

Strategic Performance Management
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Lecture – 35
Performance Management and Legal System

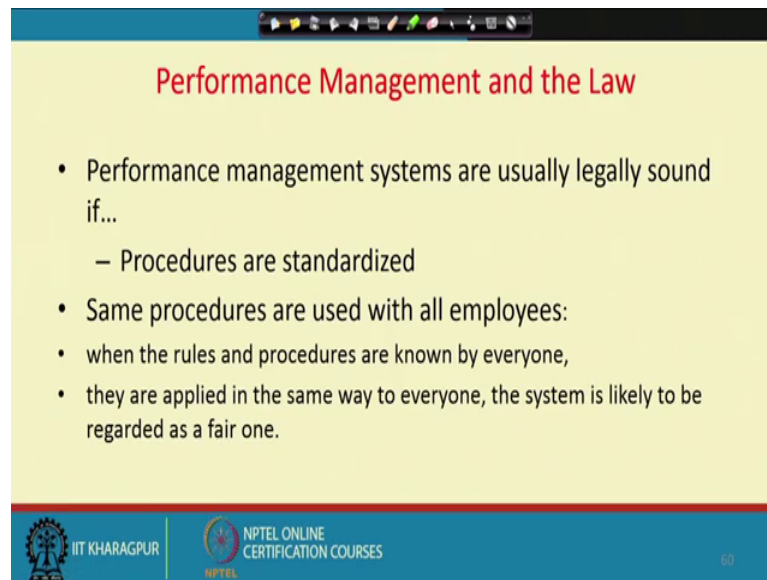
Ok so, very good morning and this is the last lecture of the 7th week and in this lecture we are going to talk about the legal issues which may arise out of performance management system and processes. You remember before that we talked about reward that how reward is to be linked with performance management and in the process we have seen that some if you are not going to follow a process which is accurate which is standardized which is uniform in nature then this kind of problem may come up.

So, we have to see that how to avoid lawsuits, how to ensure that we maintain equity when it comes to rewarding for performance and we also avoid lawsuits that might arise out of rating errors and all kind of things. So in this context it is very understand it is very very important to can say to understand what could be the various law related issues in performance management. Why it is important because if there are going to be lawsuits and other kind of things then we are going to spend lot of money on these kind of things and this could be a problem for the organization in terms of its reputation and brand image.

So, now we are going to discuss something that is related to reward in terms of its equitable distribution, in terms of its a standardization, in terms of its uniformity. When it is when it comes to rewarding employees for their performance. So, it is very very important to understand these issues ok..

Now we need to ensure that when you are going to develop a performance management system when you are trying to link it with the reward make sure that it is legally sound. Legally sound means that you need to follow 2 things that is the processes or distributing rewards is standardized. It means that you need to adopt a standard process so that people feel that when they are being reward the principles of justice is being followed ok. It means that you are going to follow a standard process to reward employees right.

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The slide is titled "Performance Management and the Law" in red text. It contains a bulleted list of conditions for legally sound performance management systems. At the bottom, there are logos for IIT Kharagpur and NPTEL Online Certification Courses, along with the number 69.

- Performance management systems are usually legally sound if...
 - Procedures are standardized
- Same procedures are used with all employees:
 - when the rules and procedures are known by everyone,
 - they are applied in the same way to everyone, the system is likely to be regarded as a fair one.

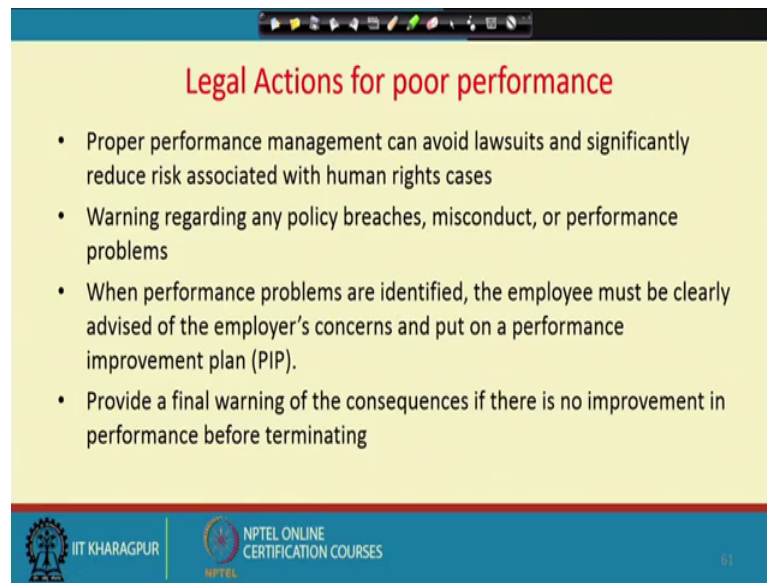
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And similarly when it comes to evaluating performance you also follow a standard process, that is rules and procedures for evaluating performance or standardized and uniform. So, that you do not make many mistake in evaluating employees because evaluation is link with the reward ok..

So if your evaluation is having certain errors then there might be certain problems right and then the evaluation is going to be faulty and if the evaluation is faulty then any decision that you are going to take on the basis of performance management in terms of rewarding employees or giving them any opportunities intrinsically extrinsically that is going to be inaccurate right.

So you need to standardize the process of evaluation you also need to standardize the process of reward and you need to ensure that you are going to follow the same process for everybody right. So, you need to apply it to everyone and make sure that the system is equitable, fair and just. So, that nobody is going to complain against the system and any decision that is taken on the basis of performance management. So, far as related to any administrative decisions are even developmental decisions right and that is why you need to avoid such legal issues in the future.

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The slide is titled "Legal Actions for poor performance" in red text. It contains a bulleted list of four points. The slide footer includes the IIT Kharagpur logo, the NPTEL Online Certification Courses logo, and the number 61.

- Proper performance management can avoid lawsuits and significantly reduce risk associated with human rights cases
- Warning regarding any policy breaches, misconduct, or performance problems
- When performance problems are identified, the employee must be clearly advised of the employer's concerns and put on a performance improvement plan (PIP).
- Provide a final warning of the consequences if there is no improvement in performance before terminating

Now, when it comes to taking legal actions for poor performance you have the we had examples where the contract of the employees may be terminated and he may be ask to leave or there could be certain administrative decisions like not giving increment or I mean stopping the individual ok. So, all extending their probation period ok.

So, there could be lot of issues related to poor performance and sometimes companies also take legal actions for poor performance right and if you are going to take it and if your system is not standardized and uniform then there could be legal actions against the company. So, you need to ensure that you have a proper performance management system right and if you have it you can avoid lawsuits and also reduce the risk of human rights cases because if you are going to say contact the terminate of a employ and he is going to file a lawsuit that you have not been at taking care of a proper or standard process for evaluation and though you have performed well, but that it is being rated as poor then there could be lot of problems right, because this is also not only related to performance, but human dignity ok.

So, the standard process is that if somebody is not performing well. So, you give him a warning and if he is going for any kind of a policy breaches, he is not following rules and regulations is he is in engaged in some kind of misconduct or you are having certain performance problem. So, instead of taking direct legal actions it is always good to communicate his performance or tell him what he is doing. So that he can correct him.

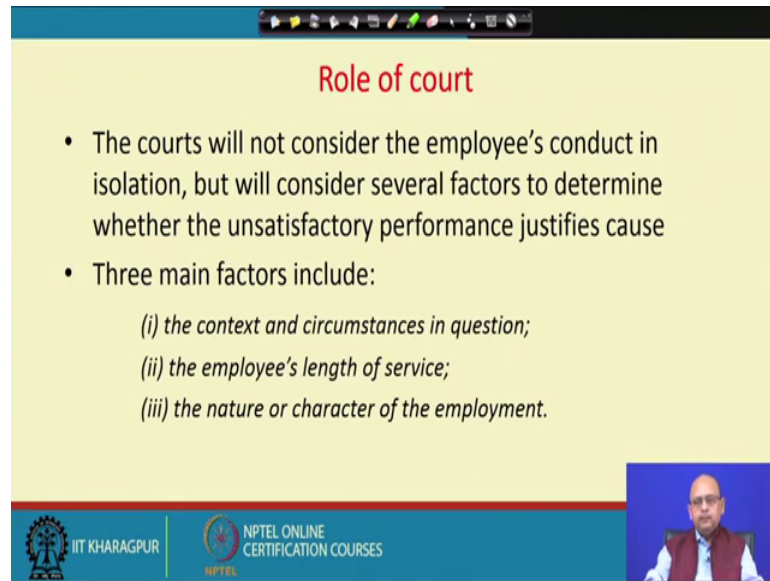
So it is always good that you give him a chance to correct himself so that his performance remain good and make sure that your performance management system has a process of giving feedback, so that if he is doing something which could be considered as a policy breach or misconduct and poor performance can be corrected at a later stage.

So, it is always good to identify performance related problems right and tell communicate employees you are concerned that your performance is not good or you give him feedback in such a way so that he takes certain corrective actions and also help and facilitate the process and make sure that he is going to improve his performance. So, you have a performance improvement program for those employees who are not going well in terms of performance. So, that they are able to correct their performance right.

And despite repeated warning and putting him into performance improvement plan if the if the person is still not able to perform well then you have no other option, but to terminate the contract ok. So, make sure that you have exhausted all possible efforts before we are going to terminate the contract of the employees and you have tried your best and still the person is not able to improve the performance.

So, that should be the last resort for an employer and then before taking that you must see to it that he tries his best to improve his performance, but despite all efforts that is made by you in terms of training or other coaching interventions are putting him into performance improvement plan. If the person is still not able to improve the performance, but then you do not have any other option, but to see that that person is not going to work in the organization.

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The slide is titled "Role of court" in red text. It contains two main bullet points. The first bullet point states that courts will not consider an employee's conduct in isolation but will consider several factors to determine if unsatisfactory performance justifies cause. The second bullet point lists three main factors: (i) the context and circumstances in question; (ii) the employee's length of service; and (iii) the nature or character of the employment. At the bottom of the slide, there are logos for IIT KHARAGPUR and NPTEL ONLINE CERTIFICATION COURSES, along with a small video inset showing a man in a red vest speaking.

- The courts will not consider the employee's conduct in isolation, but will consider several factors to determine whether the unsatisfactory performance justifies cause
- Three main factors include:
 - (i) *the context and circumstances in question;*
 - (ii) *the employee's length of service;*
 - (iii) *the nature or character of the employment.*

So, suppose for any region and the person file finds that injustice now has not been done and he moved to the court against any against the contract termination or any error that you have made in the processor system. Then the role of the court is very important ok. But before they go to the court you also have a grievance handling process within the of system within the framework of rules and regulations you try to solve the problem because if the matter goes through the court then you become a party and then the court will decide what is to be done ok.

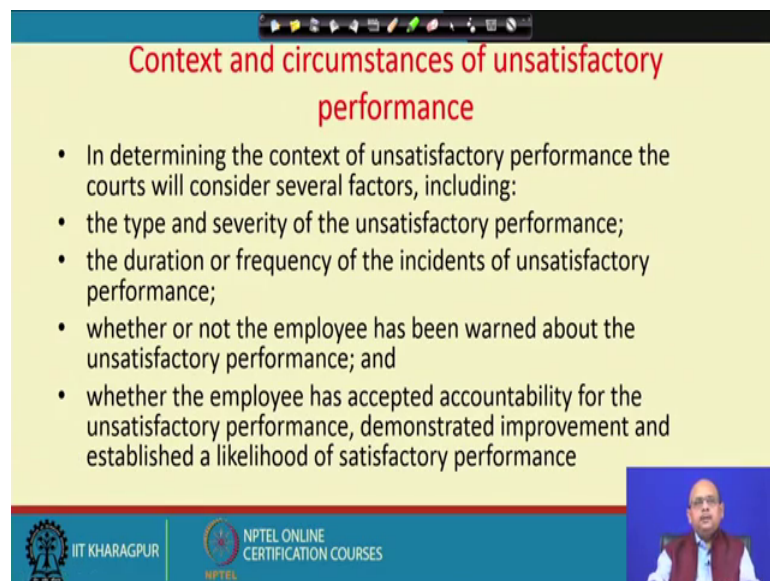
And when the court is going to conduct the look at the employee's performance he is not going to simply look at it. The isolation that the person is not able to perform well , but he would also the court would also try to identify those factors which has led to unsatisfactory performance ok? Because the person may not be responsible for poor performance. There could be other factors if you remember we talked about performance analysis. Suppose there could be external environmental factors, top management, a lack of resources and equipments right?.

If that is the reason and the person is not able to perform well then the role of the court would be different he might dispose in favor of the employees and you have to take him back right. So, it is very important to ensure that internally you try to resolve the issues having your own mechanism for resolving all kind of disputes including related to the performance. So, that this there is not this kind of situation does not arises. Because if the

matter goes to the court then the court is going to look into this and they are going to ensure that the justice is done to the employees if there any injustice is done then it is done.

So, make sure that your system and process standard uniform right. You communicate him about it and make sure that he is able to take any action to improve his performance and if that does not happen then you go if then that is the last resort as I told you. Now when we are talking about the role of the court and when they are going to decide about the fate of the employees ok, then there are certain factors which are very very important. Like the context and circumstances under which the person is going to perform and then he also going to look at the length of the service and also the nature in character of employment.

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The slide is titled "Context and circumstances of unsatisfactory performance" in red text. It lists five factors that courts will consider when determining the context of unsatisfactory performance. The slide also features the IIT Kharagpur and NPTEL logos at the bottom left and a small video inset of a speaker at the bottom right.

- In determining the context of unsatisfactory performance the courts will consider several factors, including:
- the type and severity of the unsatisfactory performance;
- the duration or frequency of the incidents of unsatisfactory performance;
- whether or not the employee has been warned about the unsatisfactory performance; and
- whether the employee has accepted accountability for the unsatisfactory performance, demonstrated improvement and established a likelihood of satisfactory performance

So, these are the factors which would be considered by the court before disposing of the matter. So, what we are going to do discuss now is that what are the factors which are very very important which could be considered by the court, like context and circumstances are unsatisfactory performance. Because as I told you that when you go for performance analysis you try to identify those factors which could be responsible for poor performance right.

So, when the court is going to examine the matter and they are going to say that why this person has not been able to perform well and because of which his job is at a stake or he

might be terminated from the service or have been terminated from the job ok. So, he is going to look into several factors like what is the type of unsatisfactory performance and how severe it is ok..

If he has been performing very poorly, consistently then it could be severe ok, but if it is once upon a time case then he may not he may over look at it ok. Maybe there could be (Refer Time: 10:48) factors, other contextual factors which might have being responsible for his poor performance and then the individual can have to be attributed and he cannot be blamed for poor performance right?

So, another issue that is related to this is duration or frequency of incidents of poor performers. Whether he is consistently performing poorly? Despite making all the efforts by the employer? Are putting him into performance improvement plan or not? So if the case is so that if the person is consistently performing badly or his there is a incidents of unsatisfactory performance from the employees then the court is not going to rule in the favor of the employees.

And, but if it is a just one such case then the thing would be different right. Now another issue is that whether the employee has been communicated about poor performance and whether you have taken adequate care in terms of intervention. So, that is training coaching are other kind of things to see that the employees able to improve his performance right. So before you terminate him you must give him a chance to improve upon and that is why this warning is given. So that the employees able to improve his performance right.

Now another issue is that whether employee accept the responsibility for poor performance or not. In many cases it has been found that employee do not accept the responsibility for the poor performance they attributed to external factors. It could be little supervisor, the environment and the top management and other things ok..

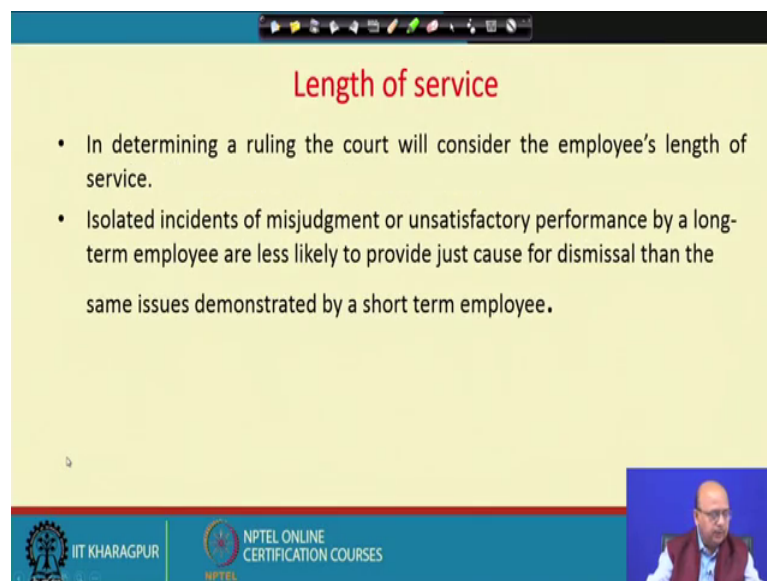
Now the management has to prove that poor performance is due to unsatisfactory or due to the internal attributes maybe the lack of knowledge and skill or the motivation interest of the employees right. Otherwise the court may decide in favor or against depending upon the case.

So, if the employee has accepted the responsibility for unsatisfactory performance then you are you will be in a better position right and whether is not able to demonstrate any kind of improvement in a his performance or if there is a gradual improvement in his performance then the case would be different right. So, whatever is the case the court is going to decide depending upon the merit of the case and the context and the circumstances under which an employee is going to perform his job.

So, it is very very important to examine these things before the matter goes to the court because court you going to look into all these issues. So, if you remember in the beginning also we talked about 2 kind of performance which are responsible for your outcome that is task performance and contextual performance ok. So, the contextual performance is very very important.

So, you need look into the context which is going to facilitate task performance and that is why it is very very important to examine contextual factors which is relate to the environment to ensure that whether these contextual factors are responsible for poor performance or not and how to ensure that this barriers are got rid of. So, that the employees able to performance well or if it is due to task related factors then you how we are going to improve his knowledge and skill so that the employees able to perform well.

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Length of service

- In determining a ruling the court will consider the employee's length of service.
- Isolated incidents of misjudgment or unsatisfactory performance by a long-term employee are less likely to provide just cause for dismissal than the same issues demonstrated by a short term employee.

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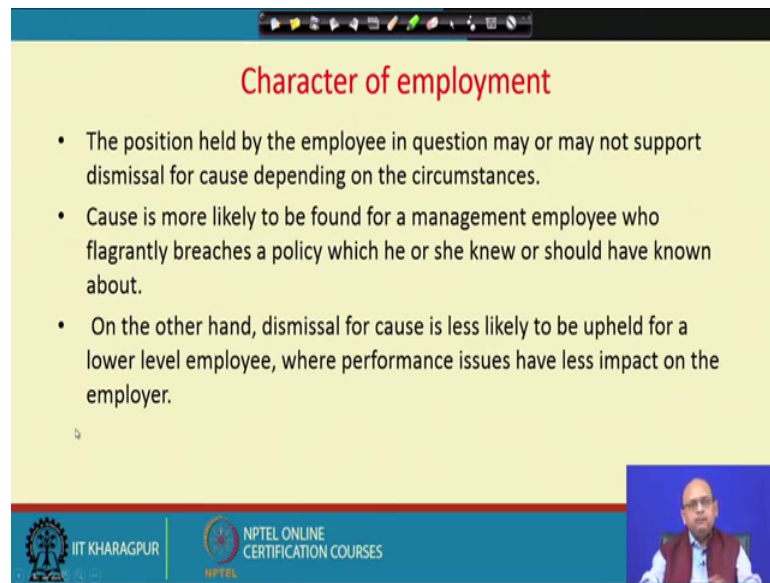
So moving away from this contextual and circumstances which might lead to poor performance. Another factor that is to be consider is the length of service of an employee

right ok. If it is an isolated case or misjudgment or unsatisfactory performance of a long term employee, long term employee means the employee who has been working in the organization for a number of years ok. So, it is going to be less likely to provide a just cause for dismissal. You can just simply cannot dismissal because the person has been serving in the organism for a longer period and in some cases his performance is not satisfactory ok. But if it is a short term employee the person is on tenure or contract and he is not able to perform then the case would be different.

So, length of service is also considered before a decision is taken by the court either in the favor of the employer or in favor of the employees. So, when you are going to terminate a employees you also see that what was his long term performance whether he has been consistently performing well or they has there are few a strains incidents of cases where the person has not been able to perform well ok. If that is so, so the employee has some sympathetic and try to improve his performance ok. So, that it is consistent.

And, but if it is a case of say short term employee is a contractual employees and he is going to work for every short period he has work only for a few say months or years then the case would be different ok. So, these are the issues which could be looked into by the court now apart from length of service another important factor is the character of employment ok. What is the position that is held by the employees in question right. But say for example, if it is relate to the management (Refer Time: 15:59) ok.

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The slide is titled "Character of employment" in red text. It contains three bullet points: "The position held by the employee in question may or may not support dismissal for cause depending on the circumstances.", "Cause is more likely to be found for a management employee who flagrantly breaches a policy which he or she knew or should have known about.", and "On the other hand, dismissal for cause is less likely to be upheld for a lower level employee, where performance issues have less impact on the employer." The slide footer includes the IIT Kharagpur logo and the text "NPTEL ONLINE CERTIFICATION COURSES". A small video inset of a speaker is visible in the bottom right corner.

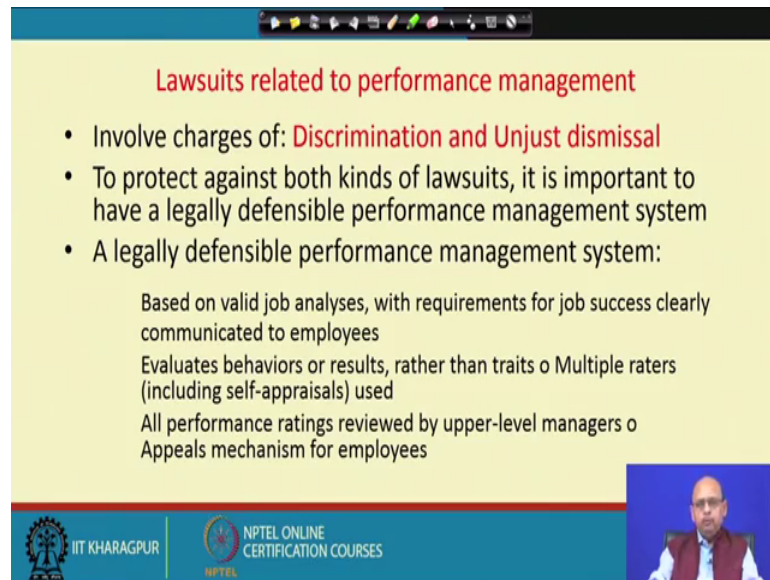
And if is continuously breaching and the policy are in his intentionally or unintentionally then the case would be different ok. But dismissal for the cause is not likely be upheld by the court in case of lower level employees whose performance issues have less impact on the employee. Because if you look at the senior level employees and if they are doing something wrong it is going to significantly impact the performance of the organization right.

But if it is a lower level employees and he is not able to work is not able to perform well then it has a less impact on employer in terms of performance of the organization ok. So, both the cases could be looked into 2 different ways by the court ok? Because in a lower in case of a lower level employee then court may not support the employer, but in case of a higher level employee it might support because of his performance the organization is going to suffer huge loss and there is lot a significant contribution by the employer sorry employees towards the organization.

So, the those 2 cases are different and that could also be considered when the court was going to take a decision. So, what we discussed so far is what is the role of the court and how the court is going to decides such cases which might be related to the poor performance. Now see if we look at the train and the record of performance related issues or the lawsuits relate to the performance management, it is either related to discrimination of some form or unjust dismissal ok. Discrimination the since whether

going to discriminate employees either through bad rating or bad compensation or discriminating in compensation these kind of things or you have dismiss the contract of a employees without being fair to him right.

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Lawsuits related to performance management

- Involve charges of: **Discrimination and Unjust dismissal**
- To protect against both kinds of lawsuits, it is important to have a legally defensible performance management system
- A legally defensible performance management system:
 - Based on valid job analyses, with requirements for job success clearly communicated to employees
 - Evaluates behaviors or results, rather than traits o Multiple raters (including self-appraisals) used
 - All performance ratings reviewed by upper-level managers o
 - Appeals mechanism for employees

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So, dismissal sorry unjust dismissal and discrimination these are the 2 kind of charges that is framed against the employees which may invite lawsuits against the employer right. So to protect protest against these kind of lawsuits it is very very important that you have a system which could be legally defended in the court of law right..

So when we are talking about a legally defend defensible performance management system make sure that it is based on job valid job analysis. It means the tasks and other things are derived for the job description of the employees and make sure that it is clearly linked with the performance of the employees and it is communicated to the employees ok.

So you go for a proper job description ok, communicated to the employees what is expected from him through the standards are known to him. He knows what is to be done because that becomes the criteria for the evaluation right? Now include both the behavior as well as results in their performance evaluation right instead of rates and then rates to then sorry rather than traits or multiple raters ok.

So, when you are going to use behaviors or results instead of rating the him on traits it is always good to go for multiple rating. So, that you get a more comprehensive picture and you also go for self with appraisal where the person is going to evaluate himself because he would be the best person to see what is the performance level right? And if you go for these kind of things probably you can avoid some kind of rating errors if you go for multiple raters right.

Similarly, we also train people who are going to rate. So, that they do not make any error in the rating right and then whatever rating is made by the superior immediate superior of the employees that is being reviewed by the senior level managers and then also have a appeal mechanism for the employees. What I mean to say the appeal mechanism that the if person is not satisfy satisfied with the rating of his performance he can always make an appeal to higher level managers or senior level authority in the organization ok.

So, that the matter can be internally resolved within the organization because if the matter is not going to be internally resolved within the organization then the person might be forced to file a lawsuit in the court of law and that could create a problem because in there you have to different everything and justify why you have dismissal law terminated the contract of a employees ok. So, these are the 2 major issues that is dismissal or and discrimination.

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Legal Principles Affecting Performance Management

- 1. Employment at will:** The employer or employee can end the employment relationship at any time.
- 2. Negligence:** When PMS is outlined in some documents like employee manual, employment contract, or other materials and not implemented as described.
E.g.: If an employee receives what she believes is an unfair performance evaluation and the system has not been implemented as was expected, she may be able to challenge the system based on negligence on the part of the organization.
- 3. Defamation:** Disclosure of untrue, *unfavorable performance* information that damages an employee's reputation.
An employee can argue that the organization defamed her if the employer states false and libelous information during the course of the performance evaluation.

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Now, what we are going to discuss now is some of the legal principles which are going to affect the performance management system. The first one is employment at will right. Now you know that when the contract is formed between the employer and the employees a formal agreement relates to job. It suggests that the employer and employees can in the employment relationship ok, at any time and there is a period contract period could be of 1 month or 3 months within which you can communicate to the employees that you are not required and is communicate to the employees. Similarly employer's employees can also communicate to the employer that they are not going to work in this organization right.

So, this is what we know as employment at will, where both the employer and employees can decide about the fate of employment and this is this would be accepted by both the employers as well as employees. Now negligence when you have a performance manage system and it is documented in manuals or contracts or other materials and you make sure that you are going to implement it as it is right. So, this should not be any kind of negligence on the part of the employers as well as the employees because both of them aware about the employment contract which is needs to be followed by employer as well as employees properly right?

For example, suppose if you receive what she believes is an unfair performance evaluation then you can always go and complain to the higher authorities. Then you have to see that with the system was implemented properly or not with the rating has been done properly or not otherwise the individual is going to challenge the system and this could create a problem. Similarly, there are cases relate to defamation ok. For example, if for going to disclose untrue unfavorable law performance information and it is going to damage the reputation of the employers right.

So, if employees find that you are disclosing information related to his performance to others then it is it will be called defamation right? Because you have given false information during the a performance evaluation right? So, you need to avoid these kind of things so that you are not going to defame employees for his performance during the evaluation

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Legal Principles Affecting Performance Management

- 4. Misrepresentation:** Disclosing untrue *favorable performance*, and this information causes risk or harm to others.
E.g.: When a past employer provides a glowing recommendation for a former employee who was actually terminated because of poor performance, that employer is guilty of misrepresentation.
- 5. Adverse impact (*unintentional discrimination*):** When the PMS has an unintentional impact on a protected class.
E.g.: when women receive consistently lower performance ratings than men.
- 6. Illegal discrimination (*disparate treatment*):** raters assign scores differentially to various employees based on factors that are not performance related, such as race, nationality, color, or ethnic and national origin.

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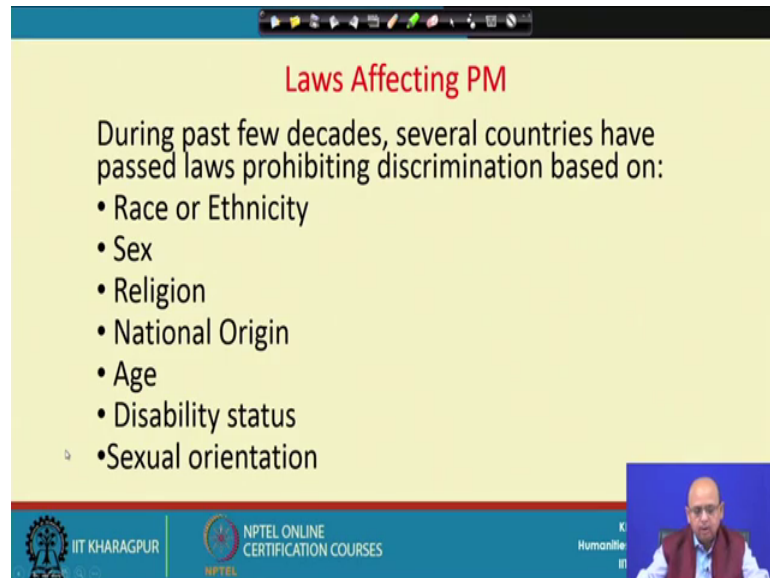
Another issue is misrepresentation disclosing untrue favorable information favorable information right. Because it is also going to cause harm or effect to the employees right. Suppose there is an employee whose reward is there and he is being recommended by a former employee, who is were actually terminated because of poor performance. Then the employer is guilty of representation because you are going to act on a behalf of employee who has already poor performance who has been terminated by the organization right.

So, basically it is a case of misrepresentation. Another issues relate to unintentional discrimination where performance management system try to discriminate employees. So, when it comes to rating or evaluation. For example, sometimes women receive lower performance rating than the men ok. So, it is a clear case of what you call discrimination and this is known as unintentional because knowingly you are doing it ok. So, it might have an adverse impact on the employees. Then illegal discrimination where you go for disparate treatment right where the employer, the managers are when they are go for rating they are going to assign scores differently to various employees ok.

On those factors which are not a performance related criteria right? Such as race, nationality, color, ethnicity or the national origin ok. So, if you are using these considerations for evaluation then you are illegally discriminating an employees because you are not going to treat him or evaluate the employees or rate employees based on his

performance, but you are considering other factors which are not a part of your evaluation criteria ok..

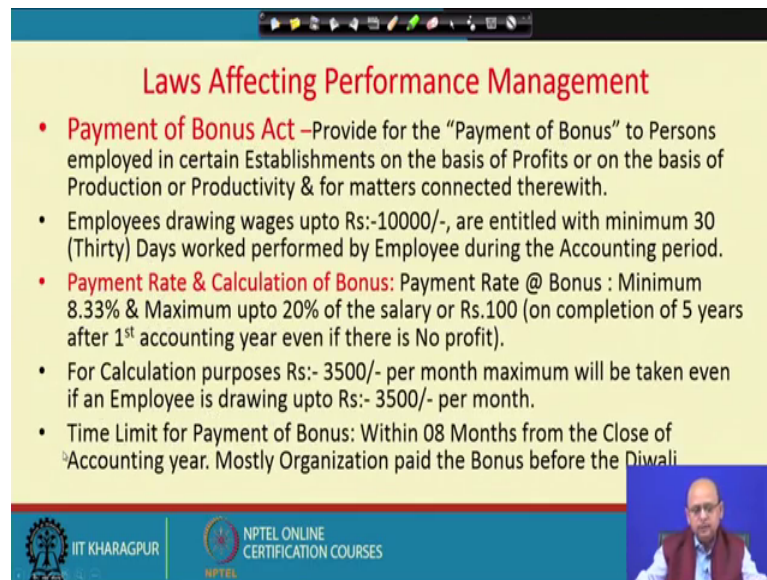
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The slide is titled "Laws Affecting PM" in red text. Below the title, it states: "During past few decades, several countries have passed laws prohibiting discrimination based on:". This is followed by a bulleted list of factors: Race or Ethnicity, Sex, Religion, National Origin, Age, Disability status, and Sexual orientation. The slide is part of an NPTEL presentation, as indicated by the logos for IIT KHARAGPUR and NPTEL ONLINE CERTIFICATION COURSES at the bottom. A small video inset of a speaker is visible in the bottom right corner of the slide area.

Moving further, so these are the laws which are affected effect in the performance management and many countries including India passed laws prohibiting discrimination based on race and ethnicity, sex, religion, national origin, age, disability, sexual orientation ok. Now the Indian government has also passed lot of law related to that we are not going to look into all the laws, but some of the major laws which are very important which is related to performance management. One is a payment of bonus act which is very important

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Laws Affecting Performance Management

- **Payment of Bonus Act** –Provide for the “Payment of Bonus” to Persons employed in certain Establishments on the basis of Profits or on the basis of Production or Productivity & for matters connected therewith.
- Employees drawing wages upto Rs:-10000/-, are entitled with minimum 30 (Thirty) Days worked performed by Employee during the Accounting period.
- **Payment Rate & Calculation of Bonus:** Payment Rate @ Bonus : Minimum 8.33% & Maximum upto 20% of the salary or Rs.100 (on completion of 5 years after 1st accounting year even if there is No profit).
- For Calculation purposes Rs:- 3500/- per month maximum will be taken even if an Employee is drawing upto Rs:- 3500/- per month.
- Time Limit for Payment of Bonus: Within 08 Months from the Close of Accounting year. Mostly Organization paid the Bonus before the Diwali

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Now, if you look at the payment of bonus act it is basically says that you have to give bonus to people employed in establishment depending upon the profit or on the basis of the production or productivity right. Now this law says that employees drawing wages upto 10000 are eligible for minimum 30 days work performed by employee during the accounting period right. And the payment rates and calculation or bonus is also decided right which is going to be roughly 8 point 33 percent right. And then the maximum that you get is 3500 rupees even if you are drawing more or less than that and then time limit is also defined ok.

So, when you are going to pay bonus depending upon the salary that you are going to give to the individual, you ensure that it is at the rate of 8 point 33 percent right. So, that you are going to you are not going to discriminate employees based on the performance because bonus is a kind of reward that you are providing to the employees and you are not going to discriminate employees so far as giving the bonus is concerned ok.

So, whatever rules or regulations which have been decided by the government you have to follow it in providing the bonus ok. And if look at the payment of bonus act, it clearly specifies the rate and how the bonus is to be calculated and you have to use rate, these rates and calculation whether you are working for in the private sector the public sector organization.

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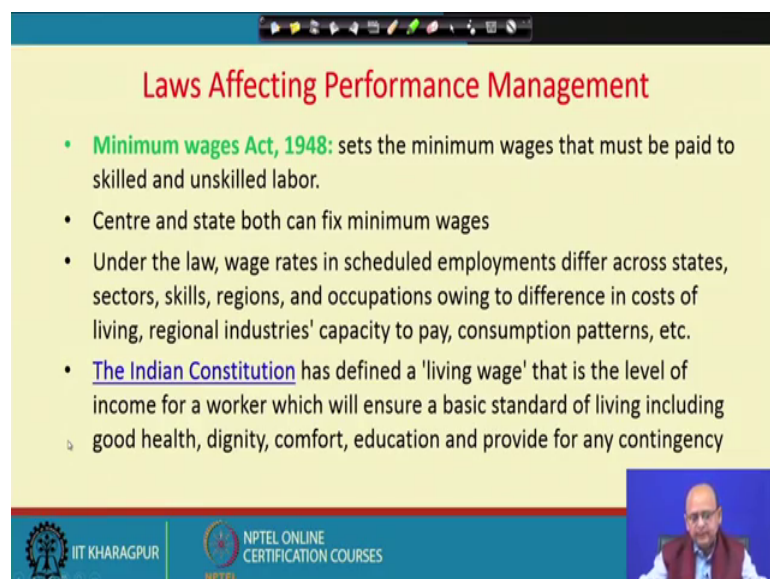
Laws Affecting Performance Management

- **Equal Remuneration Act, 1976:** aims to provide for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the ground of sex, against women in the matter of employment and for matters connected therewith or incidental thereto

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Ok another important act is equal remuneration we are not going to discriminate people based on their sex right. So, if you look at the equal remuneration act it aims to provide for the payment of equal remuneration to men and women workers right and also prevention of discrimination on the ground of sex against women especially in the matter of employment ok. So, this is a very important act. So, we are not this is related to the discrimination in terms of employment.

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Laws Affecting Performance Management

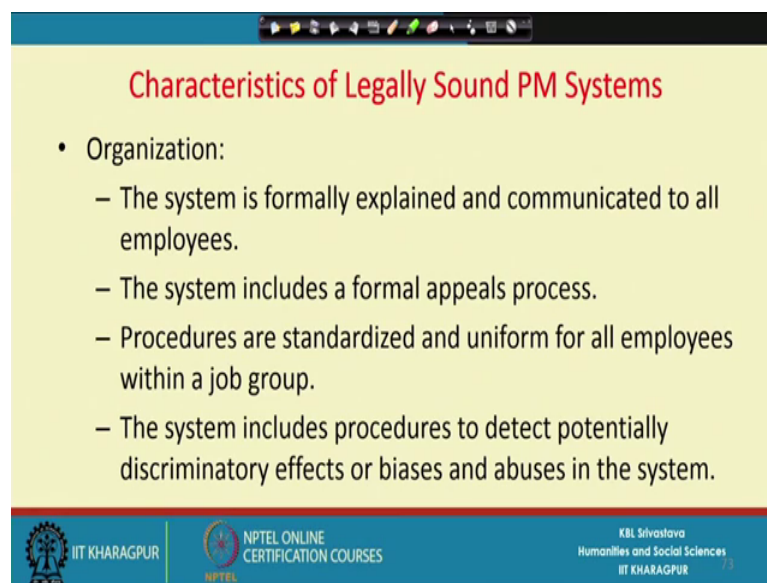
- **Minimum wages Act, 1948:** sets the minimum wages that must be paid to skilled and unskilled labor.
- Centre and state both can fix minimum wages
- Under the law, wage rates in scheduled employments differ across states, sectors, skills, regions, and occupations owing to difference in costs of living, regional industries' capacity to pay, consumption patterns, etc.
- [The Indian Constitution](#) has defined a 'living wage' that is the level of income for a worker which will ensure a basic standard of living including
 - good health, dignity, comfort, education and provide for any contingency

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Then this is a minimum wages act basically because the minimum wages act is provided to skill and unskilled labor and you any (Refer Time: 27:39) being this being in the concurrent list anyone centre state can form. Rules that what would be the minimum wages right.

And these wages actually vary depending upon the sector, state, region or occupations right. When if you look at the Indian constitution it has also define the living wage that is the level of income for a worker which will with which ensures a basic standards of living including good health, dignity, comfort, education these kind of things right. So, you need to see that you are going to follow the minimum wage act and if you are giving less than that the as decided by the either the centre the state then it invites legal action against the employer.

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The slide is titled "Characteristics of Legally Sound PM Systems" in red text. It features a bulleted list of organizational characteristics. The background is light yellow with a blue header and footer. The footer contains logos for IIT Kharagpur, NPTEL Online Certification Courses, and KBL Silvastava.

- Organization:
 - The system is formally explained and communicated to all employees.
 - The system includes a formal appeals process.
 - Procedures are standardized and uniform for all employees within a job group.
 - The system includes procedures to detect potentially discriminatory effects or biases and abuses in the system.

So, these are the 3 major acts. There are other acts related to disability relate to the sexual discrimination these kind of things which may also affect the performance management system of the organization. Now if you look at the characteristics of a legally sound PM system ok. We have to look into the role of the 3 properties that is the organization, the management and the employees separately.

Now, when we are going to look at the characteristics of the legally sound performance management system, remember we talked about some of the rules and regulations from the government what is desirable by the organization and what is desirable the managers

and the employees. Now when we are going to discuss about this legally sound performance management system we have to look at the role of the different stakeholders in the process right.

So, to start with we will talk about the role of the organization ok. What is the role of the organization ok. So, when we say that we are going to have a performance management system which could be legally defended what does it mean? It means that you are going to have a performance management system which is transparent, which is objective, which is accountable which does not discriminate uncertain criteria right. People know what kind of performance management system is. What is the criteria, what the goals and standards that is to be achieved ok. and it is communicated to the employees. So, it is the responsibility of the organization that whatever performance management system is in place it is explained to the employees whether they know that this is how they are going to be evaluated they are with their performance based on the criteria which is decided well in advance right. And organization also ensures that they have a formal grievance handling mechanism within the organization to ensure that if there is any complaint against the evaluation the process or the reward related to the performance there is a formal process to appeal to the higher authorities ok.

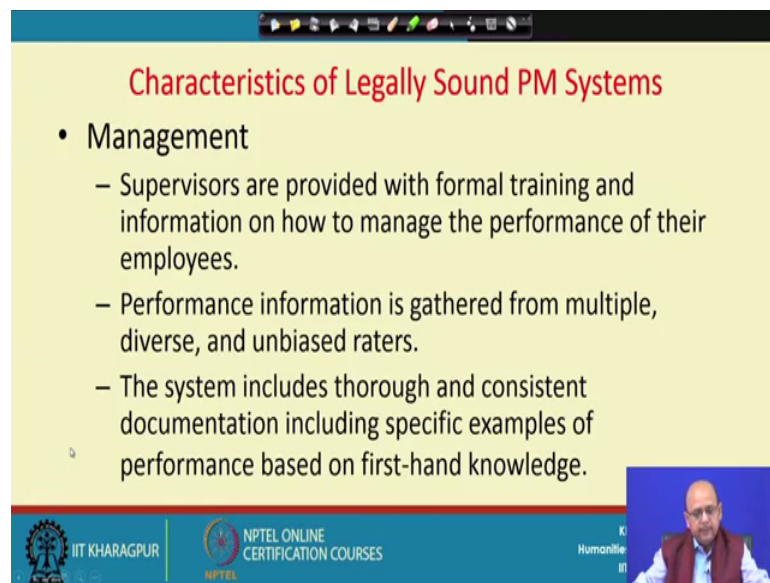
So, the system should also include a formal appeal process. Next is that you need to have a standard uniform process for all the employees in a given job right. So, that when you are going to evaluate there is not variations and you do not make any error in the evaluation process and it also has process which is able to detect potentially discriminatory effects or biases or abuses in the system.

So, that people know that what are the issues that make happen relate with the biases and if managers are going to use these biases they are detected in the process or in the system right. Let me give an example for say if you are going to follow is say 360 degree mechanism for evaluation. Now there could be different rater raters which are going to evaluate your performance ok. And then you try to look at the consistency across raters so far as the criteria performance is concerned, that how everyone or all the stakeholders evaluated.

Say for example, if the supervisor is biased and he is trying to discriminate employees and his rating low or poor while others have rated him high so you would be caught in

the system. So, you need to develop such a system which is more comprehensive where you are able to detect any kind of discrimination of biases that could be there in the system and it is if the management is able to detect it or the organization is able to detect it..

(Refer Slide Time: 32:00)



The slide is titled "Characteristics of Legally Sound PM Systems" in red text. Below the title, there is a bulleted list under the heading "Management". The list contains three items: "Supervisors are provided with formal training and information on how to manage the performance of their employees.", "Performance information is gathered from multiple, diverse, and unbiased raters.", and "The system includes thorough and consistent documentation including specific examples of performance based on first-hand knowledge." The slide also features logos for IIT KHARAGPUR and NPTEL ONLINE CERTIFICATION COURSES at the bottom, and a small video inset of a speaker in the bottom right corner.

- Management
 - Supervisors are provided with formal training and information on how to manage the performance of their employees.
 - Performance information is gathered from multiple, diverse, and unbiased raters.
 - The system includes thorough and consistent documentation including specific examples of performance based on first-hand knowledge.

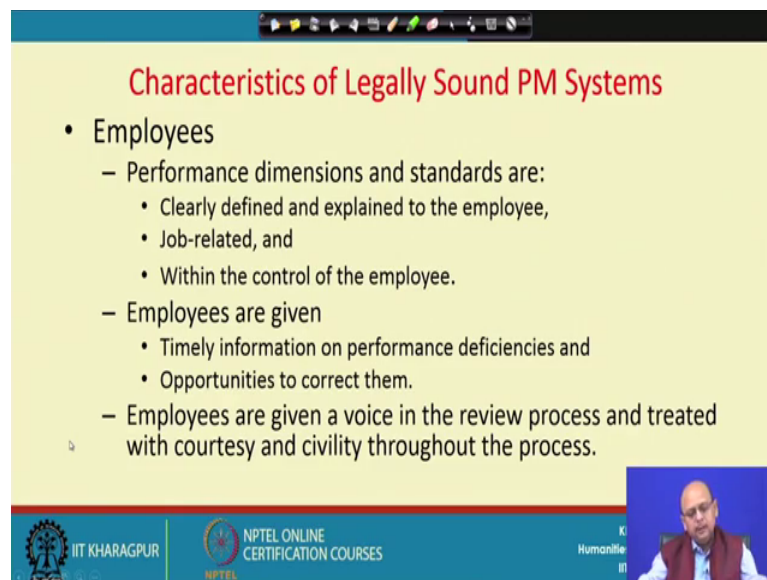
Moving to the role of the management, make sure that we are the managers are not going to make any kind of intentional or unintentional errors ok. So, they need to be trained formally that how they are going to manage the performance of their employees, how they are going to rate, how they are going to link into with the reward ok. So, the kind of process that they are going to adopt they should be communicated about it ok.

And then when they are collecting information relate to the performance they are collecting it not just from one source, but they are going to get it from different sources to ensure that the rating is unbiased ok. Similarly you also need to ensure that if you have documentation for the performance of the employees. So, that you are able to defend it, in case it is required and you are collecting information from the employees and related sources. So, that you get more reliable information because it is first hand information and if it is not reliable or firsthand then it could be questioned at a later stages right.

So, management has the responsible to ensure that they collect data from different sources are trained. So, that they are not biased and they are collecting data from first sources and finally we have employees because that there equally important in the

process ok. So, employees must be communicated what are the criteria against which they are going to be evaluated and for each criteria what are the standards. Remember we talked about accountability, standards right and the criteria against which the people are going to be evaluated.

(Refer Slide Time: 33:20)



The slide is titled "Characteristics of Legally Sound PM Systems" in red text. It features a bulleted list under the heading "Employees". The list includes three main points: performance dimensions and standards (clearly defined, job-related, and within control), timely feedback and correction opportunities, and a voice in the review process with courtesy and civility. The slide footer includes logos for IIT Kharagpur, NPTEL Online Certification Courses, and a small video inset of a speaker.

- Employees
 - Performance dimensions and standards are:
 - Clearly defined and explained to the employee,
 - Job-related, and
 - Within the control of the employee.
 - Employees are given
 - Timely information on performance deficiencies and
 - Opportunities to correct them.
 - Employees are given a voice in the review process and treated with courtesy and civility throughout the process.

So, each and every employee is depending upon the job requirement is communicated where the performance dimensions and standards against which they are going to be evaluated and you clearly communicate and define these 2 employees that yes this is again this is the criteria against which you are going to be evaluated and make sure it is with linked with the job which they are doing ok. And employee had the knowledge and skill to do it. So, we are going to evaluate on job related criteria and also that is under the control of the employees because if it is extremely influenced and because of which the employee performance is not good then you cannot blame attributed to the employees.

So, make sure that those factors which are within the control only that is being written for performance raised right and then they should be given continuous feedback about their performance and if there are any differences a deficiencies they must be communicated and they also should be provided in opportunity. So, that they can correct it and if there is a problem they should be allowed to voice their concerned especially relate to the evaluation or the review and the management must treat them with courtesy and dignity throughout the process. So, that employ understand that is they are valued

they are part of the system and the performance management system is objective fair and just and if you are following this principle probably will be able to develop a legally differentiable performance management system and you can avoid lawsuits and these kind of problems in the court

Thank you very much.