

Gig Workers and their Struggles for Legal Rights and Entitlements

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With the implementation of neo-liberal capitalist economic policies through out the world, using digital technologies including algorithms, online platforms have rapidly gained ground worldwide. According to International Labour Organization the number of digital labour platforms worldwide has increased five fold during the last decade. Due to the flexible organisational structure and work culture of these neo-liberal digital platforms, labour is not only becoming transnationalised, but with the flexible employment arrangement have transformed work, creating longer working hours and double shifts, eroding job security. With the extensive use of information technology, managements are exerting greater control over labour through various forms of surveillance and monitoring. These platforms using the technology and capital with the motive of reduction in costs by reducing wage cost and other social benefits to the workers are locking the workers in to precarious work, forcing them in to precarious work conditions.

India also emerged as one of the largest countries for gig and platform work. Digital platforms in India are thriving as a result of the increasing use of smartphones, internet and other initiatives under the digital India campaign. Low entry barriers of platform jobs, in the circumstance of no scope of getting any job due to severe unemployment conditions, workers with varied skills are being attracted to take up these platform jobs as means of eking out some sort of a livelihood.

According to the estimation of NITI Aayog 77 lakh workers were engaged in gig economy in 2020-21. The gig workforce is expected to expand to 2.35 crore workers by 2029-30 (NITI Aayog 2022).

Most of the platform work is conducted in the form of 'app-based work' or 'location-based work' in the form of local service-oriented tasks such as driving, delivery or cleaning houses.

At present 47% of the gig work is in medium-skilled jobs, and 31% in low-skilled jobs working in transport, retail and domestic industries. It is expected that this trend will reduce the concentration of workers in medium-skilled occupations and shift to more low-skill occupations in the next decade.

From 2016 onwards women workers too are taking up the jobs of food delivery jobs working as women delivery workers. By 2019-20, 67,900 women are working as delivery workers.

Interestingly none of the digital platforms that engage workers and earn profits by exploiting the labour power of these workers call them (designate them) either as

'employees' or 'workers' working for them. They call them with lofty designations as "partners" (transport-based "aggregators" like Uber and Ola) or as "delivery partners" or as "delivery executive". Under such inflated or glorified designations these companies are cunningly avoiding to recognize them as their employees/workers and avoiding the responsibility of an employer bound to accept the liability of labour laws and implement the rightful legal entitlements to their workers. These supposed partners do not have 'shares' of profit or company value that should accompany true partnership. Neither the 'executives' are paid with emoluments and privileges to be given for a real executive. With such lofty and glorified designations, these companies as an employer are refusing taking on the most basic responsibility for wages, working conditions and social security of these workers. The gig workers are left at the mercy of the employers of these platforms. Gig employment in fact is a minute contractualization. Gig employment of work, where the employer determines work and arranges the pecuniary payment for it but escapes from all responsibility.

The workers have to comply with the conditions decided by the company. If the worker does not comply with the conditions, his ID is blocked, resulting in a digital punishment of digital dismissal.

Gig workers are being forced to work for 12 hour or more per day and on less than prescribed minimum wage. They bear the burden for any sort of domestic or social crises including ill-health or app failure or internet or other shut-downs.

Delivery workers face acute exploitation in many aspects. At the time of recruitment the delivery workers are provided the means of transport and then equipments such as mobile phones, back packs, jackets and even credit card machines from the companies. Here the workers are burdened to incur all expenses of transport facilities, gadgets without compensation at any stage. The popular food delivery platforms like Swiggy and Zomato charge Rs. 1,500 – Rs. 2,000 as security deposit from each newly joining workers. Thus the delivery workers start their first working day with debt – modern debt bondage. As delivery workers women too shall possess a motorcycle, scooter or bicycle with a driving license.

The delivery work is intensified by loss of the dignity, lack of financial security and the opportunities for progress in a career. No fixed income slabs and incentives and the nature of the work is such that these are extended periods of short-term assignments for weeks and days. The gig workers are forced in to role of passive victims subject to the machinations of technology corporates. The work reduces the workers in to just machines and commodities.

These delivery companies incentivize delivery workers on the basis of 'performance'. The delivery workers do not know how they get orders, how their ratings drop and how the overall system works but are forced to work without possessing the right to information about their basic labour rights. The food delivery workers are forced to work for 12-14 hrs. daily to earn around Rs.700 – Rs.800 a day from which workers had to meet fuel and other expenses.

Their payment structure is often changed without consensus or their knowledge to the workers' disadvantage.

The gig workers face exploitation and inequality outside the gambit of any social security schemes.

The new labour code does not classify the gig workers as regular employees, lacking clarity as to who exactly a gig worker is!

Against these worst, inhuman working and living conditions, the workers (gig) throughout the world have been agitating and fighting for their legal status to categorise as fulltime employees with all legal labour rights and entitlements and recognize them as regular employees.

The Uber drivers in UK and Deliveroo in Australia are fighting in higher courts for their legal recognition as regular employees and for legal entitlements and rights. Recently Meituan delivery workers in China, Talabat food delivery workers in Dubai, online delivery workers in South Korea are going into strikes demanding better working conditions and social security provisions etc.

Even in our country for the past few years the gig workers have been conducting agitations for better working conditions and wages in almost all cities. The Uber, Ola drivers and the delivery workers in Swiggy and Zomato have been agitating in one city or other for better working conditions and wages etc.

In Kerala :

Recently Zomato and Swiggy workers carried out a struggle in Kerala state. When Zomato changed its policies on flexibility of working time, days, incentives, mandatory login every hour and the penalty for not doing duty, workers sent a strike notice demanding the restoration of incentive and other benefits. When the management did not respond, the workers went in to an indefinite strike from 16 August 2022, under the leadership of Thiruvananthapuram district online delivery workers union (CITU), and they were joined in their protest march by their Swiggy counterparts. After the intervention of the state government, Zomato reached in to an agreement with workers on the issue of weekly incentives, the rain surge bonus, for peak-time and non peak-time, besides agreeing to issue a show-cause notice to the workers before taking any disciplinary action including termination. Thus Zomato workers of Thiruvananthapuram temporarily won a battle against management's unilateral decision of cutting down incentives. But, the need of considering gig workers as labourers and bringing under the purview of the organized and formal sector by the law has still remained to be fought out.

In Rajasthan :

The app-based gig workers in Rajasthan and their unions with the support of civil society and citizen groups campaigned with a demand centered around social security. They demanded social security rights through a board to be setup through a workers' welfare

law. Social security is supposed to be a part of the wage earned by the worker, kept for all basic human needs including moments of crisis when a worker is unable to work due to ill health, old age or even need for a leave.

But the gig workers are refusing to take up this responsibility and even the state is not showing any creative responsibility to do so. Through their campaign the workers were able to convince the ruling party of the state (Congress Party) and its boss Rahul Gandhi during Bharat Jodo Yatra in Rajasthan to form a board and social security fund, created through a fee on every transaction. Basing on the model of "Mathadi Board" in Maharashtra of 'hamali' workers, Rajasthan state government made a social security law for gig workers. All aggregators operating in the state and all workers must be registered with the board. The board is supposed to serve as an independent grievance redress mechanism.

This law is being considered to be an important forward step in terms of fair work and social security by eminent social activists and they view this law can be the basis for more progressive laws for gig workers in India and other parts of the world.

But however, this act of Rajasthan could not make the employer (gig economy) equally responsible for providing decent conditions and legal entitlements to its workers.

In this context, it has to be noted that the Indian Federation of App-based transport workers filed the writ petition no. 1068/2021 in the Supreme Court praying to recognize the gig and platform workers under the "unorganized workers" so that at least the unorganized sector social security schemes are extended to them.

All these experiences show that the gig workers have to march a long-way through their continued struggles to achieve their legal-status as workers, their legal entitlements and rights.