

5 employment rights that every employee must know about

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The law in India has several provisions to safeguard the interests of employees. Although there are no specific laws that govern private employment in India, there are certain rights which are applicable to all the employees in India.



Arun Shukla, employed with a multi-national firm, dedicatedly worked for his company for five years. Due to some disagreements with the employer, Arun was denied his relieving letter on his exit from the company. The company also wanted him to sign a 'No-Objection-Certificate' (NOC) declaring that he would not take up a job in the same industry, at least for next three years. What should Arun do in such a circumstance?

There are many such instances when the employer's ego or interests get hurt when an employee decides to leave their company and the employer illegally holds up their relieving letter and salary for the notice period.

Ankit Miglani (D/1843/2016), a Delhi High Court advocate suggests, "In these circumstances, an aggrieved employee can file a civil suit for a mandatory injunction against the employer directing the employer to hand over the relieving letter to the employee and also for salary recovery along with damages".

Preetha S, Senior Member – HR Laws Practice at Nishith Desai Associates says, "Different labour laws contain overlapping definitions for terms such as 'employee/workman', 'wages', 'employer', etc. There are situations where a particular labour law may be applicable to one set of employees in an establishment whereas the rest of the employees may be excluded. This means that applicability of a particular labour law to an individual will first have to be determined in order to comment on the benefits/protections available to such individual".

One should be aware of all the rights available to him/her as per law. There is a legal maxim 'ignorantia juris non excusat', which lays down the principle that ignorance of the law is not excusable.

As an employee, one should be aware of the following rights:

1. *Written employment agreement*

An Employment Agreement is a legal document, which contains the ‘terms and conditions’ of your employment. It lists the rights and obligations of both, the employer and the employee, and is designed to give both parties security and protection. It is a good idea to spend some time carefully thinking about the conditions of the Agreement. If in doubt, seek professional help.

2. *Leave entitlement*

Generally, leaves are provided under the heads of Casual Leave, Sick Leave, Earned Leaves and Maternity Leaves. As per a Supreme Court judgement, an employee does not need to seek medical attention if he or she is ill for just a day. An employee can take leave during notice period, provided it is for a genuine reason like maternity, health issues, etc.

3. *Provident Fund*

Employee’s Provident Fund (EPF) is a retirement benefit scheme that’s available to all salaried employees. As per law, both, the employer and the employee have to contribute 12% of their basic salary to the EPF.

4. *Sexual harassment policy*

Women employees shall always know about the company policy for the prevention of sexual harassment of women at their workplace. They should see that the company is having a committee to take the complaints of the women.

5. *Working hours*

Though the legislation provides for maximum working hours for an establishment but sometimes the employees are harassed by the employers with long working hours. In that case, there is a provision of overtime wages which the employer must provide to the employee.

Want to know about specific employee laws? Write to editor[at]timesjobs.com, we shall publish references to those in the next edition.