

## Legal remedies available to Gig Workers

### Why in news?

The strikes by Blinkit workers has once again brought to the forefront the issues plaguing the gig economy in the country.

### Who is a gig worker and what is platform work?

- **Gig workers** - It refers to workers outside the traditional employer-employee relationship.
- **Gig economy** - It falls outside the scope of traditional, full-time employment.
- There are two groups of gig workers, platform workers and non-platform workers.
- **Platform workers** - Those working for an organisation that provides specific services using an online platform directly to individuals/organisations.
- **Non-platform workers** - These include the construction workers and non-technology based temporary workers.
- **Status of India** - In India, employees are entitled to a host of benefits under statutes such as the:
  - Minimum Wages Act, 1948
  - Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (EPFA)
  - Payment of Bonus Act, 1965
- **Contract Labourers** - They are governed under the Contract Labour (Regulation and Abolition) Act, 1970 and are also entitled to benefits such as provident funds in accordance with the EPFA.

### What is the proposed law for gig workers?

- **National Commission on Labour** - It recommended to consolidate central labour laws.
- Hence, the Ministry of Labour and Employment introduced the Code on Social Security, 2020 which brings workers within the ambit of labour laws for the first time.
- **Social Security Schemes** - The Code stipulates that Central and State Governments must frame suitable social security schemes for gig workers.
- The Code also mandates the compulsory registration of all gig workers to avail of benefits under these schemes.
- **National Social Security Board** - The Code also envisages the constitution of a National Social Security Board by the Central government to monitor the implementation of such schemes.

### What are the concerns of the gig workers?

- **Mixed nature** - The unique nature of gig work display characteristics of both

employees and independent contractors and thus do not squarely fit into any rigid categorisation.

- **Little recognition** - Out of the four new labour codes proposed, gig work finds reference only in the Code on Social Security.
- **Excluded** - Gig workers remain excluded from vital benefits and protections offered by other Codes such as minimum wages, occupational safety and health benefits, and overtime pay.
- **No unions** - They cannot create legally recognised unions and access a national minimum wage that applies to all forms of employment.
- **No minimum wage** - Even the proposed law does not guarantee minimum wages for gig workers.
- **Redundancy** - Minimum wages, which is presently governed by the *Minimum Wages Act*, will be subsumed under the *Wages Code*.
- The Wages Code again is only looking to protect those who fall under the traditional employer-employee relationship.
- **No redressal mechanism** - Gig workers are excluded from accessing the redressal mechanism under the Industrial Disputes Act, 1947.

### Can judicial intervention be expected?

- **Fundamental Rights** - The exclusion of gig workers from the category of unorganised workers is violative of their fundamental rights under Articles 14 and 21 of the Constitution.
- **Forced labour** - Denial of social benefits amounts to exploitation through forced labour, within the meaning of Article 23.

### What have international courts held?

- **UK** - The UK Supreme Court classified Uber drivers as workers under the UK Employment Rights Act 1996, thus entitling them to various benefits like paid holidays and minimum wages.
- **Netherlands** - The Dutch High Court also handed down a similar ruling, stating that the legal relationship between Uber and the drivers meets all the characteristics of an employment contract.
- **Germany** - Germany's Temporary Employment Act provides for equal pay and equal treatment of gig workers.
- **Singapore** - It has also proposed legislative changes to extend work injury insurance and pension coverage to such workers.

### What is the way forward?

- **Statutory affirmation** - The deplorable working conditions of the employees of digital labour platforms in India and the need for statutory affirmation of the rights of gig workers.
- **Legislations** - With the gig industry gaining prominence across the world it is necessary that legislations are being passed to that effect, over and above social security benefits.
- It is not possible to expect to overcome the challenges faced by gig workers with

respect to protecting their rights until the law is amended to protect their interests.

## Reference

1. [The Hindu | Gig Workers](#)

