

"ACTS AND FACTS IN THE AID OF HEARING HANDICAPPED IN INDIA"

REG. NO. M-9502

AN INDEPENDENT PROJECT SUBMITTED IN PART
FULFILLMENT FOR THE FIRST YEAR MASTER'S DEGREE
IN SPEECH AND HEARING TO THE UNIVERSITY OF MYSORE

ALL INDIA INSTITUTE OF SPEECH AND HEARING

MYSORE-570 006

INDIA

1996

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* **DEDICATED TO MY** *

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* **FAMILY AND FRIENDS** *

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* **WHO'VE TOUCHED MY LIFE IN** *

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* **SO MANY WAYS** *

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CERTIFICATE

This is to certify that this Independent Project entitled "ACTS AND FACTS IN THE AID OF HEARING HANDICAPPED IN INDIA" is the bonafide work, done in part fulfillment for the first Year of the Master's Degree in Speech and Hearing of the student with Registration No. M-9502.

Mysore

May' 96



Dr. (Miss) S. NIKAM
Director

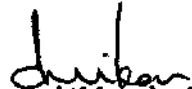
All India Institute of
Speech and Hearing
Mysore - 570 006

CERTIFICATE

This is certify that this Independent Project entitled "ACTS AND FACTS IN THE AID OF HEARING HANDICAPPEP IN INDIA" has been prepared under my supervision and guidance..

Mysore

May'96


Dr. (Miss) S. NIKAM
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DECLARATION

I hereby declare that this Independent Project entitled **"ACTS AND FACTS IN THE AID OF HEARING HANDICAPPED IN INDIA"** is the result of my own study undertaken under the guidance of **Dr. [Miss] S. Nikam**, Director, All India institute of Speech Hearing, Mysore, and has not been submitted earlier at any University for any other Diploma or Degree.

Mysore

May '96

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INTRODUCTION

Deafness is worse than blindness, so they say. It is the loneliness, the sense of isolation that makes it so and the lack of understanding in the minds of the ordinary people. The problem of the child deaf from birth is quite different from that of the man or woman who has become deafened after school age or in adult life ... But for them the handicap is the same, the handicap of the silent world, the difficulty of communicating with the hearing and speaking world.

- Scott Stevenson

from Balentyne, J., Deafness, New York, Churchill Livingstone, 1977, p. 215.

In fact the importance of an organ is realised during its absence or inefficiency to perform well. The beauty of nature is such that all the people have been born with excesses and deficiencies. Life is at its best when it is filled with happiness, in hand with sorrows.

Cultural history demonstrates that the stupid, the blind, the deaf have been treated progressively as a nuisance, a disgrace, an object of mirth problem and a challenge. The Aztecs sacrificed them during famine, the Malenesians buried them alive: For more than 1500 years

people followed Aristotle's quotes in his 'History of Animals' "Those who are born deaf all become senseless and incapable of reason. Inhabitants of ancient India are said to have casted their cripples to the Ganges; the spartans hurled them from a precipice. As per the Old Testament a disability was regarded as divine punishment for sin. In the middle ages, they were stoned, confined outside the city wall, or to the gas chamber.

Later they pitied them and provided them with a means of survival of livelihood, by employing them as 'buffoons in banquets, royal courts.

But currently, with the present development in insights and recent sophisticated surgical and medical advancements, the trend has changed. Modern medicine has added years to the lives of the disabled. Moreover, the achievements of Hellen Keller, Beethoven have been successful in changing the attitudes of the society towards the handicapped.

The complex and sometimes conflicting cultural attitudes and values affect the handicapped. For instance the Todas of India practised female infanticide but they consider it is a sin to lay hands on the weakling and deformed. The Hindu religion stressed the value of charity,

philanthropy and mutual aid, but the doctrine of Karma has militated against the handicapped. Since it is believed that they represent retribution for sins committed in a previous incarnation and hence any effort to improve their lot would interfere with the workings of divine justice. The religions Buddhism, Jainism stressed mercy and kindness and selfless services to all persons including the handicapped.

The attitudes changed from
indifference or negligence resulting in some instances in deliberate exploitation of a handicapped as in the case of beggars.

- non-selective humanitarianism as manifested in the home and in charitable institution.

Philanthropy and religious zeal have been strong motivating factors in establishing many institutions for the handicapped. Fatalistic attitude about rehabilitation fosters a sense of inadequacy in a handicapped person.

The services catering to the hearing handicapped hence has been viewed in the light of the special conditions and problems found in the country as a whole rapid population rise that contributes to outstrip in production, a predominantly rural population just beginning to feel the dislocations and uneasy changes caused by gradual

industrialization and cityward movement of people: difficulties of transportation and communication related to the very size of the country and the barriers of divergent customs, beliefs and language attitudes of fatalism imposed by caste and sex and widespread poverty and malnutrition.

Although India is a land rich in traditions for the care of the handicapped, a planned approach on a national and scientific basis didn't appear till 1945, after the submission of the Report of the Post-War Development Plans. Before independence only the voluntary bodies had provided the services available. The first Five Year Plan shifted emphasis from charity to rehabilitation. In the Second Five Year Plan, education and employment of the physically handicapped were stressed, with initiation of scholarships for handicapped students and a plan for establishing special employment exchanges for the handicapped. The Third Five Year Plan encouraged the development of facilities for vocational, expansion of employment opportunities for the handicapped and co-ordination of public and private efforts along these lines. During the Fourth Five Year Plan also scholarship aids were emphasized upon. The Fifth Five Year Plan saw the establishment of the national institute. The Sixth Five Year Plan emphasized on medical, paramedical health services, pre- and post-natal care, immunisation

programs integrated education, vocational training, economic rehabilitation and training teachers. With 1981 being considered as the International Year of Disabled Persons, a number of steps were undertaken by the State and Central Government to promote rehabilitation of the physically handicapped, like creating special jobs, special employment exchange cells, vacancies.

The original work with the handicapped came under the jurisdiction of the Ministry of Education, but after much discussion and several different recommendations, it was placed in turn under the Ministries of Law of Social Security and of Social Welfare.

The rehabilitation services provided in India at various centres, hospitals, institutions include:

1. medical care, diagnostic tests, restoration and surgical treatment, prosthetic and orthopaedic appliances, convalescent homes, and physical and occupational therapy;

2. education for the blind, deaf, orthopaedically handicapped and to an increasing extent for the mentally retarded;

3. vocational training, including pre-vocational training in special schools;

4. job placement services in government employment exchanges, sheltered employment in workshops attached to some hospitals and vocational training centers and industrial sheltered workshops;

5. pensions and allowances with Ministry of Education scholarships and allowances for education and training of the handicapped;

6. social services such as welfare assistance consultations with medical and psychiatric social workers and follow-up services in clinics.

India has long benefitted from a diversity of efforts made by individuals and groups from many other countries. They would combine humanistic and practical values inherent in rehabilitating the handicapped and making as far as possible self-sufficient and contributing members of the normal community are accepted as a basis for current developments. It is towards directing them toward a fuller life.

EDUCATION FOR ALL IN INDIA

Different programmes for the education and rehabilitation of the hearing handicapped have at different times reflected the prevailing social climate. The first written reference to handicapped people was found in 1552 BC in a Therapeutic Papyrus of Thebes. With the advent of great religions, asylums began to be provided. But it was not until the sixteen hundreds that exploration began to be undertaken regarding the education of the handicapped. During the period of renaissance and the ferment of French Revolution definite steps were taken to devise systems of educating handicapped children.

A manual alphabet for the deaf was developed by Father D'leper, a few years prior to the French Revolution. During the same period, an oral method of instruction for the deaf was being developed in Germany by Samuel Heinicke. At the Gallaudet College in Washington total communication emerged which was a mixture of three methods, manual alphabet, signs and speech.

Education began to be imparted to the handicapped towards the end of 18th century. The first school for the deaf was set up in Bombay after a hundred years in 1885. In undivided India, 30 schools for the deaf were recorded.

Traditionally special schools for various categories of handicapped children have provided instruction in regular subjects as well as in special subjects of particular importance to a given category of handicapped children through special systems, methods and equipment.

The special schools for these individuals impart training in speech and language without which education through the prescribed syllabus would not have been possible.

I. Scheme of integrated education

The National Policy Resolution on Education has recommended the placement of disabled children in regular schools so that they are provided with integrated education with normal students. For this purpose only, aids, special teachers and other resources have been provided. These schemes ensure that the disabled children stay with their own parents. No restriction has been imposed on a particular school covering more than one type of disability or on the minimum number of children in a school.

This is a centrally sponsored scheme launched in 1974 by the Department of Social Welfare and later was transferred to the Department of Education 1982.

Allowance is provided for the hearing handicapped

a. Rs. 50/- p.a. uniform allowance

b. Books and stationery allowance of Rs. 400/- p.a.

Boarding and lodging charges are paid for disabled children residing in school hostels within the same institution where they are studying as admissible under the Government rules/schemes. Where there is no state scheme of scholarships to the hostellers, the disabled children whose parents' income does not exceed Rs. 3000/- per month may be paid actual board and lodging charges. Subject to a maximum of Rs. 200/- p.m. (Ref: Perspectives in Disability and Rehabilitation, R.S. Pandey and Advani).

II. Educational Relaxations and Concessions

The Association of Indian Universities has recommended the following measures.

The physically handicapped students who can produce reasonable evidence of having difficulty in attending normal institutions would be permitted to appear as private candidates for non-technical examinations which does not involve practical training.

- The physically handicapped examiners should be provided assistance of a competent person who would write to

dictation free of cost and need not be less qualified than the examinee.

- The examinees may be permitted to typewrite the answers.

(Ref. Handbook of Disabled in India, D.S. Mehta).

III. Language according to many orders (In Karnataka, Order No. SWD 79, PHP 76, Bangalore dated 16/88 Jan'78)

The Industrial Training Institutes do allow admission to these individuals provided they are declared physically fit for training in a trade for which they have been recommended either by the Medical Board attached to the special employment exchange or by a local civil surgeon. A certain percentage of seats are reserved in the universities for the handicapped.

There are training colleges for the teachers of the deaf for conducting training courses. The candidates should have completed the intermediate course or equivalent examination with the age limit being 19-26 years. The duration of the course is one year.

There are special B.Ed. courses for teaching the deaf. The minimum eligibility is a graduate in any faculty.

There are graduate and post-graduate courses in Audiology and Speech Pathology offered by recognised

institutions which aids to catering to the needs and habilitation of the speech and hearing handicapped. The minimum requirement for the graduate course is intermediate or pre-degree course or XII standard and the post-graduate course requires a minimum of being a graduate in the same firm. There are research facilities available in the same area also.

III. Scholarship scheme

The Union Ministry of Welfare has been operating a scheme of scholarship through the State Governments for the disabled for general technical or professional education from IX standard onwards. A minimum of 40% marks is necessary at the last annual examination for awarding of scholarship. The main purpose here is to assist them to secure education which would enable them to earn a living and become useful members of society. This scholarship is however not admissible for undergoing a training course for the second time.

Eligibility

The hearing disability possessed would be

1. as in the definition

The hearing handicapped are those in whom the sense of hearing is non-functional for ordinary purposes of life;

they do not hear/understand sound at all even with amplified speech. The case included in this category would be those having hearing loss more than 70 dB in the better ear (profound impairment or total loss of hearing in both ears).

2. Nationality: A disabled person who is a citizen of India may apply.

3. a. Educational requirements: A minimum of 40% marks of the previous annual examination from 9th standard onwards.

b. Vocational course: He should be undergoing a vocational training course in any concerned centre/workshop or industrial training institute or any other centre run by the central or state government or local body or any voluntary organisation or institution recognised by central or state government. Apprentice training is also included.

c. Music course: A disabled is required to pass Madhyamik or its equivalent examination atleast in second division from a college affiliated to a university or to an institution of all India character approved by the Central Government.

4. Income

The combined monthly income of the parents/guardian of the candidate should not exceed Rs. 2,000/-. Before

granting the scholarship a voluntary declaration from the parent/guardian of the student should be taken. (Ref. Handbook of Disabled in India, D.S. Mehta: Facilities and concessions for hearing handicapped. A Handbook, AYJNIHH.

Other requirements

a. Course

He needs to study a full-time or correspondence course in an educational institution affiliated to a board or university: (i) music course in an institution affiliated to a University or any organisation approved by the state or central government, (ii) working as a trainee in a recognised institution or commercial industrial establishment - approved by the central or state government.

b. Scholarship for higher technical training or higher education would be provided for a disabled person under any state or government scheme provided, they have received craft training free of cost or undergone a course of general education free of cost. The students who want to take up academic courses after doing craft training and vice-versa shall not be considered for scholarship.

c. A disabled in receipt of assistance for free boarding and lodging facilities from any voluntary or state

source will not be eligible for scholarship as applicable to the day scholar provided he or she paid the tuition fees.

Re needs to furnish an undertaking counter signed by his guardian mentioning that he is not in receipt of assistance from any other source. If this is found false, the scholarship will be stopped and the amount already given would be recovered.

d. Scholarship will not be awarded.

- i. If the candidate is pursuing a parallel course of study
- ii. For studying abroad
- iii. For pursuing academic/technical course if the candidate has already completed a conventional course or training.
- iv. For undertaking any training course for the second time.

e. A candidate having received any vocational training in any institution including any central or state government organisations shall be considered for the award of scholarship to work as trainee in any establishment approved by the Central or State government.

The rate of scholarships are as follows.

Type of course	Rate/month for day scholars	Rate/month for hostellites
1. Class IX, X, Pre-University course and I A/I SC	85	140
2. B.A./B.Com./B.Sc. etc.	125	180
3. B.E./B.Tech./MBBS/LLB/B.Ed./ Diploma in professional and engineering studies etc./ in-plant training/vocational courses	170	240
4. MA/MSc/M.Com./LLM/M.Ed. etc.	170	240

Note: a) The above rates were effective from 1986-87

b) The students in vocational courses will get the scholarship at the rate of the scholarship provided in the above categories according to the level of diploma/certificates

(Ref: Facilities and Concessions for Hearing Handicapped - A Handbook, AYJNIHH)

3. Tenure of scholarship

The scholarship will be tenable for a particular stage of study and is renewable from year to year within the stage of education and it will depend on promotion to the next class. After class IX, however, scholarship would be limited to a period of six years.

The period of training in commercial or any other establishment or other training shall be decided by the

establishment in consultation with the State Department of Social Welfare provided that the period shall not exceed one year say with specific approval of the department on the basis of exceptional circumstances set down in writing.

4. Mode of applying

a. Applications in the prescribed format are sent to the State Department of Social Welfare through the head of the institute where the candidate is admitted.

b. Documents that should be enclosed are

- Medical certificate from a RMO/ENT specialist
- Audiogram copy
- Statement of marks of previous examination with percentage of marks duly attested

5. Award of scholarship

a. After considering all applications, decisions are made about selection or rejection by the State Department of Social Welfare with Ministry of Welfare.

b. Every selected candidate shall be informed of the course for which scholarship has been awarded through the head of the institute.

c. The expenditure incurred on providing scholarships/ stipends under this scheme by the State Government will be reimbursed to them by the Ministry of Welfare, Government of India.

6. Fellowships

University Grants Commission awards junior and senior fellowships in research areas.

III. Children's educational allowance

Children's educational allowance will be granted to the children of government employees.

A reimbursement of tuition fee of Rs. 50/- p.m. in respect of physically handicapped and mentally retarded children of the central government employee is permissible. Under this scheme, the disabled children get other assistance as per rates prescribed for the normal children.

(Ref: 1. Ministry of Personnel Public Grievances and Pensions, Central Civil Services Orders, 1988
2. Indian Posts and Telegraphs Department letter No. B.16011/4/83 WL dated 15-11-83, Item No. 19II of the 4th meeting held on 20-5-83)

Recommendations

- The rate of educational and concession may be increased with the current cost of living.

- Precautions regarding any misuse should be taken.

- If the handicap does not suitably or significantly hinder his scholastic achievements, the minimum marks limit can be increased because hearing handicap does not usually affect the intellectual ability.

- Unless the candidate does not deserve the scholarship he should not be provided with the same.

- More number of courses should be open for them.

HEARING IMPAIRED - TOWARDS SELF EMPLOYMENT

Vocational rehabilitation resulting in the placement of employment of persons with disability has been the crux and culmination of the entire rehabilitation process. Vocational rehabilitation has been defined by the General Conference of the International Labour Organisation (195.5) as "that part of the continuous and co-ordinated process of rehabilitation which involves the provision of those co-ordinated services. Eg. Vocational guidance, vocational training and selecting placement, designed to enable a disabled person to secure and retain suitable employment.

With a purpose of facilitating employment of the handicapped the Indian Government has putforth certain concessions and reservations which are applicable to the central ministries or departments.

The physically handicapped including the deaf, blind, orthopaedically handicapped are given priority by the employment exchanges against Central Government vacancies for group C and D posts.

Certain decisions made in connection with this are:

- Out of 3% for the above mentioned, 1% vacancies are reserved in group C and D posts in Central Services and

in comparable posts in the undertakings of Government of India public sector, for the hard of hearing.

- If these candidates are not available or if they cannot be recruited for certain technical posts due to their handicap, other candidates under the non-handicap group may be recruited, or these vacancies may be carried over for a period of upto three years.

- They shall be partially or totally exempted by the criteria required to be met by the other candidates.

- Every employing ministry would create more and more job opportunities for these individuals such that the efficiency of work would not be affected by the handicap.

- Preference would be given for the physically handicapped individuals who would fall under the category of Scheduled Castes/Tribes, ex-servicemen and dependents of those killed in wars. For group C and D recruitment in central services and in comparable posts in the public sector undertakings against the reserved quota for these categories. (Ref. No. 36035/8/89-ESH (SCT) Government of India, Ministry of Personnel Grievances and Pensions, New Delhi, 20-11-89).

a. Aye limit

Relaxation of upto 10 years in upper age limit is provided for appointment to clerical and subordinate posts.

They are not required to pay the application and examination fee for recruitment.

In case these candidates belong to Scheduled Castes/Tribes they are allowed five years above this limit.

b. Qualifications

These candidates are exempted from typing qualification for appointment to clerical posts if they otherwise qualify or are certified as unable to type by the medical board. (Ref: Ministry of Home Affairs OM No. 15/8/61 EST dated 23-12-61).

They are not subjected to the routine medical examination. On the other hand, they need to enclose a report by the medical board which is attached to the special employment exchanges. (Ref: Ministry of Home Affairs OM No. 5/1/60, ESTT (1) dated 28/6/60).

a. As per the Ministry of Health and Family Welfare stammering is not a disqualification for appointment to clerical posts.

b. Where the officials are required to undertake train journey in the railway mail service, the physically handicapped are not suitable for employment. However, the hard of hearing are not specifically mentioned here.

c. Any hard of hearing trained in a recognised institute for the same are eligible for the post of clerks in telephone revenue accounts offices only in the telecommunication offices.

d. They may be employed as cleaners in mail motor services.

e. The post and telegraph department selects and appoints the physically handicapped persons for various posts but the hard of hearing are not suitable for any post. (Ref: Ministry of Personnel, Public Grievances and Pensions, dated 20-11-89).

II. Other concessions

The Medical Board and the appointing authorities are required to view these individuals with utmost sympathy while considering for appointment according to "EMPLOYMENT OF HANDICAPPED PERSON IN THE PUBLIC SERVICE". (Ref: Ministry of Home Affairs, OM No. 720/29/57, RPS dated 15-10-1958).

Deafness or deaf mutism is not regarded as a disqualification for appointment to Group C and D posts of artisan class or those involving manual or skilled labour or a routine type of work, if the candidate is otherwise fit and qualified. (Ref: Ministry of Home Affairs, OM No. 60/137/50 ESTT dated 28-7-50).

III. Government of India undertakings and Indian Airlines

a. Age limit

The upper age limit is relaxed by five years for the physically handicapped for appointment in certain services.

The Indian Airlines gives age relaxation due to the handicap for the following:

Grade	Posts
A. Technical	
1 to 3	Carpenter, tailor, mason
3 to 6	Plumber, painter
3 to 6	Technicians
B. Non-technical	
1 to 2	Class IV employers, cooks, loader, drivers
3 to 6	Assistants

b. Qualifications

These individuals who are qualified to hold clinical posts such as Office Assistants, Audit Assistants, Library Assistants, stock verifiers have been certified by the Indian Airlines Medical Officer to carry out such functions are exempted from requiring a typing qualification.

c. Physical fitness standards

1. Having exempted these physically handicapped individuals, their physical fitness for carrying out the functions assigned to the concerned post will be examined and certified by Medical Officer of the Indian Airlines.

IV. Railway Board

While considering handicapped persons against Group C and D posts they would be medically examined by the Chief Medical Officer and henceforth employment would be offered according to his qualifications and ability to perform duties pertaining to the post offered.

The railways have increased the percentage from 3 to 15 for the disabled persons in respect of vacancies under the notified categories where they can be appointed (Ref: Handbook of Disabled in India, D.S. Mehta).

IV. Autonomous bodies - Universities

While recruiting physically handicapped persons for suitable appointments on fulfilment of qualifications prescribed, a sympathetic view should be taken. (Ref: University Grants Commission letter No. F.1-68/74 (CD/CP), dated 31-12-1976).

Concessions made for the blind could be applicable to the hard of hearing.

When qualified blind people are available for appointment to teaching posts in colleges and universities they should not be ignored.

They should be employed for tutorial work in certain subjects or even for post-graduate teaching when the enrolment is small.

A teacher who acquires deafness could be employed as a non-teaching staff or given jobs which they are capable of doing.

V. Identification of jobs

The banks had identified jobs in clerical and subordinate classes which these individuals can perform.

Category of handicapped

Occupation

a. Deaf and Deaf : Accounts clerks, book binders, canteen and dumb boys, carpenters, computers, commercial artists, fadtries, ferro printers, gardeners, gestetner operators, meter readers, office clerks, packers, painters, telex operators, photographers, photographic retouchers, statistical assistants, storekeepers, sweepers, translators, tracers, typists, vehicle cleaners, watermen.

Deaf : Postmen, telegraph messengers

Partially deaf : Architectural assistants (A), caretakers (A), cashiers, compounders, chowkidars (A), dak messengers, draftsmen (A), dressers, editorial "assistants, electricians, junior engineers (Civil)(A), library clerks (A), peons, postmen, projectionist (A), research investigators, Retiring room attendants, scientific assistants, salesmen (shop)(A), stenographers (A), security guards (A), stamp vendors (postal)(A). Teachers (deaf)(A), subpostmasters (A), technical assistants, teachers (primary)(A), waiting room attendants ward boys/ayatis.

A - with aids

(Ref: Facilities of Concession for the Hearing Handicapped - A Handbook, AYJNIIH, Bombay)

VI. Promotion

Provided they are fit for promotion and can discharge the duties satisfactorily, the physically handicapped persons are not denied promotion on medical grounds for any post. (Ref: Letter No. 36035/8/89, ESH (SCT), Government of India, Ministry of Personnel, Public Grievances

and Pensions, Department of Personnel and Training, New Delhi, dated 20-11-89).

VII. Posting of physically handicapped persons

In case of holders of Group C or D posts who have been recruited on regional basis and who are physically handicapped, as far as possible they may be given posting near their native places within the region (subject to administration constraints) requests for transfer by them would be given priority. (Ref: Ministry of Personnel, Public Grievances and Pensions, OM No. 14017/41/90, ESH (RR) dated 10-5-90).

VIII. Special programmes have been initiated for the physically handicapped

1. Special employment exchanges

The Department of Social Welfare finances special exchanges with specially trained and motivated staff. This would be operated by the Directorate General of Employment and Training, Ministry of Labour since 1959, 23 such exchanges have been set up, located at Vishakapatnam, Ahmedabad, Hyderabad, New Delhi, Bangalore, Bombay, Ludhiana, Madras, Calcutta, Kanpur, Jabalpur, Thiruvananthapuram, Patna, Chandigarh, Simla, Jaipur, Bhubaneswar, Guwahati, Agartala, Baroda, Surat, Rajkot and Imphal.

In addition, 55 special cells have been set up since 1983 in normal employment exchanges which registers and helps placement of handicapped job seekers. Some special cells/units are opened for the handicapped by various state governments.

Services

These exchanges follow selective placement principles by:

1. Job referral on the basis of ability
2. Individualised approach through their family background
3. Positive attitude towards disabled persons
4. Correction of disability prior to placement
5. Placement at the highest level of his skill.

II. Apprentice training scheme under the Apprentice Act 19

This programme at the state/central level has the following objectives:

- To identify trades from among the 136 trades mentioned under the above Act, considered suitable for apprenticeship training of physically handicapped persons falling under the category of blind, deaf, dumb, orthopaedically handicapped.

- To survey the employment opportunities in establishments in the trades hence identified.

- To place the maximum number of apprentices of these categories in the concerned establishments so as to achieve the overall target of 3% taking all the establishments in the public and private sectors together.

They are exempted from appearing in the typewriting test in the All India Trade Test for apprentices conducted by the National Council for training in vocational trades under the Apprentices Act 1961 on production of certificate from the medical board attached to the special employment exchanges/VRC for the physically handicapped or the civil surgeons -

III. Reservation under Rural Development Programmes

3% reservation is allotted in Integrated Rural Development Programme (IRDP) for the disabled. Subsidies would be made available to the disabled IRDP beneficiary which will be upto 50% subject to a monetary limit of Rs. 5000. However, vocational training in suitable trades is required to avail these benefits (Ref: Perspectives in Disability and Rehabilitation, R.S. Pandey, Lal Advani).

IV. Other miscellaneous assistance

To encourage self-employment, certain categories of handicapped persons are given preference in allotment of

telephone booths, petrol pumps, gas agencies, kiosks, etc. The banks have schemes for providing loans at different rates of interests also.

V. Schemes of National Awards

Since 1969 the Government of India has been giving national awards in the field of handicapped welfare. Awards are presented to the outstanding employers of the handicapped of each category in the following sectors:

a. State sector including Central Ministries Departments and subordinate offices, state governments and local authorities.

b. Public sector including central and state government companies and corporations.

c. Private sector including self-employed handicapped persons.

Nature of the award

One award each consisting of a shield and a citation to the employers of the handicapped.

Two from the five categories of handicapped (blind, deaf and dumb, orthopaedic, mentally retarded and leprosy-cured) in each of the above mentioned three sectors

are given Rs. 5000 each along with a certificate, a citation and a medal.

- Awards comprising of a cash prize of Rs. 5000, a shield, a citation and a certificate are given to two best placement officers.

Selection

The employers are assessed based on:

- Atleast 2% of their employees are disabled subject to minimum of 3 persons in a given establishment. In case of large establishments employing 15 physically handicapped persons or more, the conditions of 2% need not be rigidly adhered to.

- Minor adjustments in the machinery if required can be made.

The disabled employees are offered the same conditions of service including the rates of pay as given to the other employees.

- If required and if feasible, facilities like accommodation may be provided.

- The employers would show sympathetic understanding of the problems of the disabled.

- The employees would be assisted on the rate of production.

- Cooperation with superiors and fellow employers

- Extent of absenteeism

No excessive demands for adjustments in the physical plant and machinery.

- Sense of independence

No extra demands for extra remuneration for compensating the disability.

Selection

The initial selection of the awardees is made by the state level committees appointed by each State Government/ Union Territory Administration which recommend the names to the Union Department of Social Welfare. The particulars of the recommended employees and employers in the prescribed format is sent to the Union Department of Social Welfare each year before the dead line. The Union Department of Social Welfare may based on their decision invite recommendations from institutions of the handicapped directly by them.

The national level selection committee with eight members with the Minister of Education and Social Welfare as Chairman gives the final decision. The other members would

include the representatives of Union Departments of Health and Labour and experts from the field of rehabilitation of the disabled.

Different state governments have different percentage of reservations for the employment of the physically handicapped (Ref: Perspectives in Disability and Rehabilitation, R.S. Pandey, Lal Advani).

VI. Vocational Rehabilitation Centres (VRC)

The Government of India has set up 17 VRCs. The objectives are:

- Vocational evaluation and adjustment of the physically handicapped.
- Assessment of medical psychological rehabilitation needs.
- Assisting in developing rehabilitation plans based on specific needs.
- Provide in-plant training/skilled training.

Sponsoring physically handicapped registrants against notified/identified vacancies.

Services

Each centre has an evaluation and a referral division attached to it. The physically handicapped person is evaluated vocationally, assessed medically

for residual capacities and measured psychologically.
Information on:

- The person's educational family, social background is assessed.
- Their IQ, remedial measures are also suggested.
- A close observation of his capacity helps in knowing their vocational assets and skill potentialities.
- They are given the necessary counselling and workshop training to adjust them in their work habits and to motivate them to make decisions.

The family members are also interviewed for further details.

- Efforts are made to place them in suitable jobs with the help of special employment exchanges.
- Once he is employed, the following services are rendered: (a) adjustment training, (b) job adjustment, (c) counselling.

An advisory board comprising of the representatives of the government industry rehabilitation agencies and medical specialists is set up for such centres to advise on matters relating to their rehabilitation and welfare.

(Ref. Handbook of Disabled in India, D.S. Mehta).

Recommendations

- The grants and concessions at the central level should be catered to the state government also with increased financial service.

- Uniformity in terms of the physically handicapped should be made.

- Since hearing handicapped is not visually obvious this group has been neglected.

- The percentage of reservation should be increased. However, if recruitment is not done for that particular period, it may be carried over for a period of six months to one year. Subsequently if no physically handicapped candidate is recruited, then the other non-handicapped individuals would be considered.

- We should always remember that a hearing impaired person is not intellectually deficient and so he should be trained in vocational courses requiring his intellectual functioning. Eg. Computer programmer, at railway booking counters,- etc.

- When a hearing impaired individual is employed in an office set up, the other co-workers should be provided an orientation regarding how they should deal with he former in a humanistic way.

- In offices where the hard of hearing is employed, assisstive listening devices may be provided with telephones.

ECONOMIC ASSISTANCE

Certain schemes provide economic assistance to the physically handicapped.

Public sector banks

By means of differential rate of interest scheme for the physically handicapped persons and the institutions working for their welfare, the banks provide them to take loans provided, they satisfy the following pre-requisites.

- He/she should be pursuing a gainful occupation.
- The family income should not exceed Rs. 7,200/- p.a. in urban or semi-urban areas or Rs. 6,400/- p.a. in rural areas from all possible sources.
- He/she should not have land holding exceeding one acre if irrigated, and 25 acres if unirrigated.
- He/she should not incur liability to two sources of income at the same time.
- He/she should work largely on their own and with such help as other members of their family or some joint partners may give them and should not employ paid employees on a regular basis.

In addition, the institutions for physically handicapped pursuing a gainful occupation being eligible,

are exempted from income criteria. But the funds should be used for productive purposes only and not for meeting their normal administrative and establishment expenses.

Amount of loan

This amount will depend on the particular scheme proposed to be financed. It would be adequate to enable the borrower to finance his requirements without having to borrow from any other source. The normal limit will be Rs. 6,500/- for working capital loan and Rs. 5,500/- for a term loan.

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In case of small scale industries village artisans, etc. in decentralised sector, advances under the scheme may be granted upto Rs. 6,000/- without making any distinction between working capital and term loan by way of composite loan.

Physically handicapped persons are eligible under certain schemes for loan to purchase artificial limbs, hearing aids, etc. subject to a maximum of Rs. 2,500/- per borrower, provided such assistance is given along with the advances for productive activities and self-employment ventures and all other requirements of the scheme is fulfilled.

Rate of interest

Under the scheme of 'Financing Small Scale industries', a special provision has been made to allow concession of 1/2% in the interest to the physically handicapped availing working capital limit above Rs. 2,500/- and upto Rs. 2 lakhs.

The interest will be uniformly charged at 4% p.a. with the social objective in view.

Assessments

The quantum of loan for acquisition of fixed assets and for working capital will be determined on the basis of the needs of institutions/individuals in a scientific method to ensure that all their legitimate financial requirements are met.

Repayment

The term loan for the acquisition of fixed assets are normally allowed for five years including a grace period not exceeding two years on the repayment of principal. This repayment schedule would be worked out considering the nature of activity of the borrower and the economies of the schedule.

Security

The borrower may or may not be able to offer tangible security. In appropriate cases of loans to a homogenous group of borrowers, group guarantee may be accepted.

Margin

In case of borrowers belonging to the weakest state of society in no position to furnish margin money, requirements of margin money will not be insisted upon.

(Ref: Handbook of Disabled in India, D.S. Mehta

Facilities and Concession for the Hearing Handicapped in India, AYJNIIHH).

Recommendations

- More number of schemes providing loans have made life colourful for a physically handicapped individual. The amount of loan should be further increased and the rate of interest decreased.

- A periodic evaluation regarding the productivity of the individual, difficulties encountered, any forfeit should be carried out.

- The procedures involved in availing loans should be simplified.

- They must be made available in every town or post office instead of only in the cities.

INCOME TAX CONCESSIONS

As per the Finance Act 1987, the amount of deduction from the total income of a resident individual who suffers from blindness or other permanent physical disability which has the effect of reducing his capacity of engaging himself in a gainful employment or occupation has been increased to Rs. 15,000/- (Ref. Income Tax Law 1961, amended by Sec. 22 of Taxation Laws Act, 1970).

When this individual appears before the Income Tax Office in connection with the first assessment year for which deduction is claimed the following consideration is made:

In case of a permanent physical disability/mental retardation, a certificate as to the permanent physical disability/mental retardation needs to be produced.

Professional tax exemption

The physically handicapped individuals are also exempted from payment of professional tax. He/she needs to submit the disability certificate to the employer for the same. (Ref: Perspectives in Disability and Rehabilitation, R.S. Pandey, Lal Advani)

Raising the salary limit under section 36(1)(iia)

The employer of the handicapped is entitled to deduction under section 36(1)(iia) on salaries paid to the handicapped, but only on salaries so paid which do not exceed Rs. 20,000/- p.a. in each such employees case.

Suggestions

Tax concessions of various kinds are necessary to compensate for the possible loss of efficiency in employing certain categories of the handicapped.

However, if the disability causes no significant interference with the financial gain of such an individual, these exemptions may be cancelled in order to avoid injustice to the society.

CUSTOMS DUTY

It is possible for the institutions for the disabled to import specialised equipments needed for their training and education, duty free, provided they are received as bonafide gifts.

Mode of obtaining

A customs clearance permit from the Chief Controller of Imports and Exports, Udyog Bhavan, New Delhi, is to be obtained by the respective institutions.

The Charitable Organisations need to pay no fee for this customs clearance permit.

Housing the hearing handicapped

Requests for allotment of residential accommodation to the deaf, blind and severely orthopaedically handicapped, eligible for general pool accommodation are considered by the Government of India (Directorate of Estates, Ministry of Works and Housing). This would enable such employees to secure allotment of accommodation much ahead of their turn.

The Housing Board in several states have also reserved certain percentage of plots and flats under their

housing schemes for the physically disabled persons. (Ref: Handbook of Disabled in India, D.S. Mehta).

Suggestions

- allotment of land/plots for agricultural uses, small scale industries, etc. should be encouraged.

- Evaluation should be carried out to make sure that this provision is not misused.

AIDS AND APPLIANCES FOR THE HEARING HANDICAPPED

Aids and appliances may be at times out of reach for a few physically handicapped individuals. In order to overcome this problem the Ministry of Welfare operates a scheme under which assistance is given to them for the purpose of fitting aids. By this, physical rehabilitation along with their capacity to participate in economic activities is promoted. In centres with such schemes the hearing aids will be provided for the deaf.

Eligibility

- He/she should be a citizen of India of any sex/age.

- He/she should be certified to be disabled by a registered medical practitioner.

- He/she should be employed/self-employed or getting pensions and whose average monthly income from all sources does not exceed Rs. 2,500/-.

- If he/she is a dependent the income of the parents/guardians should not exceed Rs. 2,500/- per month.

- He/she should not have received assistance from the Government local bodies, and non-official organisation during the previous two years for the same. But for children below 12 years of age, the limit would be one year.

How to avail

Hearing handicapped persons are required to contact the Government/Non-government organisations or State Social Welfare Directorate where the scheme is operated. The required forms should be filled and produced with an income certificate from the employer/special executive magistrate/revenue authority, etc.

Quantum of assistance

Only those aids which cost more than Rs. 25/- and less than Rs. 3,600/- are carried under this scheme:

Total income	Amount of assistance
1. Upto Rs. 1,200 p.m.	Full cost of the aid
2. Rs. 1,201 to 2,500 p.m.	50% of the cost of the aid

(Ref: Facilities and Concession for the Hearing Handicapped
- A Hand Book, AYJNIHH)

Suggestions

- In addition to the above, instruments and equipments for the institution should be made available at concessional rates.

- Repair and maintenance should be taken care of.
- The number of such centres should be increased.

TRAVEL AND TRANSPORT

To make it easier for the handicapped to travel miles together certain facilities have been provided.

By rail

The Ministry of Railway permits the person with a disability to travel at concessional fares on the Indian Railways.

Deaf persons are allowed 50% concession in single and return journey rail fares on production of medical certificate issued by the Government Medical Officer. After verifying the certificate, the concessional tickets will be issued by the Station Master.

In monthly seasonal (first and second class) ticket fares 50% concession is allowed. No concession is provided for the escort of the deaf person. Permission is also given to travel by 2 tier AC sleeper on payment of the concessional fare for first class and full surcharge leviable on 2 tier AC sleeper.

By road

A number of State Government owned transport services do provide concessional fare to the disabled in

varying degrees. In some places special buses are run for the disabled.

Subsidised petrol/Diesel

In 1977, the Union Ministry of Social Welfare introduced a scheme to make petrol/Diesel available at concessional rate to physically handicapped persons. The ones who are eligible for this are the physically handicapped owners of motorised vehicles who are granted exemption from payment of road tax by the State Government/ Union Territory administration. They are eligible to claim refund upto 50% of expenditure incurred by them on purchase of petrol/Diesel from recognised dealers subject to a ceiling of vehicles below certain horse powers.

Mode of applying

One has to apply to the District Social Welfare Officer at the district level or the Director, Social Welfare in metropolitan cities or Tahsildar or an equivalent officer of the taluk where he normally resides. The concerned officer issues an identity certificate to the holder of the vehicle after inspection. The holder is entitled to claim subsidy quarterly on the basis of petrol/Diesel purchased and used by him. (Ref: Handbook of Disabled in India, D.S. Mehta).

MEDICAL REHABILITATION

Even though a number of persons with disability have excelled in various areas of human endeavour, all persons with or without disability would desire for a world free of disability since it inevitably entails pangs of various kinds, overcoming which involves considerable cost in technological, human and financial terms. Hence prevention is better than cure.

Many services are available for preventing disability. Genetic counselling is advisable for all couples and especially for those at risk. These services are available in large cities. There is a definite need to establish a network preferably linked with medical and rehabilitation centres with regular training of staff with the latest input from research.

For safe motherhood, the Government of India has taken up a programme of social safety Net scheme with assistance from World Bank under which facilities at the Primary Health Centres will be upgraded in 90 weak districts in the country with provisions for labour rooms trained staff, etc. Early identification and rehabilitation programmes are carried out in different regions. Many nutrition programmes, have been encouraged. Periodic immunization programmes have been a boon in preventing disability.

Physical restorative services serve to restore partly or fully the functional loss imposed by impairments. These services play the basic and crucial role and include corrective surgery, physical, medicine, physio-therapy, occupational therapy, speech therapy, fitments aids or appliances. Services given here include prescription of medicines, corrective surgery like middle ear surgery, cochlear implant and rehabilitative measures along with fitment of aids or appliances. Many medical colleges, hospitals, nursing homes, rehabilitation centres have been providing such services.

Camp approach for providing medical rehabilitation has also been undertaken by non-governmental and governmental institutions in several parts of the country under which experts of the concerned disciplines visit a place after due publicity in the area. Quick assessment is done and ready made aids are provided. A variation of this camp approach has been tried by Impact, India in collaboration with the Ministry of Railways. The 'Lifeline Express' (Jeevan Rekha) which is the world's first hospital on wheels was launched in July 1991 as an endeavour to restore mobility, sight and sound to the disabled. This train is shunted into sidings in rural areas for a period of 3-4 weeks during which medical, surgical and fitment

services are provided to the disabled on the spot and a follow-up visit is arranged after a few weeks. In the year 1992, 11567 cases were attended to by the train hospital out of which 177 operations on hearing impaired was done and 90 hearing aids distributed.

There are certain other schemes of providing with aids and equipment free of cost or at reduced cost also.

However, a lot more remains to be done to increase the quantity and to improve the quality. Established infrastructure of quality is available for a very limited number and the rest depend on charitable approach of organisations. The cost should be reduced since the poor would find it extremely difficulty to pay for the aids and appliances. Medicines should be made available for any poor individual also for which the selling price should be reduced.

A proper planning with a view to making available the infrastructure as also the where withal to avail the same is a must. It is also required that the centres which provide these facilities have the motivation, facilities and the resources to update the quantity and quality of their services.

Legislative support in relation with audiology

Legislation has the dual role of being a mirror of the societal policy and of spurring action to further a cause. Although legitimate interests of weaker and vulnerable sections of society can be promoted even in the absence of legislation and mere enactment of a legislation without appropriate implementation and support, financial and otherwise, could just remain a declaration of sentimental desire, legislation has often been found to be a necessary basis for action in different parts of the world for bringing benefit to the disabled people.

Through many years of specialization in the different areas, different areas of medicine came to be related to legal arena. Thus Forensic Sciences come into existence. This was defined as the application of knowledge in any science as it relates to criminal or civil law especially in court cases. The application of audiology for the purposes of law as in noise induced hearing loss claiming compensation, etc. is Forensic Audiology.

According to the Indian Evidence Act the opinions of experts is required for giving quantified objective information regarding a case. Thus audiologist can be called as an expert ready to give a testimony when required supplemented with his documents.

Legislation in the field of disability as such may be grouped as groups for

- Co-ordinating and Advisory Bodies
- Establishment and Protection of Right's

- Access to Physical Environment
- Social Security Provision
- Rehabilitation Services

Constitutional position

The disabled find a mention only in one place in the list of items delineating the legislative competence of the states and the union territories as provided in the Constitution of India and this is at entry in the list II in seventh schedule, which reads "9. Relief of the Disabled and Unemployable".

On 23 March 1978, the then Education and Social Welfare Minister announced setting up a working group of experts for safeguarding their rights.

However, the Article 41 of the Constitution which is one of the Directive Principles of State Policy reads "41. Right to work, to education and to public assistance in certain cases". It directs the state to make effective provision for securing the right to work, the education and public assistance in cases of unemployment, old age, sickness and disablement and in other cases of the undesired want".

India being a welfare country, it is necessary, that it should have a comprehensive law covering all aspects of

problems of the disabled. The proposed legislation should also take into consideration the Declaration on Human Rights, the UN Declaration of the Right of the Disabled persons, guidelines of international agencies such as the WHO and ILO, views of national level agencies, their recommendations, special needs and problem of disabled people in rural and tribal areas of the country: protection of disabled workers and their working environment, provision of technical devices, equipment, etc.

WITNESS - A HARD OF HEARING INDIVIDUAL ?

Under certain laws passed by the Constitution a person with a disability is not deprived of his rights. This is applicable to the area of witness also as according to Evidence Act 1843, 1851 and section 118 of Indian Evidence Act.

Who may testify ?

"All persons shall be competent to testify unless the court considers that they are prevented from understanding the questions put to them or from giving natural answers to the questions, by tender years, extreme old age disease, whether of body or mind, any other cause of the same kind".

The incompetency that this act recognises in incompetency for immature or defective intellect which may arise from 1. infancy, 2. idiocy, deafness, dumbness, 3. lunacy, 4. illness.

Hence under section 118, the hearing handicapped were intellectually deficient or incompetent.

Later section 119 was passed which considered the dumb witness.

Dumb witness

"A witness who is unable to speak may give evidence in any other manner in which he can make it intelligible as by writing or by signs, but signs made in open court. Evidence so given shall be deemed to be oral evidence".

"When a hard of hearing is to give evidence, the court should ascertain that he possesses the requisite amount of intelligence, and that he understands the nature of an oath. Witness may give evidence through an interpreter when the judge is satisfied. If he communicates ideally by writing, he will be required to adopt that as the more satisfactory method, but if his knowledge of that method is imperfect he will be permitted to testify by means of signs. These signs will be recorded (not interpretation of signs)".

"When he does not understand questions, not able to make his meaning intelligible, it becomes clear that he is not a competent witness" (Ref. Indian Evidence Act, Sarkar).

Hence a hard of hearing is eligible to serve as a witness provided he is able to communicate effectively, either through self effort or via the interpreter.

HARD OF HEARING IN CRIMINAL LAW

Any criminal law does not provide for any concession or exemption to any physically handicapped individual committing any crime. This is defined under the Indian Penal Code such that any crime is an external act of the body directed by mental awareness as such. Hence any person who is mentally sound and who is capable of foreseeing the consequences of possibility of his contemplated action, irrespective of any physical deformity from which he is suffering, on valid grounds or of reasonable circumstances warranting any extenuating aspect will he be exempted from the awarding of punishment for his action.

This right protects the mentally handicapped individuals (Ref. Indian Penal Code).

Hence, there are no relaxations made for any physically handicapped involved in a crime when he is mentally sound, by rights since there is no license to kill any human legally.

Sections 328-330 of the code of criminal procedure: section 84 of the Indian Penal Code 1860 provides for the accused with unsoundness of mind.

Inheritance of property by the hearing handicapped

There are laws put forth which provide equal rights for inheriting property by the hearing impaired individual as any other individual without hearing loss.

Under section 28 of Hindu Succession Act "No person shall be disqualified from succeeding to any property on ground of any disease, defect or deformity or same as provided in this Act on any other ground whatsoever" (whether congenital or not none of the following ailments will disqualify any person from succeeding to property: dumbness, deafness, . . .) .

Hence they cannot be disqualified from succeeding to any property. (Ref. The Hindu Succession Act, 1956).

Karnataka Land Reforms act of 1961 states the provisions applicable to minors, persons under disability, etc.

According to this Act, "Tenant is a minor or a person subject to any mental or physical disability or the right of the tenant under section 45 may be exercised

1. by the minor with ...
2. by a person subject to physical or mental disability within one year from the date on which such disability ceases to exist. (Ref: Consumer Protection Act, Karnataka Land Reforms Act).

Hence based on the above Act a physically handicapped individual may benefit from the provision given for land reforms.

LICENSE TO DRIVE AND THE HARD OF HEARING

Legally, the driving license is provided to only people who are declared normal. Here, the Motor Vehicle Act comes into picture. According to section 7(5) of the Motor Vehicle Act "Disease and disabilities absolutely disqualifying a person for obtaining a license to drive a motor vehicle ... A degree of deafness which prevents the applicant from hearing (or in case of a person who applied for a license to drive a light motor vehicle with or without hearing loss) the ordinary sound signals".

As per this act, any individual with impaired hearing is denied from being dispensed with a driving license. However if when certified by a district surgeon that the hearing impaired individual can function as normal with the use of a hearing aid he becomes eligible for a driving license. If an individual acquires hearing loss in course of lifetime, he needs to surrender his license to drive, if he already possesses one.

The district surgeon or a certified medical officer is sought for certifying the hearing impaired. However currently an audiogram copy is also furnished.

Suggestion

- A regional audiologist should be appointed
- If an individual acquires hearing loss in his life span and he functions well with the hearing aid, he should be tested for the same and given a driving license.

INSURANCE FOR HEARING LOSS

According to Private Motor Vehicle Policy when an individual meets with an accident, rightfully he would be provided with compensation - the amount being decided by the court. It depends on the influence on one's income, the loss, physical or financial, profession and status.

There has been a few changes in the old version of Motor Vehicle Act 1988 and Central Motor Vehicles Rules 1989, the new law being enforced from 1-7-1989.

* In the old act, the amount of compensation under no fault liability is Rs. 15,000 for death and Rs. 7,500 for permanent disablement.

In the new act the amount of compensation is enhanced to Rs. 25,000 and Rs. 12,000.

* The old act claims Tribunal may entertain application within prescribed period of six months from date of accident. In the new act the application should be filed within six months from the date of accident and with delay, an excuse petition within 12 months from the date of accident needs to be filed.

Liability without fault in certain cases

Liability to pay compensation in certain cases a principle of no fault.

"Where death or permanent disablement of any person has resulted from an accident arising out of the use of a motor vehicle (5), the owner of the vehicle shall or as the case may be, the owners of the vehicles shall jointly and severally be liable to pay compensation in respect of such death or disablement in accordance with the provisions of this section. (Ref. Corresponding Law: S-92-A of Act IV, 1939).

Provisions as to other right to claim compensation for death/physical disablement

"The right to claim compensation under section 140 in respect of death or physical disablement of any person shall be in addition to any other right to claim compensation in respect thereof under any other provision of this Act or of any other law for the time being in force.

Permanent disablement

Permanent disablement of a person shall be deemed to have resulted from an accident of the kind referred to in subsection (11) of section 140 provided he has suffered any injury/injuries involving -

- a. Permanent privation of sight of either eye or the hearing of either ear or privation of any member of joint.
- b. Destruction of powers of any joint(s) or
- c. Permanent disfiguration of head or face.

(Ref. Corresponding Law: S-92-C of Act IV of 1939)

The provisions under this law shall also apply in relation to any claim for compensation in respect of death or permanent disablement of any person under the Workmen's Compensation Act, 1923 resulting from accident of subsection (1) of section 140 and these provisions shall be deemed to form a part of that Act with necessary modifications (Ref: Corresponding Law: S-92-D of Act IV of 1939)

Award of compensation in personal injury cases

Ear

As a result of accident the pinna of the claimant's ear was disfigured, being cut, Rs. 5,000/- was awarded for disfigurement of face. A total compensation of Rs. 16,000/- was awarded as he had suffered other injuries as well. (Ref: 1982 Act 224 (Karnataka)).

Guidelines for assessment of physical impairment in split up ten point formula for each component

Region	Deficit	Points
4. Pinnria	- Anterior/posterior skin disfigurement	2.5 - Rt - Lt
	- Deformity due to full thickness involvement of skin and cartilage without obliteration of meatus	7.5 - Rt - Lt
	- Deformity due to full thickness involvement of skin and cartilage with obliteration of meatus	10.0 - Rt - Lt

Here deformity of the middle ear or the inner ear or the auditory nerve is not given much importance.

Neurological condition

Speech disability	Disability rate
Mild	25%
Moderate	50%
Severe	75%
Very severe	100%

This is tested by a 100 word text. The ability to read, comprehend when read out, answering questions on text clearly and ability to write a synopsis is evaluated for. (Ref: Motor Vehicle Act, 1988).

Suggestions

The ear as a whole and hearing loss even without/with pinna disfigured is not given much importance. This needs emphasis while providing compensation.

INCOME TAX LAWS

A good law ought to be equitable, convincing certain and economical. This 'equity' criterion is very relevant, for a person with physical or mental impairment which substantially limits his major activity of life.

Objectives of tax laws

1. Is to tax the income of the disabled or his parents, less to compromise for the unequal race he has to run with a normal person.

2. To tax the employer of the disabled, less.

3. To provide an incentive or tax subsidy to the trade or industry directly related to the well-being of the disabled.

Income Tax Act

Three sections in the Indian Income Tax Act 1961 deals specifically with relief for the handicapped.

a. Section 36(1)(ia) concerns a deduction allowance in computing the business income of a person. The deduction allowed is a sum equal to one and one-third times the amount of expenditure incurred on payment of any salary to any disabled employee.

b. Section 80D provides tax relief on account of handicapped dependents or resident individuals. This relief is obtained by deducting from the gross total income of the assessee equal to the expenditure incurred by him for medical treatment of the handicapped dependent provided that the dependent is (i) a relative of the assessee individual and (ii) suffers from a physical or mental disability having an effect of reducing the person's capacity for normal work considerably.

c. Section 80U provides that while computing the total income of a handicapped person a deduction of minimum of Rs. 10,000 shall be allowed.

These sections do testify to government's awareness of need for action in vital areas of human welfare.

NOISE AND RELATED L A W S

Under general law, noise disturbing peace and tranquility of a neighbour and any disturbance of peace affecting one's enjoyment is called as Nuisance. It is dealt with under different laws.

Law of Torts

Under this, smoke, noise and offensive odours although not injurious to health may constitute a nuisance.

Carrying on an offensive trade so as to interfere with another's health and comfort or his occupation of property is a legal nuisance.

Nuisances of this class for the most part arise in respect of

1. obstruction of light
2. pollution of air or water
3. noise

The quietness and freedom from noise are indispensable to the full and free enjoyment of the dwelling house. No proprietor has an absolute right to create noises upon his own land because land right which the law gives is qualified by the condition that it must not be exercised to the nuisance of his neighbours or of the public.

However, as to what amount of noise or annoyances from noise would be considered sufficient to sustain an action, there is no definite legal rule or measure.

One may establish a prescription right to the exercising of a nuisance trade on a particular spot by showing twenty years user by the defendant, i.e. an individual residing in a location continuing a nuisance trade is not considered to be committing an offense, if he has been residing there for more than twenty years.

Constant daily noise in an adjoining house

This would be held to be an actionable nuisance and an injunction to restrain it would be granted for the same.

Remedies

Abatement - removal of the nuisance by the party injured without recourse to legal proceedings without any danger to life or the body. (Ref: Law of Torts, Ratatilal).

In case of use of land in Panchayat/Municipalities/Corporations, etc. the local bodies are governed by separate laws. These Acts are

1. The Panchayat Act
2. Municipalities Act
3. Corporation Act

which prohibit certain types of nuisance including noise.

The Karnataka Panchayat Raj Act 1992 governs the villages.

Sec. 67 of Karnataka Panchayat Raj Act prohibits the use of any area within Grama Panchayat area, which the Government declares as offensive or dangerous trades, license to have such trades subject to conditions. This noise, if being considered offensive, the Panchayat can impose restriction. Section 110 of the above Act prohibits use of public place which is prohibited by it, the beating of drums, tom tom, blowing of horns, trumpets, boss sound instruments or disturbance of public peace by singing, screaming, shouting, amplifying, sound, megaphone, loud speaker, etc.

The Town Municipalities Act under Section 247 similarly prevents use of public places for noise, referred to above by blowing horns, music, singing, screaming, etc. making it punishable with fine.

It can also compare conditions while granting license to erect or run factories to prevent noise production. Similar provisions may be given by corporations to prohibit nuisances or noise.

Thus the above local bodies can impose conditions while granting license or either cancel license or enforce conditions. (Ref. Karnataka Panchayat Raj Act, 1992).

Apart from these laws the Police Act also prohibits use of mike, etc. Under Section 34(A) of Police Act, the Superintendent Commissioner of Police or other police officer are empowered to regulate control and care of loud speaker in or near any public place and section 37 prohibits such use, in any place of loud speakers, musical instruments, etc. except with previous permission of police and subject to certain conditions.

The Indian Penal Code which is a criminal law defines nuisances (noise) as a punishable offence, i.e. running a factory day and night in residential area excessive noise of factory, music band playing with amplifiers (Ref: Section 268 of IPC).

Section 70 of Motor Vehicle Act

As per this Act the Government has powers to make rules to control noise pollution by means of vehicles. It is stated as: "State Government may make rules regulating the construction equipment and maintenance of motor vehicles and trailers for ... the reduction of noise emitted by or caused by vehicles ... prohibiting or restricting the use of audible signals at certain time or in certain places.

Suggestions

* Strict enforcement of the above rules needs to be undertaken.

* Need for an acoustic engineer to measure noise levels and to suggest remedial measures.

LABOUR LAWS AND INDUSTRIAL LAWS

The safeguard of the civil rights of labourers especially those who have been affected by hearing handicap have been considered off-late. But at times the tragedy is that the personnel concerned would be those who are unaware of any problems likely to be encountered by the labourers or the welfare measures that needs to be provided. The current scenario is changing.

The Factories Act 1948 provides elaborate measures to ensure that as far as possible the conditions under which the employers work do not adversely affect their health.

Hence though labour legislation in India goes back to 1881 when the first factory act was passed it was only in 1948 that a competent and comprehensive piece of legislation on the subject was adopted.

The Employees State Insurance Act of 1948 also prescribes welfare measures and benefits like medical facilities, free treatment, etc. for the workers or victims of accidents.

An analysis of the provisions of the labour laws in our country shows that laws such as Payment of Wages Act 1965, Payment of Bonus Act 1965, Industrial Disputes Act

1947 do not apparently discriminate between normals and disabled persons.

According to the Karnataka Acts and Rules Sec. 319 whoever causes bodily pain, disease or infirmity to any person is said to cause hurt.

Section 320 - Grievous hurt - The following kinds of hurt are only designated as grievous hurt.

1. Permanent disfiguration of head or face.
2. Destruction of powers of any joint(s) or
3. Permanent privation of sight of either eye or the hearing of either ear or privation of any member of joint.

(Ref: Indian Penal Code)

Under the Criminal Major Acts 1990, Section 287 whoever does with any machinery any act so rashly or negligently as to endanger human life or to be likely to cause hurt or injury to say other person shall be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to one thousand rupees or with both. (Ref: Criminal Major Acts 1990; Law and Practice Taxman).

The amount of compensation has been specified by the Workmen's Compensation Act 1923. According to this.

* Where permanent physical disability results from an injury - an amount equivalent to 50% of the monthly wages of the injured workmen multiplied by the relevant factor or an amount of Rs. 24,000, whichever is more should be given.

* Where permanent physical disability results from injury and in cases the injury is specified in part II of schedule I - the specified percentage of compensation depending on the percentage of loss of earning capacity caused by that injury.

Absolute deafness ... % of loss of earning capacity

* Where total disability or partial disability occurs from injury - a half monthly payment of the sum equivalent to 25% of monthly wages of the workmen to be paid in accordance with the subject's age.

The definitions provided under this Act in this context are

Disability

Disability is an existing difficulty in performing one or more activities which in accordance with the subject's age, sex, and normative and social role are generally accepted as essential basic components of daily living such as self-care, social relations and economic activity.

In legal terms, disability is a permanent injury to body for which the person should or should not be compensated.

In medical sense of this term is the physical impairment and inability to perform physical functions normally.

The period in which the injured person is totally unable to work and received medical treatment refers to temporary total disability.

The period when recovery has reached the stage of improvement so that the person may begin some kind of gainful occupation - temporary partial disability.

A permanent damage of the body after the stage of maximum improvement from medical treatment has been reached and the condition is stationery constitutes "permanent disability".

The same split up ten point formula for each components of body is used to compute compensation. (Ref: Workmen's Compensation Act, 1959).

Acts like Vacancies Act 1959 provides to improve chances of handicapped employees covered under the employment exchanges.

CONSTITUTIONAL AMENDMENTS

The two types of legislations concerning the disabled are:

1. The number of legal measures concerning the general population have regulations regulating to prevention of disability.

2. Legislative acts that become operative after a person becomes disabled and is exclusively for the disabled.

In India, laws relating to the handicapped come under VII Schedule of Constitution legislative list. It is known that while framing the Constitution, the awareness about the potentials of the disabled was very limited and they were considered eligible for relief as is clearly reflected in the entry: Relief of the disabled and unemployable in the state list. Since then there has been a drastic change. A number of rehabilitation programmes have been undertaken. The following amendments in the Constitution are noteworthy.

Welfare of the handicapped to be brought to the concurrent list

It may be argued that employment, education, social security, economic and social planning are already in

the concurrent list and the Central Government has the competence to legislate for the employment, education, social security and social planning of the disabled as well. But rehabilitation and welfare is also important and hence a separate entry for the same is imperative.

Amendments to Article 15(3), 15(4), 16(4) 46 of the Constitution

These Articles provide for enabling the state for making special provisions for special groups, viz. women, children, Scheduled Castes/Tribes. The handicapped persons do not find any mention in such Articles which should be emphasised upon. Hence the amended Articles would read as follows:

Article 15(3) - Nothing in this Article shall prevent the state from making any special provisions for women, children and physically and mentally handicapped persons.

Article 15(4) - Nothing in this Article or in clause (2) of Article 29 shall prevent the state from making any special provision for advancement of any socially and educationally background classes of citizens or for the Scheduled Castes and Scheduled Tribes or physically and mentally handicapped persons.

Article 16(4) - Nothing in this Article shall prevent the state from making any provision for the reservation of some of appointments or posts in favour of any backward classes of citizens or physically and mentally handicapped sections of citizens which in the opinion of the state is not adequately represented in the services under the state.

Article 46 - The state shall provide the educational and economic interests of the weaker sections of the people and in particular of the Scheduled Castes, the Scheduled Tribes, and physically and mentally handicapped persons and shall protect them from social injustice and all forms of exploitation. (Ref: Perspectives in Disability and Rehabilitation)

Bill No. 67 of 1995

The persons with disabilities (Equal Opportunities, Protection of Rights and Full Participation) BILL 1995.

This is a BILL to give effect to the Proclamation on the Full Participation and Equality of the people with disabilities in the Asian and Pacific region. According to this, India is a signatory to the said proclamation and it is necessary to enact a suitable legislation to provide for the following:

1. To spell out the responsibility of the state towards the prevention of disabilities, protection of

rights, provision of medical care, education training, employment and rehabilitation of persons with disabilities.

2. To create barrier free environment for persons with disabilities.

3. To remove any discrimination against persons with disabilities in the sharing of development benefits vis-a-vis, non-disabled persons.

4. To counteract any situation of the abuse and the exploitation of persons with disabilities.

5. To lay down strategies for comprehensive development of programmes and services and equalisation of opportunities for persons with disabilities.

6. To make special provision for the integration of persons with disabilities into the social mainstream.

2. Accordingly it is proposed for the Constitution of Co-ordination Committees and Executive Committees at the central and state levels to carry out the various functions assigned to them. The Government and the local bodies will have to undertake various measures for the prevention and early detection of disabilities, creation of barrier-free environment, provision for rehabilitation services, etc. depending on the limits of their economic capacity

and development. The Bill also provides for education, employment, establishment of homes for persons with severe disabilities, etc. For effective implementation of the provisions of the Bill, appointment of the Chief Commissioner for persons with disabilities at the central level and commissioners for persons with disabilities at the state level clothed with powers to monitor the funds by the Central and State Governments and also to take steps to safeguard the rights of the persons with disabilities is also envisaged.

3. The bill seeks to achieve the above objects.

These bills and amendments should be passed and enforced.

CONCLUSION

The current scenario is changing. The disabled or handicapped are no longer considered burdens to the society. Gone are those days when a handicapped individual was throw to lions, teased, mocked at, or sacrificed. Thanks to the hidden potentials within the disabled, they have proved their worth.

At this time new policies are sought for how the disabled people everywhere can receive atleast the basic services. Currently the Government and others are seeking ways of setting up public programmes to benefit the disabled. The WHO describes the aim of rehabilitation as "social integration". To achieve this, the community must get involved and take responsibility for their disabled citizens, encourage them, make them visible and accept them as human beings.

Another basic issue is of human rights. Because of prejudices, a disabled person has been denied health services, education, jobs. Attention should be given to human development to raise them from their marginal life and restore their dignity.

A few legislations are required for their welfare like more reservation in vocational training, access to

public buildings, public utilities. Certain pending legislation for setting up a National Trust for Welfare and rehabilitation of disabled persons should be enacted. The same should be carried out for setting up a Board for Welfare and Protection of Rights of the handicapped, etc.

Technology should be refined for improved resources. Public education, awareness and attitude are more crucial than any other input for promotion of social development programmes. Strategies for the same need to be provided. Every individual should think that it becomes a part of his duty towards his country to do something for his fellowmen, especially when he is disabled. Hence let's

Heal the world

Make it a better place

For you and for me and the entire human race

There are people dying

If you care enough for the nation

Make a better place for 'you' and for 'me'

- Album 'Heal The World' by Michael Jackson

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