

## Chapter 5

### Impact of non-compliance of statutory provisions

#### 5.1 Impact of short payment/non-payment/short contribution/non-contribution to contract labour in contracts reviewed in Audit

For discharge of responsibility entrusted to the Principal Employer through the provision of various statutory laws relating to protection of contract labour, the estimates of all contracts should amongst others include assessment of the labour component. The assessment of labour component of the estimate should be done keeping in view the costs involved to comply with the statutory laws. These amongst others include CLRA, 1970, MWA, 1948, EPF & MPA, 1952 and ESIA, 1948.

Review of estimates for the contracts showed that Railway administration did not make assessment of labour required in various contracts. In contracts where cost of labour component was assessed, assessment of costs of contract labour was not done keeping in view the costs involved in meeting statutory liabilities provided under various Acts and Rules.

Audit observed that out of 463 contracts, in case of 190 contracts, the estimates included the number of labour to be engaged for execution of the contract. Out of these, in 108 contracts, the estimates included assessment of labour component separately and in 82 contracts the estimates did not include separately assessment of labour component. Out of 108 contracts where the estimates included labour component separately, in 71 contracts the assessment of labour component was found short by ₹ 12 crore<sup>72</sup>. The assessment for labour component was made by Audit on the basis of cost of labour as per provisions contained in CLRA, 1970, MWA, 1948, EPF & MPA, 1952 and ESIA, 1948.

#### Annexure 5.1 and 5.2

***Thus, where the labour component was assessed separately, Railways did not prepare the estimates keeping in view the statutory requirements under the CLRA, 1970, MWA, 1948, EPF & MPA, 1952 and ESIA, 1948 in 71 out of 108 contracts. The risk of exploitation of contract labour as a result of short payment/non-payment of minimum wages and other statutory labour benefits was substantial.***

While discussing the issue of preparation of cost estimates keeping in view the costs involved in compliance to the statutory laws and making payments accordingly, Railway Board during Exit Conference stated (January 2018) that sometimes there were constraints in ensuring the payments as per the cost estimates, as payments are done on the basis of actual amount of work done and not on the number of labour employed. Audit emphasised that the first step towards ensuring adherence to statutory provisions of the Minimum Wages Act,

<sup>72</sup> ₹ 66.36 crore assessed by Audit - ₹ 54.36 crore as assessed by Railway Administration

1948 is to work out cost estimates keeping in mind all statutory obligations with respect to labour.

## 5.2 Impact of non-compliance to statutory provisions by the Principal Employers and Contractors

**5.2.1** Out of 463 contracts in selected Railway formations valuing ₹ 873.40 crore, scope limitation was imposed in case of 151 contracts valuing ₹ 224.30 crore, as requisite records were not made available to audit. Of the balance 312 contracts valuing ₹ 649.10 crore involving 8998 contract labour, in 210 contracts valuing ₹ 408.20 crore, there was an adverse impact on 6366 contract labour. In 102 contracts valuing ₹ 240.88 crore, which involved 2632 labour, Audit did not find any adverse financial impact on the labour in relation to compliance of labour laws.

As regards the quantum of adverse impact, Audit assessed/calculated an adverse impact of ₹ 26.14 crore on 6366 contract labour in 210 contracts reviewed. This included ₹ 20.78 crore, ₹ 4.41 crore and ₹ 0.95 crore on account of non-compliance of CLRA, 1970 & MWA, 1948 (together), EPF and MPA, 1952 and ESIA, 1948 respectively. This worked out to 4.02 *per cent* of the value of 312 contracts.

**5.2.2** PU 32 captures the figures of contractual payments and the expenditure booked under PU 32 represents the contractual payments under various Revenue Grants. It was noticed that during 2016-17, the total contractual payments under Revenue Grant amounted to ₹ 5806.63 crore.

Similarly, the figure for contractual payments under Capital Grants is captured under PU 3. However, these figures are not maintained at Railway Board level. The share of contractual payments to the total Capital Expenditure (excluding extra-budgetary resources) was 28.54 *per cent* in NCR, during 2016-17. Taking 28.54 *per cent* as norm, share of contractual payments in Capital expenditure (₹ 102632.65 crore during 2016-17) would work out to ₹ 29291.35 crore<sup>73</sup>.

Table 5.1 - Contractual payments under Revenue and Capital Grants over IR during 2016-17

Type of Grant	Grant No.	Expenditure under PU 32 during 2016-17 (₹ in crore)
Revenue	3	53.55
Revenue	4	2160.88
Revenue	5	165.10
Revenue	6	416.00
Revenue	7	490.73
Revenue	8	816.54
Revenue	9	395.73
Revenue	10	0
Revenue	11	838.40
Revenue	12	469.70
Capital	16	29291.35

Source: Demand for Grants of Ministry of Railways

<sup>73</sup> 28.54 *per cent* of ₹ 102632.65 crore

Table 5.2 – Calculation of adverse impact on contract labour in Indian Railways	
Total Revenue Grant	₹ 5806.63 crore
28.54 <i>per cent</i> of total Capital Grant no. 16 (excluding Extra Budgetary Resources)	₹ 29291.35 crore
<b>Total</b>	<b>₹ 35098 crore</b>
<b>4.02 <i>per cent</i> of ₹ 35098 crore i.e. ₹ 1410.94 crore</b>	

Thus, during 2016-17, Indian Railways made contractual payments of approximately ₹ 35,098 crore. Based on the results of audit in 312 contracts adverse impact on contract labour has been worked out at 4.02 *per cent* of total contractual payments. The estimated adverse impact on contractual payments in Indian Railways would thus be 4.02 *per cent* of ₹ 35,098 crore, i.e. ₹ 1,410.94 crore. The number of contract labour affected would also be significantly high.