a seamless official communication platform holds much relevance.

2. Empower employees -

Empower employees with relevant training, forums, and tools to align themselves with the remote style of working effectively and efficiently. Also, employees are to be permitted to attend training for their knowledge enhancement to stay updated with the market needs.

3. Attendance tracking mechanism -

Organizations need to implement suitable tracking methodologies for employee attendance for minimizing absenteeism and absconding cases. On the flip side, certain organizations pay out the monthly remuneration on the basis of logged-in time. Hence to avoid payout deduction, proper attendance registering methodology should be incorporated for remote workers who do not have access to laptops.

4. Minimizing micro-management -

While hourly updates on business sales numbers might apparently increase productivity yet hours of meeting over call and video conferencing lead to mental exhaustion and considerable time consumption.

5. Employee wellness programs -

Forego the common notion that work from home means employees are expected to attend and respond to all emails immediately. Employers and employees need to practice empathy as a tool to foster work-relationship and improve well-being. Some organizations have initiated Let's Talk Program which is a 24-hour one-to-one counselling from experts.

6. Recognition of work done remotely -

Deserving employees should be suitably recognized for their contribution and hard work which in turn would uplift employee work spirit thereby enhancing productivity and efficiency. Not only this, one recognition in the team would have a ripple effect on all other teammates. Hence, biases concerning remote work should be

minimized the most.

7. **Unbiased Performance Appraisal and Feedback -**

HR practices need to intervene in designing performance measurement tools where productivity is to be measured only through the achievement of Key Result Areas (KRAs) and not through biases formed on the basis of working arrangements.

HR PRACTICES FOR GLOBAL FLEXIBLE WORKERS

1. **Cross-cultural training –**

MNEs need to embark on training strategies when employees are assigned international assignments in host countries (Basu, 2014). Thus, the need of inculcating cultural intelligence holds much more value in the global mobility of workers to avoid cultural shock.

2. **Work assignment and effort-reward recognition -**

Employers, while considering cost-effectiveness in global assignments, might need to evaluate the workload and volume assigned to flexible workers on international assignments. HR reward policies should avoid an imbalance in the effort-reward model.

3. **Work-life balance –**

While being away from family is a choice that employees make for career development, HR practices need to balance frequent assignments and hence, the work-life of such employees to ensure the well-being of the employee and enhance stickiness to the organization. Studies have shown that frequent global mobility hampers employees' sleeping patterns hence causing stress in mental health.

4. **Team meets -**

There are instances wherein global workers are cast away from team meets considering their working arrangements, however, these individual contributors need a forum to understand the ongoing vibe of the organizations hence team

meets should be encouraged to enhance the belongingness of every member to the organization.

5. **Empathy -**

Global mobility might sound interesting but it comes with its own challenges. Studies show that direct client meets and negotiations are areas of concerns and stress to flexible global workers since these workers are accountable for direct revenue.

6. **Employee assistance program –**

Ready emergency helplines and quick assistance to be ensured as part of HR well-being for all employees.

7. **Performance measurement -**

Performance measurement KPIs, i.e., Key Performance Indicators to be measured based on the individual's role since one size doesn't fit all.

Hence, it is much needed for organizations to design their practices that align with employee needs and pose a competitive advantage to the employer. So goes the quote 'Mindshare before Market-share'. Researchers based their study on social exchange theory which involves the appreciation of Flexible Work Arrangements by employees in turn increases a likelihood of repaying to the organization through amplified performance (Berkery, Morley and Tiernan, 2017). Results from research (Avey, Reichard and Luthans, 2011) indicated the expected significant positive relationships between PsyCap and desirable employee attitudes (job satisfaction, organizational commitment, psychological well-being), desirable employee behaviours (citizenship), and multiple measures of performance (self, supervisor evaluations, and objective). Therefore, HR practitioners are urged to incorporate practices revolving around Psychological Capital when designing HR policies in regards to Flexible Working Arrangements for a valuable manifestation of expected outcomes in terms of contribution, performance, and productivity.

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POWER OF 100 AT INDIA POWER – Best Practices in Employee Engagement



Prakash Panda and Debajani Jena

100 YEARS OF EXISTENCE

100 doesn't come along for many companies. It's a special and elite group who have survived 100 years: an exciting feat in this ever-changing world of business. Turning 100 allowed India Power to step back and reflect on the red thread that links the heritage to the future. India Power Corporation being a legacy organization of 103 years has transitioned from a British Management to a public sector utility to now being a private sector organization. It is operating in the only parallel licensing terrain in the country with two major competitors being West Bengal State Electricity Board and DVC.

Employee demographics at India Power is a unique mixture of fresh talent and seasoned resources. India Power employee composition includes around 66% of its workforce who have completed more than 10 years in the organization. Over the years with the change in operating and competitive landscape challenges of people, existing technology, processes, and culture emerged.

In the centenary year we did extensive research through external and internal surveys. We also took into account historic data and trends to understand the pulse on ground. This comprehensive analysis brought to the forefront the need of larger employee engagement and better capability building. HR at India Power immediately took the “bull by the horns”.

We worked with our MD and leadership team to

envision the future, and create a centenary celebration and a re-positioning theme around the future towards building a smart utility.

“**Power of 100**” was launched. It is a positive, culture-changing bouquet of interventions to emotionally connect all the employees and positively engage them in value creation through better performance. It consists of 10 high Impact Engagement and Development Interventions themes. The focus was to instill a sense of **pride** in employees through **Employee Communication and Connect** so that they deliver **High Performance** and **Create a winning culture**. **Ideas and Innovation** are encouraged and appreciated so as to bring about disruptive changes in the business environment. We have created avenues for **Continuous Learning** and have rewarded better performance through **effective recognition programs**. IPCL considers employee's good health as an asset as they embark on a journey through **Employee Wellness Programs**. **Families of employees are also engaged** as they are an integral part of an employee's life. Each of these interventions include a certain set of initiatives which have been designed to enhance the employee experience and to equip better to capitalize future opportunities.

Initiatives elaborated below were the top three in each of the bucket.



Figure 1: IPCL Interventions

A. My Company My Pride:-

Objective:- Instill a sense of Pride among employees and make them a brand ambassador of IPCL

Initiatives:-

a) **Value Internalization Workshops:-**At IPCL, we assembled as one team across locations team for a unique initiative called “Power by Values-Driven by 3D Culture”. The workshop were designed to bring our values to life through storytelling. This was a unique workshop to internalize and institutionalize IPCL culture, vision, mission and values.All employee pledged to further reinforce and motivate their teams to live by and exhibit the values at all times.

b) **CII HR Excellence:-**With our participation in CII National HR Excellence Award every year, and a hatrnick commendation for “Strong Commitment to HR Excellence” in the years 2019-20,2020-21 and 2021-22,we believe we are in the right path in our continuous endeavour towards making India Power “An Employer of Choice”. This also went a long way in strengthening our Employer Branding efforts and initiatives. Whether it was physical or digital or combination itenabled us to not only vie for recognition of Excellence achieved in our HR processes but also obtain a detailed feedback of our respective processes. This went a long way to further solidify our HR processes and policies through a thorough gap assessment and analysis.

c) **People Savvy:- "People Savvy Handbook" –** Talent Management Dockets for Leaders & People Managers/Aspiring People Managers designed internally by our HR Team.We have included the best HR Practices/Key HR interventions of IPCL and few

from Industries. Our objective was to equip all people managers to become People Savvy , which enables IPCL in getting the best out of every employee of the organisation. This process was further augmented by few training sessions on GPTW Model, PMS Workshop and Kaizen-ZII and 5Splus 2S,Quality Management Practices, Employee Engagement, Talent Management, Performance Management and Talent Attraction/Employer Branding etc. to name a few. We also engaged few external facilitators to cascade few Models of People Savvy Dockets to our Leadership and People Managers.

B. Employee Communication and Connect:-

Objective:-100% employee connect throughout the Organisation

Initiatives:-

a) **Townhalls and Communications by SLT:-**Senior Leadership at India Power believe that it is organization in totality that delivers better productivity. They talk to employees at various forums to ensure employees are motivated and engaged always.

b) **Project Reach Out:-** Through Project “Reach out” the HR and the location SPOCs increased their accessibility to all employees. This enabled faster resolution of employee issues and grievances thereby building larger connect.

c) **Power Team Magazine:-** ‘Power Team’ the in-house magazine of India Power is a quarterly release, where articles related to recent development in the organization, new trends and practices are invited from employees, consolidated and published. The articles written by the Leadership team, on latest development in the industry, business challenges, new technologies and practices, for business magazines and journals are also shared with all employees on different social media including LinkedIn, Facebook and Whatsapp.

C. High Performance Orientation:-

Objective:- High productive Organisation through the philosophy of Pay for performance and Promote for potential.

Initiatives:-

a) **Infusing SOUL into PMS:-** In order to enhance

the quality of performance dialogue between managers and their team members the 'SOUL' program has been launched. SOUL is defined as Smart Goals, Optimal Performance, Unlock Potential and Learn Continuously. SOUL workshops have been organized for People Managers across functions to train them to become more effective in aspects of managing and developing their team members which shall result in getting best out of their team members.

b) Integrated PMS:- India Power has adopted a robust online Performance Management System, to institutionalize a high-performance culture and support organizational growth. We have taken the route of "Integrated Performance Management" by leveraging the process automation and accurate data collection to transform people development. It enables supervisors to measure outcomes with better transparency and impact because assessments can be linked in real time to the performance being evaluated.

c) "Organization Effectiveness":- We believe organization's effectiveness is determined by its Leadership, Organization Structure & Decision-making, Workforce skills & Competencies, Work Processes & Systems and Organization Culture. With the support of an Intern we undertook a detailed study two key dimensions of Organization Effectiveness i.> Organization Structure ii.> Reskilling & Redeployment. The study focused on identifying the core strength of our organization and actionable insights that will help us achieve the organizational outcomes.

D. Create a Winning Culture:-

Objective:- Create and foster a culture of openness, teamwork and camaraderie towards winning in the market.

Initiatives:-

a) Growth Leadership:- Connectedness, Openness and Contribution are high, teams are Generative, creating maximum positive value. Teams at this level for us is Growth Leadership Teams. We always endeavor to build Growth Leadership Teams which demonstrates the capacity to take on new challenges, consciously enhance team and systematic learning and capability with every project. They not only deliver results but also become germinating ground for future leaders. They create breakthroughs

that become reference points for the rest of the organization. Their influence with customers enhances with every project.

LEADING TO EXCELLENCE PROGRAM:- of Building Multi Hierarchy and Multi Domain Leadership connected across levels into a coherent whole. Leading to Excellence is an umbrella of high-impact modular programs for aspiring and existing people managers with a razor sharp focus on developing their capacity to lead the team towards better business outcomes. This umbrella includes a series of interventions designed to build basic leadership skills in aspiring people managers and advanced leadership skills in existing people managers over the course of 3 months. The interventions included external/internal learning programs, group coaching and mentoring. The programs will be conducted on 1st and 3rd Saturday of the month for a duration of 3 hours.

b) Winning with People:- "Winning with People" was an intervention designed and deployed for Leaders and People Managers (those managing team – Direct & contractual). The objective was to create a winning mindset, build a sense of belongingness and becoming an impactful leader/people manager.

c) Step Up to Team Up:- An Outdoor Experiential Learning Intervention Aimed To foster Teamwork, Collaboration & Positive Attitude. This was further institutionalized to establish a platform for open discussion, positive communication and inclusivity.

E. Continuous Learning:-

Objective:- A holistic approach to professional development towards greater productivity.

Initiatives:-

a) Experiencing High Performance:- This module aimed to enable team work and explore the leadership environment that enables and sustain performance team. This workshop facilitated collaboration across different functions/departments in an organization. It enabled participants experientially in touch with their inherent capability to deliver excellence under pressure and change, with enjoyment, and without stress. This module was delivered using 'Corporate Theatre' theatre techniques to facilitate experiential learning to build power dynamics of power team, delivering consistent

excellence, and enjoying it, in a changing and challenging environment.

b) Sales Effectiveness and Customer Centricity:- With India Power's future vision being to become one of the top smart utilities in the country the need emerge as to empower each employee be a "Sales Enabler and Customer Service Person". With this objective in mind this intervention was designed. The insightful SALES EFFECTIVENESS and customer centric trainings was designed to impart participants: to equip themselves with effective selling skills, enrich their consumer centric mindset, enhance their service delivery approach, enable them to strike a differentiation among the competition and to inspire them to think different, think technology to augment sales and be future ready

c) Competency Based E-Learning:- As a part of Talent Management Initiatives, we launched E-learning Modules based on KF Competency Framework, for high performing Managerial Employees (Middle/Junior Management level/Team Lead). There were 10 modules for each participant. A homogenous group was administered this program for better learning and Impact. The intervention was a huge success and the participants shared their willingness for more such learning opportunities. It Validated our endeavour to competency centric personalized learning roadmap.

F. Reward and Recognition:-

Objective:- To foster an appreciative and rewarding workplace

Initiatives:-

a) KPI Based Reward and Recognition:- Building an appreciative and rewarding culture in an organization is one of the primary drivers which propels productivity and boost employee morale towards superior and consistent performance. The R&R Program categories have been designed with a view to recognize sustained and exemplary performance by individual employees of the organization which in turn have significantly resulted in achievement of organizational goals. The R&R scheme has been broadly classified into two categories viz., Competitive and Non-Competitive.

The R&R is further categorised as : Top Down Approach and Bottom up approach.

b) KAIZEN AND 5S plus 2S based Recognitions:- Kaizen improvement and innovations have been linked to the Rewards and Recognition and Performance Management system so as to not only create a buzz amongst employees but also motivate them to participate in more improvements and implementations. The main purpose of Kaizen is development of Employees along with Organizational growth. And award categories such Kaizen Star award and Kaizen Super star award were introduced to help drive this initiative to the next level.

Further an approach of **dis-proportionate benefits for high performers** as part of the Total Rewards process also enabled varied segments of employees to be motivated to perform better always.

G. Ideas and Innovation

Objective:- To bring out the creativity of employees for organisation benefits

Initiatives:-

a) KAIZEN_ZII & I:- Continuous improvement is a result of continuous innovation that leads to the gradual evolution of activities by adopting best practices of innovation.

With 5S implementation we have already started the journey of continuous improvement.

We have embraced Zero Investment Improvement (ZII) & Innovation a way of life @India Power.

b) 5S plus 2S:- 5S is a Japanese concept on creating better work environment through systematic approach. It Involves work place organization and better house-keeping standards. 5S refers to five steps- sort, set in order, shine, standardize and sustain (also known as 5 pillars of workplace). We at India Power believe that Safe and Healthy Environment is of paramount importance. "My Place My Pride-5S plus 2S (Safety & Swasthya) @ India Power" Is being implemented to create a clean, beautiful, safe, organized and efficient work environment.

c) Large Scale Interactive Process:- We at India Power that Large Scale Interactive Process is an effective method of enhancing employee participation in critical projects. LSIP at India Power involves all team members from different departments to work together to build a roadmap to drive short term or long term changes planned.

H. Employee Wellness

a) Objective:- To emphasize the importance of Health, Safety and Wellness in overall wellbeing of the employee.

Initiatives:- Employee Wellbeing at India Power is often seen as an engagement multiplier. Employee well-being comprises of several categories of wellness, including physical health, emotional or psychological well-being, community or social relationships, and financial stability. Essentially, employee well-being looks at the employee experience from a holistic perspective. Combining wellbeing with engagement is a powerful weapon.

The HR and the Leadership both at IPCL views People Wellbeing both as a Strategy and Responsibility derived out of our strong HR policies, practices, surveys and our CSR and Sustainability practices.

Our most important asset is our employees and workforce in our premises and we build workplaces that let them know that we care about and support their health and wellbeing.

a) India Power has introduced the **HRIDAYAM model of Conscious Leadership and Mindfulness** with policies and practices that ensure the support of the work environment in all aspects of holistic wellbeing leading to superior levels of employee experience and building commitment. This has helped in increased productivity and progress towards achievement of our HR vision.

With the occurrence of Covid-19 pandemic managing stress has become pertinent for a good work life balance. 21st June is celebrated as International Yoga Day all over the world. We at India Power had organized a unique initiative to have a Virtual Celebration of Yoga Day to enlighten you on the science of Applied Yoga, Meditation and Mindfulness.

b) Airtel and Tata Marathon:- We believe that this is a critically important initiative that will finally led towards a variety of successful benefits for the individual, family, and community. This noble cause was like a Zen like experience for the employees. This not only motivated them physically but provided them with high pride that they are part of such great initiative. Within our organization we created influencers in each department to spread the awareness. Groups were also formed and interested

participants trained themselves for the marathon. A healthy competition also enabled greater employee engagement.

c) People Well Being Index:- People Wellbeing is part of the HR Strategy and to understand the effectiveness of the People Well Being Initiatives at India Power we measure through “People Well Being Index” as depicted below:-

Table 1: People Well Being Index

Weightages			
External survey of people wellbebing - GPTW	80	20% of total score	16
Internal Perception measure of people wellbeing	95	60% of total score	57
Documentation	79	20% of total score	16
Total Score	254	100%	89

I. Family Delight

Objective:-Engage the family of the employee with the Organisation to increase employee involvement

Initiatives:-

a) Centenary Day:- We together wanted to celebrate the success and create excitement in the organization on Completion of eventful 100Years. To ensure that these celebrations are on top of mind recall of all the Employees, we did a sustained campaigning to create visibility, awareness & excitement around the events. The events were designed with an objective of encouraging all employees to participate in this Celebration and take pride, to enhance employee positivity towards India Power as an Employer Brand, build aspiration amongst the existing employees for long association with IPCL Family and create sense of belongingness and happiness amongst employees by involving, rewarding and recognizing their efforts and contribution.

b) Children's Day:- For us Children's day is “Junior's Day Out”.The fun day included a movie watching session-a waltdisneymovie, ”Go as you like” and interactive games followed by fun foods.The children of our employees had a gala time on the day and are always excited for another such day another year.

J. Fun@Work

Objective:- To create excitement at the workplace through Celebrations

Initiatives:-

a) Evening with RJ:-An evening of fun filled games and heartfelt laughter was organised for all employees. This not only gave employees a fun way of relaxing but also boosted their morale that the organisation is also working towards their mental being through entertainment.

b) Mayajal-An illusion show:-This was a hug hit among employees. We invited “amazing David” to conduct an illusion show. The show was housefull. Through various antics and acrobatics the host kept the audience gripped to their seats.

In 2020 we have revisited our “**Power of 100**” initiative and have launched “**Limitless Horizon**” owing to the pandemic and the Hybrid working model. This is an employee engagement and development initiative in a “**Phygital world**”– to expand the learning curve, capability building initiatives and Total Employee Involvement initiatives through various virtual mediums.”**Power of 100**”has gone a long way in building a culture of appreciation & recognition, digitization of HR processes and a high engaged and high performance culture. Our main objective is to instil a retention mindset across the organization both for customers as well as for employees.

Much has been spoken about how the world of HR is migrating towards being unified with sustainability and environment. What is today called as “Green HR”. Limitless horizons was our attempt at progressing to this space seamlessly. With the adoption of virtual tools at every stage of employee life cycle, unleashed by the advent of pandemic, we could build an employee experience strategy based on Green HR practices. What it resulted was emotionally invested employees better motivated to delivering enhanced productivity always.

We believe measuring the impact of an initiative essentially validates the objective and the methodology of implementation. “**Power of 100**” also got a huge thumbs up through various business and engagement related outcomes. To cite some :-

(a) Overall Attrition has reduced along with Managerial attrition:

(a) Overall Attrition has reduced along with Managerial attrition:

Table 2: Attrition for All Employees

All employees Including Workman, CA, FTA				
Financial Year	In Voluntary	Voluntary	Total Exit	Attrition percentage
2018-2019	47	31	78	5.21%
2019-2020	42	25	67	4.54%
2020-2021	33	16	49	3.16%

Table 3: Attrition of Management Staff

Management Staff				
Financial Year	In Voluntary	Voluntary	Total Exit	Attrition percentage
2018-2019	28	30	58	14.22%
2019-2020	5	25	30	12.56%
2020-2021	5	16	21	8.79%

(b) *New Joinee attrition reduced:*

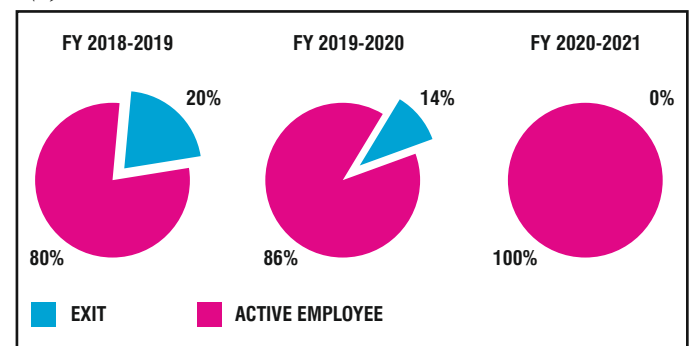


Figure 2: New Joinee Attrition

c) *Revenue Per Employee*

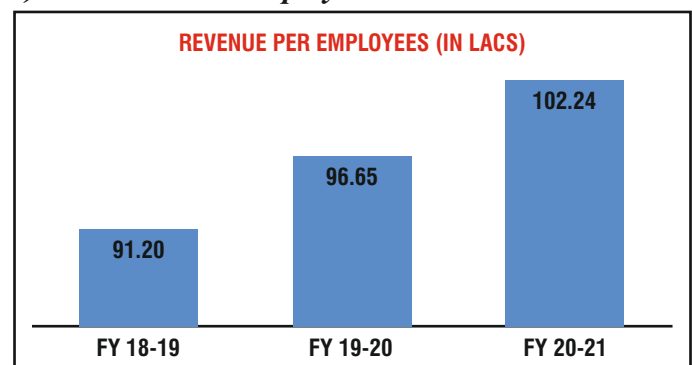


Figure 3: Revenue Per Employee

d) *HR cost to Revenue*

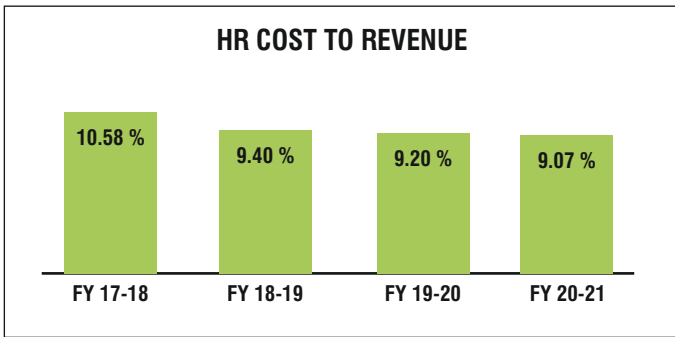


Figure 4: HR Cost to Revenue

e) Great Place to Work® Trust Index© Employee Survey is the world's most widely used model to understand employee perceptions about their workplace. As part of this assessment, GPTW measured the perceptions of employees using Great Place to Work® Trust Index© Employee Survey and understood organization's differentiating culture through the Culture Brief© and Culture Audit©. **We feel immensely delighted to mention that Great Place to Work® Trust**

Index© Score for the year 2021 for India Power is 77. The score is a significant jump of 10% vis-à-vis 2020 and a 15% vis-à-vis 2019. Further on each of the five dimensions we have fared much better than previous years

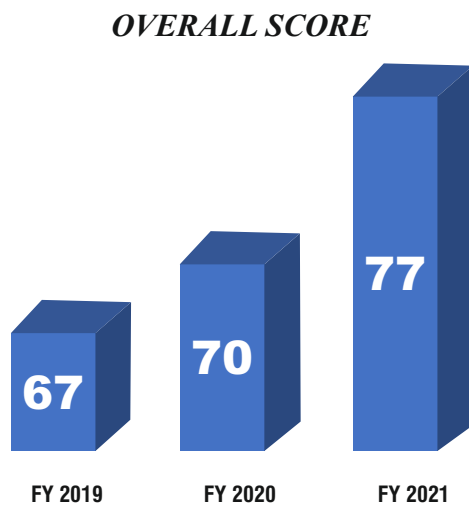
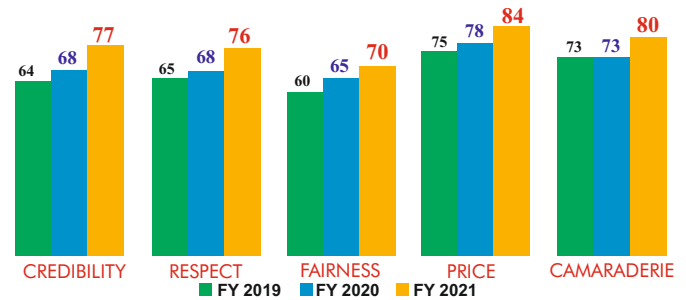


Figure 5: Overall Score

Figure 6: Trust Index Dimension Wise Breakdown

FY 19-21 - Scores on Each Dimension

Trust Index© Dimension Wise Breakdown



f) On the business front -Sales increased by 2 million units in 2020-21 despite pandemic and also a 7% sales growth over 2019.50% new customers added during 2020-21 which is around 31%.T&D loss is managed at 3% which is one of the lowest in India. Year on Year PAT increased by 60%.

We all believe that managing and developing talent will lead us into our vision of better employee experience for better productivity. India Power took it as a collective responsibility. With the pandemic the evolution to a new work model and workspace has become faster than ever. We being the enablers of business took in our stride the changing trends to strategically enhance people experience for better outcomes. **“Power of 100”** acted as one of the key initiative which propelled us into the change prepared and ready.

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LEARNING BEYOND BOUNDARIES



Debapi Basu

INTRODUCTION

By the fag end of the Matix project, just before the test commissioning, I got transferred to the corporate office for two simultaneous assignments.

Firstly, to facilitate the start off of Tural Hydro Electric project in Mizoram in terms of initial compliances, team selection and settling down by handholding the HR team based out there. Secondly, due diligence for entry to Gulf where Essar Projects had some scattered presence of business development /commercial team for identifying and bagging international projects with an objective to expand globally.

In early 2013, I was offered the responsibility to head HR in the DCU (Delayed Coker Project) in Ruwais refinery, for which we were selected as a subcontractor to Samsung Engineering, the Korean construction giant. Then, with a visa and inputs on culture, custom, laws, and the minimum understanding of refinery manning, I landed in Abu Dhabi.

My earlier stint in Oman wasn't that helpful technically as all the Gulf States have some fundamental characteristics in governance style which may not be the prototype to others. It can only give an ounce of confidence to work in a foreign land where one needs to be sensitive to their culture and be updated on laws, practices and customs.

The business challenge:

1. Gulf countries in general do have a system of “sponsor”, a form of partnership with any local business house, the owner of which normally has connections with the ministry. This serves a dual purpose:

- a. Facilitating licenses and other government clearances for the expat firm, if and when required. This support becomes critical.
- b. The sponsor normally maintains his own office and this facilitates localized recruitment.
- c. Most of the Gulf countries are having some commonalities and this sponsor system is one of them. This gives the much-required validity to start operation.

2. And the mystery unfolds: -

Our principal employer, Samsung Engineering started pushing for the initial fieldwork to start, which needed a huge workforce. Large workforce needs employment visa/license. Initial exercise revealed the shell shocking fact that we cannot get through the license documents from the Ministry as our present sponsor was getting altered. We would be required to wait for the new sponsor to get finalized.

WHAT NEXT?

An option was to hire persons from local contractors who have huge worker strength from India, Bangladesh, Philippines but then the company

financials go for a toss. At the same time, if we keep waiting for the next sponsor, we are likely to lose the contract. It was a real Catch 22 situation.

An outcome of a series of meetings with senior management team was the idea of decomposing the deadlock by segmenting it into smaller tasks:

i. The planning team with the close monitoring of the head of operations based at Abu Dhabi office convinced the principal employer of the initiation of the core engineering tasks of review, approvals (of drawing) and work scheduling. This shifted the focus on stage-by-stage finalization before the work actually started.

ii. The HR's task was to close the formalities of signing off the new sponsor's documents through the local hand and negotiating with the local vendors to flag off the initial excavation where instruments were more than the headcount. This helped us buy time to apply for workmen with our visa which was cost effective.

iii. 2013 was the year of entry of Essar in hydrocarbon. The company had bagged two new orders totaling upto US \$80 million in Abu Dhabi, underpinning its presence in the middle east market:

a) Takreer had awarded a direct contract to EPH for EPC works commissioning and start up for a spent caustic treatment plant of 3.6 cubic meter per hour at Abu Dhabi refinery.

b) G.S Engineering, Korea had awarded construction of twin inter-refinery pipelines in Jet pipeline and Gas oil pipeline, both of 28 inches * 94.6 kms.

c) As the principal employers were different in all these projects and pipeline assignments normally get awarded with a healthy margin, we kept the job hazards of pipeline setting in desert under 45 or more and decided to start off with a common pool irrespective of the assignment. Most of the white-collar people got transferred from our Hazira and Jamnagar unit which was a temporary relief in manpower cost compared to non-Indian expat intake at all levels. It was a signal to our own employees that high performers get taken care of through fixed-term gulf assignment and the option of joining back India

operations after project is over, if there is no fresh/ongoing project with requirement of manpower.

It took us a month's time to onboard and signoff the new sponsor. By that time, we were almost close to finalizing the project charter for Coker project and the initial jobs of surveying and excavation had been initiated through local contractors. By the end of the third month, workers were received from India through Indian based manpower supplier for all construction majors. While the process of documentation was done in U.A.E, our Indian counter parts completed the selection, skill test, and visa application part.

The fieldwork took momentum as per the plan, mainly because of gulf experienced workmen and supervisors, and common resource in engineering to some extent which had ensured stringent planning and execution with clinical perfection. Highest level of safety measures gave a planned outcome with zero risk.

The summing up of points as homework:

- The culture, norms, governance, project facilities, society are not the same for a given particular Gulf country and adequate homework is required.
- Identify those key positions which can put your project timeline at risk. In my case, this was taught to me by the second line commissioning profile or Coker Unit specialist. If you hire locals with relevant expertise, cost factor takes a hit. But building them up from internal talent overnight is beyond thought.
- In our case, the sole techno-commercial team of six people, working in Abu Dhabi office for last one year, had in mind the areas of expertise required and our Hazira and Jamnagar team had kept a pipeline of backup support for the key critical resources which worked for us.

With the CBDC project in full swing, the focus got shifted to the mega project in India. The Paradip initial IOCL LSTK Project which took off were Essar projects, like its counterparts in construction (Refinery) L&T & Punj LLOYD. So, I landed up in Paradip. It was my homecoming in Odisha after 2006, a state where I have always been aligned to the culture,

language, and old friends but the stint in Paradip taught me the best of learnings. A 1400 crore project, won against stiff competition for the 15mn tonnes/par refinery. The scope for this project included residual process design, detailed engineering, procurement, construction, commissioning and performance testing of core process units of the refinery, including the Atmospheric Vacuum Unit (AVU), Straight run LPG Treating Unit, Naphtha Hydro Treating (NHT), Naphtha Fractioner Unit (NFU), Continuous Catalytic Reforming Unit (CCR), Sour Water Stripper (SWS), Unit and Amine Regeneration Unit (ARU).

The snapshot from HR/IR/operations point of view is as follows:

- 4500 plus labor
- 70+ odd subcontractors
- Militant unions/pressure groups
- God forbidden land, only dumpers
- Very critical project management consultant

The plus points were

- Local Administration (police from I/C to SP, principal employer)
- IOCL with their valuable guidance (both in my fraternity and engineering)

HOW WE DID IT

a) Speak at length to all the internal and external stakeholders. Internal Stakeholders mean employees hired from different locations - 20% new and 80% within the system - about acclimatization to the environment, culture, logistics support and addressing aspirational needs. The external stakeholders were the contractors, local pressure groups - here the interaction had to be done with an impartial approach. Upskilling local talent gave us the same result after initial hiccups for a year or more.

Building trust was the bullseye, and it paid off.

b) **Momentum in the schedule** that came with an effective implementation of the project management charter gradually started winning the confidence

among all stakeholders including the Project Management Consultant, Foster Wheeler. Healthy competition among the top three doyens in Indian Construction sector, engaged in different parts of the same project gave us the golden opportunity for continuous benchmarking of the systems and processes and emulate wherever possible. Positive vibes were triggered and even the external stakeholders started believing that given the opportunity, we will leave behind something which will take care of their interests in future, directly or indirectly.

c) **Touch Base, expand your horizon.** A major chunk of migrant workforce, having exposure in mega projects in India and Gulf, become the drivers of your execution Charter. They have their views, feelings and expertise to share and, at times, after patiently hearing their grievances, their input were found to be at par/steps ahead than the white collar engineers.

My job was to align them to the task assigned, and the positive vibes were infectious enough to make our position stronger in the eyes of all those who mattered.

d) To survive and excel in a critical environment like this, that **differentiator X-factor** is a must. This gives the winning edge.

SUMMING UP

The golden points I would like to share are:

- Its important to create the Critical Competencies pool (hone up, hire and train whatever, must have to get the job done on time). Tie up with the groups from several pockets in East and West who can get them if in-house supply falls short.
- The confidence thrust by the top management (read HR) empowers mentally. That's the crux of success, where one can explore his/her potential fully.
- Knowing the land, culture, laws, practices, human behavior, project criticalities, life style etc. is a must and one must have a self-prepared note.
- Have a style of your own, and if required, challenge the obvious if you are empowered to do so.

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IMPLEMENTATION OF DECISION – Potential Dilemmas and Remedies Using 3C Framework



Dhrubajyoti Majumdar

INTRODUCTION

Any organizational decision usually impacts either the top end of business or the bottom end or the both. Hence, those decisions which impacts the top end of the business are termed as strategic decisions and decisions which are impacting the bottom line are termed as operational level decisions. Obviously so, the decision which cause changes in components of input, process and output can be treated as strategic decisions; which are formulated by top leadership and usually percolates down the line for its implementation.

The approach used by the leadership team to arrive for a decision, may differ significantly with local leadership team in terms of its business context and environment may be relevant locally.

On several occasions, line managers implement decisions that are mandated from the top management without owning the decisions and hence, implementation can be halfhearted or faulty, and therefore, its efficacy remains to be doubtful as well as for its inflexibility, since they are formulated with a wrong notion of all pervasiveness across the organization. At the operational level, local leaders are always finding it difficult to suit and serve the local context. As a result, important decisions on several instances are unable to secure the desired ownership of local leadership team from stage of implementation to its effectiveness. This is the center point of the discussion as every decision needs to be properly

accepted and owned across the leadership for whole hearted implementation and not the half-hearted effort just for the sake of appeasing top hierarches.

Hopefully it is clear to the eminent readers that every decision is having two ends namely formulation part and implementation part. Similarly, any decision primarily has two stakeholders associated intrinsically with it; first one is *Formulating Leadership* and second one is *Implementing Leadership*.

FORMULATORS Vs IMPLEMENTORS

The *Formulating Leadership* are empowered to formulate, propagate and percolate decisions across the organization keeping in mind the overall achievement of organizational vision and mission statement. Whereas, the *Implementing Leadership* are people or group of people who are responsible for understanding, disseminating and implementing the decisions at operational end as well as ensuring the efficacy of decisions which can justify the overall decisions formulated by the business leaders. Therefore, it is imperative that leadership team accountable for devising any decision and leadership implementing the same are playing an equal role and interlinked with each other.

The eminent reader may reflect at this stage as to how and where dilemmas emerge when a decision is formulated at the top. Possible answer can be that unlike the smaller organization, usually, in large organizations, leaders responsible for formulating a

decision and leaders assigned for the implementation are different set of people and therefore, perceptual *A classic case of this disconnect between the leader responsible for formulation of decision and the leader entrusted to carry it out can be figured out in the history of the World War II. The clash between legendary dictator Adolf Hitler and decorated war hero of the 7th German Infantry division Field Marshall Erwin Rommel which had eventually forced the German military might to quit the North Africa mission after the defeat in the war of the El-Alamein in Libya 1942 lead by the allied troop.* framework may significantly differ as highlighted earlier.

Another way of looking at this perspective can be that strategic decisions are usually broad based on holistic macro assumptions pertaining to the organization and its business environment without much consideration about local business dynamics. As a result, on several occasions, implementable decisions percolated towards operation level are subjected to potential dilemma as very little consideration is made towards micro factors or the local factors affecting the business are underestimated.

Firstly, potential reasons for any decision to fail can be manifold and ideally, its responsibility should be passed to both the top and bottom line of the leadership. However, lack of meaningful communication between Formulation and Implementation leadership makes it tough for any strategic decision to sustain or withstand the pressure of other stakeholders of the business. To be in sync, both formulating and implementing leadership should have prior *Focused Group Discussions (FGD)* to understand and appreciate the viewpoints of the other with an open mind of listening, reflecting and sharing thoughts for better design, control and implementation of any decision.

Secondly, lack of collaboration can be another key contributing factor for disastrous failure of any important decisions. It is a proven truth that every time it is tough for the senior leadership team to consult with local leadership for any important decision. Also, the channel through which any decision is percolated below should be made free from distortion. To create an environment of collaboration and trust, the decision formulating authorities must take the lead.

The chances of disconnection can be mitigated to large extent by *Glass House Meeting* wherein, leadership responsible can be asked questions by the line managers to understand and own the decisions for implementation.

Lastly, an important area in which implementation of decision may suffer a jolt can be lack of transparency provided to leadership team responsible for carrying out the decisions. Every organizational decision is usually embedded with untold implications, which never unearth until the decision fails. An ideal example can be evidenced in several organizations when regional level hiring is done for senior profiles, in which the entire process of hiring is completed without any prior communication to local human resource team or local business leaders. This eventually leads to an unwelcoming experience of onboarding for the new entrants. There can be several cogent reasons behind non-disclosure of leadership hiring to the local management, however, it is always suggested to communicate or at least sensitize the important decisions well beforehand to avoid unpleasant situations. It is also expected from the decision formulating authorities to extend support to the grass root leaders in case of any potential difficulties in implementing the decisions percolated from the top.

Decisions which are having too much hidden agendas or dubious in meaning are ought to suffer at implementation stage due to lack of credibility. An ideal example can be policy decisions on employment contract or may be a mere change in leave policy but if it is having too much of hidden motive, there are high chances that it may suffer major criticism and employee exit as it is devoid of credibility. Hence, it is always preferable to hold *Town Hall meeting* to convey the major or structural changes with the implications behind.

CRISIS IN DECISION – ANECDOTE FROM WORLD WAR II

A classic case of disconnect between the leadership responsible for formulation of decision and people responsible to carry it out can be figured out in the history of World War II. It was the clash between two legendary personalities - the great dictator of all time

Adolf Hitler and the decorated war hero of the German 7th infantry division Field Marshall **Erwin Rommel** (nicknamed as *Desert Fox*). The conflict of both had ultimately forced the German military might to quit the North Africa mission after a defeat in war at **El-Alamein** at Libya in 1942 lead by the allied troop. Both were entangled so badly that overall mission of the nation was undermined, which resulted in defeat of the German military might.

It was an instance of simultaneous blockage in communication between two leaders coupled with gap in collaborative approach and severe lack in credibility by Hitler – leader responsible for formulating the decisions. Hence, instead of harnessing the common goal of the nation, both were involved into dysfunctional conflict.

By this time the eminent readers must have understood that any organizational decision must be having the below mentioned ingredients for its successful implementation:

- **Level of communication**
- **Level of collaboration**
- **Level of credibility**

In the following sections, there will be an effort to unravel the interconnectivity of **Communication – Collaboration - Credibility** factors that directly contribute to the successful decision formulating or decision-taking process.

Since the anecdote is interconnected with the topic of discussion, hence, reference of the same will be taken intermittently.

FRAMEWORK OF 3Cs – COMMUNICATION – COLLABORATION - CREDIBILITY

It will be a rather utopian perception that all the decisions permeated from the top will never face any challenge and are bound to be well accepted as well as implemented at operational level with a greater efficacy. Though there are numerous factors and facets associated with the disconnect between stakeholders of decisions (both who are Formulating the decisions and those who are Implementing decisions), there are three principal factors that are contributing towards the success or debacle of any decision designed from top and implemented at

operative level. These are 3Cs namely,

- **Communication**
- **Collaboration**
- **Credibility**

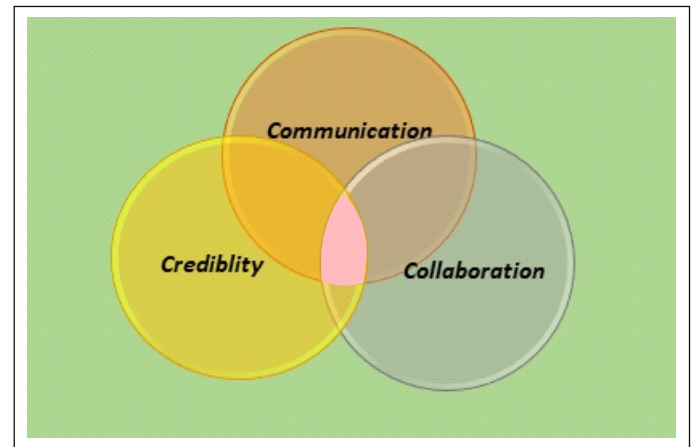


Figure 1: Decision Formulation and Decision Implementation – 3C Framework

According to the Figure 1, 3Cs are intertwined with each other. Any decision which are successfully rolled out from the top and implemented with greater acceptance at the bottom layers of the business must follow the **3C i.e. Communication- Collaboration – Credibility.** According to the Figure I, of the 3C Framework, the intersection of Communication, Competence and Credibility can be considered as an ideal decision which is understandable, implementable as well as effective for the organization.

However, eminent readers must have observed that it is a small cross section of the whole area which is clearly pointing out towards the fact that very few decisions formulated are unchallenged at operational level because relevance of the all 3Cs are necessary for any decision to sustain and pass the test of time to generate desired result across the organization. It is imperative to take a deep dive into each element of the 3C framework in the context of our anecdote to understand the importance and relevance of organizational decision formulation to its implementation processes.

First C - Communication

Though both way communication is one of the

elements of credibility (by Michael Burchell et al in the the book 'The Great Workplace'), it is the single most important block which can make or break the formulation of any decision.

If the earlier anecdote is referred here, unparalleled supremacy of the leader leads to a situation wherein decisions were never discussed or reflected mutually. One-way communication from decision formulating bodies to decision implementing bodies made it increasingly difficult, firstly, to understand the reason or strategy beside the decision and then to disseminate down the line for effective implementation.

Any strategic decisions must be preceded by creation of familiarity in both top and bottom line of the organization coupled with fair understanding of causation of such decisions. To create such transparent climate, the decision-formulating authorities should be the forerunner and should play the crucial role by providing both informative as well as accessible communication and to seek clarification and counter viewpoints to moderate as well as to customize beforehand the decisions, if required so.

It is also equally important to understand the way communication flows across the hierarchies. Two-way communication is suggested to be maintained especially before formulation of any strategy or decision. Understanding of ground reality by the senior leadership are pivotal ingredients for formulation of any decision as the whole process can neither be created nor implemented in silos.

Therefore, accessible communication is very much important as it will help the decision formulating team to know the premise or context to tailor make the decisions. Bureaucratic channels of communication choke the process of information flowing in both the end and leads to a faulty decision. Similarly, the communication from the decision formulators should be informative; as well as it must follow proper channel of percolation to the bottom line. The channel selection for propagating the decisions in today's world can be one of the toughest challenges one may face.

Therefore, communicating decisions downwards through the social networks may not be as effective for employees who are working mostly under the dust or

fumes or in standing postures. May be that is why the **Facebook @work** is not as successful at the shop floor level but it is a good communication channel for IT/ITES organization where most employees and stakeholders are technically hyper active.

Second C – Collaboration

At the time of nurturing a raw talent, leaders most of the times underestimate the chances that the follower can surpass the leader and can demonstrate superior performance in practical field. Rommel surpassed **Hitler** in the competence of leadership, camaraderie and knowledge of warfare. Most probably, due to this reason, gradually Hitler perceived Rommel as a potential competitor or a threat rather than a talent with immense potential. On the other hand, Rommel understood that he had the talent and tried to supersede the instructions. As a result, the lack of collaboration got visible particularly when the German Army was in deep trouble.

No leaders like to be questioned or prefer to answer till there is a debacle and very few of them like to be replaced by another leader. Therefore, collaboration *per se* is tough to be evidenced even when a leader has mentored the replacement through succession planning.

As a result, it may happen that the talented leader who can question or generate options for better implementation of any strategic decision may be viewed as a potential threat and there can be a high chance that such talent is deliberately made defunct by associating it with projects of least importance or in an assignment with little scope of strategic decision making. Decision formulating team must encourage climate of collaboration so that line management can be a part of the decision. It can also help all parties of the decision making to own the decisions even if it is a case of failure.

Third C – Credibility

In the anecdote, it is clearly evidenced that there was disconnect of credibility at the decision formulator end as there was a hidden motive of **Hitler** which was never revealed to **Rommel**. Selection and nurturing of **Erwin Rommel** was no doubt an act of credibility by **Hitler** as he was well accepted as a leader of the German army and was among the few German

generals who were equally accepted by the enemies as well. However, during early 1940s, **Hitler** showed step motherly behavior to **Rommel** due to his popularity and control over the army. Credibility is two-way traffic and is based on trust which a leader must demonstrate. Unfortunately, trust was missing between the two and hence, Hitler lost his credibility in the eyes of Rommel.

Responsibility of a decision formulating leader is never completed just by hiring and nurturing leaders with vision and a belief system in sync with the organization; it is equally important for the organization to indoctrinate the leaders by harnessing mutual communication as well as creating transparent culture with a local leadership team. Credible leaders always focus on talent inclusivity and churning talent which, in turn, provide ample opportunities for the home-grown talent to flourish.

In conclusion, it can be summarized that

organizational decision-making processes which are impacting people should be owned across each hierarchical level as well as by the employees. Otherwise, it will be an achievement of a cross section of a leadership team without producing much impact at the bottom level. Since any decision-making process is associated with huge cost in the form of managerial time, effort and money, it is always recommended to be doubly sure as to whether such decision is rationally acceptable, actionable and equitable for the people concerned. In a nutshell, the entire leadership team must live with decisions to showcase its relevance across the internal and external customers to follow the path towards greater success.

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JUDGEMENT CORNER

The year 2021 despite the pandemic we have seen many important judgements in the field of labour and Industrial laws. For the first time your 'Kolkata kindle' has taken an initiative to start a 'judgement Corner' to keep the readers updated on recent judgments in the field of labour and industrial laws. To start with, a compilation of important judgments for the year 2021 have been done for the benefit of the readers. Despite our best efforts few important judgement might have been left out. However, we sincerely hope this section will be liked by the readers and they will find it useful.

AD HOC EMPLOYEES:

- Services rendered by ad-hoc employees prior to regularization cannot be counted for purpose of seniority.

Malook Singh and Others Vs State of Punjab and Others LL 2021 SC 547

- Workman employed for a particular project can't claim permanent status after project ends

Bipin Vs Union of India and 3 Others WRIT - C No. - 16186 of 2021, ALL HC, Judgement delivered on 25th OCT 2021

BACK WAGES:

- Back wages are not automatic on setting aside of termination.

Ganges Manufacturing Company Ltd. & Anr Vs State of West Bengal & Ors 2021 LLR 479 (Cal HC)

- For back wages, the workman has to prove that he remained unemployed throughout.

Ganges Manufacturing Company Ltd. & Anr Vs State of West Bengal & Ors 2021 LLR 479 (Cal HC)

- Dismissal when held illegal, workman is entitled to reinstatement with back wages.

Tata Coffee Ltd., Vs P.A.Ganapathy 2021 LLR 713 (Kar HC)

- Reinstatement with back wages for every illegal termination is not automatic.

Ram Monohar Lohia Hospital and Others Vs Munna Prasad Saini & Anr 2021 LLR 1035 (SC)

- Dismissal when set aside, Workman shall be entitled to reinstatement with back wages.

Canara Bank Vs Sri C. Krishnappa 2021 LLR 499 (Karn HC)

CONTRACT LABOUR:

- New contractor is obliged to engage the workers of outgoing Contractor.

Central Warehousing Corporation Vs Govt of India & Ors 2021 LLR 565 (Del HC)

- Prohibition of Contract Labour in an establishment is to be decided by the advisory Board

The Delhi Golf Club Employees Union Vs Union of India & Ors, 2021 LLR 585(Del HC)

DATE OF BIRTH:

- Employee can't change date of birth as matter of right.

Karnataka Rural Infrastructure Development Limited Vs T.P. Nataraja & Ors. LL 2021 SC 612

DISMISSAL:

- Dismissal for suppression of essential and mandatory qualification for employment is justified.

Prabhakar Shukla Vs Union Bank of India & Ors 2021 LLR 143 (All HC)

- Money received from Customer but not depositing in his account justifies dismissal of a bank employee.

Palan Chandra Naskar Vs Bank of Maharashtra & Ors 2021 LLR 474 (Cal HC)

- Dismissal of a driver shockingly disproportionate when accident is due to contributory negligence.

Tamil Nadu State Corporation Ltd. Vs The Presiding Officer, Labour Court Vellore & Anr 2021 LLR 559 (Mad HC)

- Leaving duty to comb hair and then abusing assaulting Senior Officer will justify dismissal.

RangRao Vs Maharishi Babasaheb Kedar Sahakari Sut Girni & Others 2021 LLR 319 (Bom HC)

- Dismissal of a cashier indulging in embezzlement of employer money would be justified.

Krishna Singh Hyankd Vs Chairman, Life Insurance Corporation of India and others 2021 LLR 1187 (All HC)

DISCIPLINARY MATTERS:

- Dismissal of a workman by his/her employer cannot be interfered with merely on the ground that it did not conduct a disciplinary enquiry, if the employer could justify the action before the Labour Court. Where the employer has failed to conduct an enquiry before dismissal or discharge of a workman, it is open for him to justify the action before the Labour Court by leading evidence before it.

State of Uttarakhand & Ors Vs Smt. Sureshwati, LL 2021 SC 34

- Detailed reasons are not required to be recorded by the Disciplinary Authority in an order imposing punishment by accepting the findings recorded by the Enquiry Officer. It was further held merely because a show cause notice is issued by indicating the proposed punishment, it cannot be said that disciplinary authority has taken a decision.

Boloram Bordoloi Vs Lakhimi Gaolia Bank LL2021 SC 70, Judgement delivered on Feb 08 2021

- Right to be represented by Counsel or Agent of choice in disciplinary proceedings is not absolute.
- The Chairman, State Bank of India and Another Vs M.J. James LL 2021 SC 654*

- An Enquiry is set aside when started with evidence of workman.

Chief Manager, Rajasthan State Road Transport Corporation Jaipur & Anr Vs Gopal Singh 2021 LLR 183 (Raj HC)

- Strict rules of evidence not applicable to the departmental enquiry.

Deputy General Manager (Appellate Authority) & Ors Vs Ajai Kumar Srivastava 2021 LLR 119 (SC)

- Proving misconduct in an enquiry is not so rigid like a criminal trial.

Standard Chartered Bank Vs R C Srivastava 2021 LLR 1153 (SC).

- Courts have a limited scope of interference in cases of dismissal after fair and proper enquiry.
- Standard Chartered Bank Vs R C Srivastava 2021 LLR 1153 (SC).*

- Pendency of criminal trial no bar to hold enquiry.
- M/s Triveni Engg and Industries Ltd. Vs State of Uttar Pradesh & Others 2021 LLR 148 (All HC)*

- Reason must be given, when disciplinary authority disagrees with findings of Enquiry Officer.

Jayanti Bhai Raojibhai Patel Vs Municipal Council, Narkhed & Ors 2021 LLR 1 (SC)

- An enquiry will not be proper if subsistence allowance not paid and Enquiry Officer was not examined before Court.

The Management of M/s Delhi International Airport Ltd. Vs Aswani Goel 2021 LLR 754 (Del HC)

EMPLOYEE COMPENSATION ACT:

- An employer, after accident took the injured workman to hospital, is liable to pay compensation.

Executive Engineer, Kalahandi East Electrical Division, Vs Saroj Kumar Sahoo, 2021 LLR 689 (Ori HC)

- Compensation for accident only if it occurred in the course of and arisen out of employment.

Bajaj Allianz General Insurance Company Ltd. Vs Thenmozhi and others 2021 LLR 690 (Mad HC)

- Interest upon accident compensation after expiry of one month's from accident.

National Insurance Company Ltd. Vs Karan Bahadur and Others 2021 LLR 857 (HP HC)

- No accident compensation payable when death occurred due to illness.

United India Assurance Company Ltd. Vs J. Chittra @ Mary Jayachithra & Ors 2021 LLR 692 (Mad HC)

EPF & MISCACT

- Principal Employer must remit amount of EPF contributions if not remitted by the Contractor.

Commissioner, Virudhachalam Municipality Vs

Secretary Department of Ministry of Labour Employment, New Delhi and others 2021 LLR 770 (Mad HC)

- Apprentices being paid of basic and dearness pay etc. will be covered under the Act.

M/s First Garments Manufacturing Company (I) Pvt Ltd Vs The Presiding Officer Employees Provident Fund Appellate Tribunal & Anr 2021 LLR 630 (Mad HC)

- Damages for delayed deposit of EPF dues can be waived for sick industries.

Tamil Nadu Agro Engineering & Service Co-operative Federation Ltd Vs The Director (Recovery) EPFO & Ors. 2021 LLR 657 (Mad HC)

- Personal Hearing of employer is imperative before levy of damages.

Tamil Nadu Agro Engineering & Service Co-operative Federation Ltd Vs The Director (Recovery) EPFO & Ors. 2021 LLR 657 (Mad HC)

- Attachment of Bank account of the Appellant during pendency of appeal is not sustainable.

St Joseph College of Education & Anr. Vs the Assistant Provident Fund Commissioner & Others 2021 LLR 633 (Mad HC)

- Limitation of filing appeal against order passed by EPF Authority is maximum sixty plus sixty equal to one twenty days.

St Joseph College of Education & Anr. Vs the Assistant Provident Fund Commissioner & Others 2021 LLR 633 (Mad HC)

- Nomination of wife would not deprive the mother of the deceased to share out of EPF dues.

Bharti & Others Vs Bebitai Punjabrao Atole and Others 2021 LLR 217 (Bom HC)

- Inspection report can be challenged under section 7A of the Act not in High Court.

Changanacharry Co-operative Rubber Marketing Society Ltd. Vs Asst. PF Commissioner & Anr 2021 LLR 208 (Ker HC)

- Part time sweepers are to be covered by the Act.
C/M Boroda, UP Gramin Bank Vs Presiding Officer , Employees Provident Fund & Others

2021 LLR 864 (All HC)

- Levy of damages without identification of the beneficiaries not sustainable.

M/s B.L.Kashyap & Sons Vs Central Board of Trustee (EPFO) & Anr 2021 LLR 868 (Del HC)

- Director to be prosecuted only when he is entrusted by the Company for depositing the EPF contributions.

Anil Kumar Nahata Vs State of West Bengal & Anr. 2021 LLR 779 (Cal HC)

- An order under section 7 A based on inspection report by enforcement report is not sustainable.

M/s Hatsun Agro Product Ltd. Vs Asst PF Commissioner Salem, 2021 LLR 890 (Mad HC)

- An order passed under section 7A of the EPF Act without identification of beneficiaries is not sustainable.

M/s Riding Consulting Engineers India Ltd. Vs Asst PF Commissioner , Delhi (North) 2021 LLR (Del HC) 869

ESI ACT

- There is no difference between Conveyance Allowance and Travelling Allowance. The definition of wages in Section 2(22) of the ESI Act clearly excludes Travelling Allowance.

The Employees State Insurance Corporation Vs M/s Texmo Industries, 2021 LLR 799 (SC)

- Casual Employees engaged for maintenance of Guest House to be covered by the ESI Act.

Employees State Insurance Corporation by its Regional Director, Madras Vs Brakes India Ltd. 2021 LLR 703 (Mad HC)

- Guest House of a Factory at some distance place will be covered by the ESI Act.

Employees State Insurance Corporation by its Regional Director, Madras Vs Brakes India Ltd. 2021 LLR 703 (Mad HC)

- Provisions of social security legislation should not be construed in technical sense.

Smita Rajendra Vs ESIC & Others 2021 LLR 820 (Ker HC)

- An order passed in violation of principle of natural justice can be challenged in writ petition.

Joseph Henry Mortiin Vs The Employees State Insurance Corporation & Anr 2021 LLR 842 (Bom HC)

INDUSTRIAL ADJUDICATION:

- Even if punishment imposed is disproportionate Court should not interfere.

Union of India & Ors. vs Ex. Constable Ram Karan LL 2021 SC 640

- Treating the inquiry as a preliminary issue is sine qua non for Labour Courts and Industrial Tribunal.

Securitrans India (P) Ltd vs Shri Manoj Prasad W.P.(C) 14889/2021 & CM APPLs. 47058-59/2021, DEL HC, Judgement delivered on 23rd December 2021

- Appropriate Government role is merely to refer the dispute for adjudication.

Sapna Vs Government of India & Ors 2021 LLR 805 (Del HC).

- Burden to prove of unemployment during interregnum is on the workman.

National Gandhi Museum Vs Sudhir Sharma 2021 LLR 1040 (SC).

JURISDICTION:

- Civil Court lacks jurisdiction to entertain a suit structured on provisions of Industrial Disputes Act.

Milkhi Ram vs Himachal Pradesh State Electricity Board LL 2021 SC 557

MISCONDUCT:

- Reporting for duty and entering room of Principal in a drunken condition is a grave misconduct.

DAV Public School & Anr. Vs Kamal S/o Shri Sukh Dev 2021 LLR 1061 (HP HC)

POSHACT

- Misunderstanding with male superiors will not constitute Sexual Harassment.

Mary Rajasekaran Vs University of Madras & Ors W.P.No.10364 of 2016, Mad HC, Judgement delivered on 25-08-2021

- In digital world, workplace be treated as one irrespective of employees working in different states.

Sanjeev Mishra v The Disciplinary Authority and General Manager, Zonal Head, Bank of Baroda 2021 LLR 249

- Local committee to have only jurisdiction if the perpetrator happens to be the employer under the Posh Act

Akademi through its Authorised Representative Vs Gncd and Ors W.P.(C) 1103/2020 & W.P.(C) 2546/2021 DEL HC, Judgement delivered on 25th October 2021

- Right to Work in a peaceful atmosphere a basic right: administrative lapses in handling sexual harassment complaints can't be entertained

Sushma Alaguvadival Vs The Union of India W.P.Nos.6995 of 2014, 27067 & 27068 of 2013 Mad HC, Judgement delivered on 6th December 2021.

- Non supply of copy of complaint to the delinquent employee is violation of fair trial or principle of justice justifying setting aside of enquiry finding.

Dr. Ajay S Sekhar Vs Internal Complaint Committee 2021 LLR 829 (Ker HC)

- Appointment of Presiding Officer of ICC is bad in law if he/she has already facing disciplinary proceeding on account of serious lapses against her/him in another matter.

Dr. Ajay S Sekhar Vs Internal Complaint Committee 2021 LLR 829 (Ker HC)

PROBATIONER

- A probationer if allowed to continue beyond the prescribed period of probation shall not be deemed to be confirmed unless communicated in writing

Pradeep Kumar Singh vs Union of India & Ors 2021 III CLR 235 (Delhi HC)

REINSTATEMENT:

- No automatic re-instatement and back wages on violation of section 25 F of the ID Act.

Madhya Bharat Gramin Bank Vs Panchamlal Yadav 2021 LLR 681 (SC).

- Reinstatement of Workman can be done only to original place of employment, transfer not legally sustainable.

W.M.P.No.3730 of 2021 in W.P.No.10833 of 2020,

Judgement delivered on 01.11.2021, Madras High Court

- Reinstatement of an employee on the loss of employer confidence is not justified.

National Gandhi Museum Vs Sudhir Sharma 2021 LLR 1040 (SC).

- Termination of services when illegal, workman is entitled to reinstatement with back wages
Director General of Works CPWD & Anr. Vs Ramraj Singh & Ors 2021 LLR 844 (Del HC)

RESIGNATION:

- Resignation once accepted cannot be taken back.
Moharram Ali Khan vs Jamia Milia Islamia & Ors. W.P.(C) 8378/2011, Date of Judgement: October 25, 2021, Delhi HC.
- Acceptance of resignation, when not by competent authority is invalid.
Management of Addison & Company Ltd. Vs Presiding Officer II, Addl Labour Court Court & Another 2021 LLR 398 (Mad HC)

RETRENCHMENT:

- Section 25 F of ID Act will apply to employees even if the appointment was irregular.
K.V. Anil Mithra & Anr Vs Sree Sankaracharya University of Sanskrit & Anr. LL 2021 SC 624
- Termination not valid if the principle of 'first come first out' is not followed on retrenchment.
Md. Rafique Mohammad Yasin Shaikh & Anr Vs Gujrat Jal Sampati Vikas Nigam Ltd. & 1 Ors 2021 LLR 491 (Guj HC)

SUMMONS TO HIGHER OFFICIALS:

- Chairman, Director cannot be summoned for Complaint against Complaint without specific allegations about their individual role.
Ravindranatha Bajpe Vs Mangalore Special Economic Zone Ltd. & Others Etc. LL 2021 SC 505

TERMINATION:

- Employer can terminate service in the event of suppressing or on submitting false information by

the Employee

Rajesh Kumar Vs Union of India through Chief of Army Staff & Ors LL 2021 SC 644

TRANSFER:

- If transfer of Employee results in changing conditions of service, Section 9A of ID Act will be applicable.
Caparo Engineering India Ltd. Vs Ummed Singh Lodhi And Anr. LL 2021 SC 625
- Transfer in terms of appointment letter is not illegal.
West Bengal Medical and Sales Representative Union & Others Vs State of West Bengal and others 2021 LLR 56 (Cal HC)

VACCINATION:

- The employer though cannot insist on compulsory vaccination (as it is voluntary), they can insist on production of RTCP test which should be negative on a certain frequency. The cost of such test will have to borne by the employee.
Deepak Kumar Radheshyam Khurna & Ors Vs Mumbai Port Trust through Chairman , Port Bhavan & Anr. WP(L) NO 17132 of 2021, BOM HC Judgement delivered on 21st Dec 2021.

WORKMAN:

- An employee is not a workman if his work is managerial or of supervisory.
Yonus Husanbhai Jethwa Vs General Manager Junagadh Mother Diary 2021 LLR 489 (Guj HC)
- An employee will be workman when Management has failed to show that he was sanctioning leave, issuing gate pass and granting overtime of any worker.
Webfil Ltd. Vs Dipesh Kumar Bagchi & Anr. 2021 LLR 704 (Cal HC)
- Supervision of men and not machines determines supervisory capacity.
Webfil Ltd. Vs Dipesh Kumar Bagchi & Anr. 2021 LLR 704 (Cal HC)

IR & COMPLIANCE: ISSUES & VIEWS

Query- 1:

Organization is into EPC Biz. Indian Conglomerate. Having multiple Construction Sites. It requires engaging people on part time job on call basis.

Q. 1. How would they comply with MW & EPF, ESIC without having much pay out liability?

Q. 2. If it could be worked out, what will be the process mechanism & critical control points?

(Question asked by Mr. Avijit Basu)

06.07.2021

Answer 1- The liability to pay PF, ESI and MW as per the statutory provision is a sine qua non for every establishment whosoever intend to do business in India. As regard to the Minimum Wages is concerned the Supreme Court in the case between *Crown Aluminum Works vs Their Workmen 1958 AIR 30* has inter held that “if an employer cannot maintain his enterprise without cutting down the wages of his employees below even a bare subsistence or minimum wage, he would have no right to conduct his enterprise on such terms.” So there is no escape from the provision of minimum wages. Now as regard to the ESI is concerned there nothing much the concerned establishment can do and has to comply with provision of the Act. As regard to PF is concerned the establishment can have some flexibility to reduce its payout liability. In case where the wages (basic and DA) of the employees are above Rs 15000/- it is not under the obligation to pay Provident fund to such employees in terms of Paragraph 2 (f) of the Employees Provident Fund Scheme. However, if they are already paying the Provident Fund to their employees over and above the ceiling limit of Rs 15000/- they can reduce the liability to Rs 15000/- in accordance to provision as enshrined in paragraph 26 A (2) of the Employees Provident Fund Scheme. In *Marathwada Gramin Bank Karamchhari Sanghatana and Another Vs Management of Marathwada Gramin Bank and Others AIR 2011 SC 3567: 2011 LLR 1130 (SC)*, a similar case arose and the Supreme Court has held Employers need not pay provident Fund higher than prescribed limit under the Act & the scheme.

Answer 2- It needs to be kept in mind that once a member of the Fund he shall continue to be member of the Fund in terms of para 26 A (1) of the Employee Provident Fund Scheme. Hence, for such members the Provident Fund Contribution cannot be stopped abruptly. What can be done is to reduce the liability to Rs 15000/- as per our discussion herein above. Before the process for reducing the contribution to Rs 15000/- is adopted it will apposite to issue a notice under section 9 A of the ID Act.

(Answered by Mr. Deepanjan Dey)

Query-2:

One Corporate Organization. Superannuation Age-58 yrs.

A lot of tenured employee's r there in the system company as a Head Count Optimization process, asking these people to quit.

The Operation Head will attain 58 yrs. only 3 months left. Company HR Head has been asked by the MD to tell the gentleman put in his resignation. The Operation Head is requesting the Management to safe guard his EPF&EPS benefits. He will leave without any hassle.

Q 1. What all will be the consequences?

Q 2. What all r the critical control points?

Q3. Would he be entitled to avail all the benefits due on attainment of 58 years?

Q 4. What is the best solution as Win- Win?

Please share your thoughts.

(Question asked by Mr. Avijit Basu)

06.07.2021

Answer 1- Any manpower reduction/optimization without a plan and asking the senior people to leave may adversely effect on the morale of the employees which can lead to attrition and loss of talented resources. Further it is needless to say that it will dent the employee engagement of the organization.

Answer 2- Communication to the employees will hold key to keep up the morale of employees in such situation. Hence some structured process of communication in the organization should be in place.

All employees should be aware as to what the management intends to do with such optimization of manpower. It needs to be kept in mind in such situation grapevine takes precedence if communications are not made intelligently to sensitize the employees. Beside it needs to be seen that any termination/separation should not create any bitterness and HR should ensure that persons discharged should not get an opportunity to spread negativity in the organization.

Answer 3- From the day he is terminated or separated he shall not be eligible for PF and EPS. As regard to gratuity is concerned if he has already put in four years of service he may be entitled for the last year provided he has worked for two forty days in the calendar year.

Answer 4 – The best way out will be to obtain the resignation without any bitterness. As a leeway Company can provide salary for one month out of three months left to have a win-win situation for both sides.

(Answered by Mr. Deepanjan Dey)

Query-3:

If an employee is hired on probation and he resigns before his confirmation but after getting formal mail of extension of probation from employer,

- a) What would be notice period?
- b) Would employee be supposed to pay a certain amount to employer?
- b) Can employer refuse to pay employee's full and final settlement?

There is a notice period of 45 days given in offer letter but after confirmation of services.

There is no mention of situation of resigning in probation period. No bond is signed before joining.

(Question asked by Mr. Viraj Verma)

15.07.2021

Answer 1- From the inputs provided it appears there is no notice period prescribed in the letter of appointment during probation.

Answer 2- It appears from the inputs provided the employee is not liable to pay any amount to the employer.

Answer 3- No obligation is cast upon the employer under the Payment of Wages Act for full and final settlement of an employee if he resigns. Under the said Act if the wages are below Rs 24000/- an employer is liable to settle the amount within two days in terms and condition as enumerated in section 5 (2) of the said Act, provided he is 'terminated' from the services of the Company. Termination will include dismissal, retrenchment and discharge. However, the Code of Wages has included resignation also which is yet to be implemented. However, as the appointment letter is a contract between the employee and the employer the Employer will be liable to settle his final dues as per the terms and condition of the appointment letter (both express and implied). In addition, from HR perspective and brand image of the organization holding on to the final settlement is not a healthy practice.

(Answered by Mr. Deepanjan Dey)

Answer : You should give him fnf amount including statutory terminal benefits whether he is probation or he is confirmed 2.Trust condition and resign/separation clause during probation period from either side is mentioned at appointment letter. 3.regarding payment from employees side during probation..You may recover from his fnf but don't touch terminal /statutory dues.

(Answered by Mr. Saikat Roy)

15.07.2021

Answer : Appointment Letter of the Employee will be the Governing Rule on this. His release, Clearances, F&F should be done as a Probationer Employee. If he is supposed to serve Notice Period during Probation, then he have to serve otherwise substantial amount for Unnerved Notice Period to be deducted from his F&F. Employer can't refuse F&F of any employee, be it a Probation or Confirmed Employee.

(Answered by Mr. Bibek Banerjee)

15.07.2021

Query-4:

Our sales team working on commission in South Africa. Now management is saying to remove the commission.

How can we increase their CTC so that after removal of commission it won't affect them? At present their commission is 80-90% of their CTC. Under the new structure their increased fixed CTC will be there plus some percentage perf bonus.

But we are confused how much or on what basis to increase the fixed ctc?

(Question asked by Mr. Avijit Basu)

15.07.2021

Answer- An employee service condition in the organization is governed by the appointment letter and service rule, if any. Hence, it will be difficult to answer this question without going through the terms and condition of the appointment letter and the applicable service rule, if any. However, it has been always a prerogative of the Management to restructure the wages of the employee provided such restructuring does not violate the provision of the appointment letter, service rule and it complies with the applicable law of the land.

There is no law which prescribes as to be what should be the fixed CTC and the percentage to be paid for performance bonus. Hence, the amount should be decided by the Management keeping various parameters in mind like the kind of structure prevalent in similarly placed industries, employee morale & engagement etc. While carrying out any revision or restructuring of wages at this point of time one need to be reminiscent of 'Wage' definition as defined in the Code of Wages 2019. Sooner or later the said Code is likely to get implemented.

(Answered by Mr. Deepanjan Dey)

Answer : Incentives/commissions r paid based on the targets achieved. These are not a fixed income. Increasing CTC on the basis of commission, especially in this turbulent time, is pretty tough. In my view based on their performance review, revision can be done based on Company's profit/Income.

(Answered by Ms. Sima Tiwary)

15.07.2021

Answer : Curious as to why this change: is the payout too high? In a commission based system (as high as 80%), your top performing salesperson takes home the most money. When you take away that power, the performing individuals are going to be

affected/unhappy and very likely a few underperforming individuals are going to be happy. So, not affecting is not an option. So the question is how to reduce/manage the effect?

If the CTC is going to be same or higher, what's the gain for the firm? Are you trying to shift the focus from overly performance/sales orientation to something else?

(Answered by Mr. Viraj Verma)

16.07.2021

Query 5:

I have a question with regards to restrictions for IT&ITES sector. As per notification dated 14/06/21, it mentioned that the sector may function with 50% of total strength in each shift subject to vaccination of employees, social distancing and wearing of masks. In the subsequent notifications including latest one dated 15/09/21, there's no further mention of the same. Can someone please help me in understanding the current situation of restrictions for IT&ITES sector employees?

(Question asked by Ms. Rashmita Parija)

27.09.2021

Answer- Now this question remains no more relevant. New restriction and protocol are now in place under the Disaster Management Act 2005 issued by respective State Government. As regard to the present restriction and protocol are concerned you need to check the present notification of the State Government where your organization is situated.

(Answered by Mr. Deepanjan Dey)

Query 6:

One Sr. HR Professional has received Offer Letter from another Organization. The LoI contains 1 point-

LoI will be withdrawn b4 his joining if the outcome of ref. check goes against him.

Legality of the clause?

Is it being practiced by good organizations or not

(Question asked by Mr. Avijit Basu)

19.10.2021

Answer: There is nothing illegal about the clause

and same will become applicable if the LOI is accepted by the concerned person.

Difficult to say as to whether such thing is practiced in good organizations. Each organization have their own method for employee verification. Some do it discreetly, some of the organization prefer to remain transparent while making a verification.

(Answered by Mr. Deepanjan Dey)

Query 7:

HR Scenario-IT/ ITES is a Vertical of an Organization. Organization wants to roll out referral policy in that Biz vertical. As policy is formulated- upon successful referral closure, a taxable referral payment ll be rewarded -₹10-20k.

Q. 1. Can the same be leveraged out to Off Roll employees / associates - in that case the Service Provider will make the payment against reimbursement with service charge.

Q.2. Can it be done? If yes, WHY & HOW?

Q.3. If not, why?

Need to answer with labor & financial laws into consideration.

*(Question asked by Mr. Rashmita Parija)
20.10.2021*

Answer 1- If the policy of referral is extended to the off roll employees what will be the consequences in case of judicial scrutiny in dispute pertaining to Sham Contract is difficult to predict. However, it appears extending only this policy to off roll /Associate and payment being made through service provider will not establish the employer employee relation between the parties. However, as matter of abundant precaution the policy should displayed by Service Provider whereby it can specify that referral of certain position to the Principal employer will be rewarded with a certain amount.

Answer 2- Answer 1 already has specified as to how it is to be done.

Answer 3- In this case two things need to be kept in mind one whether extending such policy will culminate to Sham Contract and whether an Employer Employee relationship will be established. In *Ram Singh and others V Union Territory, Chandigarh and*

others 2004 (1) CLR 81 (SC)= 2004 Lab .IC 50 (SC) the Supreme Court has held that the 'Control test' and 'integration test' for determining the relationship of employer and employee. It inter-alia held integration test is applied to see whether the person was fully integrated into the employer's concern or remained apart from and independent of it. The other factors which may be relevant are - who has the power to select and dismiss, to pay remuneration, deduct insurance contributions, organise the work, supply tools and materials and what are the 'mutual obligations' between them. It has been also observed in this case that where an employer retains or assumes control over the means and method by which the work of a Contractor is to be done it may be said that the relationship between employer and the employee exists between him and the servants of such a Contractor. In the event of employer and employee relationship is established the Contract between the Contractor/service Provider will be deemed to be a Sham Contract. In *Steel Authority of India vs National Union Water Front Workers Union(2001(91) FLR 182 (SC)= 2001 LLR 691 (SC)* the constitutional bench of the Supreme Court has ruled if the contract is found to be not genuine but mere camouflage, the so called contract labour will have to be treated as employee of the Principal Employer who shall be directed by the industrial adjudicator to regularize the services of the contract labour in the concerned establishment. Hence, any policy decision of Company extending any policy to the Off roll employees should me made keeping the aforesaid ratio of the apex Court in mind.

(Answered by Mr. Deepanjan Dey)

Query 8:

One Store of a Retail Chain having its Retail Store at a District Town.

Store is managed by Brand Executives, Store Manager, and Store Asstts etc. under the Retail Company (mostly under off roll).

Now one conflict has taken place between the Brand Representative & Store Asstt. Abused each other. It happened 1 month back. The matter completely handled by the Store Management locally- didn't bring into the Regional HR

Manager. Today after a month it has gone beyond control.

The Brand Representative has been withdrawn by the Brand & shifted to some other place- not known to anyone. It has further been revealed by the Regional Manager on probe that on the day of the incident the Store Associate was lifted by the local people who were from the same locality where the Brand Representative hailed from. They took the Store Representative from the store- man handled outside the store & ultimately got relieved from the crisis with the intervention of his Mother-Leader of a Political Party.

The Political Party influenced the Local Store Management to ask the Brand to give replacement which they executed. At the same time, the Local Store Management took a decision to transfer out the Store Associate from the Store to another store in the same district -75 km away. (Supposedly to substantiate the decision, the Local Management asked the other store personnel to give a written prayer that they would not be able to work with this Store Asstt in a same shop). However, the Store Associate has declined to receive & accept the letter & not agreed to receive transfer order with a reason of Mother's illness - (local political leader).

Now, since the matter has gone out of proportion, the Local Management is constrained to seek intervention of Regional HR Manager.

Q1. What are the critical control points?

Q2. What has gone wrong on part of Management, if any?

Q3. How to mitigate the current situation?

Q. 4. What should be the long term policy?

(Question asked by Mr. Avijit Basu)

24.10.2021

Answer 1- The Store Manager is one of the Critical Control point who will act as an eye and ear of the Management. In this instant case it is the store Manager who has severely faltered to carry out his duty to report such an incident of magnitude to the Regional HR Manager and his superior. It is a dereliction of duty on part of the Store manager and

therefore necessary disciplinary proceeding should be initiated against him/her. Further, proper message is required to send across the organization that such act of omission will not be tolerated by the Management.

Answer 2- It appears the information system both structured and informal has a lacunae and needs to be revisited.

Answer 3- To act firm and in accordance to law even if it entails closing the store for few days. The management should be firm in executing the transfer order issued to the store Asst.

Answer 4- Need to identify the training needs of the persons deployed at store and impart necessary behavioral training so that they do not get embroiled in such acts in future. Need to fix accountability on Store Manager for reportage of any such incident that may have IR ramification and mar the reputation of the organization. Revisit the information system both formal and informal so as to ensure that such incident do not remain unreported and unattended.

(Answered by Mr. Deepanjan Dey)

Query 9:

As an HR professional, if it comes to my knowledge that two employees are seeing each other, one of them is being married should this as an HR professional concern me. I m flooded by queries by my colleagues that the two talk a lot or are over friendly. Although I see that as no disruption to office decorum. Since them both have projected themselves in very professional manner.

Unfortunately, my manager has also warned them of their actions.

I m perplexed, don't know how to deal with the situation.

(Question asked by Mr. Avijit Basu)

05.11.2021

Answer- Two matured adults seeing each other without any disruption to office decorum the Management as such should not interfere into the matter. However, if this relationship is creating unnecessary attention for office gossip and abridges the societal norms management also cannot remain blind to it. Any employee of the organization is an

ambassador of the organization and his conduct even outside the organization has a bearing on the reputation of the organization. Hence, the best course is warn and counsel them which has been already done in this instant case. Therefore, to come out of this situation Management can explore to transfer one of them to some other offices or branch if possible at a far of place.

(Answered by Mr. Deepanjan Dey)

Answer: I suggest if there is no PDA, HR is no one to take action. However, friendly feedback may be given.

(Answered by Mr. Debabrata Burman)

05.11.2021

Answer: With response to your posting on Query related to your office here is my opinion:

Is that relationship creating conflict of interest? Both should not be in boss subordinate relationship or in same Department to avoid hidden bias.

Is there any PDA in office which is creating an unhealthy environment?

They should behave professionally inside office and spend time for productive outputs.

Since both are matured and adults, organization won't be able put any restrictions on their relationship unless it culminates into POSH case.

Only they can be counseled. No action can be taken by HR unless any policy violations happen by both.

Neither organization can act as moral police here.

These are opinion without prejudice.

(Answered from unknown)

05.11.2021

Query 10:

Working hours is calculated when the employee the punching the card in the factory gate or when he started operating the machine?

(Question asked by Mr. Sumit Roy)

08.11.2021

Answer- There is so such law prescribed in the Factories Act as to from when the working hours will

be calculated punching at the gate or when the operator start operating the machine. Section 51 of the Factories Act specifies no adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week. One should also refer to the standing order or settlement both present or past and see if it specifies anything in this regard. If it does not specify anything, it is the Management prerogative to decide as to from when the working hours will be calculated from time a workman enters into the gate or from the time he start operating the machine. However, from administrative parlance it might be proper to start the working hours from time he enters the Factory precincts. This is so because suppose a Workman enters a Factory precinct and indulge in some kind of misconduct if he has not punched the card it be difficult to establish he is on duty. Further, complication can arise for employee compensation if the concerned employee meets with an accident inside the precincts of the Factory.

(Answered by Mr. Deepanjan Dey)

Query 11:

At the Shop Floor Sales Personnel are there, they are managed, supervised by Floor Supervisor. Supervisors are in Company Pay Roll & Shop floor personnel r outsourced. You are the Cluster HR Manager. In the morning meeting took place the Shop HR Manager reports about a POSH complaint against Supervisor by complainant of shop floor - lady employee. Today while you are leaving home for office, received phone call from the said Shop HR Manager that the Supervisor alleged on POSH committed suicide at his rented house near the shop. He hailed from Jharkhand. Used to stay alone here.

What will u do now?

What all r the critical control points?

What will you check fast & 1st?

How to mitigate the situation?

What could be the consequence of the incident?

What best could you do in ideal cases, if not done already?

(Question asked by Mr. Avijit Basu)

10.11.2021

Answer 1: At the very outset inform the matter in writing to the Police including forwarding the POSH compliant received by the Management. Rest leave to police to investigate and do their job without much getting involved into it.

Answer 2- The critical control point is to maintain absolute confidentiality in case of any complaint pertaining to sexual harassment. The Internal committee which is authorized under the POSH Act to make enquiry should assure both the Complainant and the respondent perpetrator that absolute confidentiality will be maintained in the case.

Answer 3- In matters pertaining to complaint under the POSH Act neither the disciplinary authority nor the HR Head/Manager can have any role to play except for forwarding the complaint to the Internal Committee to make the enquiry and give their recommendation. Hence, as it a complaint under POSH Act Management should desist from getting proactive into this case.

Answer 4- Sensitize the staff working there. Speak to the Complainant and explore if she is willing to take a transfer. If possible transfer the Complainant for her own benefit. Leave it to the police as far as investigation are concerned.

Answer 5- Legally I do perceive any adverse consequences for the Company. However, sensitization of the staff members pertaining to this incident might be required. This can be done either on one to one basis or in groups depending upon the ground dynamics and reality.

Answer 6- Ideally training should be carried out for all employees both regular and off roll for sensitization on POSH matters.

(Answered by Mr. Deepanjan Dey)

Answer: At first, I will report to police station as it's a suicidal case for Posh case, an enquiry committee has to be set up including an external member. Complainant has to be called for the enquiry to enquire about the facts n circumstances she faced by supervisor n to submit any evidence. Victim peers or colleagues also called for an enquiry to know about the incidence. Prepare the enquiry report n submit to concerns as well as police. Same time to know d

reason behind d suicidal act done by supervisor along with police authorities.

1. If the supervisor found guilty as per inquiry report then the case may b closed as ex- parte.
2. If the lady found in false position then give punishment as per co policy.

(Answered by Ms. Deepali Roy)
10.11.2021

Query 12:

You are the Regional HR Manager of Retail Company & you need to administer the Ware House/ Logistic HR function as well.

The Retailer Chain is having stores across the state in different formats.

Ware House is used for storing & onward forwarding activities- different articles be delivered to different stores - some articles are fragile in nature. It needs special attention to handle with. These Ware House Ops is being managed by Logistics Co. W/ H is within Central Warehouse Space which seems to be cheaper in rental perspective. The Retail Chain has selected this place on cost element.

Today in the morning meeting, SCM & Ops. Leads have jointly surrendered & raised their concern that they would not be able to cater to the last mile Customers owing to IR Issue & HR is not helping them towards effective functioning.

The B2C Agent has come to Ops. & SCM leads with a complaint that Local ' Dada' has prohibited them to enter into the premises. They are not allowed by them to do delivery, loading for B2C activities by the trained, skilled man power of the Vendor engaged by the Retail Company. Dada has asked them to stop automated process also. Demand is to take 50 local people for the job which other co. tenants of the same WH premises do follow. The other cos. do not mind to use the 50 people local gang for such loading & unloading gang. No other outsider will be allowed to snatch their job.

Beauty of the issue is that - other organizations do

not require special skill, training n automation since the articles stored there are not delicate in nature.

The Regional VP asked the Regional HR Head i.e. to solve the issue & ensure no work stoppage.

1. What would you study?
2. What will you do as reactive measure n restore normalcy?
3. Big Day is just a week ahead- how would you handle the situation- Dada knows the pain area of your Company?
4. What is realistic solution - How do Cos. deal with it in practical scenario- what ought to be?
5. What would be your long term strategy & short term plan, if any including preventive measure
6. What did you i.e. Mgt. overlook at the time of due diligence?
7. Any other point?

(Question asked by Mr. Avijit Basu)

13.11.2021

Answer 1- Try to understand the local dynamics of the place, try to know who are influencers and leaders who hold the key and can rein in over the local dada.

Answer 2- Open a communication channel with the local dada through the concerned contractor. Try to work out something which will be win-win for both parties. If he cannot be reigned, then try to get the confidence and support of leaders who has control over this dada.

Answer 3- Try to persuade the dada and influencers not to disturb the operations till the big day. However, if it does not work some kind win-win formula has to be arrived at before the big day. Taking help of the local administration can be another alternative but taking the matter to administration should be the last resort. Ideally the matter should be settled through intense negotiation and persuasion.

Answer 4- Every geographic area or location has its own dynamics. For instance, there might be locations where in industries Contractor changes but manpower remains the same. There are places and location where the industry has to intake contract workmen and blue

colour workmen from Union. Hence, understanding the dynamics of the place before starting operation is imperative for harmonious industrial relations. In this instant case Management has faltered by not understanding the locational dynamics of the place. There is no escape but to intake some local people provided by the dada. Now what will be the ratio that will depend on the negotiation skill of the persons involved. However, while in taking local people one thing should be made clear to the leaders and all stake holders from the very outset is that at no point of time organizational indiscipline will be tolerated under any circumstances.

Answer 5- In short term policy will be to arrive at a win-win situation through negotiation with the influencers and leaders and start the operation. However, if it is found that such arrangement is creating hick ups in terms of productivity, discipline etc. the Company should have a long term strategy to shift the ware house to location where the such local dynamics is not prevalent and Management will not be encumbered by such compulsions.

Answer 6- The management failed to perceive the local dynamics of the place. It would have been better had the Company taken information as to how other companies are operating in the said warehouse or location.

Answer 7- In scenario like this most of the time it has been found the Contractor abdicates their responsibility. It has to be ensured that the Contractor become the interface in any negotiation with the dada and other influencer/s.

(Answered by Mr. Deepanjan Dey)

Query 13:

Is the employer liable to compensate the employee if an accident occurs while on the way to his residence from duty?

(Question asked by Mr. Avijit Basu)

17.11.2021

Answer: The position of law as far as ESI is concerned, the Supreme Court in the case of *ESIC Vs Francis D Costa 1996 LLR 953* has held that in order to be entitled for compensation, it has to be proved by

the employee that (1) there was an accident, (2) the accident had a causal connection with the employment and (3) the accident must have been occurred in the course of employment. In this instant case employee sustained an injury while going to duty one KM away from place of employment. He was going on a bi-cycle which was hit by a lorry. The Court held that it cannot be said that the injury sustained was caused by an accident arising out of and in course of employment. However, the Court applied the theory of notional extension as expounded by the apex court in the case of *Sheela Vs ESIC 1990 LLR 83* and *Saurashtra Salt Manufacturing Company V Bai Balu Raju AIR 1958 SC 881* and extended the compensation as applicable under the Act. The insertion of section 51 E in the ESIC Act the uncertainty regarding the notional extension has now been settled. This section reads as follows:

An accident occurring to an employee while commuting from his residence to the place of employment or duty or from the place of employment to his residence after performing duty, shall be deemed to have arisen out of and in the course of employment if nexus between the circumstances, time and place in which the accident occurred and the employment is established.

As regard to the Employee Compensation Act is concerned the Allahabad High Court in the case between *Union of India V Noor Jahan 1979 Lab IC 652 (All)* has held that whether an employee will be entitled for compensation in case he meets with an accident which occurred in public street while proceeding to or returning from his place of duty will depend upon whether at moment he was obliged to be on that site by the express and implied terms of contract of service, whether he was there in his capacity of an employee or merely a member of the public, whether he was at that time under the control or direction of the employer or was acting as a free person, whether his presence on the spot was incidental to his employment and whether there was a proximate connection between the employment and the incident. The Madras High Court in the case of *Tamil Nadu Civil Supplies Corporation Ltd. V S Poomalai 1994 Lab IC* has held that if the employee in the course of employment has to be in a particular

place by reason whereof he has met the accident then a causal connection is established between the accident and the employment.

The Karnataka High court in the case between *New India Insurance Company Ltd. VS Naseem Banu 2011 LLR 588* has held that the Employee Compensation Act being a social welfare legislation, benefit of doubt about death in course of employment should be allowed and compensation be given. However, the Bombay High Court in the case of *Oriental Insurance Co Ltd. Vs Daivashala Ahahu Jadhavar 2012 Lab IC 387* has held that workman meeting with road accident due to rash driving by unknown vehicle while on the way to factory on duty, such accident will not be deemed to have arisen course of employment and therefore the employer is not liable to pay compensation.

Hence, under the above back drop of cases the facts and circumstances of a case will determine whether an employee will be eligible for compensation under the Employee Compensation Act.

(Answered by Mr. Deepanjan Dey)

Answer: Yes. Employee is eligible to get compensation if it qualifies under notional extension of workplace. The employment starts when employee leaves for workplace from his/her home or returns to home after office hours. In order to get compensation under notional extension of workplace, employee should have opted the route that is used by him/her daily. The route should be the same on the day of accident.

In case on the day of accident, employee opted a different route to office/home, then the claim of compensation can be legally challenged.

(Answered by Mr. Sabyasachi Mahapatra)

18.11.2021

Answer: If any employee during duty hours went outside the factory with gate pass to purchase his tiffin from a shop and met an accident while crossing the road

Is eligible to get accident benefit from ESIC.

(Answered by Mr. Gautam Bagchi)

19.11.2021

Query 14:

Can employer now exclude the "Conveyance Allowance" from the ESIC wage slab and stop ESIC contribution on Conveyance Allowance paid to employees with their monthly salary?

If you kindly share your views.

(Question asked by Mr. Prashanta Ray)

24.11.2021

Answer- Yes the Conveyance allowance should be excluded and should not be the part of wages for calculating ESI contribution. A bare perusal of definition of wage as defined in section 2 (22) of ESI Act excludes the travelling allowance or value of any travelling concession from the purview of wage. In this connection it may be further apposite to mention that very recently the Supreme Court in the case between *The Employees State Insurance Corporation Vs M/s Texmo Industries, 2021 LLR 799 (SC)* has held there is no difference between Conveyance Allowance and Travelling Allowance. The definition of wages in Section 2(22) of the ESI Act clearly excludes Travelling Allowance. Beside the ESI Corporation vide its internal memo dated 08.11.2021 of the Corporation, has specified that the Conveyance Allowance and Transport Allowance will not be part of wages for calculating ESI contribution. The aforesaid circular further states that aforesaid ruling of the Supreme Court will be effective from 08.03.2021.

(Answered by Mr. Deepanjan Dey)

Query 15:

Is it mandatory for an organization to provide ESIC & PF for employees working as consultant or on contract for one year? No contractor is involved in employment terms.

(Question asked by Mr. Avijit Basu)

30.11.2021

Answer: It will depend upon whether a relationship of Employer and Employee is established and whether their remuneration, fees by whatever name it may be called is within the threshold limit of the wages of the respective act. In case the employer employee relationship is established they will be treated as an

'employee' as defined in the respective Act. In the case between *Gain Financial Consultants Vs RPF Commissioner, 2001 (1) LLR 117 (Bom HC)* the question before the Court was whether the four retainers /consultants were employees of the Petitioner or not. According to the petitioner, the said four persons were working as consultants to render their expert services of interviewing persons to be recruited by the petitioner. The High Court has followed the ratio and tests to determine employer-employee relationship laid down by the Gujrat High Court in case of *M/s Satish Plastics V. RPF Commissioner, 1981 (2) LLJ 277*. The four retainers were employed for wages for work of the petitioner establishment. All components of employee are present in their engagement. They have been engaged continuously every day for a considerable period. They were paid on vouchers a determined fee. They do not have their own establishment but they were required to move around whole day for the work of the petitioner's establishment. It was held the consultants to be the employee of the Petitioner establishment.

(Answered by Mr. Deepanjan Dey)

Query 16:

One Telecom Active Company -Follows rigorous Performance Management Review Process.

They do follow Bell Curve Fitment.

In 2020- Annual PMS has been completed & found Non performers & put them on PIP.

Whoever has failed to clear- asked to put in paper, serve notice period & quit.

One of such cases got complicated. The person has declined to resign. He has come up with a grievance & sent mail communication to the Global CEO that he is getting victimized since he is not in sync with 'unlawful' order of Reporting Manager results in 'termination order'.

It has become a sensitive case. As Region HR Head you are advised by Corporate HR to handle the matter effectively.

Q. 1. What will you do first?

Q. 2. What all r the critical control points you need to take care of

Q. 3. What would be the extreme consequences?

Q. 4. What all challenges would you face to close loop the matter?

Q. 5. How to deal such cases so that such eventualities can be plugged in well in advance

Q. 6. Any other relevant point?

(Question asked by Mr. Avijit Basu)

22.12.2021

Answer 1- This is a stage where any retraction by the Company will send wrong signal to the masses. If at all the concerned person have any grievances against his supervisor this should have dealt before the initiation of PIP. Hence, the concerned person should be called by HR and should be counseled that resignation will be win-win for both parties as this will not adversely affect his career in future. However, if he relents the Company should go for 'termination simpliciter'.

Answer 2- Make sure that proper message goes down to masses that the Management cannot be browbeaten with such mails and tantrums.

Answer 3- At best the employee concerned might file a case against his termination or resignation.

Answer 4- The employee may be reluctant to resign so be prepared with the termination letter.

Answer 5- After every performance review cycle grievance are bound to occur. Supervisors should therefore properly engage with their subordinates and should be in a position to objectively deal with the ratings. This will to an extent may mitigate the grievances.

(Answered by Mr. Deepanjan Dey)

Query 17:

You are the Regional HR Head for 1 Retail Brand.

You are in receipt of report from Fraud Control/Ethics Department that the AGM - Online Sales

has been involved in a fraud case -₹21 Lac. He has admitted that in front of Fraud Control Department. Fraud Control Department has sent you all the details with documentary evidence. As Regional HR Head you have been entrusted with to take necessary action.

Q1. What will you take as action at your end?

Q. 2. How to recover money or take action to recover the money where Company incurred a loss of ₹21Lac for the fraud?

Q. 3. As an Organization what will be your action point & as HR how to ensure interest of the organization?

(Question asked by Mr. Avijit Basu)

26.12.2021

Answer 1- The proper course will be to terminate the service of the concerned as it a fit case for 'loss of confidence'. The Supreme Court in *Chairman Cum MD, TN CS Corporation Ltd V K Meerabai 2006 LLR 268 (SC)* has held dismissal of an employee for misappropriation will be justified since he has lost confidence of the employer. In a very recent judgement in *National Gandhi Museum Vs Sudhir Sharma 2021 LLR 1040 (SC)* the Supreme Court has ruled reinstatement not proper in case of loss of confidence even if termination is illegal.

Answer 2- The proper course will be to lodge a police Complaint and file Money suit before the competent civil court. If the police dilly dallies to take action on the Complaint lodged by the Company an application before the competent criminal court can be made under section 156 (3) Cr. P. C. Generally, 156(3) Cr.P.C are summary application whereby the Magistrate directs the police to treat the compliant as FIR and initiate action on it.

Answer 3- Action point has been already discussed in Answer1 and 2.

(Answered by Mr. Deepanjan Dey)

Most of the Queries have been answered by Deepanjan Dey, General Manager-IR, Eveready Industries India Ltd. He can be reached at deepanjandy@yahoo.co.in



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