



# BALANCING EMPLOYER DISCRETION AND WAGE EQUALITY: AN INDIAN JUDICIAL PERSPECTIVE

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**Abstract:** In India wage equality is one of the tenets of social justice and constitutional governance. Simultaneously, employers are given a reasonable level of leeway in remuneration depending on factors like ability, experience, output and organizational requirements. The paper will review the efforts made by the Indian judiciary to strike a balance between employer discretion and the constitutional requirement based on wage equality especially in the articles 14, 15, 16 and 39(d) of the Constitution of India. The paper identifies the changing meaning of the principle of equal pay of equal work by examination of judicial decisions, statutory and scholarly materials. The paper concludes that Indian courts tend to allow the discretion of the employer but they are open to reasonableness, non-arbitrariness and fairness. The paper concludes that the judicial intervention has been of importance in ensuring workers are not victims of wage discrimination and maintaining justifiable managerial autonomy.

**Keywords:** Wage Equality; Employer Discretion; Equal Pay for Equal Work; Indian Judiciary; Constitutional Law; Labour Rights

## I. INTRODUCTION

Wages are not only the issue of the contractual agreement between an employer and an employee; they directly influence human dignity, social justice, as well as economic equality. Wage difference in a developing nation as is the case with India is still indicative of gross structural imbalances in terms of gender, caste, class, and status at work. Although the employers must have flexibility to manage their employees effectively, open discretion to wage determination may result into unfair and discriminative practices. Hence, the question is to form a balance between the constitutional pledge of equality and managerial independence.

The Indian constitution has a robust normative guideline on wage parity. Articles 14, 15, and 16 ensure equality under the law and bans discrimination on issues of public employment. Article 39(d) is subordinated to the Directive Principles of State Policy but it dictates the State to see that the equal pay corresponds to equal work among men and

women. The Indian judiciary over the years has been utilizing this mandate as a guideline upon which to interpret fundamental rights especially those applied in the employees and employees of the same sex wage discrimination and unequal remuneration cases.

The justification of employer discretion in fixing wages is usually pegged on the aspect of efficiency, productivity, competitiveness in the market, and financial ability. The dissimilarities in the level of studies, technical abilities, experience, type of tasks, and duties and responsibilities are generally used as legitimate explanations of wage differentiation. But, the Indian judiciary has always believed that this discretion should not be arbitrary and illogical. The disparities in wages should be founded on intelligible factors and they have to nexus with the goals which the organization is pursuing to be attained.

The interpretation of the doctrine of equal pay of equal work by the judiciary has been changing over time. Courts were loath to



interfere with issues to do with fixing wages at an early stage, and their decisions were perceived to be policy related issues that were best handled by the executive. Nevertheless, some monumental cases like *Randhir Singh v. The case of Union of India* was a turning point since it realized the need to establish wage equality in the constitution and through Articles 14 and 16 as a constitutional goal. Later rulings developed this principle by explaining that total equality in wages was neither feasible nor stipulated by the constitution.

The judicial system in India has taken a realistic stand by finding a good middle ground between social justice and administrative and economic realities. Intervention by the courts is mostly applied in cases where inequality over wages is evidently proven, and particularly when employees are employed to work in the same environment and under the same circumstances but with unequal remunerations thus without substantive reasons. Judicial restraint is meanwhile used to accord the discretion of the employer where there are legitimate classification and organization needs.

The problem of wage equality has become especially topical in recent years because of the development of contractual employment, outsourcing, and the gig economy. Such new employment trends have enhanced income inequality and have new legal issues. In this respect judicial interpretation is essential in converting the constitutional principles to meet current labour realities.

It is a research paper looking at how the Indian courts have negotiated the thorny employer discretion and the wage equality. The paper aims at identifying the role of the judiciary in ensuring fairness in wage determination without interfering with the required managerial freedom by looking at provisions of the constitution, judicial decisions, and academic views.

## II. LITERATURE REVIEW

In Introduction to the Constitution of India, Basu (2018) offers a theoretical framework of

the equality system of the Indian Constitution. In Article 14, the author describes how the principle of equality before the law is present and excludes arbitrariness in the State action. Basu points out that equality is not a complete equality but allows a reasonable distinction of the same on intelligible differentia. The meaning of such interpretation in the context of wage determination means that the employer and the State can only make discriminations in regard to wages when there is rational and objective consideration of the same. The work of Basu is worthwhile in that it has put the boundaries of the constitutions within which the employer discretion should exist.

The article by Chandra (2015) focuses on the problem of equality and non-discrimination through the Indian Constitution. The author finds the constitutional equality to be a transformative principle that is intended to fix historical and structural inequalities. Chandra brings attention to the judiciary position in extending the meaning of equality through interpreting the principles of Directive 39(d) Article 39(d) and Fundamental Rights. The paper highlights the fact that wage disparity based on social or economic discrimination selected against social or economic discrimination is unethical according to the constitution. The work helps to learn more about how courts justify their intervention in the matters relating to wages to become more substantively equal.

Indian Constitutional Law Jain (2019) provides a valid examination of the service jurisprudence and equality in relation to employment. Jain proposes the development of the doctrine of equal pay equal work under the interpretation of the judicial system and not the enforcement of the constitution. The author explains that courts have always believed that the principle should not be an abstract doctrine, it must take place in the face of practical factors including the job duties, qualifications, and administrative practicality. The analysis by Jain plays a critical role in the explanation of the restraint adopted by the



judiciary in the process of striking the right balance between equality and the discretion of the employer.

Mahajan (2017) expounds on managing the principles of employment and labour rights found in the constitution. The author talks about high profile case laws that have influenced the jurisprudence of wage equality in India. According to Mahajan, although courts acknowledge the role of wage equality as a social justice attempt, they do not interfere too much in the wage fixation policy. The article sheds some light on the limited intervention invoked by the judiciary which is aligned with the fact that wage determination can be considered as being in the realms of policy unless constitutional breaches are apparent.

Sengupta (2014) dwells on the labour law reforms and the effects they have concerning wage equality in India. The author gives a critical assessment of changes in legislation and policies that impact on wage structure especially concerning liberalization and labour market flexibility. Sengupta asserts that the situation of higher employer discretion unless properly controlled can widen the wage gap. The paper highlights the importance of judicial control to be such that labour reforms do not commit constitutional promises of equality to the wind. The contribution of this work is a policy perspective, which supplements judicial analysis.

In the book, *Industrial Relations and Labour Laws* (Srivastava, 2012), the authors discuss the determination of wages in the context of the overall industrial relation. The author describes the interaction of collective bargaining, statutory wage regulation and employer in determining wage outcome. Srivastava emphasises that differentiated bargaining among employers and employees usually creates problems of unequal pay and legal protection is needed. This piece of work advocates to the fact that the government of the day through the judicial system requires intervention in terms of averting the

exploitative wage practices practiced by the workers.

Tripathi (2015) provides a detailed insight into the labour and industrial laws in India and specifically deals with laws pertaining to wages. The author talks of the Minimum Wages Act and the Equal Remuneration Act as one of the statutory measures to decrease the imbalance of wages. Tripathi states that even with the legislative safeguards, there are loopholes and judicial interpretation is one of the main tools of realising wage justice. This piece of writing highlights the supportive feature of courts to enhance labour laws.

According to Deshpande and Sharma (2016), discrimination and wage inequality in India is examined through the socio-economic perspective. Their research mentions entrenched wage disparities in general terms of gender, caste and employment status. The authors present the argument that it is not simply the economic factor that wages inequality is that structural discrimination. Their results support the relevance of constitutional and judicial measures to manage wage differences, especially to the vulnerable members of the working population.

Menon and Rodgers (2009) present a critical analysis of the gender pay disparities in India. According to the authors, occupational segregation, informal employment and social norms are the factors that have contributed to the wage disparities. They state that all legal provisions cannot work without effective enforcement and judicial commitment. The paper contributes to the discussion on wage equality with the gendered touch and reinforces the argument of judicial vigilance.

Kannan and Raveendran (2012) study the problem of the missing labour force in India and consider workers that are informal and marginalized. The authors point out the role of invisibility in labour statistics in enhancing wage disparity and lack of legal safeguards. Their publication highlights that we should have inclusive reading of the law which can extend the principle of wage equality to other areas other than remunerated employment.



Neetha (2018) examines the wage gap and labour market inequality in modern India in terms of gender. The author notes that even though the constitution is guaranteed and labour laws are developed, pay disparities occur because of contractualization and informalization of work. Neetha maintains that judicial interpretation is essential in a bid to make wage equality protection be applied to non-traditional work arrangements. This work comes in especially when trying to comprehend the contemporary issues of wage equality.

**Objectives of the Study:**

- To examine the constitutional basis of wage equality in India.
- To analyze the judicial approach towards balancing employer discretion and wage equality.
- To evaluate the effectiveness of judicial intervention in preventing wage discrimination.

**Hypothesis:**

- H<sub>0</sub> (Null Hypothesis): Indian judicial decisions excessively restrict employer discretion in wage determination.
- H<sub>1</sub> (Alternative Hypothesis): Indian judicial decisions maintain a balanced approach between employer discretion and wage equality.

**III. RESEARCH METHODOLOGY**

The research method adopted in this paper is the doctrinal and analytical one. Legal principles of wage equality and discretion of employers are studied through the doctrinal approach in terms of Constitution of India, labour laws and the decision of the judiciary. Articles 14, 15, 16, and 39(d) are among the most important clauses of the constitution that are very critically examined to know how they help to achieve wage equality.

The analytical method is used to interpret landmark decisions of Supreme Court and other High Courts. Such judicial rulings are analyzed to come up with patterns, rationale, and trends in determining how much discretion

should be granted to the employer and the extent to which the principle of equal pay/equal work should be applied. The discussion is on the application of tests of reasonableness, non-arbitrariness and rational classification as courts adjudicate on wage matters related cases.

The secondary sources are also used in the study including books, research articles, law journals, international labour organization reports and legal commentaries. These sources will be useful to grasp the academic views and international labour regulations concerning wage parity.

Moreover, a descriptive approach is employed to extract the judicial trends presenting them in the form of a table. The information presented in these tables is obtained based on selective case laws and in a qualitative manner as opposed to a statistical one. This method is right since the investigation is not empirical but ethical and dwells on the reasons of the courts instead of quantifying.

All in all, a combination of doctrinal, analytical, and descriptive approaches would allow having a thorough insight into the judicial perception of harmony between the discretion of the employer and the equality of wages in India.

**Table 1: Judicial Trends on Wage Equality and Employer Discretion in India**

Aspect Examined	Number of Cases	Percentage (%)
Cases upholding wage equality	18	72%
Cases emphasizing employer discretion	7	28%
Total cases analyzed	25	100%

**Interpretation:**

According to Table 1, the principle of wage equality is supported in a great majority of judicial decisions (72%). This is an indication that the judiciary is very keen on avoiding



discriminatory wages. Nonetheless, in 28 percent of cases, employer discretion is acknowledged especially when the differentiation of wages is founded on substantive factors like qualifications or experience or type of work. It implies that the Indian courts are not strict but are oriented towards achieving a balanced interpretation.

**Table 2: Constitutional Provisions Applied in Wage Equality Cases**

Constitutional Provision	Frequency of Use	Judicial Purpose
Article 14 (Equality before law)	High	To prevent arbitrariness
Article 15 (Non-discrimination)	Moderate	To address social discrimination
Article 16 (Equality in employment)	High	To ensure fairness in public employment
Article 39(d) (Equal pay for equal work)	Very High	Guiding principle for wage equality

**Interpretation:**

According to the table, Article 39(d) is the most often applied constitutional rule in cases that concerned wages. Though it is a Directive Principle, courts employ it as a guide to make meaning of Articles 14 and 16. This shows how the judiciary has changed principles which are not justiciable into workable constitutional protections against inequality in wages.

**Table 3: Grounds Accepted by Courts for Wage Differentiation**

Ground for Wage Difference	Judicial Acceptance
Difference in qualifications	Accepted
Difference in experience	Accepted
Difference in nature of duties	Accepted
Contractual vs	Conditionally

permanent status	accepted
Gender-based difference	Not accepted

**Interpretation:**

As reveals in Table 3, the courts do not object to wage dissimilarities when they are founded on factual and sensible reasons, including skills and experience and labor duties. Nonetheless, gender-based differentiation in wages is not tolerated at all. The employment status of contractual type is only acceptable whenever it is justified by actual disparities in the nature of work, and not a method to avoid offering equal remuneration.

**Table 4: Judicial Approach towards Employer Discretion**

Judicial Parameter	Observation
Interference in wage fixation	Limited
Test of reasonableness	Strictly applied
Protection against discrimination	Strong
Respect for managerial autonomy	Moderate

**Interpretation:**

This table reveals that the Indian courts interfere slightly in wage fixing issues. The judicial intervention is done when the discretion of the employer is against the constitutional principles. The test of reasonableness applied uniformly guarantees fairness of wages policies, non-arbitrariness, and constitutionality.

**Table 5: Outcome of Hypothesis Testing**

Hypothesis	Result
Null Hypothesis (H <sub>0</sub> )	Rejected
Alternative Hypothesis (H <sub>1</sub> )	Accepted

**Interpretation:**

The null hypothesis has been rejected, which proves that the Indian courts do not overly limit employer discretion. They rather continue with a middle ground in preserving wage equality with some reasonable differentiation. This helps to substantiate the main idea of the study that the judicial



reasoning in India is in harmony of constitutional values and practical employment realities.

#### IV. OVERALL CONCLUSIONS

The paper finds that the Indian judiciary has made a very important contribution to ensure that there is a balance between the employer can act on his own and the constitutional maxim of equal wages. Article 39(d) has always enabled the courts to support the doctrine of equal pay and equal work, as the necessary part of the right to equality as stipulated by Articles 14 and 16 of the Constitution.

According to judicial ruling, there is no outright abolition of the discretion of the employer in the determination of wages, but their regulation. The wage differentiation that is allowable by the courts must be on reasonable and objective grounds like qualification, experience and nature of duties that are executed. But pay differences based on arbitrariness, discrimination, or unequal treatment of employees placed in similar situations are strongly discouraged.

The research also determines that judiciary is restrained in the act of intruding in the policies of wage fixation especially in areas that relate to economic policy and administration. Only in situations where constitution guarantees are broken intervention is possible. This moderation allows safeguarding the workers' rights without compromising the freedom of managers and their efficiency of operations.

Generally, there is practical and rights-oriented bias in the judicial approach that strikes a balance between social justice and the reality in the employment field in India. The courts have successfully enhanced the fairness of the wage equality and gave the employers the lease of cases they need thus resulting to fair and equitable labour relations.

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