

Labour Law Insights

July 2024



Contents

| | |
|--|----|
| Labour Law Insights for July 2024 | 3 |
| Minimum wages | 3 |
| Karnataka labour Law updates | 5 |
| Assam labour law updates | 8 |
| Haryana labour law updates | 9 |
| Tamil Nadu labour law updates | 9 |
| Maharashtra labour law updates | 11 |
| Kerala labour law updates | 11 |
| Union Budget 2024 | 12 |
| Employees Provident Fund updates | 15 |
| Important Judgements | 18 |
| Industrial Disputes Act, 1947 | 18 |
| Contract Labour (Regulation & Abolition) Act, 1970 | 19 |

Labour Law Insights for July 2024

Minimum wages

| Central/ State Labour dept. | Notification details |
|------------------------------------|--|
| Assam | <p>Notification dated 10 July 2024, the Labour Welfare Department of Assam</p> <p>Revised rates of dearness allowance have been released w.e.f. 01.12.2023 on the basis of 100% rise in the average all India General Consumer Price Index with respect to industrial workers under 98 Scheduled employments (as prescribed in the Notification) under the Minimum Wages Act 1948 as provided in the Notification and the same is effective from 01.12.2023.</p> <p>Some of the scheduled employments as provided in the Notification include Employment in Bakery, Breweries & Distillery, Black Smith, Biscuit Manufacturing, Film (Production, Distribution & Exhibition) Industry, Carpentry & Masonry, Canteen & Clubs, Co-operative Consumers Societies, Cleaners, Coaching Academics including Nursing & English Medium Schools & Technical Institutes, Gold Smith, Hair Cutting Salon, Private Transport, Petrol Pump Workers, Private Hospitals, Agarbatti, Asbestos Cement Factories, Aluminium Industries, Agar wood Industries, Cotton Textile Mills etc.</p> |
| Assam | <p>Notification dated 15 July 2024, the Labour Welfare Department of Assam</p> <p>Revised rates of variable dearness allowance have been released w.e.f. 01.01.2024 based on 100% rise in the average All India Consumer Price Index w.r.t. employees/workers engaged under Private Security Agency Houses from January 2024 to June 2024. The revised rates under the above Notification are provided for different categories of workers engaged in Private Security Agency Houses such as ASO, Supervisor, Gunmen and Security Guard (unarmed).</p> |
| Uttar Pradesh | <p>Notification dated 09.07.2024, Uttar Pradesh Shasan Shram Anubhag</p> <p>Minimum wages have been revised and the minimum wage rates payable to the employees in the agriculture employment in the state of Uttar Pradesh have been fixed w.e.f. 01.04.2024. The minimum wage rate for adult workers has been fixed at INR 6,162 per month or INR 237 per day for the workers engaged in the specified agricultural work.</p> <p>The Notification provides for additional coverages as well.</p> |
| Andaman and Nicobar Islands | <p>Notification dated 12.07.2024, office of the Labour Commissioner of Andaman and Nicobar Administration</p> <p>The minimum wage rates per day as prescribed under the notification w.e.f. 01.07.2024 in the Six Schedules of Employments considering the Average All India Consumer Price Index from October 2023 to March 2024. The last revision in the rate of minimum wages was declared on 27.12.2023 by the Governor of Andaman and Nicobar Islands.</p> <p>All other provisions outlined in the previous minimum wage notification dated 27.12.2023, with the exception of the wage rates, will now be in effect.</p> <p>Further, the minimum wages shall be uniform across six schedules of employment, which broadly includes shops, commercial establishments, residential hotels, restaurants, theatres, wood-based industries, educational institutes/schools etc., in the private sector other than the CBSE-affiliated institutions, agriculture, construction or maintenance of roads or in the</p> |

| | |
|--------------------|--|
| | <p>building operations or stone breaking /crushing, loading and unloading and shall be applicable to DRMs engaged by various government departments under A&N Administration.</p> |
| West Bengal | <p>Circular dated 16.07.2024, the Labour Commissioner of West Bengal</p> <p>Minimum wages rates have been revised for the employees employed in 30 (Thirty) Scheduled Employments in the state of West Bengal from 01.07.2024 to 31.12.2024. The circular has provided the revised rates of minimum wages for different categories of workers covered under Scheduled Employments such as unskilled, semi-skilled, skilled and highly skilled.</p> <p>Furthermore, the revised rates of minimum wages have been provided for two zones: Zone A (areas under Municipal Corporations, Municipalities, Notified Areas, Development Authorities, Thermal Power Plant areas including Township Areas) and Zone B (rest of West Bengal areas).</p> <p>In addition, the circular also covers the aspects related to formula for computing daily and monthly rate of wages, working hours for per day and week, weekly rest, overtime, coverage of contractual manpower and disabled workers, equal rates of wages for men and women for similar nature of work, considering variable dearness allowance for computing minimum wages. Moreover, the Notification also states that where the existing rates of wages of any employee based on contractor or agreement or otherwise are higher than the rates notified herein, the higher rates shall be protected.</p> |
| Jharkhand | <p>Order dated 28.06.2024, the Department of Labour, Employment, Training and Skill Development of Jharkhand</p> <p>The order has amended proviso 13(i) of the Annexure under Jharkhand Contract Labour (Regulation and Abolition) Rules, 1972 related to conditions of services issued vide order no. 157 dated 25.01.2024 and shall be effective from the date of Notification.</p> <p>In case no rate of wage has been regulated by way of agreement, settlement or award for such employment, the contractor shall pay the minimum rates of wages for various categories/ class of workmen such as unskilled, semi-skilled, skilled and highly-skilled as prescribed in the Notification. Other conditions regarding rates of wages, holidays, hours of work, and conditions of service shall be applicable, as provided in the original order.</p> |
| Odisha | <p>Notification dated 18.07.2024, the Labour & ESI Department of Odisha</p> <p>Minimum wage rates have been revised including variable dearness allowance for the employees employed in 89 Scheduled employments as provided in the Notification for various categories of Employees such as Unskilled, Semi-skilled, Skilled and Highly Skilled. In addition to revised minimum wage rates, Variable Dearness Allowance (VDA) as admissible shall be declared at half-yearly interval, i.e., on the 1 April and 1 October of the year @ INR 2.60 paise per point rise in All India Consumer Price Index Number for Industrial workers as notified by Labour Commissioner, Odisha.</p> <p>The Notification also covers formula for rates of minimum wages, working hours for workers, weekly rest for calculation of minimum wages, coverage of contractual manpower and disabled workers, definition of different works (i.e., unskilled work, semi-skilled work, skilled work and highly skilled work) and provisions for no discrimination between men and women workers w.r.t. payment of minimum wages.</p> |
| Punjab | <p>Notification dated 18.07.2024, the Labour Commissioner of Punjab</p> |

The minimum wage rates have been reduced for Scheduled employment w.e.f 01.03.2024 for unskilled workers (Rs. 10899.82) and other categories of workers as prescribed under Table No. 1 in the Notification.

The Notification also provides for revision in minimum wages for scheduled employments under the Government of Punjab, the Local Authority, the Boards, Corporations or any agency under the control of the Govt. of Punjab in respect of staff employed through outsourcing or employed casually or on daily wages for Staff categories A, B, C and D as prescribed in Table No. 2.

Further, annual basis revised minimum wages are also provided for unskilled workers in Agriculture sector (as prescribed in Table No. 3) and daily basis rates for other Agriculture labour (as prescribed in Table No. 4). The revised minimum wages rates for employees employed in bricks industry are provided in table No. 5.

GT Insights:

Employers in Assam, Uttar Pradesh, Andaman and Nicobar Islands, West Bengal, Jharkhand, Orissa and Punjab shall be required to follow the revised rates of minimum wages and variable dearness allowance as applicable to them pursuant to the notifications issued by the respective Labour Department.

Notifications have also prescribed other conditions like category of scheduled employments, category of workers like unskilled, semi-skilled & skilled, effective date of revised wage rates & VDA and terms and conditions that will be applied

Karnataka labour law updates

Compulsory Gratuity Insurance Rules, 2024

The Karnataka Labour Department, via a corrigendum dated 4 July 2024, has revised the deadline for existing employers to secure a valid gratuity liability insurance policy. The new deadline was extended to six months from the previous 60 days, aligning with Section 4-A of the Gratuity Act. This amendment is effective from 10 January 2024, which is the commencement date of the Karnataka Compulsory Gratuity Insurance Rules, 2024. The stipulated time frame for new employers to obtain the insurance remains at 30 days from when the rules apply to their establishments.

GT Insights: The establishments in Karnataka shall obtain such insurance policy from Life Insurance Company or any other registered Insurance company within the revised timelines notified in this notification and comply with other provisions as prescribed under the Karnataka Compulsory Gratuity Insurance Rules, 2024.

Karnataka platform-based gig workers (Social Security and Welfare) Bill, 2024

The Labour Department of Karnataka published the draft bill namely “**The Karnataka Platform-based Gig Workers (Social Security and Welfare) Bill, 2024**” on 29 June 2024 inviting objections/suggestions pertaining to the same. Karnataka is the second state after Rajasthan to do so. The draft bill is introduced to protect the rights and safety of platform-based gig workers by placing obligations on aggregators. Further, the bill also provides for dispute resolution mechanisms to establish a Welfare Board.

As per Section 2(e) of the above act, “Gig workers means a person who performs work or participates in a work arrangement that results in a given rate of payment, based on terms and conditions laid down in such contract and includes all piece-rate work, and whose work is sourced through a platform, in the services specified in the Schedule-I.”

The aggregators engaged in the following services are covered under the scope of the bill as per Schedule I-



Ride sharing services.



Food and grocery delivery services



Logistics services



E-Marketplace



Professional services provider



Healthcare



Travel and Hospitality



Content and Media Services

Some of the other key provisions in the bill are as follows-

Establishment of gig workers Welfare Board

The state government shall establish “Karnataka Platform Based Gig Workers Welfare Board” who shall ensure registration of gig workers & aggregators, monitor collection of welfare fee, ensure the implementation of general & specific social security schemes and disbursement of same and perform such functions as entrusted to it under this bill.

Establishment of gig workers Welfare Fund

The state government shall establish “Karnataka Gig Worker’s Social Security and Welfare Fund” which shall be maintained and utilised for benefit and welfare of Gig workers. The aggregators shall be charged welfare fee, which shall be deposited in this fund.

Registration and obligation of aggregators

The bill places obligations on aggregators to get themselves registered and ensure social security, occupational health, and safety of gig workers.

Registration and Unique ID of gig workers

Gig workers have the right to be registered with the State Government upon being onboarded on any platform, regardless of the work duration. They will be provided with a Unique ID applicable across all platforms.

Social Security Schemes

Workers will have access to general and specific social security schemes based on their contributions, as notified by the state government.

Rights of platform-based gig worker

Gig workers will have to be registered with the state government, shall have access to social security scheme, rights on their termination, timely receipt of payments and access to grievance redressal mechanism.

Dispute redressal

Safeguards against unfair dismissals and mechanisms for dispute resolution between gig workers and aggregators is also provided in the bill. Gig workers may reach out to grievance redressal officers w.r.t. his complaint arising out of entitlements, payments, and other benefits provided under the bill.

Transparency

Transparency regarding automated monitoring and decision making is deployed by platforms.

GT Insights: Overall, the bill appears to be a progressive step towards providing social security and welfare to gig workers, reflecting an understanding of the gig economy's dynamics and the challenges faced by those who work within it. It aligns with global trends of increasing legal protections for gig workers. The legislation seeks to safeguard the rights of gig worker and regulating the aggregators considering that lakhs of workers have been engaged in the unregulated industries.

The Karnataka Employer's Association vide circular no. 047/2024 dt. 11 July 2024 has raised its concerns and suggestions on the proposed bill w.r.t. territorial limitation, definition of gig workers under the bill vis-a-vis SS Code, registration, welfare fund and other aspects.

Important to note that the concept of gig worker and related governing provisions are also covered in the Code on Social Security, 2020 ("SS Code"). However, since the SS Code is yet to be implemented, some State Government's have taken the initiative to protect rights of platform based gig workers to meet need of the hour and regulate the aggregators working in the industries such as food and grocery delivery, travel, hospitality, ride sharing etc. It would be interesting to see how this bill will be implemented vis-à-vis the proposed implementation of SS code.

Other key developments in Karnataka

Karnataka State Employment of Local Candidates in the Industries, Factories and Other Establishments Bill, 2024

The Government of Karnataka approved the draft legislation, 'Karnataka State Employment of Local Candidates in the Industries, Factories and Other Establishments Bill, 2024' which inter alia mandates that industries, factories, and other establishments in Karnataka reserve a certain percentage of jobs for local candidates. The key features of the proposed bill are as follows:

- Local candidates in industries, factories and other commercial establishments have been reserved 50% for managerial roles and 75% for non-managerial roles.
- Reservation to hire Kannadigas for certain jobs in all private industries in the state.
- The bill defines of Local candidate as- "A person who is born in the state of Karnataka and who is domiciled in the state for a period of 15 years and who is capable of speaking, reading and writing Kannada in a legible way and has passed a required test conducted by the nodal agency".
- In case of Local candidates are unsuitable for job, the local candidates shall be trained within 3 years. Provision for relaxation has also been provided on application by industries, and establishments.
- The bill also prescribed penalty ranging from Rs. 10,000 or to Rs. 25,000.

However, after facing objection from various industry stakeholders, we understand that this bill is currently on hold. Various states have sought to balance the need to create local employment opportunities while ensuring fairness and equal access to all within India.

Assam labour law updates

Assam Private Placement Agencies for Recruitment of Workers (Regulation) Rules, 2024

The Government of Assam released 'The Assam Private Placement Agencies for Recruitment of Workers (Regulations) Act 2019' ("Assam PPA Act") on 04 September 2019 to regulate private placement agencies operating in Assam including licensing, regulations, reporting requirements by such agencies and overall implementation through controlling authority.

In furtherance of the Assam PPA Act, the Labour Welfare Department of Assam has vide Notification dated 10 July 2024 notified the Assam Private Placement Agencies for Recruitment of Workers (Regulation) Rules, 2024 ("Assam PPA Rules") in exercise of the powers conferred under Section 15(1) of the Assam Private Placement Agencies for Recruitment of Workers (Regulation Act), 2019. The said Act provides for the regulation of the Private Placement agencies operating their business for the recruitment of workers. The key provisions provided the above rules are as follows:

- Procedural requirements for Private Placement Agencies to obtain license under this Act
- Verification of application submitted by Agency for grant of license by the Controlling Authority
- Conditions to be adhered for the grant of license
- Functions and duties of the Private Placement Agency
- Procedure for appeals before the appellate authority

GT Insights: The Government of Assam has notified the Assam PPA Rules, 2024 to supervise the operations of private placement agencies in Assam and improve the governance of workers recruited through these agencies. The principal aim is to standardize the functioning of private placement agencies by introducing a formal licensing process, thereby creating a database of all such agencies.

Haryana labour law updates

Labour Welfare Fund

Haryana Labour Welfare Board vide Notification dated 09.07.2024 has provided that the Labour Welfare fund pursuant to the Punjab Labour Welfare Fund Act, 1965 (Haryana Amendment) shall be deposited on the monthly basis. The facility for the monthly payment to be deposited has been provided on the online portal (<https://www.hrylabour.gov.in/>).

Tamil Nadu labour law updates

The Tamil Nadu Shops and Establishments Act 1947- Amendment Act 2018 and 2023

The Tamil Nadu Shops and Establishments Act, 1947 regulates the conditions of work such as working hours, weekly rest, holidays, health and safety etc., of the persons employed in shops and establishments.

The Labour Welfare and Skill Development of Tamil Nadu vide extraordinary gazette dated 02.07.2024 has appointed 02 July 2024 as the day on which:

- The amendment provisions of the Tamil Nadu Shops and Establishments (Amendment) Act, 2018 shall come into force; and
- Has introduced Tamil Nadu Shops and Establishments (Amendment) Act, 2023 which further amends the 2018 Amendment Act and also introduced few new amendments.

Earlier, considering the suggestions of the Government of India, the said Tamil Nadu S&E Act 1947 was amended vide Tamil Nadu Shops and Establishments (Amendment) Act, 2018, so as to provide for registration of Shops and Establishments, for renewal of registration and for prohibition of discrimination against women employees etc. The said Amendment Act 2018 was thereafter amended, so as to dispense with the provision for renewal of registration and also to ensure that registration certificate is issued within a day from the date of application vide Tamil Nadu S&E Act 26 of 2021. However, the said Amendment Act 2018 had not been brought into force until 02 July 2024.

Key amendments brought under the Tamil Nadu Shops and Establishments (Amendment) Act, 2018:

- **Registration of shops and establishments-** The employer of every establishment employing 10 or more workers shall, within a period of 6 months from the date of commencement of his business, apply for registration and obtain a registration certificate.
- **Display of registration certificate-** The registration certificate issued by the inspector shall be prominently displayed in the establishment by the employer.
- **Period of registration-** The registration certificate shall be valid for a period of 5 years and shall be renewable once in 5 years. (This renewal requirement has been discontinued/removed vide Amendment Act 2023.)
- **Intimation of change in particulars-** The employer shall give intimation to the inspector, of any change in any of the particulars furnished in the registration application, within a period of 30 days of such change.
- **Intimation of shops and establishments employing less than 10 workers-** Employer of every establishment employing less than 10 workers shall, within a period of six months from the date of commencement of the Tamil Nadu S&E (Amendment) Act, 2018 or within a period of 6 months from the date of commencement of his business, give intimation of his business in such form and in such manner as may be prescribed, to the inspector.
- **Changes in working hours-** Total hours including overtime on any day has been increased from 10 hours per day to 10.5 hours per day and from 54 hours per week to 57 hours per week. (Section 9 and 14)
- **Insertion of Sec 47A for Annual Return-** Every employer of an establishment shall furnish an annual return, in such form and manner to such authority as may be prescribed.
- **Prohibition of discrimination of women employees-** No woman employee shall be discriminated in matters of recruitment, training, transfers, promotions or wages.

However, the Amendment Act 2018 does not provide for prescribing fee for issue of registration certificate or amendment of registration certificate, and for issue of duplicate registration certificate. The Government has, therefore, decided to amend the Tamil Nadu S&E (Amendment) Act, 2018 for the said purposes and accordingly released Tamil Nadu Shops and Establishments (Amendment) Act, 2023 which amended the following provisions of the Amendment Act 2018:

Key amendments made to the S&E Amendment Act 2018 through the S&E Amendment Act 2023

- **Issue of Registration certificate within 24 hours-** The Inspector, on receipt of an application shall register the establishment and issue a registration certificate to the employer within 24 hours in such form as may be prescribed. If the registration certificate is not issued within a period of 24 hours from the date of receipt of application by the Inspector, the registration certificate shall be deemed to have been granted under this Act.
- **Renewal of Registration certificate-** The S&E (Amendment) Act 2023 has removed the requirement of renewal of S&E registrations certificate which was mandatory in the 2018 Amendment Act.

Moreover, the Amendment Act 2023 has also brought following new changes w.r.t. welfare and safety of employees.

Key amendments made through S&E Amendment Act 2023 to introduce following new changes:

- **Drinking Water-** Every employer shall make effective arrangement to provide and maintain at suitable points conveniently situated for all persons employed in the shop or establishment, sufficient supply of wholesome drinking water.
- **Latrine and urinals-** Every employer shall provide enough latrine and urinal accommodation as may be prescribed which shall be so conveniently situated as may be accessible for the persons employed, always during the working hours.
- **Rest room and lunchroom-** Every employer shall provide adequate and suitable rest room and lunchroom with provision for drinking water, for the persons employed which shall be sufficiently ventilated and lighted and shall be maintained in a clean and tidy condition. Also, the rest room and lunchroom shall be adequately furnished with chairs or benches with back-rests.
- **First Aid-** Every employer shall provide at the place of work, first aid facilities, as may be prescribed.

Tamil Nadu Shops and Establishments Rules, 1948

Further, vide a separate notification dated 02 July 2024, the Labour Welfare and Skill Development department has also released the amendments to the Tamil Nadu Shops and Establishments Rules, 1948 ("S&E Rules" - Effective 02 July 2024), some of which are highlighted below:

- Rule 2A- Application for registration under the Act shall be made in Form-Y with a fee of Rs. 100/- on the portal of the Labour Department.
- Rule 2B- Registration certificate shall be issued by the Inspector in Form Z within 24 hours of making the application.
- Rule 2C- The employer of the existing establishment shall furnish details of the establishment in form ZB through online portal of the Labour Department.
- Rule 2D- The application for the amendment of certificate shall be made online through the designated portal of department and the inspector shall within 24 hours from the application issue the amended certificate in form Z.
- Rule 6A- Every establishment shall provide a first aid box at the rate of not less than 1 box for every 150 persons and the same shall be marked with red cross on white background containing basic first aid materials for treating small injuries.
- The penalty in Rule-18 for contravention of any provisions of the Act has been increased to Rs. 2,000/- from Rs. 50/-

GT Insights: The Labour Welfare and Skill Development department of Tamil Nadu has brought several amendments in the Tamil Nadu Shops and Establishments Act, 1947 and Rules 1948 through Amendment Act 2018 and 2023 and the Amendment Rules, 2024 to inculcate the provisions of registration, timelines, fees, drinking water, Latrine and urinals, Rest room and Lunchroom, and first aid. This move shall remove the ambiguity of provisions and help the establishments in Tamil Nadu to comply the acts and rules more effectively.

Maharashtra

Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Amendment, Rules 2024

The Industries, Energy, Labour, and Mining Department of Maharashtra vide Notification dated 22.07.2024 has issued "Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) (Amendment) Rules, 2024" to insert the requirement to mention "Insurance certificate of establishment" under the following forms:

- Form A (Application for Registration Certificate) and Form D (Renewal of registration certificate)
- Form F (Form for intimation of commencement of business by such employer engaging less than 10 workers) and
- Form R (Annual Return) - included "Insurance policy number and date of validity of insurance policy of establishment."

GT Insights: By this notification, it shall be now mandatory for the establishments in state of Maharashtra to have insurance as the details of the same shall be provided to the department. The shops and establishments in Maharashtra shall obtain the insurance policy for the establishment for reporting the same to the department. However, it is yet to be confirmed if the requirement of details of policy to be entered are mandatory or not.

Kerala labour law updates

Kerala Recognition of Trade Unions (Amendment) Rules, 2024

The Labour and Skills (E) Department, Kerala vide Notification dated 22.07.2024, published in extraordinary gazette dated 26.07.2024, has issued "Kerala Recognition of Trade Unions (Amendment) Rules, 2024", wherein the Government has enhanced the rate of fees payable under the Kerala Recognition of Trade Unions Act, 2010 from Rs. 1,000 to Rs. 1,150 by amending the sub-rule (3) of rule 5, of Kerala Recognition of Trade Unions Rules, 2011.

GT Insights: The Government of Kerala, has revised the rate of fees from Rs. 1,000 to Rs 1,150 payable under the Kerala Recognition of Trade Unions Act, 2010, which was last fixed on 20th April, 2011.

Union Budget 2024

Employment linked Incentive Schemes

The Union Finance Minister Nirmala Sitharaman in her budget 2024-25 speech held on 23 July 2024, introduced three employee-linked incentive schemes to enhance Employee Provident Fund Organization enrolment, focus on first-time employees and support both employees and employers.

Employment Linked Incentive

The following three schemes for 'Employment Linked Incentive' are provided. These will be based on enrolment in the EPFO, and focus on recognition of freshers, and support to employees and employers. The schemes are mentioned below:



Scheme A: First Timers

This scheme provides one-month wage to all individuals who are just starting their careers in formal sectors and is expected to benefit 210 lakh youth. The key features of scheme A are as follows:

- Applicable to **all sectors**.
- **One month's wage as subsidy** (maximum INR 15,000).
- Subsidy to assist employees and employers in hiring of freshers.
- Applicable to all new persons with wage/salary **less than INR 1 lakh monthly**.
- Subsidy will be paid to the employee in **three instalments**.
- Employee must undergo **compulsory online Financial Literacy course** before claiming the second instalment.
- Duration of the scheme **will be two years**.
- Employer to return subsidy if the employment to the fresher ends **within 12 months of recruitment**.



Scheme B: Job creation in Manufacturing

This scheme will encourage additional opportunities in the manufacturing sector, particularly for new employees and is expected to benefit 30 lakh youth entering employment, and their employers. The key features of scheme B are as follows:

- Applicable for hiring new employees in manufacturing industry.
- Corporate or non-corporate entities with a three-year track record of EPFO contribution will be eligible.
- Employer must hire at least the following number of previously non-EPFO enrolled workers i.e. 50 or 25% of the baseline (previous year's number of EPFO employees) [whichever is lower]
- Employer to maintain threshold level of enhanced employment throughout, failing which subsidy benefit will halt.
- Employee must be directly working in the entity paying salary/wage.
- Employees with a wage/ salary of up to INR 1 lakh/month will be eligible, subject to contribution to EPFO.
- For those with wages/salary greater than INR 25,000/month, incentive will be calculated at INR 25,000/month.
- Employer to refund subsidy if the employment to fresher ends within 12 months of recruitment.
- Duration of scheme will be for 2 years.
- Incentive will be paid for **four years partly to the employee and partly to the employer** as follows:

| Year | Incentive (as % of wage / salary, shared equally between employer & employee) |
|------|--|
| 1 | 24 |
| 2 | 24 |
| 3 | 16 |
| 4 | 08 |



Scheme C: Support to Employers

This is an employer-focused scheme and is expected to promote additional employment of 50 lakh persons. The key features of scheme C are as follows:

- Applicable to an employer who:
 - **Increases employment** above the baseline (previous year's number of EPFO employees)
 - If less than 50 employees: minimum two employees
 - If 50 or more employees: minimum five employees
 - For employees whose salary does not exceed **INR 1,00,000/month**
 - New employees under this Part need not be new entrants to EPFO.
- Government will reimburse EPFO employer contribution for two years up to **INR 3,000/month** to the Employer for the additional employees hired in the previous year.
- If the employer creates more than 1000 jobs:
 - Reimbursement will be done **quarterly** for the previous quarter.
 - Subsidy will continue for the 3rd and 4th year on the same scale as Employer benefit in Part-B
- Duration for scheme will be for **2 years**.

Skilling programme

Another centrally sponsored scheme namely “**Skilling programme**” is also announced for skilling in collaboration with state governments and Industry. Twenty lakh youth are expected to be skilled over 5 years and 1,000 Industrial Training Institutes will be upgraded. The key features of this scheme are as follows:

- It focuses on outcome and quality of skilling.
- Course content and design will be aligned to the needs of the industry.
- Capacity augmentation of 5 national institutes for training of trainers are in process.
- 20 lakh students are expected to be benefitted from the scheme.
- 200 hubs and 800 spoke ITIs will be upgraded with industry collaboration for:
 - Re-design and review of existing courses
 - New courses
 - 1-to-2-year courses in all 1000 ITIs
 - Short-term specialised courses in Hub ITIs

Measures for promotion of manufacturing & Services- Internship in Top 500 Companies

A comprehensive scheme to offer internship opportunities in 500 leading companies to 1 crore youth in 5 years is also introduced. The interns will have opportunity to gain exposure for 12 months real-life business environment, varied professions, and employment opportunities. An internship allowance of INR 5,000/month along with one-time assistance of INR 6,000 will be provided. The key features of this scheme are as follows:

- Participation is **voluntary**.
- Applications process will be **completely online**.
- Persons between 21 and 24 will be eligible to apply.
- Applicable to those who are not employed and not engaged in full time education.
- The company will bear 10% of the training cost from CSR funds.

- Administrative costs to be borne by respective parties
- Indicative profiles which are not eligible are also provided in the scheme.
- At least half the time should be in actual working experience/job environment, not in classroom.
- Opportunities for tie-up by the companies is also proposed.
- Duration of Scheme will be 2 years in phase 1.

GT Insights: The union budget for the financial year 2024-25 strongly captured the schemes emphasising on employment and skilling. The four schemes are Scheme A: First Timers, Scheme B: Manufacturing Sector, Scheme C: Support to Employers shall be beneficial for employment in India and Scheme D: Skilling Programme. This will boost employment in the country with support to both employees and employers.

Employees Provident Fund updates

Circular dated 11 July 2024: EPFO releases third-party audit format under the SOP for 'Effective Management and Regulation of EPF Exempted Establishments'

The Employees' Provident Fund Organization (EPFO) had vide its circular E-III/10(116)2023/SOP-ManagementandRegulation/1071 dated 06 October 2023 released a Standard Operating Procedure (SOP) for management and regulation of establishments that are permitted to operate an exempted private provident fund trust under the provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF Act).

The SOP outlined the roles and responsibilities of various stakeholders, detailed the specific procedures and timelines for exempted establishments managing their own PF trust, and established the mechanisms for monitoring compliance by the EPFO through its zonal, regional, and head offices.

However, in the Notification issuing such SOP, the EPFO had specifically highlighted that the format of balance sheet of the PF Trust (form RM-5) & the format of the Third-Party Audit (RM-6) are under preparation and shall be issued separately.

In continuation to the circular dated 06 October 2023, the EPFO vide its circular no E-III/10(116)2023/SOP-Management and Regulation-Part(1)/6102 dated 11 July 2024 has finalised the format of Third-Party Audit (RM-6) and circulated the same to all Regional & Zonal Offices for strict compliance.

GT Insights: This circular is an internal instruction by the EPFO to the Regional & Zonal offices to adhere to the newly issued format of the Third-Party Audit (RM-6). It would also help the exempted establishments in identifying the key areas which the auditor shall verify so that the establishment can proactively take necessary corrective actions in those areas.

Circular dated 04 July 2024: SOP for freezing/defreezing the MID/UAN/Establishment

The EPFO strives to follow a precautionary verification mechanism to prevent risks from possible fraud, impersonation, and forgery. The priority is to protect the accumulated balance from being improperly withdrawn. Consequently, it is necessary to freeze certain or all operations linked to MIDs/UANs/Establishments where there is a risk of fraudulent withdrawal or suspected fraudulent activity. After the verification process is completed and the funds are secured in the rightful account, the competent authority may permit transactions and inform the concerned parties.

To standardise this process of freezing and de-freezing of accounts, the EPFO has vide its circular no FIA/11(22)/SOP/FreezingUAN/2022 (E-49005)/11 dated 22 December 2023 had released an SOP specifying the timebound methodology for freezing the MID/UAN/Establishment on account of verification requirement, as a measure of due diligence to secure the funds in these MIDs/UANs/Establishments and the subsequent de-freezing, wherever required, on completion of verification of genuineness.

The said SOP specifies the following:

- The mechanism for identifying potential cases of suspicious accounts/transactions wherein there is a possibility for impersonating or fraudulent withdrawals.
- To specify necessary steps to protect the funds lying within such accounts or transactions made therefrom so that there is no flight of capital and members' funds are secured.
- To inquire into the genuineness or otherwise of such accounts or transactions within a given time frame. The duration of the freeze should not exceed 30 days from the date of freezing, except in cases where there is a confirmation of fraud

- To bring closure to the incident by: -
 - Protecting funds and make them available in the rightful account, allow transactions as well as inform the concerned.
 - Address the systemic issues for safeguarding any future recurrences in a given timeframe.

In continuation to its previous circular dated 22 December 2023, the EPFO has vide its latest circular number FIA/11(22)/SOP/FreezingUAN/2022 (E-49005)/3106 dated 04 July 2024 has deployed the functionality of executing the said SOP with effect from 30 June 2024.

GT Insights: The new SOP issued by the EPFO for freezing and defreezing accounts is a vital step in strengthening its commitment to safeguarding the financial interests of its members. By implementing these clear and structured guidelines, the EPFO aims to enhance transparency, minimize the risk of fraudulent activities, and ensure that legitimate account holders can access their funds securely and promptly.

SOP released on 31 July 2024: For joint declaration for member profile updation version 3.0

EPFO had issued an SOP version 1.0 for the processing of JDs for member profile updates in August 2023. This SOP was superseded by a new SOP issued by EPFO in March 2024. EPFO on 31 July 2024 has now released the version 3.0 of the SOP for Joint Declaration which shall supersede all the previous versions of the SOPs.

Previously, there was no standard process defined by EPFO for handling of the JDs, and no timelines were prescribed for completing the process. These SOPs define the process for filing joint declarations by the member, approval of JD by the employer, its receipt in the regional office, and its approval or rejection in a time-bound manner. It also provides a list of documents to be enclosed for changes in various parameters.

Parameters for correction: The SOP defines 11 parameters for correction/updation by employees through joint declarations. The said parameters are:

1. Member Name 2. Gender 3. Date of Birth 4. Parent's Name 5. Relationship 6. Marital Status 7. Date of Joining 8. Reason of Leaving 9. Date of Leaving 10. Nationality 11. Aadhaar Number

The SOP also provides for the bifurcation of the corrections into minor correction/major corrections. It also specifies the authority competent to approve the minor/major corrections and a definitive timeline to complete the processing of the JDs.

The Version 3 of the SOP issued by the EPFO vide its circular dated WSU/2022/(E-54018)/3931 has made some changes in the parameters which are to be corrected/updated, categorisation of such parameters into major/minor changes, timelines and documentary proofs to be submitted.

Amendments/edits made in the Version 3:

- The existing parameter of parent's name has been bifurcated into **Father's Name & Mother's Name**.
- Version 3 has added new parameter of **Spouse name** which can be corrected/updated.
- This version has also amended the category '**Gender**' to include Transgender members as well.
- For updating the nationality, the Version 3 has included updating 'Indian' nationality where any foreigner is updating its nationality as Indian for the first time.
- Further, for the documentary proofs required for major changes, Version 3 has added the following exception:
 - at least three documents are required to be provided by the applicant from the list of documents attached in Annexure-I with respect to the relevant parameters in those changes, **except in the case of the parameter "Aadhaar", where Aadhaar Card/E-Aadhaar Card linked with active mobile phone, as indicated in Table-I of Annexure-I would be the only sufficient document.**

- As regard the timelines, Version 3 has fixated the **timeline for the employer** to verify the JD filed by the employee. Employer shall verify the JD within T+7 days from the date of receipt of Request from the member/nominee or legal heir (in case of death of member) & in T+3 days if received back from PF Office.
- Under the list of acceptable documents for changes, following document are added:
 - **Father's, Mother's or Spouse's name:** Aadhaar Card of member bearing father name/ mother name/ spouse name.
 - **Marital status:** Death Certificate issued by the Registrar of Births and Deaths; Family Member Certificate issued by Employer on letter head.
 - **Reason of leaving:** Death Certificate issued by the Registrar of Births and Deaths.
 - **Date of leaving:** Death Certificate issued by the Registrar of Births and Deaths
 - **Nationality:** Voter ID/ Elector Photo Identity Card (EPIC); Nationality Certificate/ Domicile Certificate; Appointment Letter/Offer of Appointment in which Nationality is mentioned; Birth Certificate issued by the Registrar of Births and Deaths (only in case where the Nationality is not available in system and now getting updated as INDIAN for members who had acquired citizenship of India by birth and has domicile in India)

GT Insights: The SOP brings paradigm shift in the process of filing and management of Joint declarations from manual to digital mode. It is expected that the new process will bring a lot of efficiency in the entire process. It is important for the employers to take note of these changes and educate the employees and HR/ compliance teams involved in the PF processes.

Important Judgements

Industrial Disputes Act, 1947

S. Jamuna Rani vs The Chennai Port Trust & ANR [MAD]

Case Note: Case of Compassionate Appointment

The wife (petitioner) applied for employment on the compassionate ground when her husband went missing. The employer rejected the application. The question before the court aroused is- "Whether rejection by the employer is correct"?

Case was decided on: 26.06.2024.

Brief facts: The Petitioner's husband, who was the employee of the Respondent Port Trust, developed chronic schizophrenia and was missing from 20.09.2000. Therefore, she lodged a complaint about the missing of her husband and the Royapuram Police gave a report dated 27.07.2008, stating that her husband could not be traced. The Petition applied to the Respondent for consideration of appointment on compassionate ground was rejected by the impugned letter dated 27.12.2012. Hence, this writ petition was allowed.

Decision: Allowed

Rationale for decision is given below:

It was observed that as per the scheme of compassionate appointment in Chennai Port Trust, the maximum time a person's name can be kept under consideration for offering compassionate appointment is 3 years, subject to the condition that the prescribed Committee has reviewed and certified the penurious condition of the applicant at the end of the 1st and the 2nd year. The scheme further reads that after 3 years, if compassionate appointment is not possible to be offered to the applicant, then, the case of the applicant will be closed finally and will not be considered again. Though the petitioner's husband is said to be missing since 20.09.2000 and she has lodged a complaint on 18.10.2000 and a final report was filed by the Royapuram Police on 27.07.2008. The terminal benefits were settled in favour of the petitioner vide court order dated 24.07.2009 in W.P.No.20968 of 2008 in the year 2009 and thereafter, the petitioner has made her application on 12.12.2012, and the 1st petitioner has submitted her application to the respondents seeking compassionate appointment on 12.12.2012.

As per the instructions extracted in paragraph No.9, and as per the existing scheme for compassionate appointment, the request of the 1st petitioner can be considered, if it is made within 5 years from the crucial date. The 1st petitioner has given an application within 5 years from the date of the final report of Royapuram Police. However, the impugned order was passed, stating that the application was belatedly given, which is factually incorrect, as per the scheme for compassionate appointment in the Chennai Port Trust. In the given circumstances, the order impugned stands quashed. Consequently, the writ petition stands allowed as mentioned below: i) The 1st petitioner shall give an application afresh for consideration of appointment on compassionate ground for anyone of her legal heirs, as she is aged about 60 years, preferably within a period of four weeks from the date of receipt of a copy of this order. ii) The respondents shall consider the said application of the 1st petitioner and shall complete the said exercise, within a period of 12 weeks from the date of receipt of the application from the 1st petitioner.

Rajasthan State Road Transport Corporation v. Bharat Singh Jhala (Dead) Son of Shri Nathu Singh, through legal heirs & ANR (SC)

Case Note- The decision /judgement passed by higher authority (Industrial Tribunal) cannot be challenged by lower authority (Labour Court) and even High Court cannot uphold the decision of lower court once higher authority like Industrial Tribunal has decided a dispute.

Case was decided on: 30.09.2022.

Brief facts

The workman was a conductor employed by RSRTC. A departmental inquiry was conducted, alleging that he did not issue tickets to ten passengers despite collecting the fare. The inquiry found him guilty of the alleged misconduct. RSRTC terminated his services on 31st July 2001. An application for approval of the punishment order was submitted under Section 33(2)(b) of the Industrial Dispute Act, 1947. The Industrial Tribunal initially held the inquiry to be bad but later allowed RSRTC to prove the charges. In 2015, the Industrial Tribunal approved the termination order after considering evidence from both parties.

However, approximately 19 years after the initial termination, the workman raised an industrial dispute challenging the 2001 termination. The Labour Court set aside the termination order and awarded 50% back wages from the date of termination until the workman's death in 2018. RSRTC appealed the Labour Court's decision before the High Court. RSRTC contends that the High Court erred in confirming the Labour Court's decision. They argue that once the Industrial Tribunal approved the termination order, it was not open for the workman to raise the dispute again after such a long period. RSRTC seeks to overturn the High Court's judgment and reinstate the termination order.

Decision- Appeal allowed

Rationale:

The termination was the subject matter of the approval application before the Industrial Tribunal in an application under Section 33(2)(b) of the I.D. Act. In the said proceedings the management was permitted to lead the evidence and prove the charge/misconduct before the Tribunal. In the said application the parties led the evidence, both, oral as well as documentary. Therefore, once the order of termination was approved by the Industrial Tribunal and the management was permitted to lead the evidence and prove the misconduct before the Court and thereafter on appreciation of evidence the order of termination was approved, thereafter the fresh reference under Section 10 of the I.D. Act challenging the order of termination was not permissible. It is required to be noted that the order dated 21.07.2015 passed by the Industrial Tribunal which as such is a higher forum than the Labour Court had attained the finality. Though the aforesaid fact was pointed out before the High Court, the High Court has not at all considered and/or appreciated the same and has confirmed the judgment and award passed by the Labour Court for setting aside the order of termination which as such was approved by the Industrial Tribunal.

In view of the above, the judgment and award passed by the Labour Court confirmed by the High Court is unsustainable. The High Court has committed a very serious error in dismissing the writ petition/writ appeal confirming the judgment and award passed by the Labour Court setting aside the order of termination.

The Supreme Court made below decision while allowing appeal for the reason stated above. The impugned judgment and order passed by the High Court confirming the judgment and award passed by the Labour Court setting aside the order of termination and the judgment and award passed by the Labour Court setting aside the order of termination are hereby quashed and set aside.

Contract Labour (Regulation & Abolition) Act, 1970

Workmen of BEML Ltd v. Union of India and others [KNT]

Case note: Whether regularisation of employment and quashing of employment notification for the Contract workers working for more than 20 years grantable?

Case was decided on: 21.06.2024.

Brief facts: The respondent No.2 BEML has employed around 450 permanent workmen and has engaged around 1800 workmen as contract workmen, even though they are performing the same work as regular workmen employed in such posts and working in the permanent and perennial nature of work.

The petitioners had clarified that the workmen are only supervised by managerial person of BEML and there are no employees of the contractors, who are in any manner involved with the petitioner's workmen other than remitting the wages, sanctioned by BEML and collecting huge commissions for remitting the wages at the cost of petitioner- workmen.

It is the case of the petitioners that the workmen are continuing to perform permanent and perennial nature of work and many of these workmen have been working continuously for respondent No.2 for more than 20 years. The petitioner-union in continuation of their earnest attempt to get their legitimate rights/demands, addressed several representations to BEML, when the situation stood thus, BEML published Recruitment Notification dated 27.09.2023 calling recruitment of Group-C position across BEML Limited.

It is the case of the petitioner that by virtue of Notification which specifies that requisite qualification for wage Group-C is ITI with National Apprentice Certificate and not Diploma Engineering, which is a general qualification and majority of the petitioners workmen are ITI qualified and have completed National Apprentice Certificate and the impugned Notification deprives the petitioners-workmen of their legitimate expectation for getting regularised with their service for having the same skills for applying to the said posts, but due to the age restrictions, none of the petitioners can apply for the posts as per the impugned Notification and they are deprived of their minimum rights. The petitioner sought regularisation of contract workers, abolition and quashing of the Notification.

Decision- Appeal was partly allowed.

Rationale: The issue on hand is "Whether inviting applications from the candidates to recruit to Group-C position by the company-respondent No.2, while they are already a significant number of workmen/workers performing similar duties as contract workers, without being regularised, is fair and lawful.

The issue in this petition is whether the employment of the contract workers without regularisation having been engaged for prolonged period when they are essentially performing duties similar to those of Group-C position, they may have a legal claim to regularisation under the Labour Laws, but the jurisdiction of this Court under 226 seeking for regularisation by the contract workers, was working under the principal employer or were under the contractors and whether there was an relationship of employer and the employee is essentially a question of fact, the remedy to the petitioner is to approach the industrial tribunal for declaring either the contract labour system under which they had employed was camouflage and that they are direct employees of the respondent No.2 and for consequential relief, the appropriate remedy is to approach the industrial tribunal and this Court has no jurisdiction to absolve the petitioners by regularisation on the ground that the work for which the petitioners were engaged as contract labour was perennial in nature, the said question would be on determination of several number of factors.

In the instant case, the petitioner has sought for direction to the respondent No.2 to regularise the employment of the petitioner-workman, who are represented by the petitioners-union and to grant all benefits consequent to upon after absorbing them as permanent workmen, the prayer seeking regularisation by this Court by the contract workman is not maintainable and the prayer (a) of the writ petition cannot be granted as the petitioners have to approach the appropriate forum for seeking appropriate relief.

However, it is essential to assess whether inviting application for Group-C position while existing contract workers remained unregularised is fair and equitable? And prayer No. (b) and (c) are seeking to declare the Notification in Annexure-L is illegal and arbitrary.

If the contract workers are qualified and have been performing satisfactorily, there may be concerns of fairness in not offering them the opportunity to apply for these positions. If, there is genuine reasons to fill the Group-C positions with external candidates due to skill gaps or other valid reasons, this could be a legitimate justification, ignoring the rights of the contract workers who may be entitled to regularisation, it would be prudent for the employer to review the status of the contract workers, assess their eligibility for regulations, and ensure that the recruitment process of group-C positions is conducted in a manner, i.e., fair and transparent.

Prayer (a) of the writ petition seeking regularisation before this Court is not maintainable, petitioners to approach the appropriate forum having jurisdiction. However, this Court feels it appropriate in the peculiar facts and circumstances to keep the impugned Notification in abeyance for a period of one month from today, with the said observation writ petition stands disposed of.



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