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MENSTRUAL LEAVE AND **WORKPLACE EQUITY**

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Abstract

Globally women are evolving in several work, businesses and other forms of economic activities. Work culture has also been evolved and become gender-neutral. Women and men both work equally on same pay scale. Even though a woman is not as capable, she still works equally as a man without any special treatment. A woman spends 4 to 5 days in pain every month or some working women have to balance their home or work life or still this situation is a part of their life without any complaint. A woman spends 4 to 5 days in pain every month or some working women have to balance their home or work life or still consider this situation as part of their life without any complaint. This situation in general term called "period" or "menstruation".

Keywords - Menstruation, Treatment, Globally, Gender-neutral, Complaint.

Introduction –

Equity is a term which means to provide opportunity and support to those who are little behind from equals. By the process of equity we can achieve equality. Here Workplace equity refers to giving opportunity to the persons based on their ability, skills and intellect rather than on characteristics. Some people argue that it is only a natural process and not a disease or illness. But it is the high time to acknowledge and normalize the period taboo and support women's need where necessary, as far as professional commitments are necessary. By giving menstrual leave, workplaces can become more collaborative and supportive towards female employees and create homely environment for them when they feel free to connect them regarding their problems. The workplace will become more productive when all employees feel healthy and pampered. This

action will help in reducing the stigma linked to menstruation. Through this research we will try to find out whether this provision of menstrual leave will not lead to discrimination in a workplace and what consequences can be derived from this provision. Should a provision in this regard be made or not. In this research we will analyze that how the provisions of menstrual leave will affect the workplace equity and why.

How Menstruation been considered in India:

This situation has been under myths since ancient times. In some ancient civilizations, menstruating women was considered respectful like Goddess because they consider it a divine activity that how can a women bleed every month by their body and not die. Though, some civilizations considered that it can cause other people ill and kill crops and many more myths.

We can say that, in ancient time when people considered menstruation, people knew that women in these days needed rest as they feel low and week that is why they used to say only to rest and denied to go anywhere. But people through time has misinterpreted this and made this a taboo.

In Vedas, there has not been written that menstruation cycle is impure. According to Vedas, there was a Yajna called "Agnihotri Yajna" which instructs both men and women to perform daily without any break. Through this statement we can consider that there was no restriction in sitting in spiritual event during Menstruation.

In ancient Greece, menstruation cycle was considered as celestial event and relates it to moon and lunar cycle or tide.

Need for Menstrual Leave:

In India, there is a lot of working independent women have to balance their both professional and personal life. During Menstrual cycle women have hormonal disbalance and many women suffer from Dysmenorrhea, Premenstrual syndrome, abnormal uterine bleeding, Menorrhagia and so on. Only some blessed women have not to face these disorders and have a pain free period but in context of those blessed ones we cannot neglect the women who suffer a lot.

In 2020, Zomato announced 10 days of "menstrual leave" for female employees saying that period leave should not be stigma or a fact to be shameful on. Being in a trustful relationship of employer

and employee we should have a supporting and collaborative culture at workplace.

This issue was not considered yet because no female raised her voice for it because of the stigma of period, fear of being judged and discriminated, losing out on professional opportunity and habit of suppressing the physical pain and many more reasons. Accordingly, provision for women will make a healthy discussion about menstruation and also ensure sensitization of women at workplace and society. From an optimistic foresight, implementation of such productive and beneficial policies will facilitate employee retention and they will be assured that their concerns will be addressed positively by their employers.

Girls generally taught by her female family members in her teenage that her physical pain need not to discuss with everyone and in this process when a girl feels genuinely discomfort and extreme pain, she suppress it which cause to a disease later. Even Doctors advice that when period pain is extreme, one should consult to a gynac and have medication to prevent uncertain situations. Thus these provisions to comfort female in this matter will create a better society in which females would be more confident in sharing their problems.

Legal Status of These Policies in India

Since independence, no law has been implemented for women in this regard. The laws which implemented got no success. The Menstruation Benefits Bill, 2017 was tabled before Lok Sabha in 2017 by a legislator of Arunachal Pradesh but this bill was not debated in the Parliament. This bill contained four days of paid leave to female employees and employers every month in public and private both sector.

Again in 2020, this bill was presented by the same legislator, named Mr. Ninong Ering in Arunachal state assembly but withdrawn later. Thus, this bill got no attention, neither in Parliament nor in the State assembly of Arunachal Pradesh.

Women's Sexual Reproductive and Menstrual Rights Bill, 2018 was tabled before Parliament by a parliamentarian Shashi Tharoor. This bill consisted provision of criminalizing marital rape, free access of sanitary pads to women and legal termination of pregnancy etc. The bill faced same consequences as before (not passed).

However, in 1912, the state Kerala (called Princely state that time), was may be ahead of its time. Because in 1912, a head-teacher came forward for menstrual leave for girl students and female teacher as they were usually absent during this time. The higher authorities also considered the matter and granted permission to girls to write their annual examination later.

Bihar is the first state to announce menstrual leave of two days to its employees in 1992.

University Administration Student Bar Council introduced the Menstrual Leave Policy, 2023 to grant leave to the employees and students of the department in those days (one day in each month).

In 2023, a public interest litigation (PIL)¹ was filed to seek the direction for states to frame policy regarding menstrual leave and other provision under Maternity Benefits Act, 1961. The PIL was disposed and Supreme Court suggested submitting the same to the Union Ministry of Women and Child Development and Minority Affair.

Challenges in Implementation:

According to the discussion in the following research, several challenges have been introduced, making the laws hard to implement. Recently, in a Parliament debate, when shashi tharoor presented the bill towards Parliament, Smirti Irani being minister of Union Ministry of Women and Child development objected the bill and reacted that “Menstruation is a natural process and part of women’s life and not a handicap”. She also said that this provision might deny women the equal opportunity.

Thus, Women itself are the challenge in implementation of the provision regarding “Menstruation”. Either they consider menstruation their part of natural life or they are habitual of the pain and keep it ignoring like some bad omen. Women also think that this will make them special to others and they will lose equal opportunities.

Providing menstrual leave to female employees will lead to the workload on male employees and it can also result in that employers will start prioritizing male employees over females.

Conclusion

Though there is no legal backing of menstrual leave provision in India but a lot of sector, companies and departments started to promote and normalize this issue by giving paid leave to female workers or students.

We are giving the provision of leave to women but we also have to ensure that there is no unintentional inequality or discrimination. While this principle provides us with a chance to enhance our workplace, it's crucial to acknowledge the challenges it presents. For this we need careful planning, transparent communication and adaptive solutions.

Women benefit bills are helpful to maintain workplace equity for women but with the measures that it should truly benefit women. Confidence to share problem and comfortable and necessary instruments like sanitary pads, chocolates, hot water bag, and green tea are much needed gestures to women in menstruation days.

References:

- Belliappa, Jyothsna Latha. Menstrual Leave Debate: Opportunity to Address Inclusivity in Indian Organizations. *Indian Journal of Industrial Relations*, Vol. 53, No. 4 (April 2018), pp. 604-617
- The Dialogue Box. Article- Tryst with blood : Deciphering the Menstruation Benefits Bill, 2017, Posted on March 24, 2023
- Shailendra Mani Tripathi v. Union of India, WP (C) No. 172 of 2023
- G., Bhagyamma. (2023). THE IMPACT OF MENSTRUAL LEAVE ON WOMEN'S EMPLOYMENT OPPORTUNITIES: A COMPREHENSIVE ANALYSIS.