Flexible Working Practices: Pros & Cons; A Checklist For Employers
written by Suma RV | September 3, 2022

Flexible Working Practices

Workers' participation and contribution to the growth of their companies and more broadly, the country is highly commendable. The Hon'ble Prime Minister of India acknowledged this while addressing the two-day National Labour Conference of Labour Ministers and Labour Secretaries of States/UTs at Tirupati on August 25th 2022, stating, 'A lot of credit goes to our workers for making India one of the fastest-growing countries once again' [1]. Another highlight of the Hon'ble Prime Minister's speech was a renewed emphasis on flexible workplaces, a work-from-home ecosystem and flexible work hours.

The flexible workplace system gained importance during the COVID-19 lockdown period and the demand for such ecosystems has remained high. Further, the New Labour Codes, which may be implemented soon, specifically recognize gig and platform-based workforce and the protection of their interests. All of these have brought a new dimension to workforce management in India.

Are companies equipped to transition to a full-fledged flexible workplace ecosystem?

COVID-19 demonstrated certain advantages for remote-working ecosystems in the form of reduced office rental costs and infrastructural expenses. However, the challenges that companies might face in some cases are the non-availability of employees at the desk during work hours, inadequate supervision, underperformance, reduced teamwork, breach of confidentiality and dual employment [2]

On the flip side, a Stanford study found that employees following flexible working practices raised their productivity levels by almost 13% [3]. Employees also reported lower stress levels, increased job satisfaction, and better health. Companies following flexible working practices reported higher rates of employee retention, lesser overhead costs, green workplace practices and increased recruitment rates [4].

Legality Of A Flexible Working Ecosystem

The existing laws do not specifically deal with a flexible workplace ecosystem. However, the Factories Act, 1948, which is applicable to manufacturing units/factories in India, and the State-specific Shops and Establishments Act applicable to commercial establishments such as IT, ITeS, service sector, etc., restrict the hours of work and spread of work hours in

a day. Accordingly, even while extending flexible work hours, the companies need to adhere to these guidelines.

The High Court of Kerala, in its recent judgement in a writ petition filed against an employer by an employee working from home in Kerala, held that the High Court of Kerala has no territorial jurisdiction to entertain her claim since the employer was not geographically situated in Kerala (nor did it promote its business there) and she was permitted to work from home as a concession [5]. Therefore, the place of business of the employer is relevant in employee disputes.

A Checklist For Employers

Employers could follow the measures suggested below to ensure that the flexi-working modules work for them and their employees.

- Identify the organizational requirements: The companies should identify the flexi-working modules that are suitable for their businesses and also identify the category of employees who can be given flexible working options based on their nature of work.
- Identify geographical limitations: An employee may decide to work remotely from any city or state within India or outside. However, such decisions of employees need not be obliged by the employer if the latter has to bear the burden of legal or tax implications.
- Identify legal compliance concerns: The next step is to check the legal requirements for the types of flexi-working modules being used by employees, identify the risks associated with the same and ways to mitigate the risks.
- Framing of HR policies: It is valuable to frame a comprehensive HR policy to cover different flexi-working modules, the category of employees covered under it and relevant terms and conditions. The right to call back the employees to work from the office at any time should also be ensured.
- Do's and Don'ts: Guidelines and handouts can be shared with the employees, which lays down their responsibilities in a flexible workplace, including obligations to maintain the confidentiality of company information.
- Disciplinary processes: Remote policies need to align with existing disciplinary processes to cover instances of breach of flexi-working guidelines.
- Use of technology: Enabling secure access to company emails and confidential information databases is important.

Conclusion

It is necessary that the employees should be made aware of their rights and obligations. The steps above mentioned will not only help companies comply with applicable laws, but help employees understand their obligations while discharging their work in a flexible workplace.

- [1] https://www.pmindia.gov.in/
- [2]https://www.springhouselaw.com/
- [3] https://siepr.stanford.edu/
- [4] https://theolsongroup.com/
- [5] https://www.livelaw.in/news-updates/