

Women & Law

The Equal Remuneration Act, 1976

1975 was celebrated as International Women's Year and to mark this occasion the government of India first promulgated the Equal Remuneration Ordinance. This was replaced in 1976 by the Equal Remuneration Act, 1976. The stated object of this act is to, "provide for payment of equal remuneration to men & women workers and for the prevention of discrimination, on the grounds of sex, against women in the matter of employment and for matters connected therewith or incidental thereto". Specifically, it sought to end discrimination in wages on the basis of sex alone when the work done was same in nature and in recruitment. The following are the main features and provisions of this Act:

- (1) No employer can pay different wages to men and women if they do the same work.
- (2) To equalise wages the employer has to raise the wages to the higher level obtaining in his organisation.
- (3) The workers can not claim back wages for a period prior to the promulgation of the Act in that specific industry.
- (4) No employer can discriminate against women on the grounds of sex alone except where their employment for such work is prohibited or restricted under other laws.
- (5) Provisions in point 4 shall not disturb the reservation policies of the government.
- (6) Government shall set up advisory committees which will guide it in the matter of employment of women. Based on their advice the government can give specific directions to employers to recruit women.
- (7) A worker may place before the government any claims regarding discrimination. If these are found tenable the government shall ensure payment of back wages as in the Industrial Disputes Act, 1947, which can be collected in the same manner as the arrears of Land Revenue.
- (8) The employer shall have to maintain records in this regard.
- (9) The government shall appoint inspectors for the purposes of this act.
- (10) Those found violating any provisions of the Act can be punished with a fine of upto Rs. 5000.
- (11) Men can not claim benefits which are available to women workers in connection with the birth, or the expected birth of a child.
- (12) Employers can set different terms and conditions relating to retirement, marriage or death, for men and women.
- (13) The Act shall be enforced in all industries, trade and service sector and agriculture by the end of 1978.

While it can be called a step in the right direction, this Act fails on many counts. To begin with, the Act is not without its bias. It allows the employer to make different rules for men and women in respect of death, retirement and marriage. So an employer can retire women early, terminate their services at marriage and not give them the same death benefits. The case of Air Hostesses still having to retire at the age of 45 is a glaring example. Similar is the voluntary retirement scheme for women workers in the nationalised coal industry where they can retire in favour of 'male' relatives and not their own daughters, sisters, etc.

Let us look at the positive contributions of the Act. An employer will have to give back wages and pay a fine of upto Rs. 5000. Can Rs. 5000 deter an employer from discriminating against women? After all any big employer can make this much money in a matter of hours by paying women less. In a matter of days he can save enough on wages to be able to pay the back wages and the fine from the principal and interest on the money thus saved.

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independent and respect ourselves.

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The government has also decided to set up Advisory Committees to advise in the matter of employment of women. It is a sad state of affairs that nowhere have these come into existence even after eight years of the promulgation of the Act.

It is a known fact that women earn less than men mostly on account of job segregation. In the absence of training facilities they get pushed out of employment whenever mechanisation takes place or are hired only in the low paid unskilled jobs. Without equal training opportunities and in a world biased against women what sense does equal wages for same work make any way?

The government has enacted this law and has made it mandatory on employers to stop discrimination in recruitment against women when qualified women are not available for most jobs. The law in this case is even less effective than in the case of scheduled Castes and Tribes for whom it has reserved jobs and training facilities.

Obviously, if we want this Act to make any dent we will have to ask for increased punishment, end of all discriminatory practices, setting up advisory committees and may be even reservations for women in all types of training facilities and jobs. ●