



EMPLOYER-EMPLOYEE RELATIONS

I employed someone in my company and laid him off due to financial circumstances. What responsibilities do I have to him, aside from my contractual and legal obligations?

TEACHER'S MANUAL



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Shluchim of the Rebbe to Mumbai India

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In this week's Torah reading, we learn about mitzvot applicable to indentured servants: When a servant goes free, their master must give them gifts, because G-d did so when He freed the Jews from Egypt (Source 1). The Sifri writes that G-d gifted them twice: Once after leaving Egypt, and a second time after the splitting of the sea. This teaches us to give our servants a double portion as severance pay (Source 2). Maimonides codifies this as Jewish law in his writings, and specifies a minimum sum (Source 3).

Rabbi Levi Yitzchak, the Rebbe's father, cites an additional example in the Torah of a servant receiving severance pay—Joseph. Leaving prison, he was given expensive clothing and money by Pharaoh, the angel Gabriel taught him 70 languages, and Potiphar gave him his daughter's hand in marriage. (Source 4-7)

B. Why Compensate?.....10

There are two ways of explaining the requirement to give a servant severance pay: (a) It is a scriptural decree that the master must give his servant an extra payment upon freeing him. (b) Alternatively, it's a rational mitzvah, a form of charity, so that the servant should leave with good feelings. Elsewhere, the Rebbe explains that the servant's freedom is complete only when they receive a gift, as this gives them the feeling of freedom (Source 8).

By juxtaposing the mitzvah of severance pay with the mitzvah of charity, Maimonides (Source 9) implies that he considers it is a form of charity. The scriptural verses also lend to that understanding, as this mitzvah is juxtaposed with the mitzvah of charity (Source 10).

C. Modern-day severance.....13

Citing the Chinuch, who maintains that the mitzvah of severance pay is still applicable in modern times to employees, the Rebbe called for paying severance today as well. No matter how long they were employed for or how satisfied the employer was with their work, they must be given a gift that allows them to leave with positive feelings.

Introduction

This week's Torah reading teaches us that a master must give their servants severance gifts when they are released. Sefer Hachinuch has a surprising interpretation of this, with contemporary ramifications. On this basis, the Rebbe issued a special call to employers.

השיעור לפרשת ראה

לקוטי שיחות חלק י"ט, פרשת ראה,
שיחה ד', עמ' 153

A. Compensating Freed Servants

Our Torah reading addresses the laws of servitude.

Before we begin, it is important to clarify something. Slavery as we know it—the type practiced in the U.S. some 150 years ago—where people were kidnapped from Africa and sold into slavery is called human trafficking in the Torah, and is sometimes punishable by death! That sort of slavery is completely forbidden by the Torah, ever since we received the Ten Commandments 3,335 years ago.

The servitude spoken of in the Torah is when a person cannot support himself and has given up hope of being able to do so. People in such a situation were allowed to sell themselves as servants in order to survive. Under this framework, they essentially sell their services as an aide or servant, and during the period of servitude they are provided with food and shelter.

This kind of servitude is permitted by the Torah, but it also comes with many restrictions and caveats. Firstly, it's limited to a six-year term, and when this time is up the servant must be sent home. Only if the servant insists on staying because life under their master is so good, may they stay - and even then they are not allowed to stay past the jubilee year.

The Torah also details the living conditions that the servant must be provided with, as explained in the Talmud:

“For it is good for the servant with his master.”: This means they are equal in regards to food and drink: they must eat the same quality bread and the same quality wine; and the master cannot sleep on a bed while the servant sleeps on straw. If the master has a comfortable bed, so must the servant.

Essentially, the servitude described by the Torah is the adoption of an indigent person by a well-off family which gives them money, shelter, food, occupation, care, and everything they need to live decently.

Our Torah reading teaches us a mitzvah related to this servitude: When the servant's time is up, the master must give them parting gifts.

Source 1 Deuteronomy 15: 12-15

Student's
pg. 3

If your Jewish brother or sister is sold to you, they shall serve you for six years. In the seventh year you shall send them free. When you send them free you shall not let them go empty-handed. You must surely give them from your flock, from your threshing floor, and from your vat - from what G-d has blessed you. You shall remember that you were a slave in the land of Egypt, and G-d redeemed you. This is why I am commanding you this today.

כִּי יִמְכַר לְךָ אֶחֱיךָ הָעֶבְרִי אוֹ
הָעֶבְרִיָּה וְעִבְדְּךָ שֵׁשׁ שָׁנִים,
וּבְשָׁנָה הַשְּׁבִיעִת תְּשַׁלְּחֵנוּ חֲפָשִׁי
מֵעִמָּךְ. וְכִי תִשְׁלַחֵנוּ חֲפָשִׁי מֵעִמָּךְ
לֹא תִשְׁלַחֵנוּ רֵיקָם. הַעֲנִיֵק תַּעֲנִיֵק
לוֹ מִצֹּאֲנֶךָ וּמִגֵּרְנֶךָ וּמִיִּקְבֶּךָ אֲשֶׁר
בֵּרַכְךָ ה' אֱלֹהֶיךָ תִתֵּן לוֹ. וְזָכַרְתָּ כִּי
עֶבֶד הָיִיתָ בְּאֶרֶץ מִצְרַיִם, וַיִּפְדֶּךָ
ה' אֱלֹהֶיךָ, עַל כֵּן אֲנֹכִי מְצַוְּךָ אֶת
הַדָּבָר הַזֶּה הַיּוֹם.

The verse explains the reasoning behind this obligation: because G-d gave us gifts when He freed us from Egypt.

Compensation For Egyptian Slavery

Source 2 Sifri, ad loc.

Student's
pg. 3

You shall remember that you were a slave in the land of Egypt. I gifted you, and again; you shall gift him, and again. In Egypt I gave you generously, you should do the same for your servant. As it is written: "If you lie between the borders-the feathers of a dove covered with silver" this is the loot from Egypt, "and its pinions with brilliant gold" this is the loot from the sea. "We will make you rows of gold" this is the loot from at sea, "with studs of silver" this is the loot from Egypt.

וְזָכַרְתָּ כִּי עֶבֶד הָיִיתָ בְּאֶרֶץ מִצְרַיִם.
הֲעֲנִיקְתִּי לָךְ וְשִׁנִּיתִי לָךְ, אִף אֶתָּה
הֲעֲנִיגְךָ לֹא וְשִׁנִּיָּה לֹא. מָה בְּמִצְרַיִם נָתַתִּי
לָךְ בְּרַחֲב יָד, אִף אֶתָּה תִּתֵּן לֹא בְרַחֲב
יָד. וְכֵן הוּא אוֹמֵר אִם תִּשְׁכַּבּוּן בֵּין
שְׂפָתַיִם כְּנָפֵי יוֹנָה נִחְפָּה בְּכֶסֶף –
זוֹ בְּזַת מִצְרַיִם, וְאַכְרוּתֶיהָ בִּירְקָרֶק
חֲרוּץ – זוֹ בְּזַת הַיָּם. תוֹרֵי זָהָב
נִעֲשָׂה לָךְ – זוֹ בְּזַת הַיָּם, עִם נִקְדוּת
הַכֶּסֶף – זוֹ בְּזַת מִצְרַיִם.

The Sifri describes how G-d gave the Jews a double gift. The first gift was when they left Egypt; G-d told the Jews to borrow the gold and silver vessels and clothing of the Egyptians. The second gift was at the splitting of the sea. After the Egyptians drowned at sea, their jewelry surfaced on the beach and the Jews collected it.

The Sifri teaches that we must do the same for our servants. Just as the Jews received generous gifts from G-d, so too we should give generously to our freed servants.

Source 3 Maimonides' Mishneh Torah, Laws of Servants 3:14

Student's
pg. 3

One who sends their servant off empty-handed violates a Torah prohibition, as the verse states: "You shall not let them go empty-handed. You must surely give them." This applies to both a servant who leaves after six years of work and to a servant who is leaving due to the jubilee year.

כָּל הַמְשַׁלַּח עֶבְדוֹ וְאִמְתּוֹ רִיקָם עוֹבֵר
בְּלֹא תַעֲשָׂה, שְׁנֹאמֵר "לֹא תִשְׁלַחְנִי
רִיקָם". "הֲעֲנִיגְךָ תַעֲנִיג לֹא". אֶחָד
הַיּוֹצֵא בְּסוּף שָׁשׂ אוֹ שִׁיבְעָ בְּיוֹבֵל אוֹ
בְּמִיתַת הָאָדוֹן – הָרִי אֵלָיו מִעֲנִיגִין
לָהֶם . .

Student's
pg. 4

How much must they be given? Not less than the monetary equivalent of 30 sela. Whether the servant was beneficial or not, they must be given a severance gift. If so, why is it written "from what G-d has blessed you?" This teaches us to give them commensurate to the blessing they brought you.

וְכַמָּה נוֹתֵן לוֹ? אֵין פְּחוּת מִשְׁנֵה
שְׁלִשִׁים סֵלַע בֵּין מִמֵּין אֶחָד בֵּין
מִמֵּינֵי הַרְבֵּה . . בֵּין שְׁנֵהבְּרָךְ הַבֵּית
בְּגִלְלוֹ בֵּין שְׁלֹא נִתְבְּרָךְ, שְׁנֹאמֵר
הֲעֲנִיגְךָ תַעֲנִיג לֹא – מִכָּל מְקוֹם. אִם
כֵּן לָמָּה נֹאמֵר "אֲשֶׁר בְּרַכְּךָ"? הַכֹּל
לְפִי הַבְּרָכָה תֵּן לוֹ.

Maimonides specifies a minimum sum, but not a maximum - give according to your blessing. 30 sela is worth between \$398 - \$531 USD.

Joseph, The Freed Servant

Many are familiar with the story of Joseph. At age seventeen he was sold into slavery and eventually became a slave to Potiphar, a minister in Egypt. After a year of devoted work for his master he found himself thrown into prison after a false accusation made by his master's wife.

After twelve years in prison, Pharaoh has a dream which his advisors cannot decipher. One of the ministers who knew Joseph from prison says that Joseph is a master dream interpreter. Joseph is taken out of prison, deciphers the dream to Pharaoh's satisfaction, and is immediately appointed as the viceroy of Egypt.

Source 4 Notes of Rabbi Levi Yitzchak Schneerson | Torat Levi Yitzchak, p. 120

Rabbi Levi Yitzchak cites another example in the Torah where a freed servant receives a gift:

Joseph was a Jewish servant, as the verse states "a young Hebrew servant was with us." When he was released, he needed a severance gift.

וְהָיָה, יוֹסֵף שְׁהֵיָה מִתְחִלָּה
עֶבֶד עֲבָרִי, כְּמוֹ שְׁפָתוֹב וְשֵׁם
אֲתָנוּ נָעַר עֲבָרִי עֶבֶד, הֵנָּה
כְּשִׁיזָא לְחַפְשִׁי וְלְחֵרוֹתִי, צָרִיךְ
לְתַת לוֹ הַעֲנָקָה.

Rabbi Levi Yitzchak Schneerson (1878-1944): The father of the Rebbe, and rabbi of Dnipropetrovsk, Ukraine. A kabbalist and one of the foremost spiritual leaders of Soviet Jewry. He was arrested and exiled over his efforts to keep Judaism alive and passed away in exile.

Student's
pg. 4

Source 5 Genesis 41:42-43

Pharaoh removed his ring from his hand and placed it on Joseph's hand. He attired Joseph with garments of fine linen, and placed a golden chain around his neck. He had Joseph ride in his chariot of second rank, and they called out before him, "This is the king's patron." Pharaoh appointed Joseph over the entire land of Egypt.

וַיֹּסֶר פְּרָעָה אֶת טַבַּעְתּוֹ מֵעַל יָדוֹ וַיִּתֵּן
אֹתָהּ עַל יַד יוֹסֵף וַיַּלְבֵּשׁ אֹתוֹ בְּגָדֵי
שֵׁשׁ וַיַּשֶּׂם רֶבֶד הַזָּהָב עַל צַוְאָרוֹ.
וַיַּרְכֵּב אֹתוֹ בְּמַרְכָּבַת הַמִּשְׁנָה אֲשֶׁר לוֹ
וַיִּקְרְאוּ לְפָנָיו אַבְרָהָם וְנָתַן אֹתוֹ עַל כָּל
אֶרֶץ מִצְרָיִם.

Student's
pg. 4

Source 4b Torat Levi Yitzchak, continued

In addition to the ring, the golden chain, the fine linen, and the chariot, Joseph's primary severance gift was what G-d granted him. The angel Gabriel came and taught him 70 languages. When he wasn't able to learn them all, he received an additional letter to his name from G-d's name - Yehosef.

וְהַהֲעֲנָקָה שְׁנַתָּן לוֹ, מִלְּבַד זֶה מָה
שְׁנַתָּן לוֹ פְּרָעָה הַטַּבַּעַת וְרֶבֶד הַזָּהָב
וּבְגָדֵי שֵׁשׁ, וְהַרְכִּיבוֹ בְּמַרְכָּבַת הַמִּשְׁנָה,
וְעוֹד, כְּפָתוֹב בְּפָרֶשֶׁת מִקֶּזֶז, הֵנָּה עֲקָר
הַהֲעֲנָקָה הוּא מָה שְׁנַתָּן לוֹ הַקַּב"ה,
וְהוּא מָה שְׁשָׁלַח אֶת גַּבְרִיאֵל וְלִמְדוֹ
ע' לְשׁוֹן, וְלֹא הָיָה גָמַר, הוֹסִיף לוֹ אוֹת
אַחַת מִשְׁמוֹ שֵׁל הַקַּב"ה, שְׁנַאָמַר עֲדוּת
בִּיהוֹסֵף שְׁמוֹ כו' כְּדֹאִיתָא בְּסוּטָה דְּרַ
ל"ו עֲמוּד ב' עֵינֵי שָׁם.

Source 6 Talmud, Sotah 36b

Student's
pg. 5

Rabbi Chiyya bar Abba says in the name of Rabbi Yochanan: When Pharaoh said to Joseph, “And without you no man shall lift up his hand or his foot in all the land of Egypt” (Genesis 41:44), Pharaoh’s astrologers said, “You would appoint a servant whose master bought him for twenty silver coins to rule over us?” Pharaoh replied, “I perceive royal characteristics in him, I see that he was not really a slave to begin with.

They said to him, “If that is so and he is a child of royalty, he should know the seventy languages that all kings’ children learn.” The angel Gabriel then came and taught Joseph the seventy languages, but he could not grasp all of them. Gabriel then added one letter, the letter hei, to Joseph’s name from the name of G-d, and then he was able to grasp all the languages. As the verse states, “He appointed it in Joseph [Yehosef] for a testimony, when he went forth against the land of Egypt, the speech of one that I did not know I heard” (Psalms 81:6). The next day, when Joseph appeared before Pharaoh, he answered Pharaoh in every language that he spoke to him in.

Joseph’s gifts were more than Pharaoh’s jewelry and clothing; he learned 70 languages in one night.

But one person still hadn’t given him any gift. Pharaoh gave him jewelry, Gabriel gave him the languages, but why didn’t Potiphar give him anything?

Source 4c Torat Levi Yitzchak, continued

Student's
pg. 5

If the master must give a gift, where was Potiphar’s gift? Potiphar’s gift was giving his daughter Osnat’s hand in marriage to Joseph.

אמר רבי חי'א בר אב'א אמר רבי יוחנן: בשעה שאמר לו פרעה ליוסף "ובלעדיך לא ירים איש את ידו ואת רגלו בכל ארץ מצרים", אמרו אצטגניני פרעה: עבד שלקחו רבו בעשרים כסף תמשילהו עלינו? אמר להן: גנוני מלכות אני רואה בו – שאינו עבד מעקר.

אמרו לו: אם כן, שכן מלכים הוא, יהא יודע בשבעים לשון כדרך שלומדים בני המלכים? בא הפלאך גבריאל ולמדו שבעים לשון. לא היה לומד כל זה. באותה שעה הוסיף לו גבריאל אות אחת משמו של הקדוש ברוך הוא ואז למד, שנאמר: "עדות ביהוסף שמו בצאתו על ארץ מצרים שפת לא ידעתי אשמע". ולמחר כשהזור לפני פרעה, כל שפה שדבר פרעה אתו – ענה לו.

ואל תקשה הרי העניקה צריך להיות מהאדון שהיה עבד לו, ואם כן, היה צריך להיות העניקה מפוטיפר שהיה אדונו? יש לומר: מפוטיפר היה גם כן העניקה, והוא מה שנתן לו בתו אסנת, כמו שכתוב ויתן לו את אסנת בת פוטיפרע.

Source 7 Genesis 41:45

Student's
pg. 5

He gave him Osnat the daughter of Potiphera, the governor of On, as a wife, and Joseph went forth over the land of Egypt.

וַיִּתֵּן לוֹ אֶת אֲסַנַת בַּת פּוֹטִיפָר פְּרֵעַ כְּהֵן
אֵן לְאִשָּׁה וַיֵּצֵא יוֹסֵף עַל אֶרֶץ מִצְרָיִם.

Potiphar gave him the most precious gift of all, his daughter.

In summary: The Torah commands that severance gifts be given to servants when they are freed. We see this twice in the stories of the Torah: (a) When the Jews left Egypt and were freed from bondage G-d gave them a double gift, and (b) Joseph, Potiphar's servant, received many gifts when he was released from prison and servitude.

B. Why Give Severance Pay?

When one acquires a servant, they must pay them the agreed-upon sum. Assuming the master was honest and paid up, why do they also need to pay their servant severance? What is behind this mitzvah?

>> The Rebbe

Two Opinions

Student's
pg. 6

There are two ways to define the mitzvah of severance pay.

1. The severance is a form of payment for work. According to this definition, the Torah is instituting a law requiring that the master make an additional payment, in addition to the payment already given for the work itself.

According to this approach, this mitzvah is a Divine decree requiring the master to make an additional payment after the work period is over, in addition to the agreed-upon payment for the work.

2. The severance is a form of charity. The master is instructed to make this payment in appreciation for the servant's work. According to this definition, severance is a logical requirement.

According to this approach, the mitzvah of severance pay is logical. It is a form of charity, to make the servant feel good. It isn't a special Divine decree without logic.

In another address the Rebbe emphasizes the feelings of the servant who is being freed.

Source 8 Likutei Sichot, vol. 24, Re'eh 2

Student's
pg. 6

The freedom is complete when the servant doesn't leave empty-handed, but with a special gift. This brings him to a feeling of freedom and largesse, the opposite of servitude.

ישנם שני אופנים שבהם ניתן להסביר את מהותה של ה"הענקה":

א) הענקה היא בגדר 'שכר פעולה'. לפי הגדרה זו מסתבר שהחידוש וגזירת הכתוב הוא - מתן הענקה בתורת שכר פעולה (נוסף על כל השכר ששולם תמורת כל עבודתו).

ב) הענקה היא בגדר צדקה², שהאדון נותן כהערכה לעבודת העבד. לפי הגדרה זו מחייב ההגיון, שהענקה היא "מילתא בטעמא", כאמור.

השחרור משלם פֶּאֶשֶׁר אֵין הוּא יוֹצֵא בְּיָדָיו רִיקוֹת, אֶלָּא הוּא מְקַבֵּל מִתְּנָה מִיְחָדָת, שְׁהִיא מְבִיאָה אוֹתוֹ לְמַצֵּב שֶׁל חֲרוּת, רַחֵב יָד וְכַדוּמָה – הַהֶפֶךְ מֵעֲבָדוּת.

2. ש"ך חו"מ שם (בתי"ג). וראה אנציקלופדיה תלמודית ע'

1. ראה משנה למלך הל' עבדים שם הי"ב (ד"ה עוד נראה). שם הי"ד (סד"ה והרי') והט"ו.

Maimonides' Opinion

>> The Rebbe

Student's
pg. 6

What is Maimonides's position regarding the definition of the severance payment? We can deduce the answer from the fact that in Sefer Hamitzvot Maimonides lists the mitzvah of severance pay immediately following the mitzvah of charity, and not with the mitzvot pertaining to servitude. The implication is that Maimonides maintains that the severance gift is a form of charity.

Student's
pg. 7

מהי דעתו של הרמב"ם בנידון? - דבר זה ניתן ללמוד מכך שבספר המצוות³ אין קובע הרמב"ם את מצות הענקה בין המצוות הקשורות לעבד ואמה,⁴ כי אם מיד לאחר מצות הצדקה.⁵ מן הסמיכות למצות צדקה⁶ משמע כי לפי דעת הרמב"ם ההענקה היא בגדר צדקה.⁷

Source 9 Maimonides' Sefer Hamitzvot

Maimonides defines the mitzvah

Student's
pg. 7

Positive Mitzvah 195

G-d commanded us to be charitable and strengthen the needy and be generous to them ... Even a needy person who lives off of charity must give charity to others, whether to one worse off than they, or someone in a similar situation, even if they can only give a little.

מצות עשה, קצ"ה

היא שצונו לעשות צדקה ולחזק החלשים ולהרחיב אליהם... ובא הקפלה כזו שאפלו עני המתפרנס מן הצדקה חייב במצוה זו, כלומר הצדקה. אם למי שלמטה ממנו, אם לדומה לו, ואפלו בדבר מועט.

Positive Mitzvah 196

G-d commanded us to give severance pay to a servant and to not let them go empty-handed.

מצות עשה, קצ"ו

היא שצונו להעניק עבד עברי כשיצא לחפשי ולא יצא בידים ריקניות. והוא אמרו העניק תעניק לו.

Positive Mitzvah 197

G-d commanded us to lend to the needy, to alleviate their burden by lending to them generously. This is the highest form of charity.

מצות עשה, קצ"ז

היא שצונו להלוות לעני, להקל לו מעניו ולהרחיב לו. וזה מצוה היותר חזקה ויותר מחייבת מכל מצות צדקה.

Maimonides is very precise. His book of the mitzvot is no exception. From his juxtaposition of the mitzvah of severance pay with the laws of charity rather than with the laws of servitude we can learn that he considers severance pay a form of charity.

6. ו"ל שהסדר ברמב"ם הוא כהסדר בקרא [=בתורה], דסמך מצות הענקה למצות צדקה (פרשתנו שם, ז-ח), ומזה גופא נלמד דהענקה היא גדר של צדקה. וראה שלי"ה חלק תושב"כ פרשתנו שעד, ב.
7. ובפרט שבש"ך שם מתרץ עפ"י דעת הרמב"ם.

3. מ"ע קצו. מל"ת רלב.
4. מ"ע רלב ואילך. מל"ת רנו ואילך.
5. מ"ע קצה. מל"ת רלב. - וקודם המצוה (קצו. ל"ת רלד)
"להלוות לעני", שהיא "יותר מחייבת מכל מצות צדקה" (שם מ"ע קצז).

The Rebbe continues, and notes that we can make a similar inference from the order of the verses in the Torah, which may in fact be where Maimonides derived it from.

>> The Rebbe

Student's
pg. 7

It can be suggested that Maimonides is following the order in the Torah itself, where the mitzvah of severance appears in proximity to the mitzvah of charity. This may itself be the source for defining severance as a form of charity.

ויש לומר שהסדר ברמב"ם הוא כהסדר בתורה, שסמך מצות העניקה למצות צדקה (פרשתנו שם, ז-ח), ומזה עצמו נלמד שהעניקה היא גדר של צדקה⁸.

Source 10 Deuteronomy 15:7-8; 12-14

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pg. 8

If there will be a needy person among you, from one of your brothers in one of your cities, in your land that G-d is giving you, you shall not harden your heart, and you shall not close your hand from your needy brother. **Rather, you shall open your hand to him, and you shall lend him sufficient money for his needs that he is lacking.**

If your Jewish brother or sister is sold to you, they shall serve you for six years, in the seventh year you shall send them free. When you send them free you shall not let them go empty-handed. You must surely give them from your flock, from your threshing floor, and from your vat - from what G-d has blessed you.

כִּי יִהְיֶה כָּךְ אֲבִיּוֹן מֵאֶחָד אֶחָיִךְ בְּאֶחָד שְׁעָרֶיךָ בְּאַרְצֶךָ אֲשֶׁר ה' אֱלֹהֶיךָ נָתַן לְךָ לֹא תֵאֲמָץ אֶת לִבְךָ וְלֹא תִקַּף אֶת יָדְךָ מֵאֶחָיִךְ הָאֲבִיּוֹן. כִּי פָתַח תִּפְתָּח אֶת יָדְךָ לוֹ וְהֵעַבְטָה תַעֲבִיטְנוּ דִי מִחֲסָדוֹ אֲשֶׁר יִחַסֵּר לוֹ.

כִּי יִמְכַר לְךָ אֶחָיִךְ הָעֶבְרִי אוֹ הָעֶבְרִיָּה וְעַבְדְּךָ שֵׁשׁ שָׁנִים, וּבִשְׁנֵה הַשְּׁבִיעִת תִּשְׁלַחְנוּ הַפְּשִׁי מֵעִמָּךְ. וְכִי תִשְׁלַחְנוּ הַפְּשִׁי מֵעִמָּךְ לֹא תִשְׁלַחְנוּ רִיקָם. הֲעֲנִיק תַעֲנִיק לוֹ מִצֹּאֲנֶךָ וּמִגֶּרְנֶךָ וּמִיִּקְבֶּךָ אֲשֶׁר בְּרַכָּה ה' אֱלֹהֶיךָ תִתֵּן לוֹ.

From the order of the verses, we see that the mitzvah of severance is juxtaposed with the mitzvah of charity, and not with the laws of servitude.

Why is the question of whether severance pay is considered charity or a divinely required extra payment to the servant important? Ultimately the money must be given regardless, so what's the difference?

C. Modern-Day Severance

In this address, the Rebbe delves into the legal parameters of this mitzvah. We won't get into that in our class, but we will mention one point that the Rebbe brought up, which stems from the recognition that severance is a form of charity which we are expected to give.

The Rebbe cites the Sefer Hachinuch, who maintains that the mitzvah of severance pay has contemporary relevance:

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Source 11 Sefer Hachinuch, Mitzvah 482

To gift upon the servant's release: This means to give from what we have to our servant who is going free; we cannot send them off empty-handed ...

From the possible reasons for this mitzvah is that it should develop exceptional character traits in us that will drive us to do good. G-d, in His goodness, and His desire to do good for His people, wished that we show compassion to those who served us and give them something of ours as a gesture of kindness - in addition to the originally stipulated wages. This is a logical idea, and we do not need to elaborate on it.

This mitzvah was applicable to men and women in Temple times, for the laws of servants only apply when the jubilee year is marked, as I have previously written.

Strictly speaking, this mitzvah doesn't apply nowadays, because we can no longer acquire servants according to Torah law. This was only possible when most Jews lived in Israel, and when each tribe lived in their allocated territory. After the destruction of the Holy Temple this was no longer practiced.

להעניק לו בצאתו להפשי – לתת
ממנה שיש לנו, לעבד עברי בזמן שיצא
מתחת ידינו לחרות, ולא נשלחנו
בדדים ריקניות, ועל זה נאמר העניק
תעניק לו מצאנה ומגרה ומיזקה אשר
ברכה ה' אלקיך תתן לו.

משרשי המצוה, למען נקנה בנפשנו
מדות מעלות יקרות וחסודות, ועם
הנפש היקרה והמעלה נזכה לטוב.
והאל הטוב, הפץ להיטיב לעמו,
והודנו והדרנו הוא שגרחם על מי
שעבד אותנו ונתן לו משלנו בתורת
חסד, מלבד מה שהתנינו עמו לתת
לו בשכרו. ודבר משפל הוא, אין צורך
להאריך בו.

ונוהגת מצוה זו בזכרים ונקבות בזמן
הבית, שאין דין עבד עברי נוהג אלא
בזמן שהיובל נוהג, כמו שכתבתי במה
שקדם (מצוה מב).

Student's
pg. 9

Nevertheless, even nowadays a wise person will learn a lesson from this that if one employs a Jew for a long or even a brief period, they should give them severance pay at the end of their employment.

וּמְקַל מְקוֹם אִף בְּזִמְנֵי הַזֶּה, לְשִׁמְעַת חֻקֶּךָ
וַיִּוֹסֶף לְקַח, שְׂאֵם שְׂכָר אֶחָד מִבְּנֵי
יִשְׂרָאֵל וַעֲבָדוּ זְמַן מְרֻבָּה אוֹ אֶפְלוּ
מוֹעֵט שְׂיַעֲנִיק לוֹ בְּצִאתוֹ מֵעֲמֹל מֵאֲשֶׁר
בְּרַכּוֹ הַשֵּׁם.

The Sefer Hachinuch has a revolutionary idea: the reasoning behind the commandment should inform our contemporary business practices: A Jew who employs someone, even for a short while, should give the employee severance. It makes no difference if they were a servant for years or an employee for several hours, they should be paid severance - beyond the contractual obligations - so they can leave with a smile.

Beyond The Contract

>> The Rebbe

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The following directive should be publicized:

When a person hires someone to work for them and the period of employment ends, and all the more so if the worker was laid off because the position became redundant—and even if they were laid off because their work wasn't satisfactory—they should be paid severance.

Since this severance is a form of charity, it is clear that we cannot suffice with the severance we are legally obligated to provide. The employee must certainly be paid in full the wages they deserve for their work, and even any additional payments that the employer committed to pay cannot be considered as this charitable severance, because, as obligations, they cannot be considered as charity.

This applies both to long-term and short-term employees, as Sefer Hachinuch writes.

כדאי וראוי לעורר ולפרסם, שיש לשים לב להוראה הבאה:

השוכר אדם לעבוד אצלו והסתיימה תקופת עבודתו, ועל-אחת-כמה-וכמה כשהוא מפטר אותו לפני סיום התקופה⁹ משום שיש לו עתה מספר מספיק של פועלים בלעדיו, ואפילו משום שאינו שבע רצון מעבודתו - יש לתת לו "הענקה".

ומאחר שההענקה היא בגדר צדקה, מובן שאי אפשר לצאת ידי חובה זו במענק שהוא חייב לו ממילא. ברור שאת השכר שמגיע לו עבור עבודתו - יש לשלם לו במלואו. אף ה"תוספות" שהמעביד הבטיח מראש לתת לעובד אינן נחשבות בכלל ההענקה, משום שהתוספות הללו אינן ענין של צדקה.

בענין זה אין גם הבדל בין אם עבד אצלו תקופה ממושכת ובין אם לא, כלשון החינוך: "זמן מרובה או אפילו מועט":

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⁹ - "אבל באם המשכיר מפטר אותו (- קידושין טז, סע"ב. רמב"ם הל' עבדים שם הי"ד-ט"ו).

9. (כשהלה עוזב מרצונו לפני הזמן, אין מצוה של הענקה, כפי ההלכה - לגבי עבד - "בורח ויוצא בגרעון כסף - אין מעניקים

It also doesn't matter if the employer was pleased with the employee's work, "the household was blessed through them" or not, "the household was not blessed through them." Severance should be paid commensurate to the length of employment.

However, when "the household was blessed through him" the severance should grow accordingly, "from what G-d has blessed him."

The Rebbe makes a public call to be scrupulous in observing the mitzvah of severance pay for our employees. It doesn't matter how long they worked or how pleased we were with their work. We need to give them severance pay so that they leave with positive feelings.

The Rebbe emphasizes that he isn't talking about payments that were agreed upon in advance, but to going beyond, giving a gift that can be considered a form of charity. Of course, the happier the employer is with the work done and the more Divine blessing it brought him, the more generous they should be with the severance gift they give to their employee.

לקוטי שיחות חלק י"ט, פרשת ראה,
שיחה ד', עמ' 153

כן אין הבדל אם היה שבע רצון ממנו או לו, בין "נתברך הבית בגללו" ובין "לא נתברך הבית בגללו" יש לתת לו הענקה¹⁰ ביחס למשך הזמן שעבד¹¹.

על-אחת-כמה-וכמה כאשר "נתברך הבית בגללו" שאז¹² ההלכה¹³ היא: "לפי הברכה תן לו", ויש להוסיף על ההענקה¹⁴ "מאשר¹⁵ ברכו ה' יתברך".

- מעניקים לו.
13. רש"י שם ד"ה הכל לפי הברכה.
14. לשון החינוך שם.
15. תורת לוי"צ ע' קיז ואילך.

10. דעת ת"ק קידושין יז, ריש ע"ב. רמב"ם שם הי"ד.
11. להעיר משיטה לא נודע למי (קידושין יז, א), דלדעת ר"מ שיוצא בגרעון כסף יש לו הענקה - נותן לו לפי חשבון השנים שעבד.
12. נוסף לזה שאז לכו"ע - גם לראב"ע (קידושין יז, ריש ע"ב)