

Workers connect...

Are we really losing our IT jobs to automation?

It has been three years of this government that came to power with a promise of generating 10 million jobs every year and adding 50 million people to the labour market by the end of their tenure. The reality is somewhat different.

Change in Employment in 8 key sectors in lakh (numbers)					
Year	Q1	Q2	Q3	Q4	Annual
2009	2.5	-1.31	4.97	6.4	12.56
2014	0.36	1.82	1.58	1.17	4.93
2015	0.64	-0.43	1.34	-0.2	1.35

With the employment figures dwindling the government changed the norms of measuring employment data for these 8 key sectors. The number of jobs created in the last one year is less than half a million and at an all-time low since 2011.

'Attrition' of employees in the IT sector in India is today a reality. IT giants such as Cognizant, IBM, Wipro, Tech Mahindra and Infosys claim to be 'letting go' of more than 1.5 lakh employees. The National Association of Software and Services Companies (NASSCOM), a trade association of Indian IT and BPO industry, claims that this attrition are a routine procedure and take place every year and is due to streamlining of their existing processes and automation. NASSCOM also claims that the IT/ITES industry has hired about 0.6 million employees in the last 3 years with 0.17 million employees in 2016-17 while simultaneously claiming that up to 40% professionals of the estimated 4 million workforce, i.e., 1.6 million employees, need re-skilling over the next five years if they need to keep pace with the changing face and automation of the industry. This obviously is a veiled threat to over one and a half million workers to reskill themselves or leave the industry. This however does not assure them job security even if they reskill in case of automation.

With the Trump government coming to power

in the US and changing visa policy, in this case H1B visas, it has pushed Indian IT companies to hire locally for their operations in the US. This has made it difficult for these companies to continue to send their Indian staff for 'on-site' jobs in the US.

Infosys issued a public statement to hire 10,000 US professionals in the next 2 years.

Wipro announced that it expects to have at least 50 percent of its US work force hired locally by 2018.

Further, the wage differential for IT employees to be hired in the US locally is on an average almost 4 times more than on-site Indian IT employees taken to the US. In 2014, a silicon valley company was fined by the US Department of Labour for hiring 8 Indian employees at \$1.21 per hour which was much lower than the California minimum wage of \$8 per hour. This company was violating the minimum wage norm, which IT/ITES companies today may not be indulging in, but the bargained wage of IT employees in the US will be far greater than their Indian counterpart. Thus, by simple economic logic of profit, the cause of the attrition can also be attributed to this increase in wage cost of IT companies that has been caused by Trump's visa restrictions.

Who is fired and who is hired today by IT/ITES companies

Every year thousands of workers are being forced to resign by IT companies following performance appraisals. Soon after Nasscom's estimate about re-skilling, consulting firm Capgemini India claimed that a majority of India's IT workforce cannot imbibe the required emerging skill-sets and warned of high job losses in middle and senior levels. Jobs in IT companies that were typically assigned to mid-level to senior employees with over 10 years of experience are now being automated. Capgemini has started using IBM's cognitive consulting tool Watson to assign people to projects, while Infosys is building a

machine-learning platform that will help project managers take decisions on people needed for a project and the timeline for completion. Thus, the attrition that we are today looking at is of this section of the IT employees – who are mid- to senior level workers – with higher pay than entry level workers – who today are being hired. Thus, while the IT companies are reiterating that they have hired in the last few years, it is important to note that they are hiring at entry level with much lower wages while firing at mid-level and senior level. Skilling is thus just an excuse to keep the workforce young and at low cost. Further, this also ensures insecurity in the workforce which in turn ensures higher and higher productivity and prevents them from organising their own trade unions in fear of losing jobs.

Automation, by its very logic, always replaces low end jobs which require larger number of workers. But the IT industry is claiming the reverse. Thus automation today is not just about replacing large number of low end workers to cut wage costs but to ensure workers remain insecure thereby give higher productivity and hence higher profits.

IT employees resign – they are not fired: Myth or Reality

In 2014, Tata Consultancy Service, imposed 'forced resignation' upon its workers at its Chennai office. The employees' union, Forum of I.T Employees', raised a dispute with the Labour department and won a stay order against such termination guised as voluntary separation.

A recurring argument that is used by these companies is that the IT workers are not workmen under the Industrial Disputes Act, 1948 but executives and professionals who do not have the right to raise a dispute.

Who is a workman under the ID Act?

1. There should be contractual employer-employee relation in which the employer has power to supervise, direct and control the employee (Chintaman rao vs. state of Madhya Pradesh AIR (1958))
2. The person must be employed in an industry and there should be employer-employee relationship (Atam Prakash & ors vs. state of Haryana & ors 1997 (2) LLJ (P & H))

3. To determine whether a person is a workman or not the court must principally look at the main or substantial work for which this person is employed. Neither designation nor any incidental work done will decide the status as workman. (John Joseph Khokar vs. Bhadange B. S. & ors 1998 (1) LLJ 447 (Bom) and Pillai G. M. vs. A. P. Lakhanikar, judge iii labour court & ors 1998 (2) LLJ 44 (Bom))

4. A person supervising the work of others with the power to grant leave, to initiate disciplinary proceedings and to make temporary appointments is not a workman (Vimal Kumar Jain vs. Labour court, Kanpur & anrs., AIR 1988 SC 384).

Thus under these conditions large majority of IT/ITES jobs can be categorised as workman under the ID Act.

The Madras High Court in the case between the Forum of I.T Employees' (FITE) v/s TCS Management sought a clarification from the Labour Commissioner, Chennai range as to whether IT professionals are eligible to form or join a Trade Union. The Labour Commissioner's office clarified that the workers are free to join trade unions and to redress their grievances following the ID Act but the High Court did not clarify on whether the FITE members could be categorised as 'workmen' under the ID Act. In 2016, the Madras High Court, in the case of K Ramesha, who was dismissed as Senior Service Programmer by HCL Technologies Limited, held that the person was a 'workman' under the ID Act and his termination was illegal. The court clarified that the job of an engineer in a software company involves skill and technical knowledge but that qualifies this person as a skilled worker and hence a 'workmen' under the ID Act.

Policy News

EPFO beneficiaries to get payment through electronic or digital fund transfer system

4 May: The Ministry of Labour and Employment on 4 May 2017 notified that all fund transfers and payment of EPF benefits, pension disbursement and insurance claim shall be done electronically or digitally only. For this purpose, suitable amendments have been made in all the three social security schemes administered by EPFO.

GST Council decides fitment rates, to be rolled out on 1 July

30 May: The 14th GST Council meeting at Srinagar on 18 -19 May discussed the fitment of rates of goods and broadly approved the GST rates for goods from 0%, 5%, 12%, 18% and 28% to be levied on certain goods. The Council has also broadly approved the rates of GST Compensation Cess to be levied on certain goods.

All states have agreed to roll-out the GST from 1 July, 2017. West Bengal however continues to oppose the GST in the present form citing attack on federalism.

Collective Bargaining

Coal India miners call strike

10 May 2017: The five central trade unions at state owned Coal India and Singareni Collieries Company (SCCL) have called for a three-day strike from 19-21 June primarily protesting the proposed merger of the Coal Mines Provident Fund (CMPF) with Employees Provident Fund (EPF) and the delay in revising wages of around 500,000 coal workers. According to trade union leaders, the proposed merger of the CMPF with EPF will result in the pension of workers reducing to a third of the existing one. Further the current wage agreement expires in June and the negotiations have not reached a conclusion.

Transport unions in Tamil Nadu call off stir after 2 days, 22,000 state-run buses off road

16 May 2017, Chennai: Transport unions called off their strike after an assurance from the government that there would be no "victimisation" and the two-day strike period would be treated as "leave" and the government would immediately release Rs. 1,250 crore pending dues to retired and serving employees of eight transport corporations. Buses will operate normally from 17 May.

The Madurai bench of the Madras High Court criticised the indefinite strike by transport workers, and warned them of invoking the Essential Services Maintenance Act (ESMA) if they continued with their agitation and directed

the representatives of the striking trade unions to appear before the court on 17 May.

Around 1.15 lakh workers joined the strike. The State Transport Corporation owes Rs. 1,480 crore to the retired workers, Rs. 250 crore to workers and Rs. 4,730 crore as arrears that was held back from the workers' salary.

Workers oppose new port bill

25 May 2017: The Water Transport Workers Federation of India staged a 48-hour satyagraha from 23 May at Willingdon Island in protest against the Major Port Authorities Bill, 2016. The trade unions fear that the Bill is a deliberate attempt to convert major ports into companies and then to gradually privatise them. The Bill stipulates that there would only be one labour nominee as against two members at present. In fact, the appointment of the labour nominee should be made by the Central government from among persons who, in the opinion of the Centre, are capable of representing the interest of employees in the port authority. The provision relating to the appointment of a labour nominee in the board would blatantly violate the rights of trade unions. At present there are two representatives of trade unions in the Port Authority and their appointment is not based on the will of the Centre.

Discrimination

HIV & AIDS (Prevention and Control) Bill 2017 to be tabled soon

7 May 2017: The new HIV & AIDS (Prevention and Control) Bill 2017 seeks to protect the rights of Persons Living with HIV, ensuring there is no discrimination against them in healthcare services, education, employment, public facilities, holding public office, property rights and insurance. The legislation is expected to be brought into force by the Central government shortly.

Transgender women to be hired by Kochi Metro Rail

22 May 2017: Kerala has hired 23 transgender women to work for the metro service in the

city of Cochin to fight discrimination at work. This marks the first time that a government agency has reserved positions for members of the transgender community. According to Metro officials the new employees would work as ticket agents and cleaning staff. Kerala is the first Indian state to enact a policy aimed at ending discrimination towards transgenders, who are generally excluded from mainstream employment.

Health and Safety

“One IP- Two Dispensaries” launched on May Day

1 May 2017: Under the ‘One IP- Two Dispensaries scheme’ of the ESIC, registered persons will now have the option to choose two dispensaries, one for self and another for family through an employer. This will benefit all Insured Persons (IPs), but especially migrant workers whose families do not live with them. Around 3 crores registered workers are covered under ESIC and total number of beneficiaries is over 12 crores.

Free Healthcare for Migrant workers in Kerala

2 May 2017: The LDF government in Kerala announced its decision to provide free health insurance and medical treatment for migrant workers. The coverage will be provided to around 30,000 migrant workers, mostly from the states of West Bengal, Bihar, Assam, Uttar Pradesh and Orissa.

The migrant workers will be eligible for free medical treatment at state-selected hospitals and will also be able to claim some coverage for accident death compensation. The scheme shall be renewed every year. The state government has already allocated Rs. 10 crore for the scheme.

Honorarium workers to be soon covered under ESIC: Labour Minister

4 May 2017: Anganwadi, ASHA and mid-day meal scheme workers will soon be brought under Employees’ State Insurance Corporation (ESIC) scheme, said the Labour Minister at a regional conference of labour ministers, principal secretaries of the western states in Jaipur.

Workplace Safety Watch

2 killed, 3 injured in blast at Azico Pharma reactor in Visakhapatnam

3 May 2017: Two workers, Siva Kumar (24) and Nageswar Rao (30) died and three sustained grievous burns in a fire at the Azico Biophore India Private Limited in the Jawaharlal Nehru Pharma City at Parwada outside Vizag on 2 May 2017. The company is an active pharmaceutical ingredient (API) manufacturing unit which produces intermediate pharma molecules. The AP Pollution Control Board (APPCB) had suspended the licence of the Azico company in October last year for not adhering to the safety norms.

Fire breaks out at Suzuki Motorcycles plant near Gurgaon

6 May 2017: Two workers, Baljeet (28) and Anil Kumar (30), sustained burn injuries after a fire broke out at a Suzuki motorcycle manufacturing unit at Kherki Daula, near Guragon in the early hours of 6 May. There were no major casualties as the workers ensured that the fire did not spread from the fuel tank unit to a nearby paint shop where paint and other highly flammable materials are stored. Labour officials rushed to the spot as the workers demanded that the management ensured adequate fire safety measures at the unit.

3 workers killed, 3 in critical condition in IISCO’s Burnpur steel plant due to molten metal burns

7 May 2017: Three workers, Sanwar Sheikh (29), Asish Sikka (30) and Shankar Nag (30) of IISCO steel plant in Burnpur, West Bengal died after molten metal fell on them early on 6 May. Three more workers are critically injured. Three other workers who suffered minor injuries were discharged after preliminary treatment. The incident occurred at around 4 am at the steel melting shop of the plant. The crucible in which the molten metal was being transported in the shop floor tilted and fell on the victims who were working below. SAIL has instituted a high-level inquiry to enquire about the cause of the accident.

3 workers die in Makrana marble mines

28 May 2017: Three workers died and three others were injured after a marble stone mine collapsed in Makrana area of Nagaur district, Rajasthan. Due to negligence of the owners a part of the mine caved in and the workers were trapped under the debris for several hours as rescue operations started late. Police has not filed any official complaint against the managers or owners of the mine claiming that none of the workers have reported the incident.

Legal News

Housewife renders services of skilled worker: Court

2 May 2017: A housewife renders services of a skilled worker, the Delhi Motor Accident Claims Tribunal (MACT) observed while awarding the compensation of Rs. 30.63 lakh to a 32-year-old homemaker who lost one of her legs in a road accident four years ago. The woman, who was crossing a road with her six-month old son in 2013, got hit by a rashly-driven RTV and suffered 80 per cent disability while the child suffered head injury.

With domestic workers performing the same work as homemakers, this judgement could be cited for calculation of accident compensation claims for domestic workers.

The Economy

Workers start cooperative to revive Tea Plantation

5 May 2017: The workers of Bandapani Tea Garden, in Alipurduar District formed a workers' cooperative which got registered on 26 April 2017. This plantation has remained closed since July 2013. It was taken over by the state government in October 2014.

The workers will now have to obtain a lease from the government to run this plantation.

Around 1.52 lakh casual workers lost their jobs due to Demonetisation: Labour Bureau

20 May 2017: According to the quarterly report on employment in 8 key sectors by the Labour Bureau, there was a reduction of 1.52 lakh jobs in casual worker category, including IT, transport, manufacturing, as on January 1, 2017, compared to October 1, 2016.

According to the survey, there was an increase of 1.68 lakh full-time workers while the number of part-time workers fell by 46,000. Contract and regular jobs saw a jump of 1.24 lakh and 1.39 lakh, respectively, during October-December.

News from around the World

Big win for Philippine unions as govt finally agrees to ratify ILO Convention 151

2 May 2017: After years of campaigning by a coalition of unions, the Philippines Government has agreed to implement Convention 151 of the International Labour Organisation, assuring government workers the right to unionise. The next step in the campaign is to lobby the Senate to ensure the ratification is successfully passed, which will require a two-thirds majority.

After India, General Motors decides to pull out of South Africa

18 May 2017: General Motors (GM) informed employees and unions on 18 May that it will quit South Africa. Besides its light commercial vehicle manufacturing operations in Struandale, Port Elizabeth, which it was selling to Isuzu, the US car maker intended to cease its South African operations by the end of 2017.

The National Union of Metalworkers of South Africa (NUMSA), is demanding a fair deal for the 1,500 workers at GM. Other jobs under threat are those in the 132 dealerships of GM's, of which only 90 will be taken over by Isuzu. NUMSA is proposing to organise a boycott of the company's products while negotiating the redundancy conditions. The company is not only removing its production facilities but also its retail outlets for all Chevrolet models.

Quebec construction strike

26 May: An alliance of construction workers' unions and employers' representatives returned to the negotiating table on 26 May as about 175,000 workers joined the indefinite general strike on 24 May, crippling activity on major projects.

The negotiations resumed with a provincially appointed conciliator at the table, one day after Premier Philippe Couillard threatened to begin the process of passing a Back-to-Work legislation. Work schedules and overtime are at the core of the conflict, while salaries are the main stumbling block.

The government's "emergency" anti-strike legislation, Bill 142, was tabled on 30 May amidst protests before the National Assembly, that threatened workers with harsh fines if they do not report for work at their regular start time on 31 May thereby forcing an end to the five-day strike. Bill 142 also gives management and unions five months to come to an agreement before an arbitrator does it for them. The bill imposed a 1.8 percent wage hike that is even less than what was offered by the Quebec Construction Association of 1.9 per cent before the strike and significantly less than the 2.6 per cent the workers are demanding.

Brazil's president forced to withdraw army deployed against protesters

26 May 2017, Brasilia: Called "The Unions' March", approximately 35,000 protesters demanding the resignation of President Michel Temer and an end to his austerity programme staged running battles with the police in Brasilia on 24 May, prompting the President to order the army onto the streets. The trade unions are united in their opposition to a bill that would cut their power in the workplace by allowing temporary non-unionized contracts and ending obligatory payment of union dues as well as the pension reform.

With the protests continuing, the President was forced to withdraw the order. The Supreme Court has already begun a criminal investigation against the president over allegations of corruption and obstructing justice. While

Temer refuses resign, his closest political allies in Congress are reportedly deserting him and calling for him to step down.

Gasoline and chemical truck drivers strike in France

31 May 2017: Truck drivers transporting hazardous materials (gasoline, natural gas and chemical products) in France went on strike on 26 May and continues its strike action. CGT, the union representing the drivers, is demanding a pay hike up to €14 per hour from the current €9.73, a reduced working week of maximum 10 hours per day, a 13th month bonus and regular medical check-ups. The strike was called after union wage and working condition demands were not met.

The newly-elected government of President Emmanuel Macron apparently acted to make sure gas stations and oil depots had large reserves before strike action began.

Corporate Watch

New blow to Uber: Advocate General of European Court of Justice says it needs to be regulated as Transport Company

12 May 2017: Uber could be forced to adhere to local licensing laws in European cities, after the advocate general of the European court of justice, Maciej Szpunar, said in a statement: "The Uber electronic platform, whilst innovative, falls within the field of transport. Uber can thus be required to obtain the necessary licences and authorisations under national law."

While the advocate general's opinion is non-binding, the court usually adheres to it. This means Uber, which allows passengers to summon a ride through a smartphone app, may soon be subject to the same local laws that regulate taxi services in European countries. If it is supported by the final ruling in the case by the ECJ in a few months, national governments will have to apply their own registration or operating requirements to the company, including licensing.