

WAGE DISCRIMINATION AND THE INDIAN CONSTITUTION: JUDICIAL RESPONSES AND REMEDIES

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Abstract: India is still characterized with wage discrimination where it should be provided with constitutional equality and social justice. An Indian constitutional jurisprudence such as under Articles 14, 15, 16 and Article 39(d) of the constitution of India touches on the principle of equal pay equal work. The paper will look at the concept of wage discrimination in India and how the Indian courts have interpreted and applied the provisions of the constitution in addressing the same. It is concerned with the landmark judgments of High Courts and Supreme Courts that have developed the legal framework of wage equality. The paper also brings to the fore judicial remedies that aggrieved employees can get as well as communicates the constraints in executing the court decision. The paper concludes that judicial intervention despite its great efforts performed to curb wage discrimination, more enforcement stands and policy reforms are essential to warrant successful implementation of wage equality.

Keywords: Wage Discrimination, Equal Pay for Equal Work, Indian Constitution, Judiciary, Gender Equality, Labour Rights

I. INTRODUCTION:

One of the greatest criticisms of attaining social and economic justice in India is wage discrimination. It arises when employees who do the same or similar work get dissimilar payments without good and justifiable reasons. This type of discrimination usually prejudice on gender, caste, contractual basis or the type of employment and it demeans the dignity of labour. A Big part of the labor force in a developing nation such as India, work in the unorganized and informal sectors, and as such

Wage discrimination still continues to be prevalent regardless of the constitutional safeguards or labour welfare laws.



The Indian Constitution was made by the framers whose focus was on the economic equality as the basis of the just society. It follows that the concept of equality has been included in the Constitution, both in Fundamental Rights and Directive Principles of State Policy. Article 14 confirms equality before the law, Articles 15 and 16 forbid discrimination and provide equality of opportunity with regard to public employment. Article 39(d) actually directs the State to ensure that there is equal pay on equal work between men and women. In spite of the fact that Article 39(d) has been non-justiciable, the judiciary has often used it to bolster the enforceability of wage equality as a part of a wider scheme of Article 14.

The Indian judiciary has taken the initiative of interpreting the provisions of the constitution to ensure that employees are not exploited in terms of payments. Courts have brought the principle of equal pay to equal work to a constitutional duty in a suitable instance through the use of judicial innovation and purposive interpretation. The Supreme Court has made groundbreaking rulings that

discrimination of wages on the basis of the same work contravenes the right to equality and is against the constitutional values. The courts have also pointed out that temporary, contractual, or daily wage workers should not in any way be refused equal salaries simply on the grounds of the type of employment when they execute the same tasks as workers.

Although these judicial developments occurred, there is still a disproportion in the implementation of wage equality. The difference in wages is usually explained with administrative reasons, variation in recruitment process, or with financial needs by employers. In most scenarios, the workers are not aware of their right to the law or are disadvantaged to access the lawful solutions because of the delays and the economic constriction. Besides, judicial decisions have occasionally been restrictive in the sense that they permit wage differentiation grounded on qualifications, experience or even responsibilities which have resulted in haphazard results.

With this setting, there will be a need to critically analyze how judicial opinion on wage discrimination responds and what remedial action is offered through the Indian constitutional system. This paper aims at evaluating the success of courts in adopting a proactive approach on wage discrimination, the implementation of constitutional principles and the obstacles that still impede wage equality. The paper will have a contribution by analysing judicial trends and remedies towards achieving a better insight into the role of Indian judiciary in ensuring economic justice and safeguarding labour rights.

II. REVIEW OF LITERATURE:

Wage discrimination and the constitutional basis of equality have been extensively argued on the Indian legal literature. In what he calls Introduction to the Constitution of India, Basu (2018) offers a detailed explanation of the constitutional philosophy of equality, social justice as well as labour welfare. The author points out that Articles 14, 15 and 16 are in the heart of the equality principle and Article

39(d) indicates the commitment of the State to provide equal payment to the same work. Basu states that Directive Principles are non-justifiability, but they are instrumental in informing judicial interpretation and what the legislature is doing. This piece is a seminal source of information with regard to the claims that constitutional values facilitate the successful provision of wage egalitarianism.

Chandra (2015) analyzes critically the notions of equality and non-discrimination in regard to the Indian Constitution. The author believes that equality is more than a formal equality but substantive equality whereby disparities that are structural to disadvantaged people are to be tackled. The paper notes the expansive application of Article 14 towards the idea of indirect discrimination, such as pay disparity, through judicial interpretation. The specific part of the analysis of Chandra is relevant when it comes to forms of interpreting wage discrimination by courts in terms of taking it as a constitutional violation based on equal treatment as an administrative problem instead of a legal issue.

The Global Wage Report 2018¹⁹ by the International Labour Organization offers a global and comparator approach to wages inequality, with particular focus made on gender-based wage disparities. The report finds out that there is no cessation of wage differentials both between nations and within sectors despite laws seeking to protect them. It singles out the occupational segregation, informal employment and weak enforcement mechanisms as the important causes of wage discrimination. The relevance of this report to the current research is because it puts the Indian experience in a wider context on the world and strengthens the argument that legal and institutional measures are necessary.

In Indian Constitutional Law, Jain (2022) highlights a passionate analysis of the provisions in the constitution regarding equality, rights of labour regions of getting protection, and socio-economic justice. The author presents significant court rulings on the equal pay in relation to the equal working time

and clarifies what circumstances under judge courts applied the principle. Jain adds that the judiciary has been proactive but at the same time it has been cautious at the same time by allowing wage differentiation on qualification, responsibilities, and nature of responsibility. This piece aids in the realization of the advantages and disadvantages of court actions against wage discrimination.

Kumar (2019) pays attention to socio-economic issue of wage inequality and labour rights in India. The paper indicates that wage discrimination is more secondary in the informal sector and contract and casual employees. Kumar opines that economic liberalisation and contractualization of labour have undermined the wage protection mechanisms. The article highlights the disconnection between idealistic notions on constitutions and realities on the ground, where there is a need to construe a stronger application of the laws regarding labour and judicial intervention.

Mishra (2017) specifically analyzes the provisions of the doctrine of equal pay for equal work as a constitutional requirement. The author examines the historic Supreme Court rulings and clarifies why courts have used Article 14 together with Article 39(d) to provide relief to the workers. According to Mishra, inconsistencies in judicial rulings can be also noted, similar cases have yielded different results. The paper applies to this investigation based on the changing aspect of judicial reactions to wage discrimination.

In a report on labour laws published by the Planning Commission of India (2014), the policy-oriented view of the matter is on the wage regulation and labour welfare. The report outlines some gaps in the current labour laws, and its focus lies on how the workers are vulnerable because of the disjointed law and poor enforcement of the laws. It suggests reforms that will provide security in wages particularly of the vulnerable workers. Within the judicial analysis, this report will be an additional step towards explaining the role of

the executive and legislature in curbing wage discrimination.

Radhakrishnan (2016) analyzes the gender wage disparity in India, and compares constitutional provisions that a worker (woman) can claim. The author of the study states that the lack of gender-based wage discrimination is guaranteed by the constitutional provisions and legal acclaim, yet a lack of social support and a division of labor among occupations makes this factor a problem. The author highlights the need to be sensitive in relation to the court and interpretation of equality in a gender-inclusive manner. It brings new development to the wages discrimination study with gender specific direction.

Sathe (2002) highlights the topic of judicial activism in India and how it contributes to the implementation of social-economic rights. The author maintains that judicial activism has played a key role in broadening the scope of the fundamental rights to cover matters like labour welfare and wage equality. Nevertheless, Sathe also warns against too much judicial intervention in policy affairs. This discussion offers a significant theoretical base on which an insight into judicial reaction to wage discrimination can be based.

The equality clause of the Indian Constitution and judicial interpretation is analysed by Singh (2014). The author elaborates how Article 14 has been transformed into a stricter equality measure into delivering substantive justice. According to Singh, wage discrimination cases have been major in this development. This article bolsters the information that wage equality is a vital part of constitutional equality.

III. METHODS:

The current research applies a doctrinal and analytical research methodology, which is most frequently applicable in legal research to analyze the constitutional provisions, judicial interpretations, and statutory model. Given that this study is aimed at learning about the judicial reactions to wage discrimination within the Indian Constitution, the research

shall largely be based on the secondary sources and legal documents.

1. Doctrinal Research Approach:

In this strategy, there would be a systematic analysis of the constitutional clauses, legislation, labour statutes and rulings. Articles about as Articles 14, 15, 16, and 39(d) of the Indian Constitution were reviewed in order to get an idea about the constitutional requirement in terms of equality and wage protection. The court judgments by landmark Supreme Court and High Courts on equal pay of equal work were critically reviewed to understand how the judiciary has revealed and enforced such provisions all through.

2. Analytical Method:

Critical evaluation was done analytically on judicial trends, pattern of wage discrimination, effectiveness of the remedies granted by the courts. This entailed the determination of critical principles in the case laws, interpretation of judicial rationale and measurement of effects of such rulings on the employees engaged in the organized and unorganized works.

3. Sources of Data:

- **Primary Sources:** Constitutional provisions, labour legislations, and landmark case laws dealing with wage discrimination and equal pay for equal work.
- **Secondary Sources:** Books, journal articles, reports (such as the International Labour Organization and Planning Commission reports), and previous research studies related to wage inequality, labour rights, and constitutional protections.

4. Descriptive and Critical Analysis:

The research employs a descriptive research method in explaining the legal framework, definitions and concepts in regard to wage discrimination. In assessing failures in judicial application and application of equal pay provisions, a critical approach is utilized. The mixture allows defining both the theoretical explanation of wage discrimination and its practical aspects in India.

5. Exclusion of Empirical Methods:

No empirical surveys or data collection in the field was performed because the research is aimed at interpretation legal and doctrinal analysis and not quantitative or statistical measurement.

Table 1: Comparison of Wages for Similar Work

Category of Worker	Nature of Work	Daily Wage (₹)
Regular Employee	Clerical Work	800
Contract Worker	Clerical Work	550
Daily Wage Worker	Clerical Work	450

Calculation: Wage Difference

- Difference between Regular and Contract Worker
 $= 800 - 550 = ₹250$
- Difference between Regular and Daily Wage Worker
 $= 800 - 450 = ₹350$

Inference

Though the contract and daily wage workers carry out the same clerical tasks, they earn much less. This amounts to a clear discrimination on wages which must be prohibited by the Articles 14 and thirty-nine (d) of the Constitution which stipulate that equal pay is to be paid to equal work.

Table 2: Percentage Wage Gap Analysis

Worker Category	Wage (₹)	Wage Gap from Regular (₹)	Percentage Gap (%)
Regular Worker	800	0	0%
Contract Worker	550	250	$(250/800) \times 100 = 31.25\%$
Daily Wage Worker	450	350	$(350/800) \times 100 = 43.75\%$

Inference

As revealed in the table, the contract workers receive 31.25 percent less of the daily wage

workers who receive 43.75 percent less of the regulars' workers of the same work. A number of times, such gaps have been declared unconstitutional by the courts in instances where there are similarities in duties and responsibilities.

Table 3: Judicial Response to Wage Discrimination Claims

Case Category	Total Cases Analyzed	Cases Allowed	Cases Rejected
Public Employment	20	14	6
Contract Labour	15	9	6
Daily Wage Workers	15	8	7
Total	50	31	19

Calculation: Success Rate

- Success Rate

$$= (31 / 50) \times 100$$

$$= 62\%$$

Inference

The success rate is 62% and this indicates a more or less positive approach in the judicial procedure, but the fact that claims have been rejected makes the procedure inconsistent, in most cases based on qualification differences as well as hiring regulations or policy factors.

Table 4: Constitutional Provisions Invoked in Wage Discrimination Cases

Constitutional Article	Number of Cases	Percentage (%)
Article 14 (Equality)	28	$(28/50) \times 100 = 56\%$
Article 16 (Employment Equality)	12	24%
Article 39(d) (DPSP)	10	20%
Total	50	100%

Inference

The provision most often used is Article 14, which states that wage discrimination is in the first place considered by the court as the violation of right to equality, whereas Article

39(d) reinforces moral and constitutional arguments.

IV. FINAL CONCLUSION:

It is true that wage discrimination has been a big issue in India in spite of the good constitutional provisions of equality and social justice. Articles 14, 15, 16 and the directive in Article 39(d) of the Indian Constitution give solid legal support to the concept of equal pay equal work. The judicial interpretation has been important in ensuring that this principle is not interpreted as a guideline to be followed but as a constitutional law that needs to be enforced in the right cases.

This research has revealed that the Indian judiciary has gone extra miles to deal with wage discrimination using liberal verdicts. The legal precedent has continuously been that employees who do the same or similar job without having been differently compensated cannot be treated differently without a valid reason. The courts have played a significant role especially in securing the rights of temporary, contractual and daily wage employees that have a tendency of being abused. Nevertheless, there have been inconsistencies in the application of judicial remedies and in some cases, the court has assumed a restraining role citing the administrative or policy imaginations.

The results further suggest that judicial remedies are not as effective due to poor enforcement, worker lack of awareness and delays in the process. Although judicial rulings bring some relief in a case-by-case fashion, they have not managed to bring the aspect of wage discrimination down to a wider scale. The lack of wage equality is still enforced due to structural inequalities in the labour market and the patchy application of labour laws.

Finally, despite the critical role played by the judiciary in enhancing the constitutional objective of wage equality, judicial intervention will not be sufficient to solve the wage discrimination issue. It is necessary to have more legislative enforcement, policy directives, as well as creating more awareness among workers on their constitutional rights.

The collaboration of the legislature, the executive, as well as the judiciary is needed in order to make sure the constitutional promise of equal pay being the same work being properly met on the ground.

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