

## EMPLOYEE POACHING- WHY? & WHOM?

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### Abstract

Poaching of employees may hamper company's goal and manpower management. Employee poaching takes place when a company hires an employee from a competing company. Employee poaching often happens in the IT industry because of high-demand technical skills. Level of employee poaching were major area of concern for the HR. Employee poaching is done to poach an employee from the competitive companies because now a day's it's difficult to search an employee for a company; it is like war for talent. Higher and middle management employees were mostly preferred when the poaching is done. We have investigate the HR view towards poaching, their strategy for poaching and investigate its causes and consequences. We find that more than half of the HR feels it should not be done but still they do adopt it while searching for the employee at senior level. The extent of poaching, its determinants and consequences may affect the companies but still the HR department do it for the experienced employees. Employee poaching can be dismissed by the non poaching agreements or anti-poaching.

**Keywords:** Poaching, Employee Hiring, Employee Hunting, Trapping employees, Talent hunting.

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**Introduction:** Employee poaching or employee raiding takes place when a company hires an employee from a competitor company. Employee poaching often happens in the IT industry because of high-demand technical skills but there is hardly any industry which has not witnessed employee poaching between competitors. Poaching is when you headhunt from your direct competition who works for the same clients kills.

Employee poaching is a common phenomenon in today's corporate scenario. Human resources are critical to the success of an organization. Therefore every company wants to hire the best. The competition is intense and the availability of talent is limited. Moreover, the companies across the globe are facing the serious problem of attrition. All this has compelled organizations to get the people with desired skills from whatever sources available. The organizations are now making aggressive moves to get the best talents available in the marketplace and seeing the need of the hour, the question of ethics is also kept aside several times. Employee poaching has emerged as a major human resource challenge in recent times.

When an employee leaves an organisation, he takes away with him his own competence and experience, which a part of investment made to human capital by his employer, acquired through training programs, formal or informal. Poaching, also known as headhunting is the practice of recruiting people from other companies by offering inducements. Poaching costs businesses good staff, drives up employment costs and causes bitter disputes between competitors. If you engage in poaching, you leave yourself open for recruiters, even the recruiter that may have placed the candidate, to poach from you. Employee poaching takes place when a company hires an employee from a competing company. Employee poaching often happens in the IT industry because of high-demand technical skills. Employee poaching” or “employee raiding” refers to the situation in which a firm targets and hires the key employee(s) of a close competitor. Some employers also suspect their employees of taking business relations and confidential information's to their new employers, irrespective of the non-compete agreements between employer and employee.

**Agreement between competitors:**

Often non poaching agreements have been confused with non-compete agreements. A non poaching agreements is different from non-compete agreements, where unlike the non-compete agreements, which is between an employer and an employee, non poaching agreement is between two employers. A non-compete agreements restricts the employee from seeking employment with a rival or other company, whereas, on the other hand, non poaching agreements refrain's other companies from poaching into each other's talent pools. A non poaching agreement confers fair protection upon the parties to the agreement by setting out guidelines to be followed in case of lateral hiring. Furthermore, it does not restrain an individual from exercising a lawful profession, nor does it restrict an individual from joining another company, or carrying out the same profession. It simply requires a company to first take permission of the company from which it wants to recruit. This is in conformity with law, as (a) it is not in restraint of trade and (b) it also protects the interest of the company from which the employee is being recruited as it gives time to a company to find replacement, which would be difficult in case of poaching. The question arises "Can employers agree amongst themselves to not hire the employees of their competitors?" The Answer is No.

**Poaching can therefore be a solution and a problem:**

Being able to attract, retain, nurture and sustain the right people is becoming an art form. Money, status or even flexible working conditions aren't enough anymore. People want to work for companies that offer "the rights feel", a very individual perception that is not easy for an employer to second guess. It means having to take a hard look at that vague expression, the workplace culture, which I define as the way we do things here. Nor is it a case of one culture fits all. A successful team is like a mosaic - recognizing and nurturing the unique individual talents, skills and abilities of each person to achieve team goals. To attract and retain good staff now requires seeing people as more than just the person who turns up at work each day.

## How can you protect your business?

Through the careful use of non-compete agreements. Why should you be careful? Because non-compete agreements need to be worded carefully as their basic purpose is to prevent a departing employee from working. Or, at least, from working in any capacity that is the same or similar to what an employee was doing for you.

Courts (and the state laws) try to balance two perspectives. They want to reconcile the company's need for protection with an employee's need to obtain alternative gainful employment. Become too extreme in your wording and a court will strike down your non-compete.

However, yes, you can come straight out and say "you can't work for a competitor." That's the traditional form of non-compete. There are also a handful of other ways to protect your company and prevent employees from entering into competition with your business.

**1. Non-solicitation agreements:** These is basically a provisions prevent employees from your own client who can poach and customer base. They can also prevent former employees from poaching your current staff and luring them away to work for a competitor.

**2. Confidentiality and non-disclosure agreements:** These ensure that any trade secrets your employee learns on the job stay with the company. They define the kinds of records and information deemed confidential and prevent the employee from disclosing them to a competitor or others. Don't include public information—like a client list on your website—in your definition of confidential. It won't fly.

**3. Work-for-hire agreements:** Generally, intellectual property belongs to the person who created it. But not if you have a written work-for-hire provision. These terms ensure that ownership of any documents, software, inventions, concepts—anything—that an

employee created on the job remains with the company. In other words, the employee was hired to create the work for you, not for their own purposes.

**4. Incentive compensation agreements:** For companies that offer their employees bonuses, stock options or the like, your incentive compensation agreement ensures “loyalty through golden handcuffs.”

**5. Employment manuals:** Employee manuals (also known as codes of conduct) provide a handy place—other than a separate written agreement—to bring all of your non-compete expectations to the attention of employees. That way, you don’t have so many individual agreements floating about.

#### Objectives:

1. To study the role of employee poaching in industry.
2. To study the advantages and disadvantages of Employee Poaching.
3. To study the need of Employee Poaching.

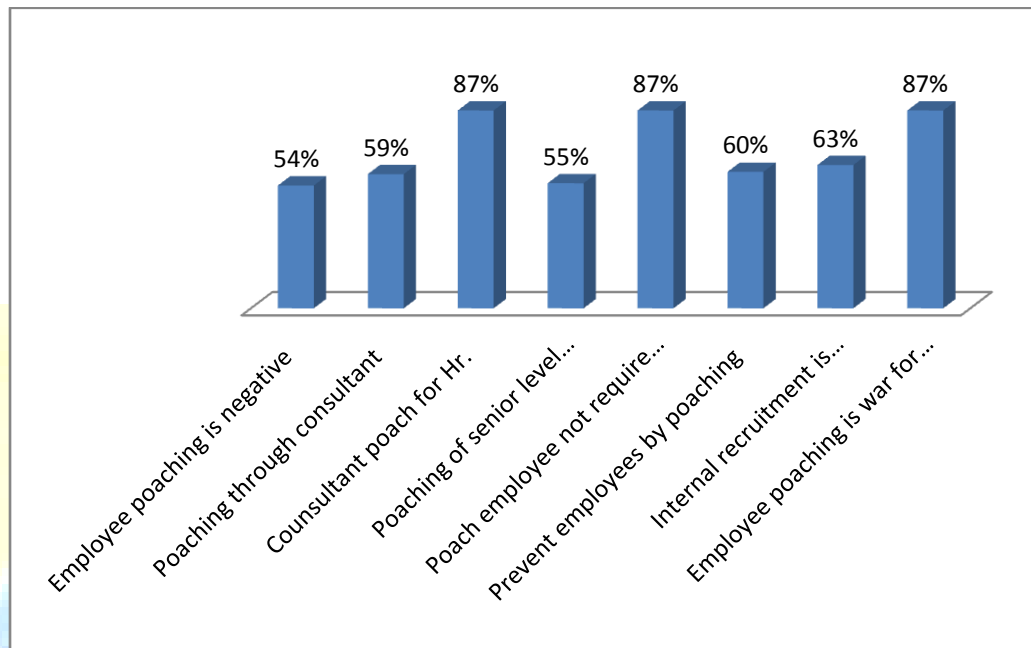
#### RESEARCH METHODOLOGY

The research design is exploratory in nature. The 82 HR manager responses were used for the analysis who regularly recruits for the companies. Other data is being drawn from the book and journal published. Information is being also gathered from available literature relevant to the field of knowledge. The collected data is being analyzed by using Charts and Graph.

#### Findings:

1. To study the role of employee poaching in industry.

As per our first objective role of employee poaching in industry employee poaching takes places when a company hires an employee from a competing company. It often happens in IT industries because of high- demand technical skills.



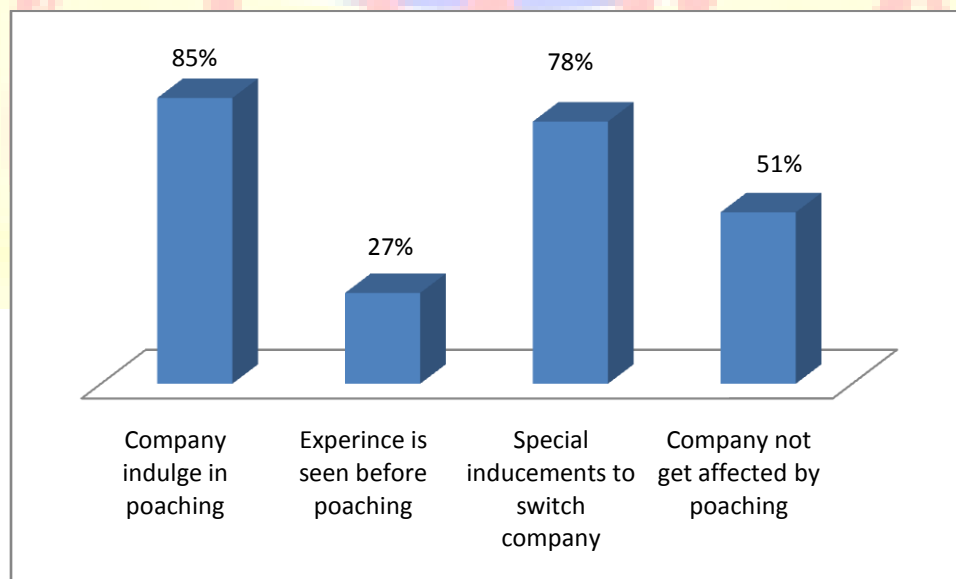
**Fig. No.1 Hr. response regarding roles of employee poaching**

According to HR responses about employee poaching is positive or negative as it plays an important role to hire a skilful employee. Poaching is unethical in most of the industries but it still has its presence in the current recruitment scenario. 54% of HR says that employee poaching is negative as shown in Fig-1 but many of them are using employee poaching for hiring the better employees. We also discussed about the medium for employee poaching done. Most of them say that they do poaching through consultants. Some says their own employees do the work of poaching for the company and some says direct communication. Third party and online communication is also a medium of poaching any employee but majority is with the consultant.i.e. 59% HR as shown in fig-1. From the 100% HR 59% says yes that they deal with the consultant and 41% say they don't deal with the consultant as shown in fig.-1. Basically poaching is done through consultant according the response of 87% HR's; that shows in fig-1. That means most of the poaching is done by consultant. That means from 58 HR 49 is in favour that consultant does poach for them & 7 say they do not. There are many levels of employees in industries. Here we discussed three level i.e. junior level, managerial

management and senior level. The study over it is most of the companies are deal with senior level i.e.55%; and some of them also deals with managerial level. But some companies deals only with junior level of employee to poach. In fig.-1 shown that the poached employee needs training or not. Here 87% of the HR is not in favour that the poached employee needs training. While 13% Hr says that the poached employee need training. Preventing employee by poaching has an important role in the employee poaching in industry. Every company has their own strategy of poaching done by their competitors, as shown in fig- 1. 60% Hr. says that the poaching can be dismissed. Permissible poaching is necessary or not as shown in fig.1. Permissible poaching means legal poaching which need the internal recruitment in some companies & not required in many else respond from 63% Hr's. In fig.1 shown that employee poaching is war for talent or not and the responses that 87% Hr. are in favour that the employee poaching is war for talent. While 13% are not satisfied with the statement that 'employee poaching is war for talent'.

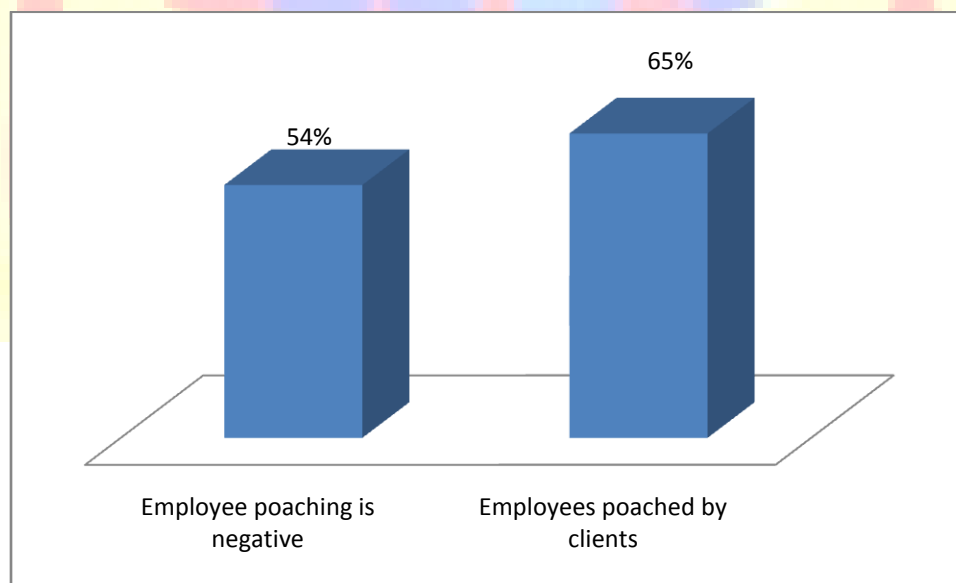
## 2. To study the advantages and disadvantages of Employee Poaching.

### Advantages-



**Fig. No.2 Advantages of employee poaching**

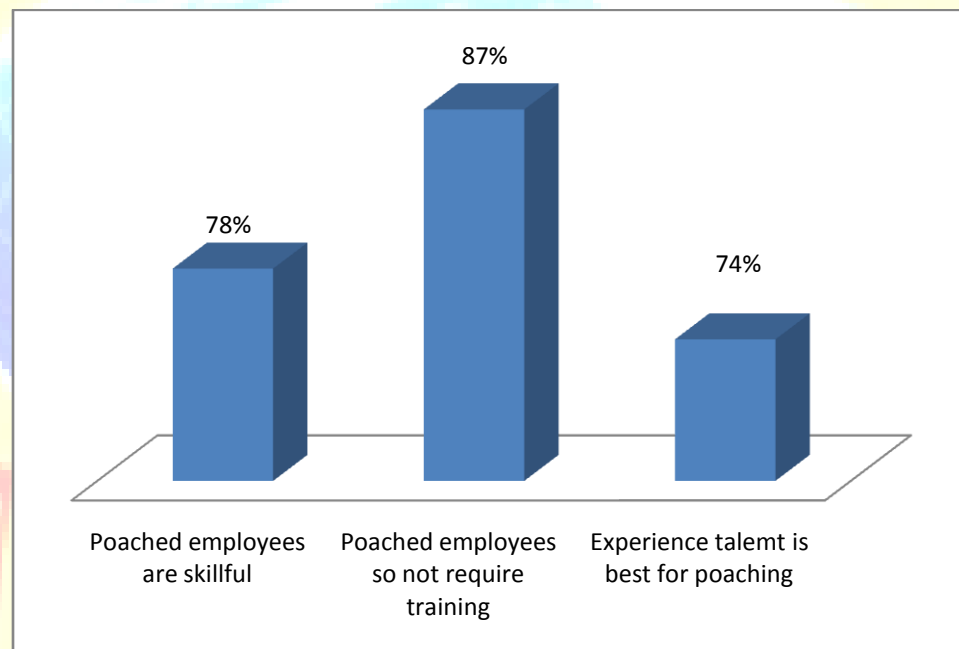
As per second objective advantages of employee poaching As shown in the fig.2 85% of the companies are indulge in poaching while it is illegal in the view of many HR and industries . Most of the Hr says that there companies are indulge in poaching. For poaching the employee the qualities in a person is seen or observed. Employee poaching is done when a person have skills and can be profitable for industry. Qualities in employees are judged by the HR as shown in the fig.2. 27% of Hr. give preference to the employee's experience. They search employee who can work at better level for betterment of the company. Special inducement for poach an employee is necessary as it helps in switching of a company. 78% of Hr says that it is necessary to convince an employee to switch their company as shown in fig-2. So that the employees can work better for the better salary. In fig.2 the affect of poaching on a company is also shown. Poaching affect only those companies where the poaching is done & who is not having the agreement of non- poaching. It shows out that 51% of HR is not in favour & 49% are in favour that the companies get affected by poaching of employee.

**Disadvantages-****Fig. No.3 Disadvantages of employee poaching**



Here we discussed about employee poaching is positive or negative as it plays an important role to hire a skilful employee. Poaching is unethical in most of the industries but it still has its presence in the current recruitment scenario. Many of HR 54% says that employee poaching is negative as shown in fig.3 but many of them are using employee poaching for hiring the better employees. The companies have their own client & it depend on the company that what action they will take if their client poach their employees; as shown in fig.3. Around 65 % of HR respondent said that they will bond their clients by non- poaching agreement.

### 3. To study the need of Employee Poaching

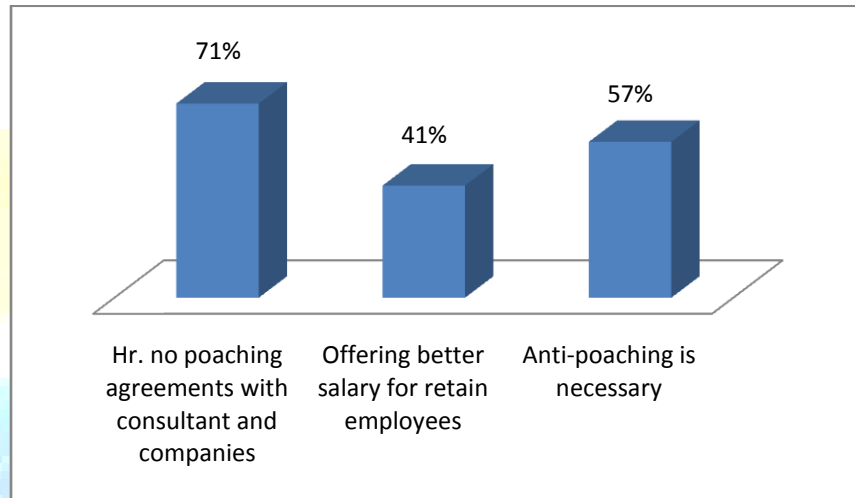


**Fig. No.4 Hr. Response regarding needs for employee poaching**

Here we discussed the response about the poached employees are skilful or not. As poaching is done by the HR on keeping in mind that they are having good skills which are profitable for the industry. As shown in the fig.4. 78% of Hr says that they are skilful and some says that they may not be. In fig.4 shown that the poached employee needs training or not. Here 87% of Hr is not in favour that the poached employee needs training. While some of them says that the poached employee need training. In fig- 4

shown that the experience talent is best for poaching. Most of the HR voted to experience i.e. 74% HR. and remaining is with skilful, confidence, personality & communication.

### Measures for employee poaching:



**Fig.No.5 Measures for employee poaching**

As shown in fig.5 71% Hr's. Responded said that they creates non poaching agreements with consultant and companies so that their employees can be saved from poaching. 41% of the companies always try to retain their employees who are poached by their competitors while offering better salary as shown in fig. 5. Anti- poaching is necessary for a company, had given the following response. Anti- poaching is necessary in some of the companies to prevent their employees from poaching by their competitors. Anti-poaching is an agreement which is signed among companies that they cannot poach their employees. 57% of Hr's are in favour of anti- poaching.

1. Non-solicitation agreements
2. Confidentiality and non-disclosure agreements
3. Work-for-hire agreements
4. Incentive compensation agreements
5. Employment manuals
6. Non Poaching Agreements between companies

**Suggestion for hr:** If any company requires any skilful employee at any level, then the company's HR can poach the employees by themselves or through any consultant from their competitor company. They can also use the above five

**Conclusion:**

This paper presents the importance, roles and needs of the employee poaching, that 'why it is so necessary' and 'for whom it is done'. As, we know that employee poaching is done for hiring the better employee. It is the hiring of war for talent between the Hr's. Employee poaching is done to poach an employee from the competitive companies. A company can sign the non- poaching agreement between them, so their employee can't be poached. Poaching is a solution as it is a way to find the capable employee and it is a problem also as the capable employee can get poached.

