

Wipro chairman calls moonlighting 'cheating'

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BENGALURU: Moonlighting seems to have divided traditional tech companies and new age ones. Wipro chairman Rishad Premji has described it as cheating.

On Saturday, he tweeted: "There is a lot of chatter about people moonlighting in the tech industry. This is cheating - plain and simple."

This comes just days after Swiggy said its employees are allowed to moonlight, provided the work does not conflict with Swiggy's business and does not impact productivity.

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Fintech unicorn Cred recently told TOI that it encourages side hustles. It noted that its heads of design and engineering are part of the Carnatic rock band Agam.

As the world moved offices to the living rooms during the pandemic, it also led to some employees moonlighting.

A few months ago, TOI had reported how Nasscom's regional council chair for Noida received a complaint that a person was working for seven companies parallelly and was caught by the HR managers of one of the firms, after they found multiple active PF accounts.

Most traditional companies prohibit external work on commercial terms.

Rahul Sasi, cofounder and CEO of Bengaluru-based cybersecurity firm CloudSek, said he concurs with Premji's view on moonlighting and how it interferes with the day job and takes the focus off it.

"Some cyber security professionals take up consulting gigs for vulnerability assessment and penetration testing (VAPT) that can be done remotely without visiting the client site, while continuing with their day jobs."

Vikram Shroff, head of the HR law practice at law firm Nishith Desai Associates, said IT sector employers who have full-time employment tend to restrict their employees from any form of moonlighting, irrespective of whether it is a second job or side hustle.

"In a full-time employment, the employee is expected and required to spend his entire working time, efforts and energy for the employer's interests."

HR professionals and legal experts believe that courts have in the past permitted employers to terminate employment if an employee is found to be moonlighting.

There is restriction on double employment under the Factories Act. However, that law does not apply to IT companies in some states.

Swiggy said external projects must be done outside of office hours or on weekends, and must not impact their productivity on the full-time job.

Sasi pointed out that companies of all sizes have joined forces to offer bounties to employees to hunt down critical bugs and they are celebrated by the tech community globally. "While you're scanning systems of competitors for vulnerability gaps outside office hours, does that amount to a loosely-framed moonlighting profile, while you still get incentivised for it?" he asked.

Shroff said that delivery and logistics companies that engage gig workers may not be able to legally prohibit them from moonlighting. "Gig workers typically do not have a full-time employment relationship and are not entitled to employment

benefits or protections. They may be able to pursue other opportunities, as long as they avoid conflicts and do not breach confidentiality.”

Some in the industry say a distinction must be made between a second job, and a side hustle that involves a payment.

But Shroff believes it is difficult for employers to distinguish between a second job and side hustles.

“Accordingly, any policy permitting moonlighting needs to be carefully planned and implemented, taking into consideration the nature of the relationship and including the factors where the individual could potentially cross the line,” he said.