Legal remedies available to Gig Workers

Why in news?

The strikes by Blinkit workers has once again brought to the forefront the issues plaguing the gig economy in the country.

Who is a gig worker and what is platform work?

- **Gig workers –** It refers to workers outside the traditional employer-employee relationship.
- **Gig economy –** It falls outside the scope of traditional, full-time employment.
- There are two groups of gig workers, platform workers and non-platform workers.
- **Platform workers –** Those working for an organisation that provides specific services using an online platform directly to individuals/organisations.
- **Non-platform workers –** These include the construction workers and non-technology based temporary workers.
- **Status of India –** In India, employees are entitled to a host of benefits under statutes such as the:
    - Minimum Wages Act, 1948
    - Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (EPFA)
    - Payment of Bonus Act, 1965
- **Contract Labourers –** They are governed under the *Contract Labour (Regulation and Abolition) Act, 1970* and are also entitled to benefits such as provident funds in accordance with the EPFA.

What is the proposed law for gig workers?

- **National Commission on Labour –** It recommended to consolidate central labour laws.
- Hence, the Ministry of Labour and Employment introduced the *Code on Social Security, 2020* which brings workers within the ambit of labour laws for the first time.
- **Social Security Schemes –** The Code stipulates that Central and State Governments must frame suitable social security schemes for gig workers.
- The Code also mandates the compulsory registration of all gig workers to avail of benefits under these schemes.
- **National Social Security Board –** The Code also envisages the constitution of a National Social Security Board by the Central government to monitor the implementation of such schemes.

What are the concerns of the gig workers?

- **Mixed nature –** The unique nature of gig work display characteristics of both

employees and independent contractors and thus do not squarely fit into any rigid categorisation.

- **Little recognition –** Out of the four new labour codes proposed, gig work finds reference only in the Code on Social Security.
- **Excluded –** Gig workers remain excluded from vital benefits and protections offered by other Codes such as minimum wages, occupational safety and health benefits, and overtime pay.
- **No unions –** They cannot create legally recognised unions and access a national minimum wage that applies to all forms of employment.
- **No minimum wage –** Even the proposed law does not guarantee minimum wages for gig workers.
- **Redundancy –** Minimum wages, which is presently governed by the *Minimum Wages Act*, will be subsumed under the *Wages Code*.
- The Wages Code again is only looking to protect those who fall under the traditional employer-employee relationship.
- **No redressal mechanism –** Gig workers are excluded from accessing the redressal mechanism under the Industrial Disputes Act, 1947.

Can judicial intervention be expected?

- **Fundamental Rights –** The exclusion of gig workers from the category of unorganised workers is violative of their fundamental rights under Articles 14 and 21 of the Constitution.
- **Forced labour –** Denial of social benefits amounts to exploitation through forced labour, within the meaning of Article 23.

What have international courts held?

- **UK –** The UK Supreme Court classified Uber drivers as workers under the UK Employment Rights Act 1996, thus entitling them to various benefits like paid holidays and minimum wages.
- **Netherland –** The Dutch High Court also handed down a similar ruling, stating that the legal relationship between Uber and the drivers meets all the characteristics of an employment contract.
- **Germany –** Germany's Temporary Employment Act provides for equal pay and equal treatment of gig workers.
- **Singapore –** It has also proposed legislative changes to extend work injury insurance and pension coverage to such workers.

What is the way forward?

- **Statutory affirmation –** The deplorable working conditions of the employees of digital labour platforms in India and the need for statutory affirmation of the rights of gig workers.
- **Legislations –** With the gig industry gaining prominence across the world it is necessary that legislations are being passed to that effect, over and above social security benefits.
- It is not possible to expect to overcome the challenges faced by gig workers with

respect to protecting their rights until the law is amended to protect their interests.

Reference

1. The Hindu | Gig Workers

