

UNIT-IV

Q1.PROVISIONS FOR Health, SAFETY AND WELFARE UNDER THE FACTORIES ACT

PROVISIONS FOR HEALTH:

The following are the provisions relating to health provided by the Factories Act, 1948:

Cleanliness (Sec. 11)

(1) Every factory shall be kept clean and free from effluvia arising from any drain, privy or other nuisance, and in particular:

(a) accumulations of dirt and refuse shall be removed daily by sweeping or by any other effective method from the floors and benches of workrooms, and from staircases and passages, and disposed of in a suitable manner;

(b) the floor of every workroom shall be cleaned at least once in every week by washing, using disinfectant, where necessary, or by some other effective method;

(c) where a floor is liable to become wet in the course of any manufacturing process to such extent as is capable of being drained, effective means of drainage shall be provided and maintained;

(d) all inside walls and partitions, all ceilings or tops of rooms and all walls, sides and tops of passages and staircases shall:

(i) where they are painted otherwise than with washable water-paint or varnished, be re-painted or re-varnished at least once in every period of five years;

(ia) where they are painted with washable water paint, be re-painted with at least one coat of such paint at least once in every period of three years and washed at least once in every period of six months;

(ii) where they are painted or varnished or where they have smooth impervious surfaces, be cleaned at least once in every period of fourteen months by such methods as may be prescribed;

(iii) in any other case, be kept white-washed, or colour-washed, and the white-washing or colour-washing shall be carried out at least once in every period of fourteen months;

(dd) all doors and windows frames and other wooden or metallic framework and shutters shall be kept painted or varnished and the painting and varnishing shall be carried out at least once in every period of five

years;

(e) the dates on which the processes required by Clause (d) are carried out shall be entered in the prescribed register.

(2) If, in view of the nature of the operations carried on in a factory or class or description of factories or any part of a factory or class or description of factories, it is not possible for the occupier to comply with all or any of the provisions of sub-section (1), the State Government may by order exempt such factory or class or description of factories or part from any of the provisions of that sub-section and specify alternative methods for keeping the factory in clean state.

According to Section 11 of the Factories Act, 1948, every factory shall be kept clean and free from effluents from any drain. It also provides that floors, walls, doors, windows of every factory shall be kept clean.

Disposal of wastes and effluents (Sec. 12)

(1) Effective arrangements shall be made in every factory for the treatment of wastes and effluents due to the manufacturing process carried on therein, so as to render them innocuous and for their disposal.

(2) The State Government may make rules prescribing the arrangements to be made under sub-section (1) or requiring that the arrangements made in

accordance with sub-section (1) shall be approved by such authority as may be prescribed.

Ventilation and temperature (Sec. 13)

(1) Effective and suitable provision shall be made in every factory for securing and maintaining in every workroom:

(a) adequate ventilation by the circulation of fresh air. and

(b) such a temperature as will secure to workers therein reasonable conditions of comfort and prevent injury to health; and in particular:

(i) walls and roofs shall be of such material and so designed that such temperature shall not be exceeded but kept as low as practicable;

(ii) where the nature of the work carried on in the factory involves, or is likely to involve, the production of excessively high temperatures, such adequate measures as are practicable shall be taken to protect the workers therefrom, by separating the process which produces such temperatures from the workroom, by insulating the hot parts or by other effective means.

(2) The State Government may prescribe a standard of adequate ventilation and reasonable temperature for any factory or class or description of factories or parts thereof and direct that proper measuring instruments, at such places and in such position as may be specified, shall be provided and such records, as may be prescribed, shall be maintained".

(3) If it appears to the Chief Inspector that excessively high temperatures in any factory can be reduced by the adoption of suitable measures, he may, without prejudice to the rules made under sub-section (2), serve on the occupier, an order in writing specifying the measures which, in his opinion, should be adopted, and requiring them to be carried out before a specified date."

Dust and fume (Sec. 14)

(1) In every factory in which, by reason of the manufacturing process carried on, there is given off any dust or fume or other impurity of such a nature and to such an extent as is likely to be injurious or offensive to the workers employed therein, or any dust in substantial quantities, effective measures shall be taken to prevent its inhalation and accumulation in any workroom, and if any exhaust appliance is necessary for this purpose, it shall be applied as near as possible to the point of origin of the dust, fume or other impurity, and such point shall be enclosed so far as possible.

(2) In any factory no stationary internal combustion engine shall be operated unless the exhaust is conducted into the open air, and no other internal combustion engine shall be operated in any room unless effective measures have been taken to prevent such accumulation of fumes therefrom as are likely to be injurious to workers employed in the room.

Artificial humidification (Sec. 15)

(1) In respect of all factories in which the humidity of the air is artificially increased, the State Government may make rules:

- (a) prescribing standards of humidification;
- (b) regulating the methods used for artificially increasing the humidity of the air;
- (c) directing prescribed tests for determining the humidity of the air to be correctly carried out and recorded;
- (d) prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the workrooms.

(2) In any factory in which the humidity of the air is artificially increase the water used for the purpose shall be taken from a public supply, or other source of drinking water, or shall be effectively purified before it is so used

(3) If it appears to an Inspector that the water used in a factory for increasing humidity which is required to be effectively purified under sub-section (2) not effectively purified he may serve on the manager of the factory an order writing specifying the measures which in his opinion should be adopted, requiring them to be carried out before specified date.

Overcrowding (Sec. 16)

(1) No room in any factory shall be overcrowded to an extent injurious ID the health of the workers employed therein.

(2) Without prejudice to the generality of sub-section (1), there shall be in every workroom of a factory in existence on the date of the commencement of this Act atleast 9.9 cubic metres and of a factory built after the commencement of this Act at least 14.2 cubic metres of space for every worker employed therein and for the purposes of this sub-section no account shall be taken of any space which is more than 4.2 metres above the level of the floor of the room.

(3) If the Chief Inspector by order in writing so requires, there shall be posted in each workroom of a factory, a notice specifying the maximum number of workers who may, in compliance with the provisions of this section, be employed in the room.

(4) The Chief Inspector may, by order in writing exempt, subject to such conditions, if any, as he may think fit to impose, any work-room from the provisions of this section, if he is satisfied that compliance therewith in respect of the room is unnecessary in the interest of the health of the workers employed therein.

(3) Lighting (Sec. 17)

(1) In every part of a factory where workers are working or passing there shall be provided and maintained sufficient and suitable lighting, natural or artificial or both.

(2) In every factory all glazed windows and skylights used for the lighting of the workrooms shall be kept clean or both the inner and outer

surfaces and, so far as compliance with the provisions of any rules made under sub-section (3) of Section 13 will allow, free from obstruction.

(3) In every factory effective provision shall, so far as is practicable, be made for the prevention of:

(a) glare, either directly from a source of light or by reflection from a smooth or polished surface;

(b) the formation of shadows to such an extent as to cause eye-strain or the risk of accident to any worker.

(4) The State Government may prescribe standards of sufficient and suitable lighting factories or for any class or description of factories or for any manufacturing process.

(4) Drinking water (Sec. 18)

(1) In every factory effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all workers employed therein a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked 'drinking water' in a language understood by a majority of the workers employed in the factory, and no such point shall be situated within six metres of any washing place, urinal, latrine, spittoon, open drain carrying sullage or effluent or any other source of contamination unless a shorter distance is approved in writing by the Chief Inspector.

(3) In every factory wherein more than two hundred and fifty workers are ordinarily employed provision shall be made for cooling of drinking water during hot weather by effective means and for distribution thereof.

(4) In respect of all factories or any class or description of factories the State government may make rules for securing compliance with the provisions of sections (1), (2) and (3) and for the examination by prescribed authorities of supply and distribution of drinking water in factories.

Latrines and urinals (Sec. 19)

(1) In every factory:

(a) sufficient latrine and urinal accommodation of prescribed types shall be provided conveniently situated and accessible to workers at all times while they are at the factory;

(b) separate enclosed accommodation shall be provided for male and female workers;

(c) such accommodation shall be adequately lighted and ventilated, and no latrine or urinal shall, unless specially exempted in writing by the Chief Inspector, communicate with any workroom except through an intervening open space or ventilated passage;

(d) all such accommodation shall be maintained in a clean and sanitary condition at all times;

(e) sweepers shall be employed whose primary duty it would be to keep clean latrines, urinals and washing places.

(2) In every factory wherein more than two hundred and fifty workers are ordinarily employed:

(a) all latrine and urinal accommodation shall be of prescribed sanitary types;

(b) the floors and internal walls, upto a height of ninety centimeters of the latrines and urinals and the sanitary blocks shall be laid in glazed tiles or otherwise finished to provide a smooth polished impervious surface:

(c) without prejudice to the provisions of Clauses (d) and (e) of subsection (1), the floors, portions of the walls and blocks so laid or finished and the sanitary pans of latrines and urinals shall be thoroughly washed and cleaned at least once in every seven days with suitable detergents or disinfectants or with both.

(3) The State Government may prescribe the number of latrines and urinals to be provided in any factory in proportion to the numbers of male and female workers ordinarily employed therein, and provide for such further matters in respect of sanitation in factories, including the obligation of workers in this regard, as it considers necessary in the interest of the health of the workers employed therein.

Spittoons (Sec. 20)

(1) In every factory there shall be provided a sufficient number of spittoons in convenient places and they shall be maintained in a clean and hygienic condition.

(2) The State Government may make rules prescribing the type and the number of spittoons to be provided and their location in any factory and provided for such further matters relating to their maintenance in a clean and hygienic condition.

(3) No person shall spit within the premises of a factory except in the spittoons provided for the purpose and a notice containing this provision and the penalty for its violation shall be prominently displayed at suitable places in the premises.

(4) Whoever spits in contravention of sub-section (3) shall be punishable with fine not exceeding five rupees.

PROVISIONS FOR SAFETY

SAFETY

The safety of the provisions relating to the safety of workers under Factories Act, 1948:

1) Fencing of machinery {Sec. 21)

(1) In every factory the following, namely:

(i) every moving part of a prime mover and every flywheel conned to a prime mover, whether the prime mover or flywheel is in the engine house or not;

(ii) the headrace and tailrace of every water wheel and water turbine

(iii) any part of a stock-bar which projects beyond the head stock lathe; and

(iv) unless they are in such position or of such construction as to be to every person employed in the factory as they would be if were securely fenced, the following, namely:

(a) every part of an electric generator, a motor, or rotary convertor

(b) every part of transmission machinery; and

(c) every dangerous part of any other machinery;

shall be securely fenced by safeguards of substantial construction shall be constantly maintained and kept in position while the parts of machinery they are fencing are in motion or in use;

Provided that for the purpose of determining whether any part of machine is in such position or is of such construction as to be safe as aforesaid, account shall not be taken of any occasion when:

(i) it is necessary to make an examination, of any part of the machinery aforesaid while it is in motion or, as a result of such examination, to carry out

lubrication or other adjusting operation while the machinery, is in motion, being an examination or operation which it is necessary to be carried out while that part of the machinery is in motion; or

(ii) in the case of any part of a transmission machinery used in such process as may be prescribed (being a process of a continuous nature the carrying on of which shall be, or is likely to be, substantially interfered with by the stoppage of that part of the machinery necessary to make an examination of such part of the machinery while it is in motion or, as a result of such examination, to any mounting or shipping of belts or lubrication or other operation while the machinery is in motion, and such examination is made or carried out in accordance with the provisions of sub-section (1) of Section 22.

(2) The State Government may by rules prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof, or exempt, subject to such condition as may be prescribed, for securing the safety of the workers, any particular machinery or part thereof from provisions of this section.

Observance of the safety measures under Section 21 of the Act cannot depend on the occurring of any particular accident but it depends on whether such safety measures are indispensable regard being had to the nature of machine as also the foreseeable possibility of the workmen in the factory coming into contact therewith in the course of their duties deliberately or accidentally.

Section 21 of the Act does not contemplate a provision being made for the safety of an employee who is assigned the work of repairing machinery or of shifting machinery or installing new machinery.

The duty to fence such machinery as contemplated by Section 21 of the Act is absolute. It is the absolute liability of the employer to securely fence by safety guards every dangerous part of any machinery and the practicability of providing a safety guard should not be taken into consideration.

A machinery or part thereof is dangerous if in the ordinary course of its working danger may reasonably be anticipated from it when working without protection, taking into account the various factors incidental to its working, including the carelessness of the workman.

2) Prohibition of Work on or near machinery in motion (Sec. 22)

(1) Where in any factory it becomes necessary to examine any part of machinery referred to in Section 21, while the machinery is in motion, or, as a result of such examination, to carry out:

(a) in a case referred to in Clause (1) of the proviso to sub-section (1) of Section 21, lubrication or other adjusting operation; or

(b) in a case referred to in Clause (ii) of the proviso aforesaid, any mounting or shipping of belts or lubrication or other adjusting operation, while the machinery is in motion, such examination or operation shall be made or carried

out only by a specially trained adult male worker wearing tight-fitting clothing (which shall be supplied by the occupier) whose name has been recorded in the register prescribed in this behalf and who has been furnished with a certificate of his appointment, and while he is so engaged:

(a) such worker shall not handle a belt at a moving pulley unless:

(i) the belt is not more than fifteen centimeters in width;

(ii) the pulley is normally for the purpose of drive and not merely a fly-wheel or balance wheel (in which case a belt is not permissible);

(iii) the belt joint is either laced or flush with the belt;

(iv) the belt, including the joint and the pulley rim, are in good repair;

(v) there is reasonable clearance between the pulley and any fixed plant or structure;

(vi) secure foothold and, where necessary, secure handhold, are provided for the operator; and

(vii) any ladder in use for carrying out any examination or operation aforesaid is securely fixed or lashed or is firmly held by a second person;

(b) without prejudice to any other provision of this Act relating to the fencing of machinery, every set screw, bolt and key on any revolving shaft, spindle wheel or pinion, and all spur, worm and other toothed or friction gearing in motion

with which such worker would otherwise be liable to come into contact, shall be securely fenced to prevent such contact.

(2) No woman or young person shall be allowed to clean, lubricate or adjust any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, or to clean, lubricate or adjust any part of any machine if the cleaning, lubrication or adjustment thereof would expose the woman or young person to risk of injury from any moving part either of that machine or of any adjacent machinery:

(3) The State Government may, by notification in the Official Gazette, prohibit, in any specified factory or class or description of factories, cleaning, lubricating or adjusting by any person of specified parts of machinery when those parts are in motion.

3) Prohibition of employment of young persons on dangerous machines (Sec. 23)

As per Section 2(d) of the Factories Act, 1948, a 'young person' means a person who is either a child or an adolescent. According to Section 2(c) of the Act, 'child' means a person who has not completed his fifteenth year of age. According to Section 2(b) of the Act, 'adolescent' means a person who has completed his fifteenth year of age but has not completed his eighteenth year.

S. 23. (1) No young person shall be required or allowed to work at any machine to which this section applies, unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and:

(a) has received sufficient training in work at the machine; or

(b) is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

(2) Sub-section (1) shall apply to such machines as may be prescribed by the State Government, being machines which in its opinion are of such a dangerous character that young person's ought not to work at them unless the foregoing requirements are complied with.

4) Provision for striking gear and devices for cutting of powers (Sec. 24)

(1) In every factory:

(a) suitable striking gear or other efficient mechanical appliance shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery, and such gear or appliances shall be constructed, placed and maintained as to prevent the belt from creeping back on to the fast pulley;

(b) driving belts when not in use shall not be allowed to rest or ride upon shafting in motion.

(2) In every factory suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every workroom;

Provided that in respect of factories in operation before the commencement of this Act, the provisions of this sub-section shall apply only to workrooms in which electricity is used as power.

(3) When a device, which can inadvertently shift from "off to 'on' position, is provided in a factory to cut off power, arrangements shall be provided for locking the device in safe position to prevent accidental starting of the transmission machinery or other machines to which the device is fitted.

5) Self-acting machines (Sec. 25)

No traversing part of a self-acting machine in any factory and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass, whether in the course of his employment or otherwise, be allowed to run on its outward or inward traverse within a distance of 'forty five centimeters' from any fixed structure which is not part of the machine;

Provided that the Chief Inspector may permit the continued use for a machine installed before the commencement of this Act, which does not comply with the requirements of this section on such conditions for ensuring safety as he may think fit to impose.

6) Casing of new machinery (Sec. 26)

(1) In all machinery driven by power and installed in any factory after the commencement of this Act.

(a) every set screw, bolt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk encased or otherwise effectively guarded as to prevent danger;

(b) all spur, worm and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased unless it is so situated as to be as safe as it would be if it were

completely encased.

(2) Whoever sells or lets on hire or as agent of a seller on hire, causes or procures to be sold or let on hire, for use in a factory and machinery driven by power which does not comply with the provisions of sub-section (1) or any rules made under sub-section (3) shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

(3) The State Government may make rules specifying further safeguards to be provided in respect of any other dangerous part of any particular machine or class or description of machines.

7) Prohibition of employment of women and children near cotton openers (Sec. 27)

No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work;

Provided that if at the feed-end a cotton-opener is in a room separated from the delivery end by a partition extending to the roof or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the said of the partition where the feed-end is situated.

8) Proper maintenance of hoist and lifts (Sec. 28)

(1) In every factory:

(a) every hoist and lift shall be:

(i) of good mechanical construction, sound material and adequate strength;

(ii) properly maintained, and shall be thoroughly examined by a competent persons at least once in every period of six months, and a register shall be kept containing the prescribed particulars of every such examination;

(b) every hoist way and lift way shall be sufficiently protected by an enclosure fitted with gates, and the hoist or life and every such enclosure shall be so constructed as to prevent any person or thing from being trapped between any part of the hoist or lift and any fixed structure or moving part;

(c) the maximum safe working load shall be plainly marked on every hoist or lift, and no load greater than such load shall be carried thereon;(d) the cage of every hoist or lift used for carrying persons shall be fitted with a gate on each side from which access is afforded to a landing;

(e) every gate referred to in clause (b) or clause (d) shall be fitted with interlocking or other efficient device to secure that the gate cannot be opened except when the cage is at the landing and that the cage cannot be moved unless the gate is closed.

(2) The following additional requirements shall apply to hoists and lifts used for carrying persons and installed or reconstructed in a factory after the commencement of this Act, namely;

(a) where the cage is supported by rope or chain, there shall be at least two ropes or chains separately connected with the cage and balance weight, and each rope or chain with its attachments shall be capable of carrying the whole weight of the cage together with its maximum load;

(b) efficient devices shall be provided and maintained capable of supporting the cage together with its maximum load in the event of breakage of the ropes or chains attachments;

(c) an efficient automatic device shall be provided and maintained to prevent the cage from overrunning.

(3) The Chief Inspector may permit the continued use of a hoist or lift installed in a factory before the commencement of this Act which does not fully comply with the provisions of sub-section (1) upon such conditions for ensuring safety as he may think fit to impose.

(4) The State Government may; if in respect of any class or description of hoist or lift, it is of opinion that it would be unreasonable to enforce any requirement of sub-sections (1) and (2) by order direct that such requirements shall not apply to such class or description of hoist or lift.

Explanation: For the purposes of this section, no lifting machine or appliance shall be deemed to be a hoist or lift unless it has a platform or cage, the direction or movement of which is restricted by a guide or guides.

9) Proper maintenance of lifting machines, chains, ropes and lifting tackles
(Sec. 29)

(1) In any factory the following provisions shall be complied with in respect of every lifting machine (other than a hoist and lift) and every chain, rope and lifting tackle for the purpose of raising or lowering persons, goods or materials:

(a) all parts, including the working gear, whether fixed or movable, of

every lifting machine and every chain, rope or lifting tackle shall be:

(i) of good construction, sound material and adequate strength and free from defects,

(ii) properly maintained; and

(iii) thoroughly examined by a competent person at least once in every period of twelve months, or at such intervals as the Chief Inspector may specify in writing, and a register shall be kept containing the prescribed particulars of every examination;

(b) no lifting machine and no chain, rope, or lifting tackle shall, except for the purpose of test, be loaded beyond the safe working load which shall be plainly marked thereon together with an identification mark and duly entered in the prescribed register; and where this is not practicable, a table showing the safe working load of every kind and size of lifting machine or chain, rope or lifting tackle in use shall be displayed in prominent positions on the premises;

(c) while any person is employed or working on or near the wheel track of a travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken to ensure the crane does not approach within six metres of that place.

(2) The Stage Government may make rules in respect of any lifting machine or any chain, rope or lifting tackle used in factories:

(a) prescribed further requirements to be complied with in addition to those set out in this section;

(b) providing for exemption from compliance with all or any of the requirements of this section, where in its opinion, such compliance is unnecessary or impracticable.

(3) For the purposes of this section a lifting machine or chain, rope or lifting tackle shall be deemed to have been thoroughly examined if a visual examination supplemented, if necessary, by other means and by the dismantling of parts of the gear, has been carried out as carefully as the conditions permit in order to arrive at a reliable conclusion as to the safety of the parts examined,

Explanation: In this section:

(a) 'lifting machine' means a crane, crab, winch toggle, pulley block, gin wheel, transporter or runway;

(b) 'Lifting tackle' means any chain sling, rope sling, hook, shackle, swivel, coupling, socket, clamp, tray or similar appliance, whether fixed or movable, used in connection with the raising or lowering of persons, or loads by use of lifting machines'.

10) Safe working peripheral speed for revolving machinery (Sec. 30)

In every factory in which the process of grindings is carried on, there shall be permanently affixed to or placed near each machine in use a notice indicating to be maximum safe working peripheral speed of every grindstone or abrasive wheel, the speed of the shaft or spindle upon which the wheel, is mounted, and

the diameter of the pulley upon such shaft or spindle necessary to secure such safe working peripheral speed.

(2) The speeds indicating in notices under sub-section (1) shall not be exceeded.

(3) Effective measures shall be taken in every factory to ensure that the safe working peripheral speed of every revolving vessel, cage, basket, flywheel, pulley, disc or similar appliance driven by power is not exceeded.

11) Safe working pressure of pressure plant (Sec. 31)

(1) If in any factory, any plant or machinery or any part thereof is operated at a pressure above atmospheric pressure; effective measures shall be taken to ensure that the safe working pressure of such plant or machinery or part is not exceeded.

(2) The State Government may make rules providing for the examination and testing of any plant or machinery such as is referred to in sub-section (1) and prescribe such other safety measures in relation thereto as may in its opinion be necessary in any factor)* or class or description of factories.

(3) The State Government may by rules, exempt, subject to such conditions as may be specified therein, any part of any plant or machinery referred to in sub-section (1) from the provisions of the section.

12) Proper maintenance of floors, stairs and means of access (Sec. 32)

In every factory:

(a) all floors, steps, stairs, passages, and gangways shall be of sound construction and properly maintained, and shall be kept free from obstructions and substances likely to cause persons to slip and where it is necessary to ensure safety, steps, stairs, passages and gangways shall be provided with substantial handrails;

(b) there shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person is at any time required to work;

(c) when any person has to work at a height from where he is likely to fall, provision shall be made, so far as is reasonably practicable, by fencing or otherwise, to ensure the safety of the person so working.

13) Covering of pits, sumps, openings, in floors etc. (Sec. 33)

(1) In every factory every fixed vessel, sump, tank, pit or opening in the ground or in a floor which, by reason of its depth, situation, construction or contents, is or may be a source of danger, shall be either securely covered or securely fenced.

(2) The State Government may, by order in writing, exempt, subject to such conditions as may be prescribed, any factory or class or description of factories

in respect of any vessel, sump, tank, pit or opening from compliance with the provisions of this section.

14) Prohibition of carrying of excessive weights (Sec. 34)

(1) No person shall be employed in any factory to lift, carry on move any load so heavy as to be likely to cause him injury.

(2) The State Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents and children employed in factories or in any class or description of factories in carrying on any specified process.

15) Protection of eyes (Sec. 35)

In respect of any such manufacturing process carried on in any factory as may be prescribed being a process which involves:

(a) risk of injury to the eyes from particles or fragments thrown off in the course of the process, or

(b) risk to the eyes by reason of exposure to excessive light, the State Government may by rules require that effective screens or suitable goggles shall be provided for the protection of persons employed on. or in the immediate vicinity of, the process.

16) Precautions against dangerous fumes, gases, etc. (Sec. 36)

(1) No person shall be required or allowed to enter any chamber, tank, vat, pit, pipe, flue or other confined space in any factory in which any gas, fume, vapour or dust is likely to be present to such an extent as to involve risk to persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress.

(2) No person shall be required or allowed to enter any confined space as is referred to in sub-section (1), until all practicable measures have been taken to remove any gas, fume, vapour or dust, which may be present so as to bring its level within the permissible limits and to prevent any ingress of such gas, fume, vapour or dust and unless:

(a) a certificate in writing has been given by a competent person, based on a test carried out by himself that the space is reasonably free from dangerous gas, fume, vapour or dust, or

(b) such person is wearing suitable breathing apparatus and a belt securely attached to a rope the free end of which is held by a person outside the confined space.

17) Precautions regarding the use of portable electric light (Sec. 36-A)

In any factory:

(a) no portable electric light or any other electric appliance of voltage exceeding twenty four volts shall be permitted for use inside any Chamber, tank, vat, pipe,

flue or other confined space unless adequate safety devices are provide; and(b) if any inflammable gas, fume, or dust is likely to be present in such chamber, tank, vat, pit, pipe, flue or other confined space, no lamp or light other than that of flame proof construction shall be permitted to be used therein.

18) Prevention of accumulation of explosive or inflammable dust, gas, etc. (Sec. 37)

(1) Where in any factory any manufacturing process produces dust, gas, fume or vapour of such character and to such extent as to be likely to explode on ignition, all practicable measures shall be taken to prevent any such explosion by:

- (a) effective enclosure of the plant or machinery used in the process;
- (b) removal or prevention of the accumulation of such dust, gas, fume or vapour;
- (c) exclusion or effective enclosure of all possible sources of ignition.

(2) Where in any factory the plant or machinery used in a process such as is referred to in sub-section (1) is not so constructed as to withstand the probable pressure which such an explosion aforesaid would produce, all practicable measures shall be taken to restrict the spread and effects of the explosion by the provision in the plant or machinery of chokes, baffles, vents or other effective appliances.

(3) Where any part of the plant or machinery in a factory contains any explosive or inflammable gas or vapour under pressure greater than atmospheric pressure, that part shall not be opened except in accordance with the following provisions, namely:

(a) before the fastening of any joint of any pipe connected with the part or the fastening of the cover of any opening into the part is loosened, any flow of the gas or vapour into the part or any such pipe shall be effectively stopped by stop-valve or other means;

(b) before any such fastening as aforesaid is removed, all practicable measures shall be taken to reduce the pressure of the gas or vapour in the part or pipe to atmospheric pressure:

(c) where any such fastening as aforesaid has been loosened or removed effective measures shall be taken to prevent any explosive or inflammable gas or vapour from entering the part or pipe until the fastening has been secured, or, as the case may be, securely replaced;

Provided that the provisions of this sub-section shall not apply in the case of plant or machinery installed in the open air.

(4) No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall be subjected in any factory to any welding, brazing, soldering or cutting operation which involves the application of heat

unless adequate measures have first been taken to remove such substance and any fumes arising there from or to render such substance and fumes non-explosive or non-inflammable, and no such substance shall be allowed to enter such plant tank or vessel after any such operation until the metal has cooled sufficiently to prevent any risk of igniting the substance.

(5) The State Government may by rules exempt subject to such conditions as may be prescribed, any factory or class or description of factories from compliance with all or any of the provisions of this section.

19) Precautions in case of fire (Sec. 38)

(1) In every factory, all practicable measures shall be taken to prevent outbreak of fire and its spread, both internally and externally, and to provide and maintain.

(a) safe means of escape for all persons in the event of a fire, and

(b) the necessary equipment and facilities for extinguishing fire.

(2) Effective measures shall be taken to ensure that in every factory all the workers are familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such cases.

(3) The State Government may make rules, in respect of any factory or class or description of factories, requiring the measures to be adopted to give effect to the provisions of sub-section (1) and (2).

(4) Notwithstanding anything contained in clause (a) of sub-section (1) or sub-section (2), if the Chief Inspector, having regard to the nature of the work carried on in any factory, the construction of such factory, special risk to life or safety, or any other circumstances, is of the opinion that the measures provided in the factory, whether as prescribed or not, for the purposes of Clause (a) of sub-section (1) or sub-section (2), are inadequate, he may, by order in writing, require that such additional measures as he may consider reasonable and necessary, be provided in the factory before such date as is specified in this order.

20) Inspector to require specifications of defective parts or tests of stability (Sec. 39)

If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it may be dangerous to human life or safety, he may, serve on the occupier or manager or both of the factory an order in writing requiring him before a specified date:

(a) to furnish such drawings specifications, and other particulars as may be necessary to determine whether such buildings, ways, machinery or plant can be used with safety, or (b) to carry out such tests in such manner as may be specified in the order, and to inform the inspector of the results thereof.

21) Safety of building of the factory and of machinery in the factory (Sec. 40)

(1) If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it is dangerous to human life or safety, he may serve on the occupier or manager or both of the factory an order in writing specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(2) If it appears to the Inspector that the use of any building or part of a building or any part of the ways, machinery or plant in a factory involves imminent danger to human life or safety, he may serve on the occupier or manager or both of the factory an order in writing prohibiting its use until it has been properly repaired or altered.

22) Proper maintenance of building of factory (Sec. 40A)

If it appears to the Inspector that any building or part of a building in a factory is in such a state of disrepair as is likely to lead to conditions detrimental to the health and welfare of the workers, he may serve on the occupier or manager or both of the factory an order in writing specifying the measures which in his opinion should be taken and requiring the same to be carried out before such date as is specified in the order.

23) Safety officers (Sec. 40-B)

(1) In every factory:

- (1) wherein one thousand or more workers are ordinarily employed, or
- (ii) wherein, in the opinion of the State Government, any manufacturing process or operation is carried on, which process or operation involves any risk of bodily injury poisoning or disease, or any other hazard to health, to the persons employed in the factory.

the occupier shall, if so required by the State Government, by notification in the Official Gazette, employ such number of Safety Officers, as may be specified in that notification.

- (2) The duties, qualifications and conditions of service of Safety Officers shall be such as may be prescribed by the State Government.

24) Power to make rules to supplement this Chapter IV (i.e. Safety) (Sec. 41)

The State Government may make rules requiring the provisions in any factory or in any class or description of factories of such further devices and measures for securing the safety of persons employed therein as it may deem necessary.

PROVISIONS FOR WELFARE

Welfare

The following are the provisions relating to labour welfare under the Factories Act, 1948.

1) Washing facilities (Sec. 42)

(1) In every factory:

(a) adequate and suitable facilities for washing shall be provided and maintained for the use of the workers therein;

(b) separate and adequately screened facilities shall be provided for the use of male and female workers;

(c) such facilities shall be conveniently accessible and shall be kept clean.

(2) The State Government may, in respect of any factory or class or description of factories or any manufacturing process, prescribe standards of adequate and suitable facilities for washing.

2) Facilities for storing and drying clothing (Sec. 43)

The State Government may, in respect of any factory or class or description of factories, make rules requiring the provision therein of suitable places for keeping clothing not worn during working hours and for the drying of wet clothing.

3) Facilities of setting (Sec. 44)

(1) In every factory suitable arrangements for sitting shall be provided and maintained for all workers obliged to work in a standing position, in order that

they may take advantage of any opportunities for rest which may occur in the course of their work.

(2) If in the opinion of the Chief Inspector, the workers in any factory engaged in a particular manufacturing process or working in a particular room are able to do their work efficiently in a sitting position, he may, by order in writing, require the occupier of the factory to provide before a specified date such seating arrangements as may be practicable for all workers so engaged or working.

(3) The State Government may, by notification in the Office Gazette, declare that the provisions of sub-section (1) shall not apply to any specified factory or class or description of factories or to any specified manufacturing process.

4) First-aid appliances (Sec. 45)

(1) There shall in every factory be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards, equipped with the prescribed contents, and the number of such boxes or cupboards to be provided and maintained shall not be less than one for every one hundred and fifty workers ordinarily employed at any one time in the factory.

(2) Nothing except the prescribed contents shall be kept in a first-aid box, or cupboard.

(3) Each first-aid box or cupboard shall be kept in the charge of a separate responsible person who holds a certificate in first-aid treatment recognised by the State Government and who shall always be readily available during the working hours of the factor.

(4) In every factory wherein more than five hundred workers are ordinarily employed there shall be provided and maintained an ambulance room of the prescribed size, containing the prescribed equipment and in the charge of such medical and nursing staff as may be prescribed and those facilities shall always be made readily available during the working hours of the factory.

5) Canteens (Sec. 46)

(1) The State Government may make rule requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed a canteen or canteens shall be provided and maintained by the occupier for the use of the workers.

(2) Without prejudice to the generality of the foregoing, power, such rules may provide for:

(a) the date by which such canteen shall be provided;

(b) the standards in respect of construction accommodation, furniture and other equipment of the canteen;

(c) the foodstuffs to be served therein and the charges which may be made therefor;

(d) the constitution of a managing committee for the canteen and representation of the workers in the management of the canteen;

(dd) the items of expenditure in the running of the canteen which are not to be taken into account in fixing the cost of foodstuffs and which shall be borne by the employer.

(e) the delegation to the Chief Inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (c).

6) Shelters, rest rooms and lunch rooms (Sec. 47)

(1) In every factor wherein more than one hundred and fifty workers are ordinarily employed, adequate and suitable shelters or rest rooms and a suitable lunch room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers:

Provided that any canteen maintained in accordance with the provisions of Sec. 46 shall be regarded as part of the requirements of this sub-section.

Provided further that where a lunch room exists no worker shall eat any food in the work room.

(2) The shelter or rest rooms or lunch rooms to be provided under subsection (1) shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.

(3) The State Government may:

(a) prescribe the standards in respect of construction, accommodation, furniture and other equipment of shelters, rest rooms and lunch rooms to be provided under this section;

(b) by notification in the Official Gazette, exempt any factory or class or description of factories from the requirements of this section.

7) Creches (Sec. 48)

(1) In every factory wherein more than thirty women workers are ordinarily employed there shall be provided and maintained a suitable room or rooms for the use of children, under the age of six years, of such women.

(2) Such rooms shall provide adequate accommodation, shall be adequately lighted and ventilated, shall be maintained in a clean and sanitary condition and shall be under the charge of women trained in the care of children and infants.

(3) The State Government may make rules:

(a) prescribing the location and the standards in respect of construction, accommodation, furniture and other equipment of rooms to be provided, under this section;

(b) requiring the provision in factories to which this section applies of additional facilities for the care of children belonging to women workers, including suitable provision of facilities for washing and changing their clothing;

(c) requiring the provision in any factory of free milk or refreshment or both for such children;

(d) requiring that facilities shall be given in the factory for the mother or such children to feed them at the necessary intervals.

8) Welfare Officers (Sec. 49)

(1) In every factory wherein five hundred or more workers are ordinarily employed, the occupier shall employ in the factory such number of welfare officers, as may be prescribed.

(2) The State Government may prescribe the duties, qualifications and conditions of service of officers employed under sub-section (1).

9) State Government to make rules to supplement Chapter V of this Act which deals with the welfare of the Workers (Sec. 50)

The State Government may make rules.

(a) exempting, subject to compliance with such alternative arrangements for the welfare of workers as may be prescribed, any factory or

Q2.PROVISIONS FOR WORKING HOURS OF ADULTS

working hours

The following are the provisions of the Factories Act, 1948 relating to working hours of adults in a factory:

1) Weekly hours (Sec. 51)

No adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week.

2) Weekly holidays (Sec. 52)

(1) No adult worker shall be required or allowed to work in a factory on the first day of the week (hereinafter referred to as the said day), unless:

(a) he has or will have a holiday for a whole day on one of the three days immediately before or after the said day; and

(b) the manager of the factory has, before the said day or the substituted day under Clause (a), whichever is earlier:

(i) delivered a notice at the office of the Inspector of his intention to require the worker to work on the said day and of the day which is to be substituted; and

(ii) displayed a notice to that effect in the factory;

Provided that no substitution shall be made which will result in any worker working for more than ten days consequently without a holiday for a whole day.

(2) Notices given under sub-section (1) may be cancelled by a notice delivered at the office of the Inspector and a notice displayed in the factory not later than the day before the said day or the holiday to be cancelled, whichever is earlier.

(3) Where, in accordance with the provisions of sub-section (1), any worker works on the said day and has had a holiday on one of three days immediately before it, that said day shall for the purpose of the calculating his weekly hours of work, be included in the preceding week.

3) Compensatory holidays (Sec. 53)

(1) Where, as a result of the passing of an order or the making of a rule under, the provisions of this Act exempting a factory or the workers therein from the provisions of Section 52, a worker is deprived of any of the weekly holidays for which provision is made in sub-section (1) of that section, he shall be allowed, within the month in which the holidays were due to him or within the two months immediately following that month, compensatory holidays of equal number to the holidays so lost.

(2) The State Government may prescribe the manner in which the holidays for which provision is made in sub-section (1) shall be allowed.

4) Daily hours (Sec. 54)

Subject to the provisions of Section 51, no adult worker shall be required or allowed to work in a factory for more than nine hours in any day:

Provided that, subject to the previous approval of Chief Inspector, the daily maximum specified in this section may be exceeded in order to facilitate the change of shifts.

5) Intervals for rest (Sec. 55)

(1) The periods of work of adult workers in a factory each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour.

(2) The State Government or, subject to the control of the State Government, the Chief Inspector, may, by written order and for the reasons specified therein, exempt any factory from the provisions of sub-section (1) so however that the total number of hours worked by a worker without an interval does not exceed six.

6) Spread over (Sec. 56)

The periods of work of an adult worker in a factory shall be so arranged that inclusive of his intervals for rest under Section 55, they shall not spread over more than ten and a half hours in any day:

Provided that the Chief Inspector may, for reasons to be specified in writing, increase the spread over upto twelve hours.

7) Night shifts (Sec. 57)

Where a worker in a factory works on a shift which extends beyond midnight:

(a) for the purposes of Sections 52 and 58, a holiday for a whole day shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends;

(b) the following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day.

8) Prohibition of overlapping shifts (Sec. 58)

(1) Work shall not be carried on in any factory by means of a system of shift so arranged that more than one relay of workers is engaged in work of the same kind at the same time.

(2) The State Government or subject to the control of State Government, the Chief Inspector, may, by written order and for the reasons specified therein, exempt on such conditions as may be deemed expedient, any factory or class or description of factories or any department or section of a factory or any category or description of workers therein from the provisions of sub-sec. (1).

9) Extra wages for overtime (Sec. 59)

(1) Where a worker works in a factory for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages.

(2) For the purposes of sub-section (1), "ordinary rate of wages" means the basic wages plus such allowances including the cash equivalent of the advantage accruing through the concessional sale to workers of food grains and other articles, as the worker is for the time being entitled to, but does not include a bonus and wages for overtime work.

(3) Where any worker is in a factory paid on a piece-rate basis, the time rate shall be deemed to be equivalent to the daily average of their full time earnings for the day on which they actually worked on the same or identical job during the month immediately preceding the calendar month during which the overtime work was done, and such time rates shall be deemed to be the ordinary rates of wages of those workers.

Provided that in the case of a worker who has not worked in the immediately preceding calendar month on the same or identical job, the time rate shall be deemed to be equivalent to the daily average of the earning of the worker for the days on which he actually worked in the week in which the overtime work was done.

Explanation: For the purposes of this sub-section in computing the earnings for the days on which the worker actually worked such allowances, including the

cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, shall be included but any bonus or wages for overtime work payable in relation to the period with reference to which the earnings are being computed shall be excluded.

(4) The cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed as often as may be prescribed on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family.

Explanation 1: 'Standard family' means a family consisting of the worker, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

Explanation 2: 'Adult consumption unit' means the consumption unit of a male above the age of fourteen years, and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rates of 0.8 and 0.6 respectively of one adult consumption unit.

(5) The State Government may make rules prescribing:

(a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed; and

(b) the registers that shall be maintained in a factory for the purpose of securing compliance with the provision of this section.

10) Restriction on double employment (Sec. 60)

No adult worker shall be required or allowed to work in any factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed.

11) Notice of periods of work for adults (Sec. 61)

(1) There shall be displayed and correctly maintained in every factory in accordance with the provisions of sub-section (2) of Section 108, a notice of periods of work for adults, showing clearly for every day the periods during which adult workers may be required to work.

(2) The periods shown in the notice required by sub-section (1) shall be fixed before hand in accordance with the following provisions of this section and shall be such that workers working for those periods would not be working in contravention of any of the provisions of Section 51, 52, 54, 55, 56 and 58.

(3) Where all the adult workers in a factory are required to work during the same periods, the manager of the factory shall fix those periods for such workers generally.

(4) Where all the adult workers in a factory are not required to work during the same periods, the manager of the factory shall classify them into groups

according to the nature of their work indicating the number of workers in each group.

(5) For each group which is not required to work on a system of shifts, the manager of the factory shall fix the periods during which the group may be required to work.

(6) Where any group is required to work on a system of shifts and the relays are not to be subject to predetermined periodical changes of shifts, the manager of the factory shall fix the periods during which relay of the group may be required to work.

(7) Where any group is to work on a system of shifts and the relays are to be subject to predetermined periodical changes of shifts, the manager of the factory shall draw up a scheme of shifts, where under the periods during which any relay of the group may be required to work and the relay which will be working at any time of the day shall be known for any day.

(8) The State Government may prescribe forms of the notice required by sub-section (1) and the manner in which it shall be maintained.

(9) In the case of a factory beginning work after the commencement of this Act, a copy of the notice referred to in sub-section (1) shall be sent in duplicate to the Inspector before the day on which work is begun in the factory.

(10) Any proposed change in the system of work in any factory which will necessitate a change in the notice referred to in sub-section (1) shall be notified to the inspector in duplicate before the change is made and except with the previous sanction of the Inspector, no such change shall be made until the week has elapsed since the last change.

12) Register of adult workers (Sec. 62)

(1) The manager of every factory shall maintain a register of adult workers, to be available to the Inspector at all times during working hours, or when any work is being carried on in the factory, showing:

- (a) the name of each adult worker in the factory;
- (b) the nature of his work;
- (c) the group, if any, in which he is included;
- (d) where his group works on shifts, the relay to which he is allotted;
- (e) such other particulars as may be prescribed;

Provided that, if the Inspector is of opinion that any muster-roll or register maintained as part of the routine of a factory gives in respect of any or all the workers in the factory the particulars required under this section, he may, by order in writing, direct that such muster-roll or register shall to the corresponding extent be maintained in place or, and be treated as, the register of adult workers in that factory.

(1-A) No adult worker shall be required or allowed to work in any factory unless his name and other particulars have been entered in the register of adult workers.

(2) The State Government may prescribe the form of the register of adult workers, the manner in which it shall be maintained and the period for which it shall be preserved.

13) Hours of work to correspond with notice under Section 61 and register under Section 62 (Sec. 63)

No adult worker shall be required or allowed to work in any factory otherwise than in accordance with the notice of periods of work for adults displayed in the factory and the entries made before hand against his name in the register of adult workers of the factory.

14) Power to make exempting rules (Sec. 64)

(1) The State Government may make rules defining the persons who hold positions of supervision or management or are employed in a confidential position in a factory or empowering the Chief Inspector to declare any person, other than a person defined by such rules, as a person holding position of supervision or management or employed in a confidential position in a factory, if, in the opinion of the Chief Inspector, such person holds such position or is so employed and the provisions of this Chapter, other than the provisions of Clause

(b) of sub-section (1) of Section 66 and of the proviso to that sub-section, shall not apply to any person so defined or declared;

Provided that any person so defined or declared shall where the ordinary rate of wages of such person does not exceed the wage limit specified in subsection (6) of Section 1 of the Payment of Wages Act, 1936 (4 of 1936), as amended from time to time be entitled to extra wages in respect of overtime work under Section 59.

(2) The State Government may make rules in respect of adult workers in factories providing for the exemption, to such extent and subject to such conditions as may be prescribed:

(a) of workers engaged on urgent repairs, from the provisions of Sections 51, 52, 54, 55 and 56;

(b) of workers engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory, from the provisions of sections 51, 54, 55 and 56;

(c) of workers engaged in work which is necessarily so intermittent that the intervals during which they do not work while on duty ordinarily amount to more than the intervals for rest required by or under section 55, from the provisions of sections 51, 54, 55 and 56.

(d) Of workers engaged in any work which for technical reasons must be carried on continuously from the provisions of section 51, 52, 54, 55 and 56.

(e) Of workers engaged in making or supplying articles of prime necessity which must be made or supplied everyday, from the provisions of section 51 and section 52.

(f)

(f) of workers engaged in a manufacturing process which cannot be carried on except during fixed seasons, from the provisions of Section 51, Section 52 and Section 54;

(g) of workers engaged in a manufacturing process which cannot be carried on except at times dependent on the irregular action of natural forces, from the provisions of Section 52 and 55;

(h) of workers engaged in engine-rooms or boiler-houses or in attending to power plant or transmission machinery, from the provisions of Section 51 and Section 52;

(i) of workers engaged in the printing of newspapers, who are held up on account of the breakdown of machinery, from the provisions of Sections 51, 54 and 56;

Explanation: In this clause the expression 'newspapers', has the meaning assigned to the Press and Registration of Books Act, 1867 (XXV of 1867)

(j) of workers engaged in the loading or unloading of railway wagons or lorries or trucks, from the provisions of Sees. 51,52, 54, 55 and 56;

(k) of workers engaged in any work, which is notified by the State Government in the Official Gazette as a work of national importance, from the provisions of Sections 51, 52, Section 54, Section 55 and Section 56.

(3) Rules made under sub-section (2) providing for any exemption may also provide for any consequential exemption from the provisions of Section 61 which the State Government may deem to be expedient, subject to such conditions as it may prescribe.

(4) In making rules under this section, the State Government shall not exceed, except in respect of exemption under Clause (a) of sub-section (2), the following limits of work inclusive of overtime:

(i) the total number of hours of work in any day shall not exceed ten;

(ii) the spread over, inclusive of intervals for rest, shall not exceed twelve hours in any one day:

Provided that the State Government may, in respect of any or all of the categories of workers referred to in Clause (d) of sub-section (2), make rules prescribing the circumstances in which, and the conditions subject to which, the restrictions imposed by Clause (i) and Clause (ii) shall not apply in order to

enable a shift worker to work the whole or part of a subsequent shift in the absence of a worker who has failed to report for duty;

(iii) the total number of hours of work in a week including overtime, shall not exceed sixty;

(iv) the total number of hours of overtime shall not exceed fifty for any one quarter.

Explanation: 'Quarter' means a period of three consecutive months beginning on the 1st of January, the 1st of April - the 1st of July, or the first of October.

(5) Rules made under this section shall remain in force for not more than five years.

15) Power to make exempting orders (Sec. 65)

(1) Where the State Government is satisfied that, owing to the nature of work carried on or to other circumstances, it is unreasonable to require that the periods of work of any adult worker in any factory or class or description of factories should be fixed before hand, it may by written order, relax or modify the provisions of Section 61 in respect of such workers therein, to such extent and in such manner as it may think fit and subject to such conditions as it may deem expedient to ensure control over periods of work.

(2) The State Government or, subject to the control of the State Government, the Chief Inspector, may by written order exempt, on such conditions as it or he

may deem expedient, any or all of the adult workers in any factory or group or class or description of factories from any or all of the provisions of Sections 51, 52, 54 and 56 on the ground that the exemption is required to enable the factory or factories to deal with an exceptional pressure of work.

(3) Any exemption granted under sub-section (2) shall be subject to the following conditions, namely:

- (i) the total number of hours of work in any day shall not exceed twelve;
- (ii) the spread over, inclusive of intervals for rest, shall not exceed thirteen hours in any one day;
- (iii) the total number of hours of work in any week, including overtime, shall not exceed sixty;
- (iv) no worker shall be allowed to work overtime, for more than seven days at a stretch and the total number of hours of overtime work in any quarter shall not exceed seventy-five.

Explanation: In this sub-section 'quarter' has the same meaning as in sub-section (4) of Section 64.

16) Further restrictions on employment of women (Sec. 66)

(1) The provisions of this Chapter shall, in their application to women in factories, be supplemented by the following further restrictions, namely:

(a) no exemption from the provisions of Section 54 may be granted in respect of any woman;

(b) no woman shall be required or allowed to work in any factory except between the hours of 6 A.M. and 7 P.M.

Provided that the State Government may by notification in the Official Gazette, in respect of any factory or group or class or description of factories vary the limits laid down in Clause (b), but so that no such variation shall authorize the employment of any woman between the hours of 10 P.M. and 5 A.M.

(c) there shall be no change of shifts except after a weekly holiday or any other holiday.

(2) The State Government may make rules providing for the exemption from the restrictions set out in sub-section (1), to such extent and subject to such conditions as it may prescribe, of women working in fish curing or fish canning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to, or deterioration in any raw material.

(3) The rules made under subsection 2 shall remain in force for not more than three years at a time.

Q4.ANNUAL LEAVE WITH WAGES

(1) The provisions of this Chapter shall not operate to the prejudice of any right to which a worker may be entitled under any other law or under the terms of any award agreement (including settlement) or contract of service;

Provided that if such award, agreement (including settlement) or contract of service provides for a longer annual leave with wages than provided in this Chapter, the quantum of leave, which the worker shall be entitled to, shall be in accordance with such award, agreement or contract of service, but in relation to matters not provided for in such award, agreement or contract of service or matters which are provided for less favorably therein, the provisions of Sections 79 to 82 so far as may be shall apply.

Explanation 2: The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during or at either end of the period of leave.

(2) A worker whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate laid down in Clause (i) or as the case may be clause he has worked for two-thirds of the total number of days in the remainder of the calendar year.

(3) If a worker is discharged or dismissed from service or quits his employment or is superannuated or dies while in service, during the course of the calendar year, he or his heir or nominee, as the case may be. shall be entitled to wages in lieu of the quantum of leave to which he was entitled immediately before his discharge, dismissal, quitting of employment, superannuation or death calculated at the rates specified in sub-section (1) even if he had not worked for the entire period specified in sub-section (1) or sub-section (2) making him eligible to avail of such leave and such payment shall be made:

(i) where the worker is discharged or dismissed or quits employment before the expiry of the second working day from the date of such discharge, dismissal or quitting, and

(ii) where the worker is superannuated dies while in service; before the expiry of two months from the date of such superannuation or death.

(4) In calculating leave under this section, fraction of leave of half a day or more shall be treated as one full day's leave, and fraction of less than half a day shall be omitted.

(5) If a worker does not in any one clean-year take the whole of the leave allowed to him under sub-section (1) or sub-section (2), as the case may be, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year:

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of a child:

Provided further that a worker, who has applied for leave with wages but has not been given such leave in accordance with any scheme laid down in Sub Sections (8) and (9) or in contravention of sub-section (10) shall be entitled to carry forward the leave refused without any limit.

(6) A worker may at any time apply in writing to the manager of a factory not less than fifteen days before the date on which the worker wishes his leave to begin, if he is employed in a public utility service as defined in Clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947):

Provided further that the number of times in which leave may be taken during any year shall not exceed three.

(2) The provisions of this Chapter shall not apply to workers in any factory of any railway administered by the Government who are governed by leave rules approved by the Central Government.

The following are the provisions of the Factories Act 1948 concerning annual leave with wages:

Annual leave with wages (Sec. 79)

(1) Every worker who has worked for a period of 240 days or more in a factory during a calendar year shall be allowed during the subsequent calendar year, leave with a number of days calculated at the rate of:

(i) if an adult, one day for every twenty days of work performed by him during the previous calendar year;

(ii) if a child, one day for every fifteen days of work performed by him during the previous calendar year;

Explanation 1: For the purpose of this sub-section:

(a) any day of lay-off, by agreement or contract or as permissible under the standing orders;

- (b) in the case of a female worker, maternity leave for any number of days not exceeding twelve weeks; and
 - (c) the leave earned in the year prior to that in which the leave is enjoyed;
- shall be deemed to be days on which the worker has worked in the factory for the purpose of computation of the period of 240 days or more, but he shall not earn leave for these days.

Explanation 2: The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during or at either end of the period of leave.

(2) A worker whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate laid down in Clause (i) or as the case may be clause he has worked for two-thirds of the total number of days in the remainder of the calendar year.

(3) If a worker is discharged or dismissed from service or quits his employment or is superannuated or dies while in service, during the course of the calendar year, he or his heir or nominee, as the case may be. shall be entitled to wages in lieu of the quantum of leave to which he was entitled immediately before his discharge, dismissal, quitting of employment, superannuation or death calculated at the rates specified in sub-section (1) even if he had not worked for the entire period specified in sub-section (1) or sub-section (2) making him eligible to avail of such leave and such payment shall be made:

(i) where the worker is discharged or dismissed or quits employment before the expiry of the second working day from the date of such discharge, dismissal or quitting, and

(ii) where the worker is superannuated dies while in service; before the expiry of two months from the date of such superannuation or death.

(4) In calculating leave under this section, fraction of leave of half a day or more shall be treated as one full day's leave, and fraction of less than half a day shall be omitted.

(5) If a worker does not in any one clean-year take the whole of the leave allowed to him under sub-section (1) or sub-section (2), as the case may be, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year:

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of a child:

Provided further that a worker, who has applied for leave with wages but has not been given such leave in accordance with any scheme laid down in Sub Sections (8) and (9) or in contravention of sub-section (10) shall be entitled to carry forward the leave refused without any limit.

(6) A worker may at any time apply in writing to the manager of a factory not less than fifteen days before the date on which the worker wishes his leave to

begin, if he is employed in a public utility service as defined in Clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947):

Provided further that the number of times in which leave may be taken during any year shall not exceed three.

(7) If a worker wants to avail himself of the leave with wages due to him to cover a period of illness, he shall be granted such leave even if the application for leave is not made within the time specified in sub-section (6) and in such a case wages as admissible under Section 81 shall be paid not later than fifteen days, or in the case of a public utility service not later than thirty days from the date of the application for leave.

(8) For the purpose of ensuring the continuity of work, the occupier or manager of the factory, in agreement with the Works Committee of the factory constituted under Section 3 of the Industrial Disputes Act, 1947 (14 of 1947), or a similar Committee constituted under any other Act or if there is no such Works Committee or a similar Committee in the factory, in agreement with the representatives of workers therein chosen in the prescribed manner, may lodge with the Chief Inspector a scheme in writing whereby the grant of the leave allowable under this section may be regulated.

(9) A Scheme lodged under sub-section (8) shall be displayed at some conspicuous and convenient places in factory and shall be in force for a period of twelve months from the date on which it comes into force; and may thereafter be renewed with or without modification for a further period of twelve months

at a time, by the manager in agreement with the Works Committee or a similar Committee, or as the case may be, in agreement with the representatives of the workers as specified in sub-section (8), and a notice of renewal shall be sent to the Chief Inspector before it is renewed.

(10) An application for leave which does not contravene the provisions of sub-section (6) shall not be refused, unless refusal is in accordance with the scheme for the time being in operation under sub-sections (8) and (9).

(11) If the employment of a worker who is entitled to leave under subsection (1) or sub-section (2), as the case may be, is terminated by the occupier before he has taken the entire leave to which he is entitled, or if having applied for and having not been granted such leave, the worker quits his employment before he has taken the leave, the occupier of the factory shall pay him the amount payable under Section 80 in respect of the leave not taken, and such payment shall be made, where the employment of the worker is terminated by the occupier, before the expiry of the second working day after such termination and where a worker who quits his employment, on or before the next pay day.

(12) The unavailed leave of a worker shall not be taken into consideration in computing the period of any notice required to be given before discharge or dismissal.

Wages during leave period (Sec. 80)

(1) For the leave allowed to him under Section 78, or Section 79, as the case may be, a worker shall be entitled to wages at a rate equal to the daily average

of his total full time earnings for days on which he actually worked during the month immediately preceding his leave, exclusive of any overtime and bonus but inclusive of dearness allowance and the cash equivalent of the advantages accruing through the concessional sale to the worker of foodgrains and other articles.

Provided that in the case of worker who has not worked on any day during the calendar month immediately preceding his leave, he shall be paid at a rate equal to the daily average of his total full time earnings for the days on which he actually worked during the last calendar month preceding his leave in which he actually worked, exclusive of any overtime and bonus but inclusive of dearness allowance and the cash equivalent of the advantage accruing through the concessional sale to the workers of foodgrains and other articles.

(2) The cash equivalent of the advantage accruing through the concessional sale to the worker of foodgrains and other articles shall be computed as often as may be prescribed, on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family.

Explanation I: 'Standard family' means a family consisting of a worker, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

Explanation 2: 'Adult consumption unit' means the consumption unit of a male above the age of fourteen years, and the consumption unit of a female above the

age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rates of 0.8 and 0.6 respectively of one adult consumption unit.

(3) The State Government may make rules prescribing:

(a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed; and

(b) the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

Payment of wages in advance in certain cases (Sec. 81)

A worker who has been allowed leave for not less than four days, in the case of an adult, and five days, in the case of a child, shall, before his leave begins, be paid the wages due for the period of the leave allowed.

Mode of recovery of unpaid wages (Sec. 82)

Any sum required to be paid by an employer, under this Chapter but not paid by him shall be recoverable as delayed wages under this provisions of the Payment of Wages Act, 1936 (IV of 1936).

Power to make rules by the State Government (Sec. 83)

The State Government may make rules directing managers of factories to keep registers containing such particulars as may be prescribed and requiring the registers to be made available for examination by Inspectors.

Power to exempt factories from the provisions of the Chapter VIII of the Act (Sec. 84)

Where the State Government is satisfied that the leave rules applicable to workers in a factory provide benefits which in its opinion are not less favourable than those for which this Chapter makes provision it may, by written order, exempt the factory from all or any of the provisions of this Chapter subject to such conditions as may be specified in the order.

Explanation: For the purpose of this section, in deciding whether the benefits which are provided for by any leave rules are less favourable than those for which this Chapter makes provision, or not, the totality of the benefits shall be taken into account.

Q4.UNFAIR LABOUR PRACTICES

Section 25-T. Prohibition of unfair labour practice.—No employer or workman or a Trade Union, whether registered under the Trade Unions Act, 1926, or not, shall commit any unfair labour practice.

Section 25-U. Penalty for committing unfair labour practices,—Any person who commits any unfair labour practice shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Unfair Labour Practices.—A new Schedule V has been added by the Industrial Disputes (Amendment) Act, 1982. In this Schedule unfair labour practices have been defined. It contains a list of such practices as are treated unfair on the part of the employers or their Trade Unions, or on the part of workmen and their Trade Unions.

I. Unfair labour practices on the part of employers and trade unions of employers.

1. To interfere with, restrain from, or coerce, workmen in the exercise of their rights to organise, from, join or assist a Trade Union or to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, that is to say

(a) threatening workmen with discharge or dismissal, if they join a trade union;

(b) threatening a lock-out or closure, if a trade union is organised;

(c) granting wage increase to workmen at crucial periods of the union

organization, with a view to undermining the efforts of the trade union at organization.

2. To dominate, interfere with or contribute support, financial, or otherwise, to any trade union, that is to say :—

(a) an employer taking an active interest in organizing a trade union of his workmen; and

(b) an employer showing partiality or granting favour to one of several trade unions attempting to organise his workmen or to its members where such a trade union is not a recognised trade union.

3. To establish employer sponsored trade unions of workmen.

4. To encourage or discourage membership in any trade union by discriminating against any workman, that is to say :—

(a) discharging or punishing a workman, because he urged other

workmen to join or organise a trade union;

(b) discharging or dismissing a workman for taking part in the strike (not being a strike which is deemed to be an illegal strike under this Act);

(c) changing seniority rating of workmen because of trade union activities;

(d) refusing to promote workmen to higher posts on account of their trade union activities;

(e) giving unmerited promotions to certain workmen with a view to creating discord amongst other workmen, or to undermine the strength of their trade union;

(f) discharging office-bearers or active members of the trade union on account of their trade union activities.

5. To discharge or dismissed workmen—

(a) by way of victimisation;

(b) not in good faith, but in the colourable exercise of the employer's right;

(c) by falsely implicating a workman in a criminal case on false evidence or on concocted evidence;

(d) for patently false reasons;

(e) on untrue or trumped up allegations of absence without leave;

(f) in utter disregard of the principles of natural justice in the conduct of domestic enquiry or with undue haste;

(g) for misconduct of a minor or technical character, without having any regard to the nature of the particular misconduct or the past record or service of the workman, thereby leading to a disproportionate punishment.

6. To abolish the work of a regular nature being done by workmen, and to give such work to contractors as a measure of breaking a strike.

7. To transfer a workman mala fide from one place to another, under the guise of following management policy.

8. To insist upon individual workmen, who are on a legal strike to sign a good conduct bond, as a pre-condition to allowing them to resume work.

9. To show favoritism or partiality to one set of workers regardless of merit.

10. To employ workmen as 'badlis', casuals or temporaries and to continue them as such for years with the object of depriving them of the status and privileges of permanent workmen.

11. To discharge or discriminate against any workmen for filing charges or testifying against an employer in any enquiry or proceeding relating to any industrial dispute.

12. To recruit workmen during a strike which is not an illegal strike.

13. Failure to implement award, settlement or agreement.

14. To indulge in acts of force or violence.

15. To refuse to bargain collectively, in good faith with the recognize trade unions.

16. Proposing or continuing a lock-out deemed to be illegal under t Act.

II. Unfair labour practices on the part of workmen and trade unions of workmen

1. To advise or actively support or instigate any strike deemed 1 illegal under this Act.

2. To coerce workmen in the exercise of their right to self-organization or to join a trade union or refrain from joining any trade union, that is to say

(a) for a trade union or its members to picketing in such a manner that non-striking workmen are physically debarred from entering the work places;

(b) to indulge in acts of force or violence or to hold out threats of intimidation in connection with a strike against non-striking workmen or against managerial staff.

3. For a recognized union to refuse to bargain collectively in good faith with the employer.

4. To indulge in coercive activities against certification of a bargaining representative.

5. To stage, encourage or instigate such forms of coercive actions and wilful 'go slow', squatting on the work premises after working hours or 'gherao' of any of the members of the managerial or other staff.

6. To stage demonstrations at the residences of the employers or the managerial staff members.

7. To incite or indulge in wilful damage to employer's property connected with the industry.

8. To indulge in acts of force or violence or to hold out threats of intimidation against any workman with a view to prevent him from attending work.

It is difficult to define and lay down exhaustive test of unfair labour practice, but it may be said that any practice, which violates the directive principles of State policy contained in Article 43 of the Constitution and such other Articles as deal with the decent wages and living conditions for workmen amount to unfair practice.

In *Eveready Plash Light Company v. Labour Court Bareilly*, the company appointed a workman on daily rate basis on 18th January, 1958 after trying him for four days. On April 12, 1958 he was appointed on probation for 6 months which could be further extended by the company at its discretion, He was elected a member of the working committee of the union on September 9, 1958. On 10th September the management served him with a notice of warning that in spite of repeated warnings he had shown no improvement in his work. The warning was repeated on 11th October. On November 21, 1958 his service was terminated. The Union raised an industrial dispute and the Labour Court found no justification for putting the workman on probation after he had been tried and that the condition of putting him on probation as communicated by letter of 12th April was just to delay making him a permanent employee. The Company preferred a petition in the Allahabad High Court. It was held that "a condition of employment which is designed to invest the employer with arbitrary power to keep the workmen at his mercy as regards his chance of being made permanent,

and to eventually lead to deprive him of such chance would amount to unfair labour practice". It was further observed that it is not necessary that there must be numerous transactions before the employer could be branded guilty of unfair labour practice and that he could be held guilty of such practice in respect of one contract of employment only.

In *L.H. Factories and Oil Mills, Pilibhit v. State of U.P.*, some of the workers were promoted to the rank of driver-cum-assistant-fitter. Other ten workers who were senior in service and also better qualified but were not so promoted raised an industrial dispute alleging discrimination in the matter of promotion. They alleged that they were victimised for their trade union activities. The Labour Court was of the view that "promotions were not given on merits but were given to pamper one association at the cost of the rival association". The company filed a writ in the Allahabad High Court. It was held that the promotions were made to please one trade union and strengthen it against the rival union and to which the disputing workmen were members. It was observed that any systematic attempt by the employer to use his powers of management to disrupt the trade union of his employees amounts to unfair labour practice. Unjust dismissal, unmerited promotion, partiality towards one set of workers regardless of merits are some illustrations of unfair labour practice.

In *Bengal Bhatdee Coal Co. v. Singh*, thirteen workmen during strike obstructed other workers who were willing to work from doing their work by sitting down between the tramlines. The Company served charge-sheets on them. The

welfare officer of the Company conducted domestic enquiry and recommended their dismissal. The Supreme Court observed that looking at the nature of the offence committed by these workmen it cannot be said that the punishment inflicted was grossly out of proportion or was unconscionable.

Therefore, the action taken by the Company in dismissing these employees did not amount to victimisation. Although the relations between the Company and the union to which these workmen were members were not happy but this fact would by itself be no evidence to prove victimization for if that were so, it would mean that the active workers of a union with which the employer is not on good terms would have a carte blanche to commit any misconduct and get away with it on ground that relations between the employer and the union were not happy.

If badlis, casuals or temporary workers are continued for long years, the object is manifestly to deprive them of the status of permanent employees and this amounts to unfair labour practice on the part of the employer.

In *Gangadhar Pillai v. Siemens Ltd.*, the appellant served in the respondent company from 1978 as a helper and his services came to an end in the year 2000. He challenged it as an unfair labour practice under item 6 of Schedule IV of M.R.T.V. and P.V.L.P. Act, 1971 and failed in his attempt to get a declaration that his ending of service was unfair labour practice. Ultimately he fought his case upto Supreme Court and finally lost thereto.

The Supreme Court observed that only because a person had intermittently been engaged as a casual or temporary employee for a number of years, the same by itself might not lead to the conclusion that such appointment had been made with the object of depriving him of the status and privilege of a permanent employee.

It was also pointed out that the burden to prove unfair labour practice was on the workman. There had been breaks in service but the same were rightly held as not artificial ones. Engagement of the appellant workman causing to end on completion of period of contract, was held retrenchment coming within the purview of Section 2(oo)(bb) of the Industrial Disputes Act, 1947. Expressing its satisfaction that the respondent was able to provide some succour to the appellant, the Supreme Court dismissed the appeal as without merit.

UNIT-IV

Q1.PROVISIONS FOR Health, SAFETY AND WELFARE UNDER THE FACTORIES ACT

PROVISIONS FOR HEALTH:

The following are the provisions relating to health provided by the Factories Act, 1948:

Cleanliness (Sec. 11)

(1) Every factory shall be kept clean and free from affluvia arising from any drain, privy or other nuisance, and in particular:

(a) accumulations of dirt and refuse shall be removed daily by sweeping or by any other effective method from the floors and benches of workrooms, and from staircases and passages, and disposed of in a suitable manner;

(b) the floor of every workroom shall be cleaned at least once in every week by washing, using disinfectant, where necessary, or by some other effective method;

(c) where a floor is liable to become wet in the course of any manufacturing process to such extent as is capable of being drained, effective means of drainage shall be provided and maintained;

(d) all inside walls and partitions, all ceilings or tops of rooms and all walls, sides and tops of passages and staircases shall:

(i) where they are painted otherwise than with washable water-paint or varnished, be re-painted or re-varnished at least once in every period of five years;

(ia) where they are painted with washable water paint, be re-painted with at least one coat of such paint at least once in every period of three years and washed at least once in every period of six months;

(ii) where they are painted or varnished or where they have smooth impervious surfaces, be cleaned at least once in every period of fourteen months by such methods as may be prescribed;

(iii) in any other case, be kept white-washed, or colour-washed, and the white-washing or colour-washing shall be carried out at least once in every period of fourteen months;

(dd) all doors and windows frames and other wooden or metallic framework and shutters shall be kept painted or varnished and the painting and varnishing shall be carried out at least once in every period of five years;

(e) the dates on which the processes required by Clause (d) are carried out shall be entered in the prescribed register.

(2) If, in view of the nature of the operations carried on in a factory or class or description of factories or any part of a factory or class or description of factories, it is not possible for the occupier to comply with all or any of the provisions of sub-section (1), the State Government may by order exempt such factory or class or description of factories or part from any of the provisions of that sub-section and specify alternative methods for keeping the factory in clean state.

According to Section 11 of the Factories Act, 1948, every factory shall be kept clean and free from effluents from any drain. It also provides that floors, walls, doors, windows of every factory shall be kept clean.

Disposal of wastes and effluents (Sec. 12)

(1) Effective arrangements shall be made in every factory for the treatment of wastes and effluents due to the manufacturing process carried on therein, so as to render them innocuous and for their disposal.

(2) The State Government may make rules prescribing the arrangements to be made under sub-section (1) or requiring that the arrangements made in accordance with sub-section (1) shall be approved by such authority as may be prescribed.

Ventilation and temperature (Sec. 13)

(1) Effective and suitable provision shall be made in every factory for securing and maintaining in every workroom:

(a) adequate ventilation by the circulation of fresh air. and

(b) such a temperature as will secure to workers therein reasonable conditions of comfort and prevent injury to health; and in particular:

(i) walls and roofs shall be of such material and so designed that such temperature shall not be exceeded but kept as low as practicable;

(ii) where the nature of the work carried on in the factory involves, or is likely to involve, the production of excessively high temperatures, such adequate measures as are practicable shall be taken to protect the workers therefrom, by separating the process which produces such temperatures from the workroom, by insulating the hot parts or by other effective means.

(2) The State Government may prescribe a standard of adequate ventilation and reasonable temperature for any factory or class or description of factories or parts thereof and direct that proper measuring instruments, at such places and in such position as may be specified, shall be provided and such records, as may be prescribed, shall be maintained".

(3) If it appears to the Chief Inspector that excessively high temperatures in any factory can be reduced by the adoption of suitable measures, he may, without prejudice to the rules made under sub-section (2), serve on the occupier, an order in writing specifying the measures which, in his opinion, should be adopted, and requiring them to be carried out before a specified date."

Dust and fume (Sec. 14)

(1) In every factory in which, by reason of the manufacturing process carried on, there is given off any dust or fume or other impurity of such a nature and to such an extent as is likely to be injurious or offensive to the workers employed therein, or any dust in substantial quantities, effective measures shall be taken to prevent its inhalation and accumulation in any workroom, and if any exhaust

appliance is necessary for this purpose, it shall be applied as near as possible to the point of origin of the dust, fume or other impurity, and such point shall be enclosed so far as possible.

(2) In any factory no stationary internal combustion engine shall be operated unless the exhaust is conducted into the open air, and no other internal combustion engine shall be operated in any room unless effective measures have been taken to prevent such accumulation of fumes therefrom as are likely to be injurious to workers employed in the room.

Artificial humidification (Sec. 15)

(1) In respect of all factories in which the humidity of the air is artificially increased, the State Government may make rules:

- (a) prescribing standards of humidification;
- (b) regulating the methods used for artificially increasing the humidity of the air;
- (c) directing prescribed tests for determining the humidity of the air to be correctly carried out and recorded;
- (d) prescribing methods to be adopted for securing adequate ventilation and cooling of the air in the workrooms.

(2) In any factory in which the humidity of the air is artificially increase the water used for the purpose shall be taken from a public supply, or other source of drinking water, or shall be effectively purified before it is so used

(3) If it appears to an Inspector that the water used in a factory for increasing humidity which is required to be effectively purified under sub-section (2) not effectively purified he may serve on the manager of the factory an order writing specifying the measures which in his opinion should be adopted, requiring them to be carried out before specified date.

Overcrowding (Sec. 16)

(5) No room in any factory shall be overcrowded to an extent injurious ID the health of the workers employed therein.

(6) Without prejudice to the generality of sub-section (1), there shall be in every workroom of a factory in existence on the date of the commencement of this Act atleast 9.9 cubic metres and of a factory built after the commencement of this Act at least 14.2 cubic metres of space for every worker employed therein and for the purposes of this sub-section no account shall be taken of any space which is more than 4.2 metres above the level of the floor of the room.

(3) If the Chief Inspector by order in writing so requires, there shall be posted in each workroom of a factory, a notice specifying the maximum

number of workers who may, in compliance with the provisions of this section, be employed in the room.

(4) The Chief Inspector may, by order in writing exempt, subject to such conditions, if any, as he may think fit to impose, any work-room from the provisions of this section, if he is satisfied that compliance therewith in respect of the room is unnecessary in the interest of the health of the workers employed therein.

(7) Lighting (Sec. 17)

(1) In every part of a factory where workers are working or passing there shall be provided and maintained sufficient and suitable lighting, natural or artificial or both.

(2) In every factory all glazed windows and skylights used for the lighting of the workrooms shall be kept clean on both the inner and outer surfaces and, so far as compliance with the provisions of any rules made under sub-section (3) of Section 13 will allow, free from obstruction.

(3) In every factory effective provision shall, so far as is practicable, be made for the prevention of:

(a) glare, either directly from a source of light or by reflection from a smooth or polished surface;

(b) the formation of shadows to such an extent as to cause eye-strain or the risk of accident to any worker.

(4) The State Government may prescribe standards of sufficient and suitable lighting factories or for any class or description of factories or for any manufacturing process.

(8) Drinking water (Sec. 18)

(1) In every factory effective arrangements shall be made to provide and maintain at suitable points conveniently situated for all workers employed therein a sufficient supply of wholesome drinking water.

(2) All such points shall be legibly marked 'drinking water' in a language understood by a majority of the workers employed in the factory, and no such point shall be situated within six metres of any washing place, urinal, latrine, spittoon, open drain carrying sullage or effluent or any other source of contamination unless a shorter distance is approved in writing by the Chief Inspector.

(3) In every factory wherein more than two hundred and fifty workers are ordinarily employed provision shall be made for cooling of drinking water during hot weather by effective means and for distribution thereof.

(4) In respect of all factories or any class or description of factories the State government may make rules for securing compliance with the provisions of sections (1), (2) and (3) and for the examination by prescribed authorities of supply and distribution of drinking water in factories.

Latrines and urinals (Sec. 19)

(1) In every factory:

(a) sufficient latrine and urinal accommodation of prescribed types shall be provided conveniently situated and accessible to workers at all times while they are at the factory;

(b) separate enclosed accommodation shall be provided for male and female workers;

(c) such accommodation shall be adequately lighted and ventilated, and no latrine or urinal shall, unless specially exempted in writing by the Chief Inspector, communicate with any workroom except through an intervening open space or ventilated passage;

(d) all such accommodation shall be maintained in a clean and sanitary condition at all times;

(e) sweepers shall be employed whose primary duty it would be to keep clean latrines, urinals and washing places.

(2) In every factory wherein more than two hundred and fifty workers are ordinarily employed:

(a) all latrine and urinal accommodation shall be of prescribed sanitary types;

(b) the floors add internal walls, upto a height of ninety centimeters of the latrines and urinals and the sanitary blocks shall be laid in glazed tiles or otherwise finished to provide a smooth polished impervious surface:

(c) without prejudice to the provisions of Clauses (d) and (e) of subsection (1), the floors, portions of the walls and blocks so laid or finished and the sanitary pans of latrines and urinals shall be thoroughly washed and cleaned at least once in every seven days with suitable detergents or disinfectants or with both.

(3) The State Government may prescribe the number of latrines and urinals to be provided in any factory in proportion to the numbers of male and female workers ordinarily employed therein, and provide for such further matters in respect of sanitation in factories, including the obligation of workers in this regard, as it considers necessary in the interest of the health of the workers employed therein.

Spittoons (Sec. 20)

(1) In every factory there shall be provided a sufficient number of spittoons in convenient places and they shall be maintained in a clean and hygienic condition.

(2) The State Government may make rules prescribing the type and the number of spittoons to be provided and their location in any factory and provided for

such further matters relating to their maintenance in a clean and hygienic condition.

(3) No person shall spit within the premises of a factory except in the spittoons provided for the purpose and a notice containing this provision and the penalty for its violation shall be prominently displayed at suitable places in the premises.

(4) Whoever spits in contravention of sub-section (3) shall be punishable with fine not exceeding five rupees.

PROVISIONS FOR SAFETY

SAFETY

The safety of the provisions relating to the safety of workers under Factories Act, 1948:

1) Fencing of machinery {Sec. 21)

(1) In every factory the following, namely:

(i) every moving part of a prime mover and every flywheel conned to a prime mover, whether the prime mover or flywheel is in the engine house or not;

(ii) the headrace and tailrace of every water wheel and water turbine

(iii) any part of a stock-bar which projects beyond the head stock lathe; and

(iv) unless they are in such position or of such construction as to be to every person employed in the factory as they would be if were securely fenced, the following, namely:

(a) every part of an electric generator, a motor, or rotary convertor

(b) every part of transmission machinery; and

(c) every dangerous part of any other machinery;

shall be securely fenced by safeguards of substantial construction shall be constantly maintained and kept in position while the parts of machinery they are fencing are in motion or in use;

Provided that for the purpose of determining whether any part of machine is in such position or is of such construction as to be safe as aforesaid, account shall not be taken of any occasion when:

(i) it is necessary to make an examination, of any part of the machinery aforesaid while it is in motion or, as a result of such examination, to carry out lubrication or other adjusting operation while the machinery, is in motion, being an examination or operation which it is necessary to be carried out while that part of the machinery is in motion; or

(ii) in the case of any part of a transmission machinery used in such process as may be prescribed (being a process of a continuous nature the carrying on of which shall be, or is likely to be, substantially interfered with by the stoppage of

that part of the machinery necessary to make an examination of such part of the machinery while it is in motion or, as a result of such examination, to any mounting or shipping of belts or lubrication or other operation while the machinery is in motion, and such examination is made or carried out in accordance with the provisions of sub-section (1) of Section 22.

(2) The State Government may by rules prescribe such further precautions as it may consider necessary in respect of any particular machinery or part thereof, or exempt, subject to such condition as may be prescribed, for securing the safety of the workers, any particular machinery or part thereof from provisions of this section.

Observance of the safety measures under Section 21 of the Act cannot depend on the occurring of any particular accident but it depends on whether such safety measures are indispensable regard being had to the nature of machine as also the foreseeable possibility of the workmen in the factory coming into contact therewith in the course of their duties deliberately or accidentally.

Section 21 of the Act does not contemplate a provision being made for the safety of an employee who is assigned the work of repairing machinery or of shifting machinery or installing new machinery.

The duty to fence such machinery as contemplated by Section 21 of the Act is absolute. It is the absolute liability of the employer to securely fence by safety

guards every dangerous part of any machinery and the practicability of providing a safety guard should not be taken into consideration.

A machinery or part thereof is dangerous if in the ordinary course of its working danger may reasonably be anticipated from it when working without protection, taking into account the various factors incidental to its working, including the carelessness of the workman.

2) Prohibition of Work on or near machinery in motion (Sec. 22)

(1) Where in any factory it becomes necessary to examine any part of machinery referred to in Section 21, while the machinery is in motion, or, as a result of such examination, to carry out:

(a) in a case referred to in Clause (1) of the proviso to sub-section (1) of Section 21, lubrication or other adjusting operation; or

(b) in a case referred to in Clause (ii) of the proviso aforesaid, any mounting or shipping of belts or lubrication or other adjusting operation, while the machinery is in motion, such examination or operation shall be made or carried out only by a specially trained adult male worker wearing tight-fitting clothing (which shall be supplied by the occupier) whose name has been recorded in the register prescribed in this behalf and who has been furnished with a certificate of his appointment, and while he is so engaged:

(a) such worker shall not handle a belt at a moving pulley unless:

- (i) the belt is not more than fifteen centimeters in width;
 - (ii) the pulley is normally for the purpose of drive and not merely a fly-wheel or balance wheel (in which case a belt is not permissible);
 - (iii) the belt joint is either laced or flush with the belt;
 - (iv) the belt, including the joint and the pulley rim, are in good repair;
 - (v) there is reasonable clearance between the pulley and any fixed plant or structure;
 - (vi) secure foothold and, where necessary, secure handhold, are provided for the operator; and
 - (vii) any ladder in use for carrying out any examination or operation aforesaid is securely fixed or lashed or is firmly held by a second person;
- (b) without prejudice to any other provision of this Act relating to the fencing of machinery, every set screw, bolt and key on any revolving shaft, spindle wheel or pinion, and all spur, worm and other toothed or friction gearing in motion with which such worker would otherwise be liable to come into contact, shall be securely fenced to prevent such contact.

(2) No woman or young person shall be allowed to clean, lubricate or adjust any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, or to clean, lubricate or adjust any part of any machine if the cleaning, lubrication or adjustment thereof would

expose the woman or young person to risk of injury from any moving part either of that machine or of any adjacent machinery:

(3) The State Government may, by notification in the Official Gazette, prohibit, in any specified factory or class or description of factories, cleaning, lubricating or adjusting by any person of specified parts of machinery when those parts are in motion.

3) Prohibition of employment of young persons on dangerous machines (Sec. 23)

As per Section 2(d) of the Factories Act, 1948, a 'young person' means a person who is either a child or an adolescent. According to Section 2(c) of the Act, 'child' means a person who has not completed his fifteenth year of age. According to Section 2(b) of the Act, 'adolescent' means a person who has completed his fifteenth year of age but has not completed his eighteenth year.

S. 23. (1) No young person shall be required or allowed to work at any machine to which this section applies, unless he has been fully instructed as to the dangers arising in connection with the machine and the precautions to be observed and:

(a) has received sufficient training in work at the machine; or

(b) is under adequate supervision by a person who has a thorough knowledge and experience of the machine.

(2) Sub-section (1) shall apply to such machines as may be prescribed by the State Government, being machines which in its opinion are of such a dangerous character that young person's ought not to work at them unless the foregoing requirements are complied with.

4) Provision for striking gear and devices for cutting of powers (Sec. 24)

(1) In every factory:

(a) suitable striking gear or other efficient mechanical appliance shall be provided and maintained and used to move driving belts to and from fast and loose pulleys which form part of the transmission machinery, and such gear or appliances shall be constructed, placed and maintained as to prevent the belt from creeping back on to the fast pulley;

(b) driving belts when not in use shall not be allowed to rest or ride upon shafting in motion.

(2) In every factory suitable devices for cutting off power in emergencies from running machinery shall be provided and maintained in every workroom;

Provided that in respect of factories in operation before the commencement of this Act, the provisions of this sub-section shall apply only to workrooms in which electricity is used as power.

(3) When a device, which can inadvertently shift from "off to 'on' position, is provided in a factory to cut off power, arrangements shall be provided for

locking the device in safe position to prevent accidental starting of the transmission machinery or other machines to which the device is fitted.

5) Self-acting machines (Sec. 25)

No traversing part of a self-acting machine in any factory and no material carried thereon shall, if the space over which it runs is a space over which any person is liable to pass, whether in the course of his employment or otherwise, be allowed to run on its outward or inward traverse within a distance of 'forty five centimeters' from any fixed structure which is not part of the machine;

Provided that the Chief Inspector may permit the continued use for a machine installed before the commencement of this Act, which does not comply with the requirements of this section on such conditions for ensuring safety as he may think fit to impose.

6) Casing of new machinery (Sec. 26)

(1) In all machinery driven by power and installed in any factory after the commencement of this Act.

(a) every set screw, bolt or key on any revolving shaft, spindle, wheel or pinion shall be so sunk encased or otherwise effectively guarded as to prevent danger;

(b) all spur, worm and other toothed or friction gearing which does not require frequent adjustment while in motion shall be completely encased unless it is so situated as to be as safe as it would be if it were

completely encased.

(2) Whoever sells or lets on hire or as agent of a seller on hire, causes or procures to be sold or let on hire, for use in a factory and machinery driven by power which does not comply with the provisions of sub-section (1) or any rules made under sub-section (3) shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

(3) The State Government may make rules specifying further safeguards to be provided in respect of any other dangerous part of any particular machine or class or description of machines.

7) Prohibition of employment of women and children near cotton openers (Sec. 27)

No woman or child shall be employed in any part of a factory for pressing cotton in which a cotton-opener is at work;

Provided that if at the feed-end a cotton-opener is in a room separated from the delivery end by a partition extending to the roof or to such height as the Inspector may in any particular case specify in writing, women and children may be employed on the said of the partition where the feed-end is situated.

8) Proper maintenance of hoist and lifts (Sec. 28)

(1) In every factory:

(a) every hoist and lift shall be:

(i) of good mechanical construction, sound material and adequate strength;

(ii) properly maintained, and shall be thoroughly examined by a competent persons at least once in every period of six months, and a register shall be kept containing the prescribed particulars of every such examination;

(b) every hoist way and lift way shall be sufficiently protected by an enclosure fitted with gates, and the hoist or life and every such enclosure shall be so constructed as to prevent any person or thing from being trapped between any part of the hoist or lift and any fixed structure or moving part;

(c) the maximum safe working load shall be plainly marked on every hoist or lift, and no load greater than such load shall be carried thereon;(d) the cage of every hoist or lift used for carrying persons shall be fitted with a gate on each side from which access is afforded to a landing;

(e) every gate referred to in clause (b) or clause (d) shall be fitted with interlocking or other efficient device to secure that the gate cannot be opened except when the cage is at the landing and that the cage cannot be moved unless the gate is closed.

(2) The following additional requirements shall apply to hoists and lifts used for carrying persons and installed or reconstructed in a factory after the commencement of this Act, namely;

(a) where the cage is supported by rope or chain, there shall be at least two ropes or chains separately connected with the cage and balance weight, and each rope or chain with its attachments shall be capable of carrying the whole weight of the cage together with its maximum load;

(b) efficient devices shall be provided and maintained capable of supporting the cage together with its maximum load in the event of breakage of the ropes or chains attachments;

(c) an efficient automatic device shall be provided and maintained to prevent the cage from overrunning.

(3) The Chief Inspector may permit the continued use of a hoist or lift installed in a factory before the commencement of this Act which does not fully comply with the provisions of sub-section (1) upon such conditions for ensuring safety as he may think fit to impose.

(4) The State Government may, if in respect of any class or description of hoist or lift, it is of opinion that it would be unreasonable to enforce any requirement of sub-sections (1) and (2) by order direct that such requirements shall not apply to such class or description of hoist or lift.

Explanation: For the purposes of this section, no lifting machine or appliance shall be deemed to be a hoist or lift unless it has a platform or cage, the direction or movement of which is restricted by a guide or guides.

9) Proper maintenance of lifting machines, chains, ropes and lifting tackles
(Sec. 29)

(1) In any factory the following provisions shall be complied with in respect of every lifting machine (other than a hoist and lift) and every chain, rope and lifting tackle for the purpose of raising or lowering persons, goods or materials:

(a) all parts, including the working gear, whether fixed or movable, of

every lifting machine and every chain, rope or lifting tackle shall be:

(i) of good construction, sound material and adequate strength and free from defects,

(ii) properly maintained; and

(iii) thoroughly examined by a competent person at least once in every period of twelve months, or at such intervals as the Chief Inspector may specify in writing, and a register shall be kept containing the prescribed particulars of every examination;

(b) no lifting machine and no chain, rope, or lifting tackle shall, except for the purpose of test, be loaded beyond the safe working load which shall be plainly marked thereon together with an identification mark and duly entered in the

prescribed register; and where this is not practicable, a table showing the safe working load of every kind and size of lifting machine or chain, rope or lifting tackle in use shall be displayed in prominent positions on the premises;

(c) while any person is employed or working on or near the wheel track of a travelling crane in any place where he would be liable to be struck by the crane, effective measures shall be taken to ensure the crane does not approach within six metres of that place.

(2) The Stage Government may make rules in respect of any lifting machine or any chain, rope or lifting tackle used in factories:

(a) prescribed further requirements to be complied with in addition to those set out in this section;

(b) providing for exemption from compliance with all or any of the requirements of this section, where in its opinion, such compliance is unnecessary or impracticable.

(3) For the purposes of this section a lifting machine or chain, rope or lifting tackle shall be deemed to have been thoroughly examined if a visual examination supplemented, if necessary, by other means and by the dismantling of parts of the gear, has been carried out as carefully as the conditions permit in order to arrive at a reliable conclusion as to the safety of the parts examined,

Explanation: In this section:

(a) 'lifting machine' means a crane, crab, winch toggle, pulley block, gin wheel, transporter or runway;

(b) 'Lifting tackle' means any chain sling, rope sling, hook, shackle, swivel, coupling, socket, clamp, tray or similar appliance, whether fixed or movable, used in connection with the raising or lowering of persons, or loads by use of lifting machines'.

10) Safe working peripheral speed for revolving machinery (Sec. 30)

In every factory in which the process of grindings is carried on, there shall be permanently affixed to or placed near each machine in use a notice indicating to be maximum safe working peripheral speed of every grindstone or abrasive wheel, the speed of the shaft or spindle upon which the wheel, is mounted, and the diameter of the pulley upon such shaft or spindle necessary to secure such safe working peripheral speed.

(2) The speeds indicating in notices under sub-section (1) shall not be exceeded.

(3) Effective measures shall be taken in every factory to ensure that the safe working peripheral speed of every revolving vessel, cage, basket, flywheel, pulley, disc or similar appliance driven by power is not exceeded.

11) Safe working pressure of pressure plant (Sec. 31)

(1) If in any factory, any plant or machinery or any part thereof is operated at a pressure above atmospheric pressure; effective measures shall be taken to ensure that the safe working pressure of such plant or machinery or part is not exceeded.

(2) The State Government may make rules providing for the examination and testing of any plant or machinery such as is referred to in sub-section (1) and prescribe such other safety measures in relation thereto as may in its opinion be necessary in any factor)* or class or description of factories.

(3) The State Government may by rules, exempt, subject to such conditions as may be specified therein, any part of any plant or machinery referred to in sub-section (1) from the provisions of the section.

12) Proper maintenance of floors, stairs and means of access (Sec. 32)

In every factory:

(a) all floors, steps, stairs, passages, and gangways shall be of sound construction and properly maintained, and shall be kept free from obstructions and substances likely to cause persons to slip and where it is necessary to ensure safety, steps, stairs, passages and gangways shall be provided with substantial handrails;

(b) there shall, so far as is reasonably practicable, be provided and maintained safe means of access to every place at which any person is at any time required to work;

(c) when any person has to work at a height from where he is likely to fall, provision shall be made, so far as is reasonably practicable, by fencing or otherwise, to ensure the safety of the person so working.

13) Covering of pits, sumps, openings, in floors etc. (Sec. 33)

(1) In every factory every fixed vessel, sump, tank, pit or opening in the ground or in a floor which, by reason of its depth, situation, construction or contents, is or may be a source of danger, shall be either securely covered or securely fenced.

(2) The State Government may, by order in writing, exempt, subject to such conditions as may be prescribed, any factory or class or description of factories in respect of any vessel, sump, tank, pit or opening from compliance with the provisions of this section.

14) Prohibition of carrying of excessive weights (Sec. 34)

(1) No person shall be employed in any factory to lift, carry on move any load so heavy as to be likely to cause him injury.

(2) The State Government may make rules prescribing the maximum weights which may be lifted, carried or moved by adult men, adult women, adolescents

and children employed in factories or in any class or description of factories in carrying on any specified process.

15) Protection of eyes (Sec. 35)

In respect of any such manufacturing process carried on in any factory as may be prescribed being a process which involves:

(a) risk of injury to the eyes from particles or fragments thrown off in the course of the process, or

(b) risk to the eyes by reason of exposure to excessive light, the State Government may by rules require that effective screens or suitable goggles shall be provided for the protection of persons employed on, or in the immediate vicinity of, the process.

16) Precautions against dangerous fumes, gases, etc. (Sec. 36)

(1) No person shall be required or allowed to enter any chamber, tank, vat, pit, pipe, flue or other confined space in any factory in which any gas, fume, vapour or dust is likely to be present to such an extent as to involve risk to persons being overcome thereby, unless it is provided with a manhole of adequate size or other effective means of egress.

(2) No person shall be required or allowed to enter any confined space as is referred to in sub-section (1), until all practicable measures have been taken to remove any gas, fume, vapour or dust, which may be present so as to bring its

level within the permissible limits and to prevent any ingress of such gas fume, vapour or dust and unless:

(a) a certificate in writing has been given by a competent person, bas on a test carried out by himself that the space is reasonably free from dangerous gas, fume, vapour or dust, or

(b) such person is wearing suitable breathing apparatus and a belt securely attached to a rope the free end of which is held by a person outside the confined space.

17) Precautions regarding the use of portable electric light (Sec. 36-A)

In any factory:

(a) no portable electric light or any other electric appliance of voltage exceeding twenty four volts shall be permitted for use inside any Chamber, tank, vat, pipe, flue or other confined space unless adequate safety devices are provide; and(b) if any inflammable gas, fume, or dust is likely to be present in such chamber, tank, vat, pit, pipe, flue or other confined space, no lamp or light other than that of flame proof construction shall be permitted to be used therein.

18) Prevention of accumulation of explosive or inflammable dust, gas, etc. (Sec. 37)

(1) Where in any factory any manufacturing process produces dust, gas, fume or vapour of such character and to such extent as to be likely to explode on

ignition, all practicable measures shall be taken to prevent any such explosion by:

- (a) effective enclosure of the plant or machinery used in the process;
- (b) removal or prevention of the accumulation of such dust, gas, fume or vapour;
- (c) exclusion or effective enclosure of all possible sources of ignition.

(2) Where in any factory the plant or machinery used in a process such as is referred to in sub-section (1) is not so constructed as to withstand the probable pressure which such an explosion aforesaid would produce, all practicable measures shall be taken to restrict the spread and effects of the explosion by the provision in the plant or machinery of chokes, baffles, vents or other effective appliances.

(3) Where any part of the plant or machinery in a factory contains any explosive or inflammable gas or vapour under pressure greater than atmospheric pressure, that part shall not be opened except in accordance with the following provisions, namely:

- (a) before the fastening of any joint of any pipe connected with the part or the fastening of the cover of any opening into the part is loosened, any flow of the gas or vapour into the part or any such pipe shall be effectively stopped by stop-valve or other means;

(b) before any such fastening as aforesaid is removed, all practicable measures shall be taken to reduce the pressure of the gas or vapour in the part or pipe to atmospheric pressure:

(c) where any such fastening as aforesaid has been loosened or removed effective measures shall be taken to prevent any explosive or inflammable gas or vapour from entering the part or pipe until the fastening has been secured, or, as the case may be, securely replaced;

Provided that the provisions of this sub-section shall not apply in the case of plant or machinery installed in the open air.

(4) No plant, tank or vessel which contains or has contained any explosive or inflammable substance shall be subjected in any factory to any welding, brazing, soldering or cutting operation which involves the application of heat unless adequate measures have first been taken to remove such substance and any fumes arising there from or to render such substance and fumes non-explosive or non-inflammable, and no such substance shall be allowed to enter such plant tank or vessel after any such operation until the metal has cooled sufficiently to prevent any risk of igniting the substance.

(5) The State Government may by rules exempt subject to such conditions as may be prescribed, any factory or class or description of factories from compliance with all or any of the provisions of this section.

19) Precautions in case of fire (Sec. 38)

(1) In every factory, all practicable measures shall be taken to prevent outbreak of fire and its spread, both internally and externally, and to provide and maintain.

(a) safe means of escape for all persons in the event of a fire, and

(b) the necessary equipment and facilities for extinguishing fire.

(2) Effective measures shall be taken to ensure that in every factory all the workers are familiar with the means of escape in case of fire and have been adequately trained in the routine to be followed in such cases.

(3) The State Government may make rules, in respect of any factory or class or description of factories, requiring the measures to be adopted to give effect to the provisions of sub-section (1) and (2).

(4) Notwithstanding anything contained in clause (a) of sub-section (1) or sub-section (2), if the Chief Inspector, having regard to the nature of the work carried on in any factory, the construction of such factory, special risk to life or safety, or any other circumstances, is of the opinion that the measures provided in the factory, whether as prescribed or not, for the purposes of Clause (a) of sub-section (1) or sub-section (2), are inadequate, he may, by order in writing, require that such additional measures as he may consider reasonable and

necessary, be provided in the factory before such date as is specified in this order.

20) Inspector to require specifications of defective parts or tests of stability (Sec. 39)

If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it may be dangerous to human life or safety, he may, serve on the occupier or manager or both of the factory an order in writing requiring him before a specified date:

(a) to furnish such drawings specifications, and other particulars as may be necessary to determine whether such buildings, ways, machinery or plant can be used with safety, or(b) to carry out such tests in such manner as may be specified in the order, and to inform the inspector of the results thereof.

21) Safety of building of the factory and of machinery in the factory (Sec. 40)

(1) If it appears to the Inspector that any building or part of a building or any part of the ways, machinery or plant in a factory is in such a condition that it is dangerous to human life or safety, he may service on the occupier or manager or both of the factory an order in writing specifying the measures which in his opinion should be adopted, and requiring them to be carried out before a specified date.

(2) If it appears to the Inspector that the use of any building or part of a building or any part of the ways, machinery or plant in a factory involves imminent danger to human life or safety, he may serve on the occupier or manager or both of the factory an order in writing prohibiting its use until it has been properly repaired or altered.

22) Proper maintenance of building of factory (Sec. 40A)

If it appears to the Inspector that any building or part of a building in a factory is in such a state of disrepair as is likely to lead to conditions detrimental to the health and welfare of the workers, he may serve on the occupier or manager or both of the factory an order in writing specifying the measures which in his opinion should be taken and requiring the same to be carried out before such date as is specified in the order.

23) Safety officers (Sec. 40-B)

(1) In every factory:

- (i) wherein one thousand or more workers are ordinarily employed, or
- (ii) wherein, in the opinion of the State Government, any manufacturing process or operation is carried on, which process or operation involves any risk of bodily injury poisoning or disease, or any other hazard to health, to the persons employed in the factory.

the occupier shall, if so required by the State Government, by notification in the Official Gazette, employ such number of Safety Officers, as may be specified in that notification.

(2) The duties, qualifications and conditions of service of Safety Officers shall be such as may be prescribed by the State Government.

24) Power to make rules to supplement this Chapter IV (i.e. Safety) (Sec. 41)

The State Government may make rules requiring the provisions in any factory or in any class or description of factories of such further devices and measures for securing the safety of persons employed therein as it may deem necessary.

PROVISIONS FOR WELFARE

Welfare

The following are the provisions relating to labour welfare under the Factories Act, 1948.

1) Washing facilities (Sec. 42)

(1) In every factory:

(a) adequate and suitable facilities for washing shall be provided and maintained for the use of the workers therein;

(b) separate and adequately screened facilities shall be provided for the use of male and female workers;

(c) such facilities shall be conveniently accessible and shall be kept clean.

(2) The State Government may, in respect of any factory or class or description of factories or any manufacturing process, prescribe standards of adequate and suitable facilities for washing.

2) Facilities for storing and drying clothing (Sec. 43)

The State Government may, in respect of any factory or class or description of factories, make rules requiring the provision therein of suitable places for keeping clothing not worn during working hours and for the drying of wet clothing.

3) Facilities of setting (Sec. 44)

(1) In every factory suitable arrangements for sitting shall be provided and maintained for all workers obliged to work in a standing position, in order that they may take advantage of any opportunities for rest which may occur in the course of their work.

(2) If in the opinion of the Chief Inspector, the workers in any factory engaged in a particular manufacturing process or working in a particular room are able to do their work efficiently in a sitting position, he may, by order in writing, require the occupier of the factory to provide before a specified date such

seating arrangements as may be practicable for all workers so engaged or working.

(3) The State Government may, by notification in the Office Gazette, declare that the provisions of sub-section (1) shall not apply to any specified factory or class or description of factories or to any specified manufacturing process.

4) First-aid appliances (Sec. 45)

(1) There shall in every factory be provided and maintained so as to be readily accessible during all working hours first-aid boxes or cupboards, equipped with the prescribed contents, and the number of such boxes or cupboards to be provided and maintained shall not be less than one for every one hundred and fifty workers ordinarily employed at any one time in the factory.

(2) Nothing except the prescribed contents shall be kept in a first-aid box, or cupboard.

(3) Each first-aid box or cupboard shall be kept in the charge of a separate responsible person who holds a certificate in first-aid treatment recognised by the State Government and who shall always be readily available during the working hours of the factor.

(4) In every factory wherein more than five hundred workers are ordinarily employed there shall be provided and maintained an ambulance room of the prescribed size, containing the prescribed equipment and in the charge of such

medical and nursing staff as may be prescribed and those facilities shall always be made readily available during the working hours of the factory.

5) Canteens (Sec. 46)

(1) The State Government may make rule requiring that in any specified factory wherein more than two hundred and fifty workers are ordinarily employed a canteen or canteens shall be provided and maintained by the occupier for the use of the workers.

(2) Without prejudice to the generality of the foregoing, power, such rules may provide for:

(a) the date by which such canteen shall be provided;

(b) the standards in respect of construction accommodation, furniture and other equipment of the canteen;

(c) the foodstuffs to be served therein and the charges which may be made therefor;

(d) the constitution of a managing committee for the canteen and representation of the workers in the management of the canteen;

(dd) the items of expenditure in the running of the canteen which are not to be taken into account in fixing the cost of foodstuffs and which shall be borne by the employer.

(e) the delegation to the Chief Inspector, subject to such conditions as may be prescribed, of the power to make rules under clause (c).

6) Shelters, rest rooms and lunch rooms (Sec. 47)

(1) In every factor wherein more than one hundred and fifty workers are ordinarily employed, adequate and suitable shelters or rest rooms and a suitable lunch room, with provision for drinking water, where workers can eat meals brought by them, shall be provided and maintained for the use of the workers:

Provided that any canteen maintained in accordance with the provisions of Sec. 46 shall be regarded as part of the requirements of this sub-section.

Provided further that where a lunch room exists no worker shall eat any food in the work room.

(2) The shelter or rest rooms or lunch rooms to be provided under subsection (1) shall be sufficiently lighted and ventilated and shall be maintained in a cool and clean condition.

(3) The State Government may:

(a) prescribe the standards in respect of construction, accommodation, furniture and other equipment of shelters, rest rooms and lunch rooms to be provided under this section;

(b) by notification in the Official Gazette, exempt any factory or class or description of factories from the requirements of this section.

7) Creches (Sec. 48)

(1) In every factory wherein more than thirty women workers are ordinarily employed there shall be provided and maintained a suitable room or rooms for the use of children, under the age of six years, of such women.

(2) Such rooms shall provide adequate accommodation, shall be adequately lighted and ventilated, shall be maintained in a clean and sanitary condition and shall be under the charge of women trained in the care of children and infants.

(3) The State Government may make rules:

(a) prescribing the location and the standards in respect of construction, accommodation, furniture and other equipment of rooms to be provided, under this section;

(b) requiring the provision in factories to which this section applies of additional facilities for the care of children belonging to women workers, including suitable provision of facilities for washing and changing their clothing;

(c) requiring the provision in any factory of free milk or refreshment or both for such children;

(d) requiring that facilities shall be given in the factory for the mother or such children to feed them at the necessary intervals.

8) Welfare Officers (Sec. 49)

(1) In every factory wherein five hundred or more workers are ordinarily employed, the occupier shall employ in the factory such number of welfare officers, as may be prescribed.

(2) The State Government may prescribe the duties, qualifications and conditions of service of officers employed under sub-section (1).

9) State Government to make rules to supplement Chapter V of this Act which deals with the welfare of the Workers (Sec. 50)

The State Government may make rules.

(b) exempting, subject to compliance with such alternative arrangements for the welfare of workers as may be prescribed, any factory or

Q2. PROVISIONS FOR WORKING HOURS OF ADULTS

working hours

The following are the provisions of the Factories Act, 1948 relating to working hours of adults in a factory:

1) Weekly hours (Sec. 51)

No adult worker shall be required or allowed to work in a factory for more than forty-eight hours in any week.

2) Weekly holidays (Sec. 52)

(1) No adult worker shall be required or allowed to work in a factory on the first day of the week (hereinafter referred to as the said day), unless:

(a) he has or will have a holiday for a whole day on one of the three days immediately before or after the said day; and

(b) the manager of the factory has, before the said day or the substituted day under Clause (a), whichever is earlier:

(i) delivered a notice at the office of the Inspector of his intention to require the worker to work on the said day and of the day which is to be substituted; and

(ii) displayed a notice to that effect in the factory;

Provided that no substitution shall be made which will result in any worker working for more than ten days consequently without a holiday for a whole day.

(2) Notices given under sub-section (1) may be cancelled by a notice delivered at the office of the Inspector and a notice displayed in the factory not later than the day before the said day or the holiday to be cancelled, whichever is earlier.

(3) Where, in accordance with the provisions of sub-section (1), any worker works on the said day and has had a holiday on one of three days immediately before it, that said day shall for the purpose of the calculating his weekly hours of work, be included in the preceding week.

3) Compensatory holidays (Sec. 53)

(1) Where, as a result of the passing of an order or the making of a rule under, the provisions of this Act exempting a factory or the workers therein from the provisions of Section 52, a worker is deprived of any of the weekly holidays for which provision is made in sub-section (1) of that section, he shall be allowed, within the month in which the holidays were due to him or within the two months immediately following that month, compensatory holidays of equal number to the holidays so lost.

(2) The State Government may prescribe the manner in which the holidays for which provision is made in sub-section (1) shall be allowed.

4) Daily hours (Sec. 54)

Subject to the provisions of Section 51, no adult worker shall be required or allowed to work in a factory for more than nine hours in any day:

Provided that, subject to the previous approval of Chief Inspector, the daily maximum specified in this section may be exceeded in order to facilitate the change of shifts.

5) Intervals for rest (Sec. 55)

(1) The periods of work of adult workers in a factory each day shall be so fixed that no period shall exceed five hours and that no worker shall work for more than five hours before he has had an interval for rest of at least half an hour.

(2) The State Government or, subject to the control of the State Government, the Chief Inspector, may, by written order and for the reasons specified therein, exempt any factory from the provisions of sub-section (1) so however that the total number of hours worked by a worker without an interval does not exceed six.

6) Spread over (Sec. 56)

The periods of work of an adult worker in a factory shall be so arranged that inclusive of his intervals for rest under Section 55, they shall not spread over more than ten and a half hours in any day:

Provided that the Chief Inspector may, for reasons to be specified in writing, increase the spread over upto twelve hours.

7) Night shifts (Sec. 57)

Where a worker in a factory works on a shift which extends beyond midnight:

(a) for the purposes of Sections 52 and 58, a holiday for a whole day shall mean in his case a period of twenty-four consecutive hours beginning when his shift ends;

(b) the following day for him shall be deemed to be the period of twenty-four hours beginning when such shift ends, and the hours he has worked after midnight shall be counted in the previous day.

8) Prohibition of overlapping shifts (Sec. 58)

(1) Work shall not be carried on in any factory by means of a system of shift so arranged that more than one relay of workers is engaged in work of the same kind at the same time.

(2) The State Government or subject to the control of State Government, the Chief Inspector, may, by written order and for the reasons specified therein, exempt on such conditions as may be deemed expedient, any factory or class or description of factories or any department or section of a factory or any category or description of workers therein from the provisions of sub-sec. (1).

9) Extra wages for overtime (Sec. 59)

(1) Where a worker works in a factory for more than nine hours in any day or for more than forty-eight hours in any week, he shall, in respect of overtime work, be entitled to wages at the rate of twice his ordinary rate of wages.

(2) For the purposes of sub-section (1), "ordinary rate of wages" means the basic wages plus such allowances including the cash equivalent of the advantage accruing through the concessional sale to workers of food grains and other articles, as the worker is for the time being entitled to, but does not include a bonus and wages for overtime work.

(3) Where any worker is in a factory paid on a piece-rate basis, the time rate shall be deemed to be equivalent to the daily average of their full time earnings for the day on which they actually worked on the same or identical job during

the month immediately preceding the calendar month during which the overtime work was done, and such time rates shall be deemed to be the ordinary rates of wages of those workers.

Provided that in the case of a worker who has not worked in the immediately preceding calendar month on the same or identical job, the time rate shall be deemed to be equivalent to the daily average of the earning of the worker for the days on which he actually worked in the week in which the overtime work was done.

Explanation: For the purposes of this sub-section in computing the earnings for the days on which the worker actually worked such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of foodgrains and other articles, as the worker is for the time being entitled to, shall be included but any bonus or wages for overtime work payable in relation to the period with reference to which the earnings are being computed shall be excluded.

(4) The cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed as often as may be prescribed on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family.

Explanation 1: 'Standard family' means a family consisting of the worker, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

Explanation 2: 'Adult consumption unit' means the consumption unit of a male above the age of fourteen years, and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rates of 0.8 and 0.6 respectively of one adult consumption unit.

(5) The State Government may make rules prescribing:

(a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed; and

(b) the registers that shall be maintained in a factory for the purpose of securing compliance with the provision of this section.

10) Restriction on double employment (Sec. 60)

No adult worker shall be required or allowed to work in any factory on any day on which he has already been working in any other factory, save in such circumstances as may be prescribed.

11) Notice of periods of work for adults (Sec. 61)

(1) There shall be displayed and correctly maintained in every factory in accordance with the provisions of sub-section (2) of Section 108, a notice of

periods of work for adults, showing clearly for every day the periods during which adult workers may be required to work.

(2) The periods shown in the notice required by sub-section (1) shall be fixed before hand in accordance with the following provisions of this section and shall be such that workers working for those periods would not be working in contravention of any of the provisions of Section 51, 52, 54, 55, 56 and 58.

(3) Where all the adult workers in a factory are required to work during the same periods, the manager of the factory shall fix those periods for such workers generally.

(4) Where all the adult workers in a factory are not required to work during the same periods, the manager of the factory shall classify them into groups according to the nature of their work indicating the number of workers in each group.

(5) For each group which is not required to work on a system of shifts, the manager of the factory shall fix the periods during which the group may be required to work.

(6) Where any group is required to work on a system of shifts and the relays are not to be subject to predetermined periodical changes of shifts, the manager of the factory shall fix the periods during which relay of the group may be required to work.

(7) Where any group is to work on a system of shifts and the relays are to be subject to predetermined periodical changes of shifts, the manager of the factory shall draw up a scheme of shifts, where under the periods during which any relay of the group may be required to work and the relay which will be working at any time of the day shall be known for any day.

(8) The State Government may prescribe forms of the notice required by sub-section (1) and the manner in which it shall be maintained.

(9) In the case of a factory beginning work after the commencement of this Act, a copy of the notice referred to in sub-section (1) shall be sent in duplicate to the Inspector before the day on which work is begun in the factory.

(10) Any proposed change in the system of work in any factory which will necessitate a change in the notice referred to in sub-section (1) shall be notified to the inspector in duplicate before the change is made and except with the previous sanction of the Inspector, no such change shall be made until the week has elapsed since the last change.

12) Register of adult workers (Sec. 62)

(1) The manager of every factory shall maintain a register of adult workers, to be available to the Inspector at all times during working hours, or when any work is being carried on in the factory, showing:

(a) the name of each adult worker in the factory;

- (b) the nature of his work;
- (c) the group, if any, in which he is included;
- (d) where his group works on shifts, the relay to which he is allotted;
- (e) such other particulars as may be prescribed;

Provided that, if the Inspector is of opinion that any muster-roll or register maintained as part of the routine of a factory gives in respect of any or all the workers in the factory the particulars required under this section, he may, by order in writing, direct that such muster-roll or register shall to the corresponding extent be maintained in place or, and be treated as, the register of adult workers in that factory.

(1-A) No adult worker shall be required or allowed to work in any factory unless his name and other particulars have been entered in the register of adult workers.

(2) The State Government may prescribe the form of the register of adult workers, the manner in which it shall be maintained and the period for which it shall be preserved.

13) Hours of work to correspond with notice under Section 61 and register under Section 62 (Sec. 63)

No adult worker shall be required or allowed to work in any factory otherwise than in accordance with the notice of periods of work for adults displayed in the

factory and the entries made before hand against his name in the register of adult workers of the factory.

14) Power to make exempting rules (Sec. 64)

(1) The State Government may make rules defining the persons who hold positions of supervision or management or are employed in a confidential position in a factory or empowering the Chief Inspector to declare any person, other than a person defined by such rules, as a person holding position of supervision or management or employed in a confidential position in a factory, if, in the opinion of the Chief Inspector, such person holds such position or is so employed and the provisions of this Chapter, other than the provisions of Clause (b) of sub-section (1) of Section 66 and of the proviso to that sub-section, shall not apply to any person so defined or declared;

Provided that any person so defined or declared shall where the ordinary rate of wages of such person does not exceed the wage limit specified in subsection (6) of Section 1 of the Payment of Wages Act, 1936 (4 of 1936), as amended from time to time be entitled to extra wages in respect of overtime work under Section 59.

(2) The State Government may make rules in respect of adult workers in factories providing for the exemption, to such extent and subject to such conditions as may be prescribed:

(a) of workers engaged on urgent repairs, from the provisions of Sections 51, 52, 54, 55 and 56;

(b) of workers engaged in work in the nature of preparatory or complementary work which must necessarily be carried on outside the limits laid down for the general working of the factory, from the provisions of sections 51, 54, 55 and 56;

(c) of workers engaged in work which is necessarily so intermittent that the intervals during which they do not work while on duty ordinarily amount to more than the intervals for rest required by or under section 55, from the provisions of sections 51, 54, 55 and 56.

(d) Of workers engaged in any work which for technical reasons must be carried on continuously from the provisions of section 51, 52, 54, 55 and 56.

(e) Of workers engaged in making or supplying articles of prime necessity which must be made or supplied everyday, from the provisions of section 51 and section 52.

(f)

(f) of workers engaged in a manufacturing process which cannot be carried on except during fixed seasons, from the provisions of Section 51, Section 52 and Section 54;

(g)of workers engaged in a manufacturing process which cannot be carried on except at times dependent on the irregular action of natural forces, from the provisions of Section 52 and 55;

(h)of workers engaged in engine-rooms or boiler-houses or in attending to power plant or transmission machinery, from the provisions of Section 51 and Section 52;

(i) of workers engaged in the printing of newspapers, who are held up on account of the breakdown of machinery, from the provisions of Sections 51, 54 and 56;

Explanation: In this clause the expression 'newspapers', has the meaning assigned to the Press and Registration of Books Act, 1867 (XXV of 1867)

(j) of workers engaged in the loading or unloading of railway wagons or lorries or trucks, from the provisions of Sees. 51,52, 54, 55 and 56;

(k) of workers engaged in any work, which is notified by the State Government in the Official Gazette as a work of national importance, from the provisions of Sections 51, 52, Section 54, Section 55 and Section 56.

(3) Rules made under sub-section (2) providing for any exemption may also provide for any consequential exemption from the provisions of Section 61 which the State Government may deem to be expedient, subject to such conditions as it may prescribe.

(4) In making rules under this section, the State Government shall not exceed, except in respect of exemption under Clause (a) of sub-section (2), the following limits of work inclusive of overtime:

(i) the total number of hours of work in any day shall not exceed ten;

(ii) the spread over, inclusive of intervals for rest, shall not exceed twelve hours in any one day:

Provided that the State Government may, in respect of any or all of the categories of workers referred to in Clause (d) of sub-section (2), make rules prescribing the circumstances in which, and the conditions subject to which, the restrictions imposed by Clause (i) and Clause (ii) shall not apply in order to enable a shift worker to work the whole or part of a subsequent shift in the absence of a worker who has failed to report for duty;

(iii) the total number of hours of work in a week including overtime, shall not exceed sixty;

(iv) the total number of hours of overtime shall not exceed fifty for any one quarter.

Explanation: 'Quarter' means a period of three consecutive months beginning on the 1st of January, the 1st of April - the 1st of July, or the first of October.

(5) Rules made under this section shall remain in force for not more than five years.

15) Power to make exempting orders (Sec. 65)

(1) Where the State Government is satisfied that, owing to the nature of work carried on or to other circumstances, it is unreasonable to require that the periods of work of any adult worker in any factory or class or description of factories should be fixed before hand, it may by written order, relax or modify the provisions of Section 61 in respect of such workers therein, to such extent and in such manner as it may think fit and subject to such conditions as it may deem expedient to ensure control over periods of work.

(2) The State Government or, subject to the control of the State Government, the Chief Inspector, may by written order exempt, on such conditions as it or he may deem expedient, any or all of the adult workers in any factory or group or class or description of factories from any or all of the provisions of Sections 51, 52, 54 and 56 on the ground that the exemption is required to enable the factory or factories to deal with an exceptional pressure of work.

(3) Any exemption granted under sub-section (2) shall be subject to the following conditions, namely:

- (i) the total number of hours of work in any day shall not exceed twelve;
- (ii) the spread over, inclusive of intervals for rest, shall not exceed thirteen hours in any one day;

(iii) the total number of hours of work in any week, including overtime, shall not exceed sixty;

(iv) no worker shall be allowed to work overtime, for more than seven days at a stretch and the total number of hours of overtime work in any quarter shall not exceed seventy-five.

Explanation: In this sub-section 'quarter' has the same meaning as in sub-section (4) of Section 64.

16) Further restrictions on employment of women (Sec. 66)

(1) The provisions of this Chapter shall, in their application to women in factories, be supplemented by the following further restrictions, namely:

(a) no exemption from the provisions of Section 54 may be granted in respect of any woman;

(b) no woman shall be required or allowed to work in any factory except between the hours of 6 A.M. and 7 P.M.

Provided that the State Government may by notification in the Official Gazette, in respect of any factory or group or class or description of factories vary the limits laid down in Clause (b), but so that no such variation shall authorize the employment of any woman between the hours of 10 P.M. and 5 A.M.

(c) there shall be no change of shifts except after a weekly holiday or any other holiday.

(2) The State Government may make rules providing for the exemption from the restrictions set out in sub-section (1), to such extent and subject to such conditions as it may prescribe, of women working in fish curing or fish canning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to, or deterioration in any raw material.

(3) The rules made under subsection 2 shall remain in force for not more than three years at a time.

Q4.ANNUAL LEAVE WITH WAGES

(1) The provisions of this Chapter shall not operate to the prejudice of any right to which a worker may be entitled under any other law or under the terms of any award agreement (including settlement) or contract of service;

Provided that if such award, agreement (including settlement) or contract of service provides for a longer annual leave with wages than provided in this Chapter, the quantum of leave, which the worker shall be entitled to, shall be in accordance with such award, agreement or contract of service, but in relation to matters not provided for in such award, agreement or contract of service or matters which are provided for less favorably therein, the provisions of Sections 79 to 82 so far as may be shall apply.

Explanation 2: The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during or at either end of the period of leave.

(2) A worker whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate laid down in Clause (i) or as the case may be clause he has worked for two-thirds of the total number of days in the remainder of the calendar year.

(3) If a worker is discharged or dismissed from service or quits his employment or is superannuated or dies while in service, during the course of the calendar year, he or his heir or nominee, as the case may be. shall be entitled to wages in lieu of the quantum of leave to which he was entitled immediately before his discharge, dismissal, quitting of employment, superannuation or death calculated at the rates specified in sub-section (1) even if he had not worked for the entire period specified in sub-section (1) or sub-section (2) making him eligible to avail of such leave and such payment shall be made:

(i) where the worker is discharged or dismissed or quits employment before the expiry of the second working day from the date of such discharge, dismissal or quitting, and

(ii) where the worker is superannuated dies while in service; before the expiry of two months from the date of such superannuation or death.

(4) In calculating leave under this section, fraction of leave of half a day or more shall be treated as one full day's leave, and fraction of less than half a day shall be omitted.

(5) If a worker does not in any one clean-year take the whole of the leave allowed to him under sub-section (1) or sub-section (2), as the case may be, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year:

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of a child:

Provided further that a worker, who has applied for leave with wages but has not been given such leave in accordance with any scheme laid down in Sub Sections (8) and (9) or in contravention of sub-section (10) shall be entitled to carry forward the leave refused without any limit.

(6) A worker may at any time apply in writing to the manager of a factory not less than fifteen days before the date on which the worker wishes his leave to begin, if he is employed in a public utility service as defined in Clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947):

Provided further that the number of times in which leave may be taken during any year shall not exceed three.

(2) The provisions of this Chapter shall not apply to workers in any factory of any railway administered by the Government who are governed by leave rules approved by the Central Government.

The following are the provisions of the Factories Act 1948 concerning annual leave with wages:

Annual leave with wages (Sec. 79)

(1) Every worker who has worked for a period of 240 days or more in a factory during a calendar year shall be allowed during the subsequent calendar year, leave with a number of days calculated at the rate of:

- (i) if an adult, one day for every twenty days of work performed by him during the previous calendar year;
- (ii) if a child, one day for every fifteen days of work performed by him during the previous calendar year;

Explanation 1: For the purpose of this sub-section:

- (a) any day of lay-off, by agreement or contract or as permissible under the standing orders;
 - (b) in the case of a female worker, maternity leave for any number of days not exceeding twelve weeks; and
 - (c) the leave earned in the year prior to that in which the leave is enjoyed;
- shall be deemed to be days on which the worker has worked in the factory for the purpose of computation of the period of 240 days or more, but he shall not earn leave for these days.

Explanation 2: The leave admissible under this sub-section shall be exclusive of all holidays whether occurring during or at either end of the period of leave.

(2) A worker whose service commences otherwise than on the first day of January shall be entitled to leave with wages at the rate laid down in Clause (i) or as the case may be clause he has worked for two-thirds of the total number of days in the remainder of the calendar year.

(3) If a worker is discharged or dismissed from service or quits his employment or is superannuated or dies while in service, during the course of the calendar year, he or his heir or nominee, as the case may be. shall be entitled to wages in lieu of the quantum of leave to which he was entitled immediately before his discharge, dismissal, quitting of employment, superannuation or death calculated at the rates specified in sub-section (1) even if he had not worked for the entire period specified in sub-section (1) or sub-section (2) making him eligible to avail of such leave and such payment shall be made:

(i) where the worker is discharged or dismissed or quits employment before the expiry of the second working day from the date of such discharge, dismissal or quitting, and

(ii) where the worker is superannuated dies while in service; before the expiry of two months from the date of such superannuation or death.

(4) In calculating leave under this section, fraction of leave of half a day or more shall be treated as one full day's leave, and fraction of less than half a day shall be omitted.

(5) If a worker does not in any one clean-year take the whole of the leave allowed to him under sub-section (1) or sub-section (2), as the case may be, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year:

Provided that the total number of days of leave that may be carried forward to a succeeding year shall not exceed thirty in the case of an adult or forty in the case of a child:

Provided further that a worker, who has applied for leave with wages but has not been given such leave in accordance with any scheme laid down in Sub Sections (8) and (9) or in contravention of sub-section (10) shall be entitled to carry forward the leave refused without any limit.

(6) A worker may at any time apply in writing to the manager of a factory not less than fifteen days before the date on which the worker wishes his leave to begin, if he is employed in a public utility service as defined in Clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947):

Provided further that the number of times in which leave may be taken during any year shall not exceed three.

(7) If a worker wants to avail himself of the leave with wages due to him to cover a period of illness, he shall be granted such leave even if the application for leave is not made within the time specified in sub-section (6) and in such a case wages as admissible under Section 81 shall be paid not later than fifteen

days, or in the case of a public utility service not later than thirty days from the date of the application for leave.

(8) For the purpose of ensuring the continuity of work, the occupier or manager of the factory, in agreement with the Works Committee of the factory constituted under Section 3 of the Industrial Disputes Act, 1947 (14 of 1947), or a similar Committee constituted under any other Act or if there is no such Works Committee or a similar Committee in the factory, in agreement with the representatives of workers therein chosen in the prescribed manner, may lodge with the Chief Inspector a scheme in writing whereby the grant of the leave allowable under this section may be regulated.

(9) A Scheme lodged under sub-section (8) shall be displayed at some conspicuous and convenient places in factory and shall be in force for a period of twelve months from the date on which it comes into force; and may thereafter be renewed with or without modification for a further period of twelve months at a time, by the manager in agreement with the Works Committee or a similar Committee, or as the case may be, in agreement with the representatives of the workers as specified in sub-section (8), and a notice of renewal shall be sent to the Chief Inspector before it is renewed.

(10) An application for leave which does not contravene the provisions of sub-section (6) shall not be refused, unless refusal is in accordance with the scheme for the time being in operation under sub-sections (8) and (9).

(11) If the employment of a worker who is entitled to leave under subsection (1) or sub-section (2), as the case may be, is terminated by the occupier before he has taken the entire leave to which he is entitled, or if having applied for and having not been granted such leave, the worker quits his employment before he has taken the leave, the occupier of the factory shall pay him the amount payable under Section 80 in respect of the leave not taken, and such payment shall be made, where the employment of the worker is terminated by the occupier, before the expiry of the second working day after such termination and where a worker who quits his employment, on or before the next pay day.

(12) The unavailed leave of a worker shall not be taken into consideration in computing the period of any notice required to be given before discharge or dismissal.

Wages during leave period (Sec. 80)

(1) For the leave allowed to him under Section 78, or Section 79, as the case may be, a worker shall be entitled to wages at a rate equal to the daily average of his total full time earnings for days on which he actually worked during the month immediately preceding his leave, exclusive of any overtime and bonus but inclusive of dearness allowance and the cash equivalent of the advantages accruing through the concessional sale to the worker of foodgrains and other articles.

Provided that in the case of worker who has not worked on any day during the calendar month immediately preceding his leave, he shall be paid at a rate equal

to the daily average of his total full time earnings for the days on which he actually worked during the last calendar month preceding his leave in which he actually worked, exclusive of any overtime and bonus but inclusive of dearness allowance and the cash equivalent of the advantage accruing through the concessional sale to the workers of foodgrains and other articles.

(2) The cash equivalent of the advantage accruing through the concessional sale to the worker of foodgrains and other articles shall be computed as often as may be prescribed, on the basis of the maximum quantity of foodgrains and other articles admissible to a standard family.

Explanation I: 'Standard family' means a family consisting of a worker, his or her spouse and two children below the age of fourteen years requiring in all three adult consumption units.

Explanation 2: 'Adult consumption unit' means the consumption unit of a male above the age of fourteen years, and the consumption unit of a female above the age of fourteen years and that of a child below the age of fourteen years shall be calculated at the rates of 0.8 and 0.6 respectively of one adult consumption unit.

(3) The State Government may make rules prescribing:

(a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of foodgrains and other articles shall be computed; and

(b) the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

Payment of wages in advance in certain cases (Sec. 81)

A worker who has been allowed leave for not less than four days, in the case of an adult, and five days, in the case of a child, shall, before his leave begins, be paid the wages due for the period of the leave allowed.

Mode of recovery of unpaid wages (Sec. 82)

Any sum required to be paid by an employer, under this Chapter but not paid by him shall be recoverable as delayed wages under this provisions of the Payment of Wages Act, 1936 (IV of 1936).

Power to make rules by the State Government (Sec. 83)

The State Government may make rules directing managers of factories to keep registers containing such particulars as may be prescribed and requiring the registers to be made available for examination by Inspectors.

Power to exempt factories from the provisions of the Chapter VIII of the Act (Sec. 84)

Where the State Government is satisfied that the leave rules applicable to workers in a factory provide benefits which in its opinion are not less favourable than those for which this Chapter makes provision it may, by written order, exempt the factory from all or any of the provisions of this Chapter subject to such conditions as may be specified in the order.

Explanation: For the purpose of this section, in deciding whether the benefits which are provided for by any leave rules are less favourable than those for

which this Chapter makes provision, or not, the totality of the benefits shall be taken into account.

Q4.UNFAIR LABOUR PRACTICES

Section 25-T. Prohibition of unfair labour practice.—No employer or workman or a Trade Union, whether registered under the Trade Unions Act, 1926, or not, shall commit any unfair labour practice.

Section 25-U. Penalty for committing unfair labour practices,—Any person who commits any unfair labour practice shall be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Unfair Labour Practices.—A new Schedule V has been added by the Industrial Disputes (Amendment) Act, 1982. In this Schedule unfair labour practices have been defined. It contains a list of such practices as are treated unfair on the part of the employers or their Trade Unions, or on the part of workmen and their Trade Unions.

I. Unfair labour practices on the part of employers and trade unions of employers.

1. To interfere with, restrain from, or coerce, workmen in the exercise of their rights to organise, from, join or assist a Trade Union or to engage in concerted activities for the purposes of collective bargaining or other mutual aid or protection, that is to say

(a) threatening workmen with discharge or dismissal, if they join a trade union;

(b) threatening a lock-out or closure, if a trade union is organised;

(c) granting wage increase to workmen at crucial periods of the union

organization, with a view to undermining the efforts of the trade union at organization.

2. To dominate, interfere with or contribute support, financial, or otherwise, to any trade union, that is to say :—

(a) an employer taking an active interest in organizing a trade union of his workmen; and

(b) an employer showing partiality or granting favour to one of several trade unions attempting to organise his workmen or to its members where such a trade union is not a recognised trade union.

3. To establish employer sponsored trade unions of workmen.

4. To encourage or discourage membership in any trade union by discriminating against any workman, that is to say :—

(a) discharging or punishing a workman, because he urged other workmen to join or organise a trade union;

(b) discharging or dismissing a workman for taking part in the strike (not being a strike which is deemed to be an illegal strike under this Act);

(c) changing seniority rating of workmen because of trade union activities;

(d) refusing to promote workmen to higher posts on account of their trade union activities;

(e) giving unmerited promotions to certain workmen with a view to creating discord amongst other workmen, or to undermine the strength of their trade union;

(f) discharging office-bearers or active members of the trade union on account of their trade union activities.

5. To discharge or dismissed workmen—

(a) by way of victimisation;

(b) not in good faith, but in the colourable exercise of the employer's right;

(c) by falsely implicating a workman in a criminal case on false evidence or on concocted evidence;

(d) for patently false reasons;

(e) on untrue or trumped up allegations of absence without leave;

(f) in utter disregard of the principles of natural justice in the conduct of domestic enquiry or with undue haste;

(g) for misconduct of a minor or technical character, without having any regard to the nature of the particular misconduct or the past record or service of the workman, thereby leading to a disproportionate punishment.

6. To abolish the work of a regular nature being done by workmen, and to give such work to contractors as a measure of breaking a strike.

7. To transfer a workman mala fide from one place to another, under the guise of following management policy.

8. To insist upon individual workmen, who are on a legal strike to sign a good conduct bond, as a pre-condition to allowing them to resume work.
9. To show favoritism or partiality to one set of workers regardless of merit.
10. To employ workmen as 'badlis', casuals or temporaries and to continue them as such for years with the object of depriving them of the status and privileges of permanent workmen.
11. To discharge or discriminate against any workmen for filing charges or testifying against an employer in any enquiry or proceeding relating to any industrial dispute.
12. To recruit workmen during a strike which is not an illegal strike.
13. Failure to implement award, settlement or agreement.
14. To indulge in acts of force or violence.
15. To refuse to bargain collectively, in good faith with the recognize trade unions.
16. Proposing or continuing a lock-out deemed to be illegal under t Act.

II. Unfair labour practices on the part of workmen and trade unions of workmen

1. To advise or actively support or instigate any strike deemed 1 illegal under this Act.
2. To coerce workmen in the exercise of their right to self-organization or to join a trade union or refrain from joining any trade union, that is to say

(a) for a trade union or its members to picketing in such a manner that non-striking workmen are physically debarred from entering the work places;

(b) to indulge in acts of force or violence or to hold out threats of intimidation in connection with a strike against non-striking workmen or against managerial staff.

3. For a recognized union to refuse to bargain collectively in good faith with the employer.

4. To indulge in coercive activities against certification of a bargaining representative.

5. To stage, encourage or instigate such forms of coercive actions and wilful 'go slow', squatting on the work premises after working hours or 'gherao' of any of the members of the managerial or other staff.

6. To stage demonstrations at the residences of the employers or the managerial staff members.

7. To incite or indulge in wilful damage to employer's property connected with the industry.

8. To indulge in acts of force or violence or to hold out threats of intimidation against any workman with a view to prevent him from attending work.

It is difficult to define and lay down exhaustive test of unfair labour practice, but it may be said that any practice, which violates the directive principles of State policy contained in Article 43 of the Constitution and such other Articles

as deal with the decent wages and living conditions for workmen amount to unfair practice.

In *Eveready Plash Light Company v. Labour Court Bareilly*, the company appointed a workman on daily rate basis on 18th January, 1958 after trying him for four days. On April 12, 1958 he was appointed on probation for 6 months which could be further extended by the company at its discretion, He was elected a member of the working committee of the union on September 9, 1958. On 10th September the management served him with a notice of warning that in spite of repeated warnings he had shown no improvement in his work. The warning was repeated on 11th October. On November 21, 1958 his service was terminated. The Union raised an industrial dispute and the Labour Court found no justification for putting the workman on probation after he had been tried and that the condition of putting him on probation as communicated by letter of 12th April was just to delay making him a permanent employee. The Company preferred a petition in the Allahabad High Court. It was held that "a condition of employment which is designed to invest the employer with arbitrary power to keep the workmen at his mercy as regards his chance of being made permanent, and to eventually lead to deprive him of such chance would amount to unfair labour practice". It was further observed that it is not necessary that there must be numerous transactions before the employer could be branded guilty of unfair labour practice and that he could be held guilty of such practice in respect of one contract of employment only.

In *L.H. Factories and Oil Mills, Pilibhit v. State of U.P.*, some of the workers were promoted to the rank of driver-cum-assistant-fitter. Other ten workers who were senior in service and also better qualified but were not so promoted raised an industrial dispute alleging discrimination in the matter of promotion. They alleged that they were victimised for their trade union activities. The Labour Court was of the view that "promotions were not given on merits but were given to pamper one association at the cost of the rival association". The company filed a writ in the Allahabad High Court. It was held that the promotions were made to please one trade union and strengthen it against the rival union and to which the disputing workmen were members. It was observed that any systematic attempt by the employer to use his powers of management to disrupt the trade union of his employees amounts to unfair labour practice. Unjust dismissal, unmerited promotion, partiality towards one set of workers regardless of merits are some illustrations of unfair labour practice.

In *Bengal Bhatdee Coal Co. v. Singh*, thirteen workmen during strike obstructed other workers who were willing to work from doing their work by sitting down between the tramlines. The Company served charge-sheets on them. The welfare officer of the Company conducted domestic enquiry and recommended their dismissal. The Supreme Court observed that looking at the nature of the offence committed by these workmen it cannot be said that the punishment inflicted was grossly out of proportion or was unconscionable.

Therefore, the action taken by the Company in dismissing these employees did not amount to victimisation. Although the relations between the Company and the union to which these workmen were members were not happy but this fact would by itself be no evidence to prove victimization for if that were so, it would mean that the active workers of a union with which the employer is not on good terms would have a carte blanche to commit any misconduct and get away with it on ground that relations between the employer and the union were not happy.

If badlis, casuals or temporary workers are continued for long years, the object is manifestly to deprive them of the status of permanent employees and this amounts to unfair labour practice on the part of the employer.

In *Gangadhar Pillai v. Siemens Ltd.*, the appellant served in the respondent company from 1978 as a helper and his services came to an end in the year 2000. He challenged it as an unfair labour practice under item 6 of Schedule IV of M.R.T.V. and P.V.L.P. Act, 1971 and failed in his attempt to get a declaration that his ending of service was unfair labour practice. Ultimately he fought his case upto Supreme Court and finally lost thereto.

The Supreme Court observed that only because a person had intermittently been engaged as a casual or temporary employee for a number of years, the same by itself might not lead to the conclusion that such appointment had been made with the object of depriving him of the status and privilege of a permanent employee.

It was also pointed out that the burden to prove unfair labour practice was on the workman. There had been breaks in service but the same were rightly held as not artificial ones. Engagement of the appellant workman causing to end on completion of period of contract, was held retrenchment coming within the purview of Section 2(oo)(bb) of the Industrial Disputes Act, 1947. Expressing its satisfaction that the respondent was able to provide some succour to the appellant, the Supreme Court dismissed the appeal as without merit.