



123. Should an Executive Secretary managing an MD's travel and schedule be classified as a 'workman' under the Industrial Disputes Act?

To determine whether an **Executive Secretary** managing an MD's travel and schedule qualifies as a 'workman' under the **Industrial Disputes Act, 1947 (ID Act)**, it is essential to closely examine the legal definition of 'workman' under **Section 2(s)** and apply relevant case law. A key reference is the **High Court of Karnataka's decision** in the case of **Smt. N. Bhuvaneshwari vs. The Management of M/s Ambuthirtha Power Pvt. Ltd.**, Writ Petition No. 49982/2018, Order dated 8th April 2024. The case, argued by **Sri C.K. Surahmanya**, representing **Sri B.C. Prabhakar**, Advocate for the respondent, Ambuthirtha Power Pvt. Ltd., offers insight into whether an employee with a clerical-sounding title, such as Executive Secretary, can be excluded from the definition of 'workman' based on their actual duties and responsibilities rather than their job title alone.

1. Definition of 'Workman' under the ID Act

According to **Section 2(s)** of the Industrial Disputes Act, a 'workman' is defined as:

Any person employed in any industry to do **manual, unskilled, skilled, technical, operational, clerical, or supervisory work** for hire or reward, whether the terms of employment are express or implied.

However, the section includes **exemptions**, meaning not every employee falls under this category. Specifically, **Section 2(s)** excludes:

- (iii) **Any person employed mainly in a managerial or administrative capacity.**
- (iv) **Any person employed in a supervisory capacity, drawing wages exceeding ₹10,000 per month, or who exercises functions mainly of a managerial nature.**

2. Clerical vs. Managerial Responsibilities

A crucial factor in determining if an Executive Secretary qualifies as a 'workman' revolves around the **nature of their work**:

- **Clerical Duties:** If an Executive Secretary's responsibilities primarily consist of clerical tasks such as:
 - Managing the MD's travel arrangements.
 - Scheduling meetings.
 - Handling routine communication & organizing documents.
 - Performing administrative support tasks without exercising discretion or decision-making authority.

These duties fall under **clerical work**, which aligns with the **workman category** as per Section 2(s). If the position is largely operational and doesn't involve supervision, management, or decision-making, the employee would likely qualify as a workman.

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- **Managerial or Supervisory Duties:** On the other hand, if the Executive Secretary:
 - Has decision-making power (e.g., deciding travel itineraries based on strategic importance).
 - Supervises other employees or administrative staff.
 - Makes or influences high-level decisions or exercises discretion.
 - Is involved in confidential or policy-related tasks.

These responsibilities would indicate **managerial or supervisory work**, exempting the employee from the ‘workman’ definition. If the Executive Secretary’s salary exceeds ₹10,000 per month and they exercise **supervisory or managerial functions**, they are excluded from being a workman under **clause (iv)**.

3. The Smt. N. Bhuvaneshwari Case Analysis

The case of **Smt. N. Bhuvaneshwari vs. The Management of M/s Ambuthirtha Power Pvt. Ltd.** offers a detailed interpretation of this issue. In this case:

- **The applicant (Executive Secretary)** claimed that her work was clerical and fell within the definition of a workman. She contested her termination and approached the labor court, which ruled in her favor, awarding compensation and reinstatement.
- However, upon appeal, the **High Court of Karnataka** examined her job responsibilities closely. It found that although she held the title of **Executive Secretary**, her duties were not merely clerical but included:
 - Managing travel and schedules for senior management.
 - Handling key tasks that required discretion and judgment.
 - Engaging in activities that suggested **managerial responsibilities**.

The **High Court ruled** that, given her experience (17 years) and the level of responsibility she had (managing travel, schedules, and interacting with top management), she was engaged in **managerial or supervisory duties**, thus not qualifying as a ‘workman’ under Section 2(s).

4. Salary as a Factor

Salary is an important determinant in deciding whether someone falls under the category of a ‘workman’, especially when they are employed in a supervisory capacity. As per the law:

- If the Executive Secretary earns **above ₹10,000 per month** and is engaged in **supervisory or managerial functions**, they do not qualify as a ‘workman’ under the ID Act.

In the Smt. Bhuvaneshwari case, her salary was significantly higher (₹30,000), and the High Court noted that it reflected her managerial role, further confirming her exclusion from the ‘workman’ category.

5. Job Title vs. Actual Responsibilities

The **title** of the position alone (e.g., Executive Secretary) does not automatically define whether the person is a workman. What matters more are the **actual duties** and

responsibilities performed by the employee. Even if someone holds a clerical-sounding title like Executive Secretary, if their work involves:

- Making decisions.
- Supervising others.
- Handling sensitive or managerial tasks.

They would likely fall outside the 'workman' definition. Courts typically look beyond job titles and consider the actual functions carried out by the employee.

6. Practical Application for Executive Secretaries

If an Executive Secretary manages an MD's travel, schedule, and meetings, but does not have:

- Supervisory control over other employees.
- Decision-making authority.
- Involvement in management decisions or discretion in strategic matters.

Then they would likely be classified as a '**workman**', as their duties are operational or clerical in nature.

However, if the Executive Secretary:

- Supervises others or handles managerial responsibilities.
- Engages in tasks requiring discretion or judgment.
- Earns a salary above ₹10,000 and exercises functions of a supervisory or managerial nature.

Then they would likely **not** be classified as a 'workman' and would be **excluded** under Section 2(s) of the ID Act.

7. Conclusion

To sum up, an **Executive Secretary managing an MD's travel and schedule** would not automatically qualify as a **workman**. The classification depends on the specific nature of the tasks they perform:

- If the job is **clerical** with no managerial or supervisory functions, they may qualify as a workman.
- If the job includes **managerial or supervisory duties**, especially if they earn more than ₹10,000/month or have discretion in decision-making, they will likely **not** be classified as a workman.

The Smt. N. Bhuvaneshwari case reinforces the principle that while an employee may carry a clerical-sounding job title, their actual responsibilities and the nature of their duties are the determining factors in assessing their classification under the ID Act.

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