

NATIONAL CONVENTION ON EQUAL WAGE FOR EQUAL WORK

Organised by

ELECTRICITY EMPLOYEES' FEDERATION OF INDIA

MAVLANKAR HALL, NEW DELHI 27th April, 2017

RESOLUTION

This National Convention of Regular and Contract Workers and Engineers of Electricity Industry from all over the country at Mavalankar Auditorium, New Delhi on 27th April, 2017 reiterates strong protest and expresses serious concern over the massive engagement of contract, casual and part time workers even in permanent and perennial jobs in Generation, Transmission & Distribution of Electricity. Relevant to recall the role played by both State and Central Public Sector Enterprises (PSE) in providing power to the people and the country. The contribution of power PSEs in the green revolution in the country is beyond measure. The rampant privatization and dismantling of PSEs is shocking proof of the big corporate captive character of the Government at centre and at states ruled by BJP-led NDA.

Government Departments, PSEs and Private Employers are recklessly engaging Contract Labours in gross violation of Contract Labour (Regulation & Abolitions) Act, 1970. This Act was enacted with the objectives of abolition as well regulating of engagement of contractor workers in perennial nature of jobs. But in reality, not to speak of abolition, the Act has become an instrument in the hands of the employers to engage Contract Labours in ever increasing scale and areas of operations. It is outrageous to note that almost all employers dare to ignore the provision of the said Act with unlimited indulgence from Labour departments of Central and State Governments. They do not care even to register their establishments with the appropriate authority of the Government to obtain License under the said Contract Labours (R&A) Act and consider that it is their class right to engage contract workers even in perennial jobs.

This convention of Electricity Workers on Equal Wage for Equal Work notes that the workers are compelled to work, for more than 8 hrs in violation of statute. They are doing similar nature of jobs with permanent workers but denied Wages, DA and many essential allowances and Social Security benefits.

As provided under clause 25 (v) (a) of C L (R&A) Central Rules, "In cases where the workmen employed by the contractor perform the same or similar kind of work as the workmen directly employed by the principal employer of the establishment, the wage rates holidays, hours of work and other conditions of service of the workmen of the contractor shall be the same as applicable to the workmen directly employed by the principal employer of the establishment on the same or similar kind of work." With support from Governments this provision of the statute is completely violated.

Now a very important development is that the Hon'ble Justice Markandey Kutju & Hon'ble Justice Chandramauli Kumar Prasad of Apex Court in the course of passing order on 1st September, 2011 in the Civil Appeal No. 2585 of 2006 commented sarcastically on the unfortunate state of affairs prevailing in the field of Labour relation in the country. The judgment is abundantly clear that the responsibility about contractor workers rests mainly with Principal Employers. Part of the judgment quoted below:

"In order to avoid their liability under labour statutes, employers are very often resorting to subterfuge by trying to show that their employees are in fact, the employees of contractor. It is high time this subterfuge must come to an end.

Labour statutes were meant to protect the employees/workmen because it was realized that the employers and employees are not one on equal bargaining position. Hence, protection of employees was required so that they may not be exploited. However, this new technique of subterfuge has been adopted by some employers in recent years in order to deny the rights of the workmen under various labour statutes by showing that the concerned workmen are not their employees but are the employees/workmen of a contractor, or that they are merely daily wage or short term or casual employees when in fact they are doing the work of regular employees. This Court cannot countenance such practices any more, Globalization/Liberalization in the name of growth cannot be at the human cost of exploitation of workers.”

Operation and maintenance of Power system, now-a-days, has become totally dependent upon contract workers. The contract worker system has reached the worst stage during the two decades of neo liberal economic policy regimes Today even in core operational high skilled and extremely risk prone jobs are carried by contract workers without any training and safety protection, One of the consequences is loss of human lives to countless extent.

System of engagement of contract workers in transmission and distribution area is very pathetic. Workers are not getting their legitimate benefits due to unlawfully engaged contractors backed by management of the power utilities. In some area no specific rate of wages is defined, workers are taking up the break down service of their own. Some payment like subscription is realized from the residents of the locality by the workers catered the service. In absence of systematic blocking and isolation of the live circuit, frequent accident causes loss of lives of the workers, who do not have any identified employer. Compensation to the family of the deceased workers as per Employees Compensation Act is denied.

The convention notes with deep concern that workers and employees of Power utilities in the country are seriously aggrieved and agitated. This is due to all round attack on rights and on pay & perks and other service conditions and compensation as a crude consequence of the neo-liberal onslaughts. India is connected through National Grid across its length & breadth. Power generated in North-eastern India is wheeled to Delhi or Kerala. But there is no uniformity in wage pattern and practice of the workers varies widely.

The National Chapter of NCCOEEEE, a broad based platform of Electricity Workers, Employees & Engineers discussed the matters in its meeting held on 3rd February 2017 at Delhi. The meeting decided long term broader movement to fight the onslaughts on the workers and employees. Today's convention extends full support and solidarity with NCCOEEEE.

Presently 70% of the workers in the industry are worst victims of contractorisation. Provisions on permanent workers in permanent nature of jobs and same wage and benefits for similar jobs are blatantly violated. In this connection the recent judgment of the Supreme Court has created huge hope amongst the contractor workers.

Hon'ble Justice Jagdish Singh Khehar and Justice S A Bobde of Apex Court of India in the matter of Civil Appeal No. 213 of 2013 (State of Punjab and Others Vs. Jagjit Singh and Others) in their judgment passed on 26th October, 2016 directed that “all the concerned temporary employees in the present bunch of cases would be entitled to draw wages at the minimum of the pay scale (at the lowest grade, in the regular pay scale), extended to regular employees holding the same post.” A part of the judgment emphasizing the logic behind is quoted below:

“There is not room for any doubt, that the principle of ‘equal pay for equal work’ has emerged from an interpretation of different provisions of the Constitution. The principle has been expounded through a large number of judgments rendered by this Court, and constitutes law declared by this Court. The same is binding on all the courts in India, under Article 141 of the Constitution of India. The parameters of the principle, have been summarized by us in paragraph 42 hereinabove. The principle of ‘equal pay for equal work’ has also been extended to temporary employees (differently described as work-charge, daily-wage, casual, ad-hoc, contractual, and the like). The legal position, relating to temporary employees, has been summarized by us, in paragraph 44 hereinabove. The above legal position which has been repeatedly declared is being reiterated by us, yet again.

In our considered view, it is fallacious to determine artificial parameters to deny fruits of labour. An employee engaged for the same work, cannot be paid less than another, who performs the same duties and responsibilities certainly not, in a welfare state. Such an action besides being demeaning, strikes at the very foundation of human dignity. Any one, who is compelled to work at a lesser wage, does not do so voluntarily. He does so, to provide food and shelter to his family, at the cost of his self respect and dignity, at the cost of his self worth, and at the cost of his integrity. For he knows, that his dependents would suffer immensely, if he does not accept the lesser wage. Any act, of paying less wages, as compared to others similarly situate, constitutes an act of exploitative enslavement, emerging out of a domineering position. Undoubtedly, the action is oppressive, suppressive and coercive, as it compels involuntary subjugation.”

This convention notes with deep resentment that the Government is conspicuously silent in the matter and allowing the anti-labour and illegal practices to continue. Under the above state of affairs the Convention univocally decries all these unfair & illegal practices and demand:-

- 1) Pending abolition of the system of engaging Contractor Workers in permanent and perennial nature jobs and regularization of all existing contract workers; the law on same wage and benefits for similar work as permanent workers must be strictly implemented, as interim step.
- 2) ILO Convention No.87 and Convention No. 98 must be fully implemented for contract workers.
- 3) Principal Employers must be responsible to ensure all benefits arising out of the applicability of the statutes are extended to all Contractor Workers. **Convention demands “Equal Wages for Equal work” are to be guaranteed,**
- 4) The duty hours of the existing Contractor Workers should be regulated in terms of the provisions of statutes.
- 5) Principal employer must take the initial responsibility in resolving the disputes raised under Industrial Disputes Act, 1947 in respect of the Contractor Workers engaged in their Factory/Establishment. Enrolment of the Contractor Workers under P F, E S I and other social security Schemes should be guaranteed from the first day of their employment as-like as permanent workers.

On the above back-drop, the convention demands to declare specific time frame by which, the Contract system will be abolished with absorption of all workers presently engaged through contractors. Electricity is in concurrent list of the constitution, hence convention urges upon the

Government of India, in consultation with appropriate Governments to adopt following steps all over Electricity industry of the country:

- Comply Apex Court Order to Stop Contractorisation of work of permanent/perennial nature.
- Ensure payment of Equal wages and benefits to the contract workers at the same rate as available to the regular workers of same industry / establishment till regularization of all the contract workers.
- Amendment of Minimum Wages Act to ensure universal coverage irrespective of the schedules and fixation of statutory minimum wage at not less than Rs 18,000/- linked with cost price index.
- Remove all ceilings on payment and eligibility of Bonus, Provident Fund;
- Ensure Pension for all with increase of the quantum of gratuity.
- Stop FDI in Railways, Insurance and Defense and disinvestment of PSUs.
- Stop Transfer of National Assets and Resources to Private Hands.
- Put hold upon Anti-Labour Labour Laws Amendment.
- Ensure Electricity for all at affordable cost.

Convention firmly declares, unless Government of India in association with the State Governments concerned adopt suitable steps to end the exploitative cruel system of aggressive contractorisation in the Power Industry through amicable discussion, workers and employees will not be responsible for breach of industrial peace and harmony.

**Long Live Unity of Workers & Employees
Electricity for All at Affordable Cost
Stop Loot of National Energy Resources**