

Introduction

5.1 In a labour surplus country like India, it is difficult to have an uniform and comprehensive wage policy for all sectors of the economy. Wages in the organized sector is generally determined through negotiations and settlements between the employer and the employees. In the unorganized sector, however, labour is vulnerable to exploitation due to illiteracy and lack of effective bargaining power. The minimum rates of wages are fixed both by Central and State Governments in the scheduled employments falling within their respective jurisdictions under the provisions of the Minimum Wages Act, 1948. The Act binds the employers to pay the workers the minimum wages so fixed from time to time.

Minimum Wages Act, 1948

5.2 Under the Minimum Wages Act, 1948 both Central and State Governments are "Appropriate Governments" for fixation/revision of minimum rates of wages for employments covered by the Schedule to the Act. There are 45 scheduled employments in the Central sphere while in the State sphere the number (cumulative) of such employments is as many as 1709. The minimum rates of wages also include Special Allowance i.e. Variable Dearness Allowance (VDA) linked to Consumer Price Index Number, which is revised twice a year effective from April and October. The Central Government and twenty-seven States/UTs have adopted VDA as a component of minimum wage. The range of minimum wages for the workers as fixed/revised in respect of employments covered under Central and State sphere are at Table 5.1.

National Floor Level Minimum Wage

5.3 In order to have a uniform wage structure and to reduce the disparity in minimum wages across the country, the concept of National Floor Level Minimum Wage as a non statutory measure was mooted on the basis of the recommendations of the National Commission on Rural Labour (NCRL) in 1991. On the basis of increase in the Consumer Price Index, the Central Government has fixed the National Floor Level Minimum Wages from Rs. 137/- to Rs.160/- per day with effect from 01.07.2015.

Central Advisory Board (CAB)

5.4 The Central Government has re-constituted the Central Advisory Board (CAB) vide Notification No. S.O. 1446 (E) dated 3rd June, 2013 under Section 8 of the Minimum Wages Act, 1948.

Minimum Wages Advisory Board (MWAB)

5.5 The Central Government has re-constituted the Minimum Wages Advisory Board (MWAB) vide Notification No. S.O. 1445 (E) dated 3rd June, 2013 under Section 7 of the Minimum Wages Act, 1948.

Status of Amendments to the Minimum Wages Act, 1948

5.6 The amendment proposals were placed in public domain on 17.06.2014 for inviting comments. The Draft Cabinet Note incorporating the comments was prepared and circulated for inter-ministerial consultation on 07.08.2014. An Inter-Ministerial Group (IMG) was set up on 29.10.2014 to consider the responses received and give its recommendations for amendment to the Act. The IMG has given its recommendation report

in June, 2015. A Cabinet Note prepared on the basis of recommendation of IMG was circulated on 07.08.2015 for inter- ministerial consultation. Based on the comments received from Ministries/ Departments, the Draft Bill along with the Draft Note for the Cabinet has been forwarded to the Ministry of Law & Justice for vetting on 26.08.2015.

Enforcement of the Minimum Wages Act, 1948

5.7 The Government is committed to enhance the welfare and well being of farm labour and workers particularly those in the Unorganized sector and to ensure the implementation of Minimum Wage enactments. Minimum Wages under Central sphere are enforced through Central Industrial Relations Machinery (CIRM). The position in respect of cases of enforcement by CIRM for the Year 2014-15 is provided in Table 5.2. In the State Sphere, the State Enforcement Machinery ensures enforcement of the Minimum Wages Act. The position of enforcement of this Act in different States/UTs during 2013-14 is shown in Table 5.3.

The Payment of Wages Act, 1936

5.8 The Payment of Wages Act, 1936 was enacted to regulate payment of wages to workers employed in industries and to ensure a speedy and effective remedy to them against illegal deductions and/or unjustified delay caused in paying wages to them. The wage ceiling under Payment of Wages Act, 1936, was fixed at Rs. 1600/- p.m. in 1982.

5.9 This ceiling has been periodically revised upwards with a view to make the wages adjust to the inflation. In exercise of the powers conferred by sub-section (6) of Section 1 of the Act, the Central Government, on the basis of the Consumer Expenditure Survey brought out by the National Sample Survey Office, has enhanced the wage ceiling from Rs.10,000/- to Rs. 18, 000/- per month w.e.f. 11.9.2012.

The Payment of Wages (Nomination) Rules, 2009

5.10 In pursuance of the recommendation of the Special Task Force set up by the Ministry of Women and Child Development for providing complete equality to women vis-a-vis men in terms of payment of wages, the Central Government has notified the Payment of Wages (Nomination) Rules, 2009, vide notification GSR No 822 (E) dated 29.06. 2009 defining the procedure for nomination and restricting the nomination by workers to his /her family members as far as applicable, in exercise of powers conferred in sub-section (5) of section 26 of the Payment of Wages Act, 1936.

Wage Boards

5.11 In the 1950s and 60s, when the organized labour sector was at a nascent stage of its development, Government in appreciation of the problems of wage fixation in some sectors, constituted need based Wage Boards from time to time in line with the accepted policy of the Ministry of Labour. The Wage Boards are tripartite in character in which representatives of workers, employers and independent members participate and finalise the recommendations. At present, only two Wage Boards, one for the Working Journalists and the other for the Non-Journalist newspaper employees are in operation as statutory Wage Boards. All other Wage Boards have ceased to exist.

5.12 In 2002, the second National Commission on Labour (NCL) in its report had recommended that at present there is no need for any wage board, statutory or otherwise, for fixing wage rates for workers in any industry. However, Government decided not to accept the recommendation of NCL regarding setting up of the statutory wage boards i.e. Wage Boards for Working Journalists and Non-Journalist Newspaper Employees under the Working Journalists & other Newspaper

Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955.

Wage Boards for Newspaper Employees.

5.13 The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 provides for regulation of conditions of service of working journalists and other persons employed in newspaper establishments. The Section 9 and 13C of the Act, inter alia, provide for setting up of Wage Boards for fixation and revision of rates of wages in respect of working journalists and non-journalist newspaper/news agency employees respectively. According to the Act, Wage Boards shall consist of the following:

- Three persons representing employers in relation to newspaper establishment;
- Three persons, representing working journalists for Wage Board under Section 9 and three persons representing non-journalist newspaper employees for Wage Board under Section 13 C of the Act.
- Four independent persons, one of whom shall be a person who is or has been a Judge of High Court or the Supreme court, and who shall be appointed by the Government as the Chairman thereof.

5.14 The Act does not lay down the periodicity for constituting the Wage Boards. In the past, the Wage Boards for these employees were set up in the years 1956, 1963, 1975, 1985, 1994 and 2007.

5.15 The Government constituted two Wage Boards – one for Working Journalists and other for Non-Journalist Newspaper Employees under Section 9 and 13 C respectively under the Working Journalists and other Newspaper Employees (Conditions of Service) & Miscellaneous Provisions Act, 1955 vide notifications in the Gazette of India

(Extra Ordinary) S.O. Nos. 809 (E) and 810(E) dated 24.5.2007. The Wage Boards were given three years time to submit their reports to the Union Government. The Wage Boards functioned from their Headquarters at New Delhi.

5.16 The Government, in consultation with the Wage Boards for Working Journalists and non-journalists newspaper employees, notified the grant of interim rates of wages to journalists and other newspaper employees and news agency employees at the rate of 30% of the basic wage with effect from 08.01.2008 vide Notifications S. O. No.2524 (E) and S. O. No. 2525 (E) dated 24.10.2008.

5.17 The Government appointed Justice G. R. Majithia, retired Judge of High Court of Bombay as common Chairman of the two Wage Boards, one for Working Journalists and the other for Non-Journalist Newspaper Employees in place of Justice K. Narayana Kurup who resigned w.e.f. 31.07.2008. Justice Majithia assumed charge on 04.03.2009.

5.18 The Central Government, in exercise of powers conferred by Section 9 and 13C of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (45 of 1955), extended the tenure of the Wage Boards for Working Journalists and Non-Journalist Newspaper Employees under the Chairmanship of Justice Majithia, up to 31.12.2010 so as to finalize the recommendations of the Wage Boards on or before 31.12.2010, vide notifications S. O. 1304 (E) and S. O. 1305 (E) dated 02.06.2010.

5.19 The Wage Boards submitted their final Report to the Government on 31.12.2010. The Cabinet in its meeting held on 25.10.2011 approved the proposal to accept the recommendations of the Wage Boards for Working Journalists and Non-Journalists Newspaper Employees of Newspaper

Establishments and News Agencies, as contained in this Ministry's Cabinet Note dated 07.10.2011.

5.20 The recommendations of the Majithia Wage Boards has been accepted by the Government and notified in the Official Gazette vide S.O.No.2532(E) dated 11.11.2011. As the implementation part vests with the State Government/UTs., copies of notification have been forwarded to all the State Government/UTs with the request for its implementation.

5.21 Meanwhile, a Writ Petition No. 246 of 2011 in the matter of ABP Private Limited Vs. UOI & Others alongwith 11 other Writ Petitions by other Newspaper employers were filed before the Hon'ble Supreme court of India challenging the constitution and recommendations of the Majithia Wage Boards. The Hon'ble Supreme Court vide its Judgement dated 07.02.2014 in the said Writ Petition No. 246 of 2011 has directed that all the Writ Petitions have been dismissed and the wages as revised / determined shall be payable from 11.11.2011 when the Government of India notified the recommendations of the Majithia Wage Boards. All the arrears upto March, 2014 shall be paid to all the eligible persons in four equal installments within a period of one year from 07.02.2014 and continue to pay the revised wages from April, 2014 onwards.

5.22 As the above order of the Hon'ble Supreme court was not complied with, the Hon'ble Supreme Court in Contempt Petition (C) No. 411/2014 in W. P. (C) No. 246 of 2011, vide its order dated 28.04.2015 has issued directions that all the State Governments acting through their respective Chief Secretaries shall, within four weeks from 28.04.2015, appoint Inspectors under Section 17B of the Working Journalists Act, 1955 to determine as to whether the dues and entitlements of all categories of Newspaper Employees including journalists under the Majithia Wage Board Award has been implemented in accordance with the terms thereof. The Inspectors appointed by the

State Government will exercise their powers as provided under the Act and shall submit their report to this Court through the Labour Commissioners of each State indicating the precise finding on the issue indicated above. This will be done within a period of three months from the date of appointment under Section 17B of the Act. This was communicated to the State Governments and Union Territory Administrations for compliance on 08.07.2015.

5.23 In order to monitor the implementation of the notification, a Central Level Monitoring Committee has been set up under the Chairmanship of Principal Labour & Employment Advisor. The first meeting of the Committee was held at Hyderabad on 24.09.2012 covering the 7 Southern States/UTs. So far six meetings of the Central Level Monitoring Committee have been held in different regions of India. The seventh such meeting of the Committee was held at New Delhi on 16.10.2015 covering all States/UTs to review the implementation of the Wage Board Awards in the country.

The Payment of Bonus Act, 1965

5.24 The Payment of Bonus Act, 1965 provides for the payment of bonus to persons employed in certain establishments, employing 20 or more persons, on the basis of profits or on the basis of production or productivity and for matters connected therewith.

5.25 The minimum bonus of 8.33% is payable by every industry and establishment under the Section 10 of the Act. The maximum bonus including productivity linked bonus that can be paid in any accounting year shall not exceed 20% of the salary/wage of an employee under the sections 31 A of the Act.

5.26 Two ceilings are available under the Payment of Bonus Act, 1965. The limit specified under Section 2 (13) which defines an eligible

employee under the Act, is generally known as the eligibility limit. Similarly, the limit prescribed for calculation of bonus under Section 12 is known as the calculation ceiling. The two ceilings are revised to keep pace with the price rise and increase in the salary structure. The revisions of the two ceilings over the years are as follows:

| Sl. No. | Year of Amendment | Eligibility limit (Rupees per month) | Calculating Ceiling (Rupees per month) |
|---------|-------------------|--------------------------------------|--|
| 01. | 1965 | 1,600 | 7,50 |
| 02. | 1985 | 2,500 | 1,600 |
| 03. | 1995 | 3,500 | 2,500 |
| 04. | 2007 | 10,000 | 3,500 |

5.27 At present, employees drawing salary or wage not exceeding Rs. 10,000/- per month in any industry to do any skilled or unskilled, manual, supervisory, managerial, administrative, technical

or clerical work for hire or reward are eligible for payment of Bonus. The eligibility limit and calculation ceiling respectively under Section 2 (13) and Section 12 of the Act were last revised from Rs. 3,500/- to Rs. 10,000/- per month and from Rs. 2,500/- to Rs. 3,500/- per month, in the year 2007 and made effective from 01.04.2006.

5.28 The Payment of Bonus Act, 1965 has been amended to revise the statutory eligibility limit from Rs.10,000/- per month to Rs. 21,000/- per month and the calculation ceiling from Rs.3,500/- to Rs.7,000/- or the minimum wage for the scheduled employment, as fixed by the appropriate Government, whichever is higher. The changes in the Payment of Bonus Act, 1965 are effective retrospectively from 01.04.2014. The Payment of Bonus (Amendment) Act, 2015 (No. 6 of 2016) has been notified in the Gazette of India on 01.01.2016.

Table 5.1

Category wise Range of Minimum Rates of Wages in All States as on 01.12.2015

| S.No. | State/UT | Categories | | | | | | | |
|-------|-----------------------|---------------|---------------|---------------|---------------|---------------|---------------|----------------|---------------|
| | | Unskilled | | Semi Skilled | | Skilled | | Highly Skilled | |
| | | Min. | Max. | Min. | Max. | Min. | Max. | Min. | Max. |
| | Central Sphere | 204.00 | 353.00 | 209.00 | 390.00 | 227.00 | 430.00 | 247.00 | 467.00 |
| 1 | Andhra Pradesh | 69.27 | - | - | - | - | - | - | 858.83 |
| 2 | Arunachal Pradesh | 150.00 | 170.00 | 160.00 | 180.00 | 170.00 | 190.00 | - | - |
| 3 | Assam | 177.84 | 177.84 | 205.20 | 205.20 | 284.55 | 284.55 | - | - |
| 4 | Bihar | 181.00 | 197.00 | 188.00 | 206.00 | 232.00 | 251.00 | 282.00 | 308.00 |
| 5 | Chhatisgarh | 157.00 | 242.00 | 201.00 | 247.00 | 210.00 | 256.00 | 236.00 | 266.00 |
| 6 | Goa | 215.00 | 216.00 | 223.00 | 229.00 | 227.00 | 232.00 | 235.00 | 292.00 |
| 7 | Gujarat | 150.00 | 276.00 | 276.00 | 284.00 | 284.00 | 293.00 | - | - |
| 8 | Haryana | 226.40 | 226.40 | 231.40 | 236.40 | 241.40 | 246.40 | 251.40 | 251.40 |
| 9 | Himachal Pradesh | 170.00 | 185.55 | 180.17 | 187.00 | 206.52 | 214.00 | 227.12 | 274.50 |
| 10 | Jammu & Kashmir* | 150.00 | 150.00 | 175.00 | 175.00 | 225.00 | 225.00 | - | - |
| 11 | Jharkhand | 210.00 | 225.00 | 220.00 | 240.00 | 290.00 | 335.00 | 259.31 | 360.00 |
| 12 | Karnataka | 198.23 | - | - | - | - | - | - | 343.58 |
| 13 | Kerala | 275.46 | 548.70 | - | - | - | - | - | - |
| 14 | Madhya Pradesh | 187.00 | 253.00 | 248.00 | 339.00 | 294.00 | 387.00 | 337.00 | 389.00 |
| 15 | Maharashtra | 180.00 | 315.49 | | | | | - | - |
| 16 | Meghalaya | 170.00 | 170.00 | 181.00 | 181.00 | 191.00 | 191.00 | 212.00 | 212.00 |
| 17 | Manipur | 122.10 | 122.10 | 129.97 | 129.97 | 132.60 | 132.60 | - | - |
| 18 | Mizoram | 220.00 | 220.00 | 250.00 | 250.00 | 310.00 | 380.00 | - | - |
| 19 | Nagaland | 115.00 | 115.00 | 125.00 | 125.00 | 135.00 | 135.00 | 145.00 | 145.00 |
| 20 | Odisha | 200.00 | 200.00 | 220.00 | 220.00 | 240.00 | 240.00 | 260.00 | 260.00 |
| 21 | Punjab | 267.13 | 277.13 | 297.13 | 297.13 | 331.63 | 331.63 | 371.33 | 371.33 |
| 22 | Rajasthan | 166.00 | 166.00 | 176.00 | 176.00 | 186.00 | 186.00 | 236.00 | 236.00 |
| 23 | Sikkim | 220.00 | 220.00 | 242.00 | 242.00 | 275.00 | 275.00 | 319.00 | 319.00 |
| 24 | Tamil Nadu | 146.00 | 431.86 | - | - | - | - | - | - |
| 25 | Tripura | 142.46 | 346.15 | 162.81 | 375.00 | 184.96 | 403.85 | 280.00 | 405.42 |
| 26 | Uttarakhand | 200.00 | 272.12 | 231.54 | 291.54 | 235.31 | 310.96 | 249.23 | 356.35 |
| 27 | Uttar Pradesh | 161.00 | 262.11 | 240.24 | 288.32 | 282.07 | 322.96 | 299.19 | 299.19 |
| 28 | West Bengal | 171.00 | 268.00 | 172.00 | 295.00 | 175.00 | 324.50 | 181.00 | 357.00 |
| 29 | A. & N. Islands | 274.00 | 285.00 | 286.00 | 294.00 | 338.00 | 363.00 | 363.00 | 384.00 |
| 30 | Chandigarh | 306.19 | 306.19 | 311.96 | 316.00 | 323.15 | 332.15 | 348.00 | 348.00 |
| 31 | D & N Haveli | 220.80 | 220.80 | 227.30 | 227.30 | 233.80 | 233.80 | - | - |
| 32 | Daman & Diu | 268.20 | 268.20 | 276.20 | 276.20 | 284.20 | 284.20 | - | - |
| 33 | Delhi | 316.00 | 353.00 | 349.00 | 390.00 | 384.00 | 429.00 | - | - |
| 34 | Lakshadweep | 255.20 | 255.20 | 280.50 | 280.20 | 305.20 | 305.20 | 335.20 | 335.20 |
| 35 | Puducherry | 55.00 | 255.00 | - | - | - | - | - | - |
| 36 | Telangana | 69.27 | 363.26 | | | | | | |

* Data is yet to be received. Figures indicate rates of wages as on 31.12.2013

The minimum wages shown for unskilled category for the state of Assam, & W.B. don't include the rates for Tea plantation. However, the rate of Tea Plantation in Tamil Nadu & Kerala are higher than the minimum for unskilled category

Table 5.2

**Enforcement of Provisions of Wage Laws by
Central Industrial Relations Machinery (CIRM) during 2014-15**

| Sl. No | Name of the Act | | No. of Inspections done | Irregularities Rectified | Prosecutions Launched | Convictions (No. of Cases) | Claims filed |
|--------|--------------------------------------|-----------------------|-------------------------|--------------------------|-----------------------|----------------------------|--------------|
| 1 | The Payment of Wage Act, 1936 | | | | | | |
| | (i) | Mines | 1657 | 23323 | 1125 | 709 | 85 |
| | (ii) | Railways | 619 | 6862 | 0 | 0 | 0 |
| | (iii) | Air Transport Service | 66 | 629 | 6 | 0 | 0 |
| 2 | The Minimum Wages Act, 1948 | | 6531 | 87414 | 3640 | 2720 | 2231 |

Table 5.3

DETAILS REGARDING ENFORCEMENT OF MINIMUM WAGES ACT, 1948 DURING 2013-14

| S.No. | Name of the States/UTs | Inspections made | Irregularities | | Claims | | Prosecution cases | | | Amount of Compensation Awarded (Rs.*000) | Amount of Fine(Rs.*000) | |
|-------|---------------------------|------------------|----------------|-----------|--------|---------|-------------------|-------|---------|--|-------------------------|-----------|
| | | | Detected | Rectified | Filed | Settled | Pending | Filed | Decided | | Imposed | Recovered |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 |
| | | 13099 | 129341 | 139236 | 3000 | 2875 | 51736 | 5167 | 5118 | 33440 | 123030 | 50794 |
| 1 | Andhra Pradesh* | | | | | | | | | | | |
| 2 | Arunachal Pradesh* | | | | | | | | | | | |
| 3 | Assam* | | | | | | | | | | | |
| 4 | Bihar | 119029 | 34953 | 31621 | 11064 | 7912 | 1694 | 447 | 54 | 8639.341 | 2700.073 | |
| 5 | Chhattisgarh* | | | | | | | | | | | |
| 6 | Delhi* | | | | | | | | | | | |
| 7 | Goa | 1415 | 9826 | 360 | 4 | 4 | 9 | 11 | 2 | | 4 | 3 |
| 8 | Gujarat | 89604 | 51411 | 42303 | 109 | 274 | 34450 | 2004 | 1616 | 15308 | 60 | 322 |
| 9 | Haryana* | | | | | | | | | | | |
| 10 | Himachal Pradesh* | | | | | | | | | | | |
| 11 | Jharkhand* | | | | | | | | | | | |
| 12 | Jammu & Kashmir* | | | | | | | | | | | |
| 13 | Karnataka* | | | | | | | | | | | |
| 14 | Kerala* | | | | | | | | | | | |
| 15 | Madhya Pradesh* | | | | | | | | | | | |
| 16 | Maharashtra | 25792 | 21959 | 14051 | 9 | — | 2351 | 588 | 175 | 37 | 59 | 165 |
| 17 | Manipur* | | | | | | | | | | | |
| 18 | Meghalaya* | | | | | | | | | | | |
| 19 | Mizoram* | | | | | | | | | | | |
| 20 | Nagaland* | | | | | | | | | | | |
| 21 | Odisha | 10089 | 8150 | 4983 | 46 | — | 11871 | 162 | — | N.A. | Nil | Nil |
| 22 | Punjab* | | | | | | | | | | | |
| 23 | Rajasthan* | | | | | | | | | | | |
| 24 | Sikkim* | | | | | | | | | | | |
| 25 | Tamil Nadu* | | | | | | | | | | | |
| 26 | Telangana | 5655 | 941 | 128 | 1132 | 608 | 142 | 179 | 80 | 10906 | 7426 | 0 |
| 27 | Tripura* | | | | | | | | | | | |
| 28 | Uttarakhand* | | | | | | | | | | | |
| 29 | Uttar Pradesh* | | | | | | | | | | | |
| 30 | West Bengal* | | | | | | | | | | | |
| 31 | Andaman & Nicobar Islands | 155 | 1235 | 1115 | - | - | 11 | 3 | 12 | - | 15.85 | 15.85 |
| 32 | Chandigarh* | | | | | | | | | | | |
| 33 | Dadra & Nager Haveli* | | | | | | | | | | | |
| 34 | Daman & Diu* | | | | | | | | | | | |
| 35 | Lakshadweep* | | | | | | | | | | | |
| 36 | Puducherry | 4758 | Nil | Nil | Nil | Nil | Nil | Nil | Nil | Nil | Nil | Nil |

* Information is still awaited