

ENQUERY: Are apprentices appointed under the Apprentices Act, 1961, considered workers under the Factories Act, 1948?

RESPONSE: To answer this, we need to understand two key concepts: who is a 'worker' under the Factories Act, 1948, and who is an apprentice under the Apprentices Act, 1961.

Definition of 'Worker' Under the Factories Act, 1948

As per Section 2(l) of the Factories Act, 1948:

"Worker" means a person employed, directly or by or through any agency (including a contractor) with or without the knowledge of the principal employer, whether for remuneration or not, in any manufacturing process, or in cleaning any part of the machinery or premises used for a manufacturing process, or in any other kind of work incidental to, or connected with, the manufacturing process, or the subject of the manufacturing process but does not include any member of the armed forces of the Union.

Key components of the definition:

1. Employment can be **direct or indirect** (e.g., through contractors or agencies).
2. The **nature of work** involves a manufacturing process, cleaning machinery/premises, or work incidental/connected to the manufacturing process.
3. The individual may or may not receive **remuneration** for the work.
4. Excludes members of the armed forces.

Definition of Apprentice under the Apprentices Act, 1961

As per Section 2(aa):

"Apprentice" means a person who is undergoing apprenticeship training in pursuance of a contract of apprenticeship.

As per Section 2(aaa):

"Apprenticeship training" means a course of training in any industry or establishment undergone in pursuance of a contract of apprenticeship and under prescribed terms and conditions.

Apprentices are primarily **learners** or **trainees**, not employees. They are engaged for **training purposes** under the terms of a contract of apprenticeship.

Application of Health, Safety, and Welfare Provisions to Apprentices

As per **Section 14 of the Apprentices Act, 1961**, when apprentices are undergoing training in a factory: The provisions of Chapters III (Health), IV (Safety), and V (Welfare) of the Factories Act, 1948, apply to them as if they were workers under the Factories Act.

This ensures that apprentices enjoy the same protection concerning:

- **Health:** Cleanliness, ventilation, drinking water, etc.
- **Safety:** Fencing machinery, precautions against dangerous fumes, Protection of eyes, etc.
- **Welfare:** Restrooms, first-aid, canteen, and crèches.

Do Apprentices Qualify as Workers Under the Factories Act, 1948?

The answer is context-dependent:

1. Legal Status as Workers:

- Apprentices are **not workers** for the purposes of employment under the Factories Act because they are engaged for training, not regular employment.
- They are bound by a **contract of apprenticeship**, not an employment agreement.

The Apprentices Act clarifies that their relationship with the establishment is for the purpose of training and not employment.

2. Health, Safety, and Welfare Protections:

For the application of Chapters III, IV, and V of the Factories Act, apprentices are **treated as workers** to ensure their well-being during training.

Illustrative Case

Scenario 1: Health and Safety

An apprentice in a chemical factory is exposed to harmful fumes. Under **Section 14 of the Apprentices Act**, the factory must adhere to Chapter III provisions, ensuring adequate ventilation and protective measures. In this case, the apprentice is treated **like a worker** under the Factories Act.

Scenario 2: Canteen Facilities

An apprentice undergoing training in a factory wants to use the canteen facility provided to workers under Section 46 of the Factories Act, 1948, which mandates factories employing more than 250 workers to provide a canteen.

Under Section 14 of the Apprentices Act, 1961, apprentices are treated as workers for welfare provisions like canteen facilities. This means they are eligible to use the canteen and enjoy the same benefits as regular workers, such as access to meals or refreshments at subsidized rates (if applicable).

Conclusion

Apprentices appointed under the Apprentices Act, 1961, are not workers under the Factories Act, 1948, for general employment purposes. However, for the application of health, safety, and welfare provisions (Chapters III, IV, and V of the Factories Act), they are treated as workers during their apprenticeship training. This distinction ensures apprentices receive necessary protections without being classified as employees.

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