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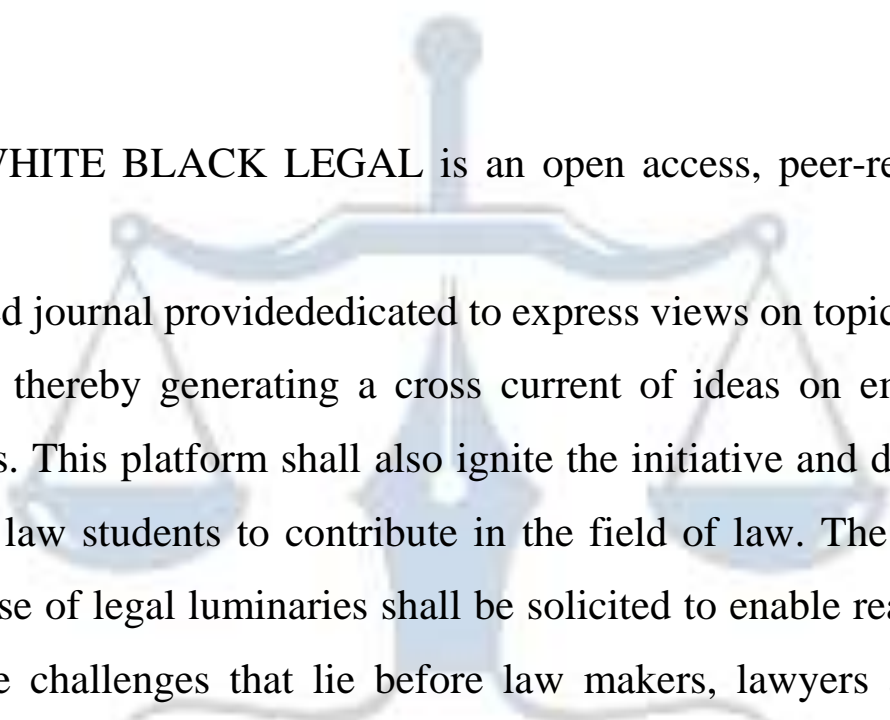


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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

AN INVESTIGATION ON THE TERMS AND CONDITIONS OF FIXED TERM EMPLOYEES IN INDIA.

AUTHORED BY – P.DARSHAN KUMAR

Abstract:

This article gives a thorough examination of the terms and conditions of temporary employment in India, focusing on the legislative framework, the characteristics of temporary workers, the length of the contracts, difficulties, and prospects for conversion to permanent employment. The study emphasizes the significance of having a clear legal framework that spells out the rights and responsibilities of fixed-term employees, including the minimum contract length, notice requirements, and benefit eligibility. It emphasizes the requirement for equitable treatment of fixed-term and permanent employees, ensuring parity in benefits, educational opportunities, and prospects for career advancement. The study highlights the difficulties faced by fixed-term workers, such as job uncertainty, limited benefits, and potential treatment inequities. The potential advantages of converting to permanent employment are emphasized, including better job security, access to benefits, and chances for professional growth.

Introduction to fixed term employment in india

Fixed-term employment is a type of employment when the agreement between the employer and the employee is tied to a particular project or assignment or has a set end date. Fixed-term employment (FTE) is a form of temporary work arrangement where an employee is hired for a predetermined period of time. The rise of FTE in India can be traced back to the liberalization of the economy in the 1990s, which led to the growth of the service sector and the increasing need for flexible employment arrangements. Today, FTE is prevalent in various sectors, including manufacturing, retail, and information technology. Although FTE gives employers more flexibility and gives people new options, it also raises questions about job security, social security, and unjust exploitation of workers. India has passed a number of laws and regulations controlling FTE in order to solve these issues, including the Contract Labour (Regulation and Abolition) Act of 1970 and the Industrial Employment (Standing Orders) Act of 1946. These

laws provide forth rules for FTE rights and responsibilities, including those related to working conditions, pay, entitlement to leave, and termination of employment. Due to benefits including labour management flexibility, cost effectiveness, and adaptability to changing business needs, fixed-term employment has seen a major rise in popularity in India over the past few years. Fixed-term employment allows employers to hire workers for a predetermined amount of time, which is helpful in industries with seasonal or project-based demands. Businesses may easily hire and fire employees based on operational requirements, avoid long-term employment commitments, and adjust their staff in reaction to workload fluctuations thanks to this. Employees who work on a temporary basis can get professional experience, be exposed to a variety of initiatives, and possibly land a permanent position in the future. It might present opportunities for professional development, income security for the term of the contract, and networking. However, fixed-term employment raises concerns about worker exploitation, a lack of social protection, and job stability. Fixed-term employees may have contract renewal uncertainty, limited access to benefits and rights, and susceptibility to unfair treatment when compared to permanent employees. The legal framework and legislation governing fixed-term employment in India have changed throughout time in order to strike a balance between flexible employment practises and the preservation of employees' rights. The Industrial Employment (Standing Orders) Act of 1946 and other labour regulations give guidelines for fixed-term employment terms and conditions, including those pertaining to notice requirements, termination procedures, benefits, and non-discrimination. The purpose of this research study is to investigate the nature and significance of fixed-term employment contracts. It will specifically go through the rules and laws that regulate fixed-term contracts, their advantages and disadvantages for both employers and employees, and the best ways to negotiate and manage them. In the end, the paper will aid in a better comprehension of the intricate dynamics of employment contracts and offer organisations advice on how to manage this always changing environment.

Environment and Regulatory Framework

The legal framework and regulatory environment governing fixed-term employment in India consist of various laws, acts, and regulations that provide guidelines and protections for both employers and employees. These include:

- The Industrial Employment (Standing Orders) Act, 1946: This act regulates the terms and conditions of employment, including fixed-term employment, in industrial

establishments. It requires employers to define and publicly display standing orders that outline the rules and regulations governing employment, including provisions related to fixed-term contracts.

- The Contract Labour (Regulation and Abolition) Act, 1970: This act regulates the employment of contract laborers in establishments where the work is of a perennial nature. It ensures that fixed-term employees employed through contractors receive fair wages, working conditions, and social security benefits.
- The Shops and Establishments Acts: Each state in India has its own Shops and Establishments Act, which governs the working conditions, employment terms, and benefits for employees in shops, commercial establishments, and service sectors. These acts often include provisions related to fixed-term employment, working hours, leave entitlements, and termination procedures.
- The Employees' Provident Funds and Miscellaneous Provisions Act, 1952: This act establishes the Employees' Provident Fund Organization (EPFO) and mandates employers to contribute to the provident fund for employees, including fixed-term employees. It ensures the accumulation of a retirement fund for employees.
- The Employees' State Insurance Act, 1948: This act establishes the Employees' State Insurance Corporation (ESIC) and provides health insurance benefits and social security coverage for employees, including fixed-term employees, in case of sickness, disablement, maternity, and death.
- Minimum Wages Act, 1948: This act sets the minimum wage rates for different categories of workers, including fixed-term employees. It ensures that workers receive fair remuneration for their work.
- The Industrial Disputes Act, 1947: This act governs the resolution of industrial disputes between employers and employees. It includes provisions related to layoff, retrenchment, and termination of fixed-term employees, ensuring compliance with due process and providing avenues for redressal.

It is essential for employers to adhere to these legal provisions and comply with the prescribed terms and conditions to ensure fair treatment and protection of fixed-term employees. Non-compliance can lead to legal liabilities and disputes. The legal framework and regulatory environment surrounding fixed-term employment in India are subject to periodic amendments and updates. It is crucial for employers and employees to stay updated with the relevant laws and regulations to ensure compliance and protect their rights and interests.

Profile of Fixed-Term Employees in India:

In India, there are many different types of workers who operate in different businesses and sectors who are classified as fixed-term employees (FTEs). FTEs are typically recruited for a predetermined amount of time that is detailed in the employment contract.

The following are some essential traits of India's fixed-term workers:

In India, fixed-term employees come from a variety of educational and occupational backgrounds. They span the educational and skill spectrum, from those with little schooling to highly qualified professionals. Fixed-term employees are frequently employed in entry-level or lower-paying positions and are typically younger than their permanent counterparts. In several sectors, like the hotel and healthcare industries, FTEs also tend to be more female-dominated. Depending on the position and the industry, fixed-term employment in India might last anywhere from a few weeks to a few years. FTEs may be used for unique demand changes, seasonal work, or projects. Fixed-term workers could earn less money and be eligible for fewer benefits than permanent workers. FTEs do, however, have legal rights to perks like leave entitlements, ESI, and provident funds. The impermanent nature of fixed-term work in India is frequently linked to job insecurity. FTEs might not have the same job security or opportunity for professional development as permanent workers. Employers have more flexibility with fixed-term employment when it comes to recruiting and managing their personnel. Employers are able to adapt their workforce to shifting market demands by using FTEs, which are often engaged to satisfy short-term or unique business needs. In conclusion, fixed-term workers in India are a broad collection of individuals with a range of educational and professional backgrounds who frequently hold entry-level or lower-paying jobs. FTEs are frequently hired temporarily to suit certain company needs and may be paid less and offered fewer benefits than permanent workers. Their employment may also be unstable due to its transient nature.

Government initiatives for India's fixed-term employees

The Indian government has launched a number of programmes and initiatives to offer social security and welfare benefits to the nation's fixed-term employees (FTEs). The following are some of the programmes and initiatives.

The Pradhan Mantri Shram PM-SYM Yogi Maan-dhan For employees in the unorganised sector, including FTEs, the Indian government has introduced a pension programme called PM-

SYM. According to the plan, FTEs can make contributions to their pension accounts and, after turning 60, will get a minimum guaranteed income of Rs. 3000 per month.

ESI, or Employee's State Insurance For employees in the organised sector, there is a social security and health insurance programme called ESI. FTEs must work for at least 78 days in a fiscal year to qualify for ESI benefits. The programme offers FTEs health insurance, sick pay, and disability benefits.

The Government of India introduced the Pradhan Mantri Rojgar Protsahan Yojana (PMRPY) as a programme to reward employers for creating jobs. Employers are rewarded under the plan for taking on more workers and giving them social security benefits. FTEs are also qualified for the program's perks.

The National Pension Scheme for Traders and Self-Employed Persons is a pension programme for small business owners and independent contractors, including FTEs. In accordance with the plan, FTEs can make contributions to their pension account and, after turning 60, get a regular pension.

By Atal Beemit Vyakti Kalyan Yojana (ABVKY): For employees in the unorganised sector, including FTEs, ABVKY is an unemployment insurance programme. The programme allows FTEs who lose their jobs as a result of an establishment closing, layoffs, or permanent infirmity to receive a monetary incentive for a maximum of two years. In order to provide social security and welfare benefits to the country's fixed-term workers, the Indian government has established a number of initiatives and projects. Some of these schemes include pension plans, health insurance plans, unemployment insurance plans, and employment creation plans. FTEs are eligible for these benefits based on their payments to the plans and fulfilment of particular eligibility requirements.

Employment Terms and Conditions: Duration, Notice Period, and Renewal

The Industrial Employment (Standing Orders) Act, 1946 and other pertinent labour regulations in India govern the terms and conditions of employment for fixed-term workers. The following are some of the important terms and conditions of employment for fixed-term employees in India:

For fixed-term employees, the duration of their employment is predetermined and outlined in their employment contract. Depending on the type of work and the business, the time frame could be ranging from a few weeks to a few years. In most cases, the employment contract specifies the notice time for terminating a fixed-term job. The notice period for termination of employment must be at least one week if the employee has been employed for less than six months and at least two weeks if the employee has been hired for more than six months, according to the Industrial Employment (Standing Orders) Act of 1946. In India, the employer and the employee may agree to renew a fixed-term work contract. The terms and conditions of work should be included in the renewed contract if the employment is extended. If the employee keeps working after the fixed-term contract expires without a renewal, it can be seen as a de facto permanent position. Upon contract expiration, either side may end a fixed-term employment agreement. The employee should be given a notice period and remuneration in accordance with the employment contract in the event of an early termination. According to the applicable labour regulations, fixed-term employees are entitled to statutory benefits such provident fund, ESI, and leave entitlements. However, they could not be eligible for other benefits, like gratuities and pensions, that are exclusively provided to long-term employees. A fixed-term employee's status as a temporary employee should not be used as a foundation for discrimination. In terms of working conditions, pay, and other perks, they ought to receive the same treatment as regular employees. The duration of work, notice period, renewal of employment, termination of employment, entitlements and benefits, and non-discrimination are all included in the terms and conditions of fixed-term employment in India. Statutory benefits are provided to fixed-term employees, however they might not be eligible for all benefits offered to permanent employees.

Case law:

In **Pramod Kumar Tiwari Vs. Hindustan Fertilizer Corporation Ltd**, the High Court of Madhya Pradesh opined that termination of a of a workman who was appointed for a fixed term (and renewed thereafter) would not be covered by retrenchment, as it fell under the exceptions stated in Section 2(oo)(bb) of the Industrial Disputes Act. However, it is generally accepted that any person who has been working for an employer for more than 7 years, albeit through renewals and by way of fixed term contracts – would be interpreted as a permanent worker, and such practice should be avoided. In a matter, a workman was appointed as a typist and worked for roughly six years, his appointment was on temporary basis and he was given breaks

during the said term, after which his contract was again renewed. The labour court ruled that he ought to be reinstated. While The Allahabad High Court held that the labour court was wrong in logic, but nevertheless modified the order and directed reinstatement of the typist as during the interim period, other typists were appointed – which amounts to discrimination.

Industries that employ fixed-term contracts:

Healthcare: To fill maternity leaves or other temporary staffing needs, hospitals and healthcare institutions may engage nurses, doctors, and other healthcare professionals on fixed-term contracts.

Education: To fill vacations or to temporarily teach a particular course, schools and universities may recruit professors and teachers on fixed-term contracts.

Finance: To work on specific projects or to fill employment shortfalls during peak times, banks and financial institutions may hire consultants on fixed-term contracts.

Technology: Tech firms may employ software engineers or developers on fixed-term contracts to work on particular software development projects or to fill personnel gaps during busy times.

Manufacturing: To meet seasonal demand or to complete special projects, manufacturing companies may recruit production workers on fixed-term contracts. It's vital to remember that fixed-term employment practises and the particular terms and circumstances of these contracts can differ by industry and business. When recruiting fixed-term personnel, businesses must make sure they abide by all applicable rules and regulations.

Changing to Permanent Employment: Opportunities and Challenges

In order to guarantee workers' job security and stability, it is imperative that the question of the conversion of fixed-term employment to permanent employment be resolved. Although employers have more flexibility with fixed-term employment, it exposes workers to job uncertainty and a lack of social safety. Converting to a permanent position might offer financial stability, social security, and access to employee perks like pension plans and health insurance. Conversion to permanent work, however, is fraught with difficulties in India. The opposition from employers who favour the flexibility provided by fixed-term employment is one of the

major obstacles. Conversion to permanent employment may be opposed by employers because it would increase expenses, reduce flexibility, and subject them to liability in the event of termination. The legislative framework's ambiguity surrounding the transition from temporary to permanent employment presents another obstacle. The lack of a clear framework in India's labour regulations for converting fixed-term employment into permanent employment causes misunderstandings and conflicts between companies and employees. Despite these obstacles, there are ways to encourage the conversion of temporary work to permanent work in India. For instance, the government may encourage firms to turn temporary positions into permanent ones by offering tax breaks or other financial incentives. This might persuade firms to turn temporary jobs into permanent ones, giving workers more stability and employment security. Additionally, trade unions and employee organizations may play a significant role in promoting the rights of fixed-term workers and calling for their conversion to permanent employment. Clear conversion policies that safeguard the interests of both businesses and employees may be established through collective bargaining and talks between employer and employee representatives. In order to provide job security, social protection, and access to employee benefits in India, it is critical to resolve the issue of the conversion of fixed-term work to permanent employment. While there are obstacles to conversion, there are also chances to support the transition from temporary to permanent employment. It is significant to highlight that depending on the organisation, industry, and regional labour laws, the precise advantages and benefits of conversion may differ. However, in general, it is thought to be favourable for fixed-term employees to convert from fixed-term to permanent employment because it gives them more job stability, career chances, benefits, rights, and a sense of loyalty to the company.

Conclusion: Improving Fixed-Term Employee Rights and Protections in India

In conclusion, strengthening fixed-term workers' rights and safeguards in India is essential for fostering equality, stability, and inclusion in the labour market. While fixed-term employment gives companies flexibility, it can also provide problems and worries for employees. We can create a more equitable and encouraging workplace for fixed-term employees by addressing these challenges and putting in place the necessary laws and regulations. It is critical to have a clear legal system that spells out fixed-term employees' rights and obligations. This framework should have clauses addressing notice requirements, minimum contract terms, non-discrimination, and benefit access. We can guarantee that fixed-term workers are treated fairly

and feel secure in their jobs by setting these standards. Equal treatment for both permanent and temporary employees is crucial. For fixed-term employees, employers should offer equivalent perks, training opportunities, and professional progression chances. This may aid in closing the gap and presenting equitable possibilities for advancement. Opportunities for converting from fixed-term to permanent employment should be openly advertised and founded on just evaluation standards. The prerequisites for conversion should be made plain to employees, encouraging a sense of justice and consistency in their career advancement. The rights and protections of fixed-term employees can also be improved by giving them access to social security benefits, encouraging employment contract transparency, putting in place grievance redressal procedures, and increasing awareness and education. These actions can be taken to improve the environment for fixed-term workers in India, making it more fair and hospitable. Their general well-being, job satisfaction, and long-term career prospects will all benefit from this. To guarantee that these policies continue to be useful and applicable in the changing workplace, collaboration among policymakers, companies, and employee groups is crucial. The legislative framework, the profile of fixed-term workers, the length and renewal of contracts, difficulties and worries, and the possibility of converting to permanent employment have all been covered in this paper's analysis of the terms and circumstances of fixed-term employment in India. Numerous important conclusions have been drawn from this analysis.