

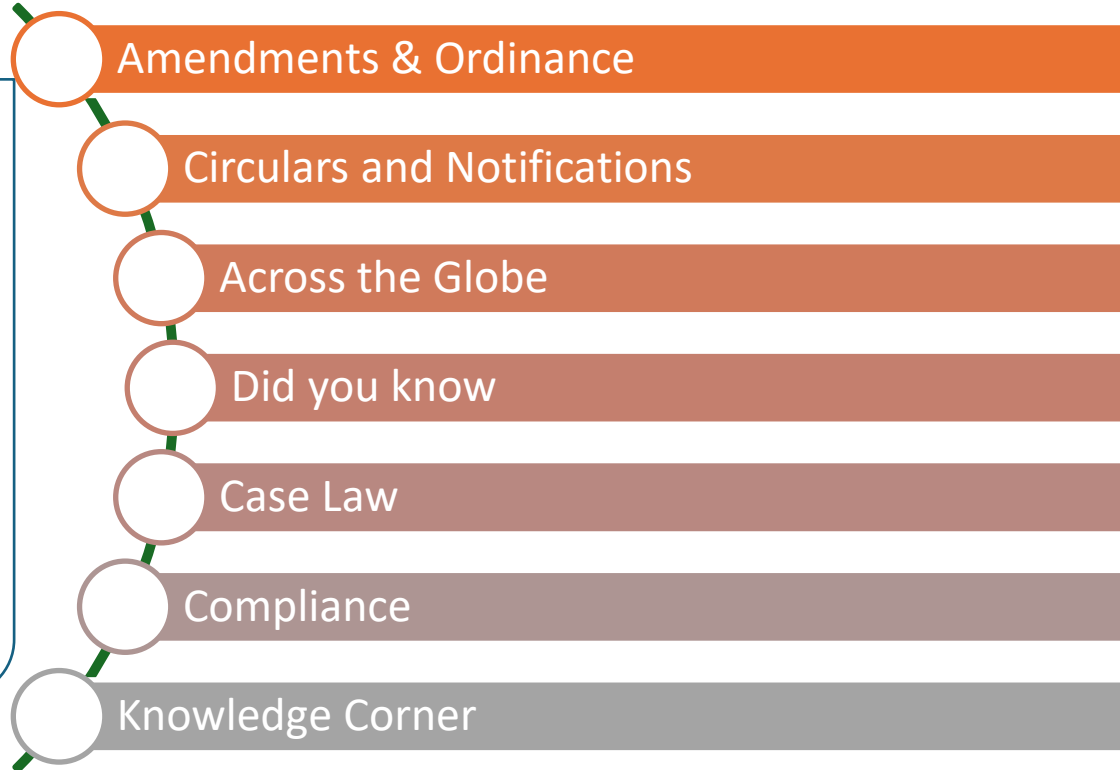
# LABOUR LAW MONTHLY UPDATE

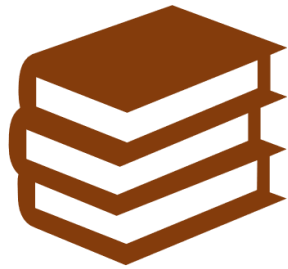
**JULY 2024**

# DISCLAIMER

- This Presentation is meant for informational purpose only and do not purport to be advice or opinion, legal or otherwise, whatsoever.
- This is not intended to advertise services or solicit work through this monthly update.

Let's  
take  
a  
tour





# AMENDMENTS AND ORDINANCE

**MINISTRY OF LABOUR AND  
EMPLOYMENT**

**Notification Dated: 14.06.2024**

# Employees' Pension (Amendment) Scheme, 2024

- In exercise of power conferred under Section 5 read with sub section (1) in conjunction with sub-section (1) of section 7 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government has introduced amendment to the Employees' Pension Scheme, 1995.
- If an employer defaults to make the required payments to the fund, transfer accumulations as mandated by subsection (2) of section 15 or subsection (5) of section 17 of the Act, or settle charges specified under any other provisions of the Act or Scheme, the Central Provident Fund Commissioner or an officer authorized by the Central Government may levy damages on the employer.
- These damages will be calculated at a rate of one percent of the arrear of contribution per month or part thereof.

**MINISTRY OF LABOUR AND  
EMPLOYMENT- (First Amendment)**

**Notification Dated: 14.06.2024**

# Employees' Pension (Amendment) Scheme, 2024

- In exercise of powers conferred by Section 6A read with sub-section (1) of section 7 of Employees' Provident Funds and Miscellaneous Provisions Act, 1952 , the Central Government has made to amendment to the Employees' Pension Scheme, 1995.
- In the Pension Scheme 1995, in Table B, the additions are made according to the years of service of the employee.
- This will be applicable to employees who were covered by the Family Pension Scheme which existed before the commencement of the Employees Pension Scheme 1995.



<b>YEARS (1)</b>	<b>FACTORS (2)</b>
<b>Less than 35</b>	<b>14.2271</b>
<b>Less than 36</b>	<b>15.36555</b>
<b>Less than 37</b>	<b>16.59509</b>
<b>Less than 38</b>	<b>17.92303</b>
<b>Less than 39</b>	<b>19.35722</b>
<b>Less than 40</b>	<b>20.90618</b>
<b>Less than 41</b>	<b>22.57909</b>
<b>Less than 42</b>	<b>24.38586</b>

**MINISTRY OF LABOUR AND  
EMPLOYMENT-(Second Amendment)**

**Notification Dated 14.06.2024**

# **Employees' Pension (Second Amendment) Scheme, 2024.**

- In exercise of power conferred under Section 6A in conjunction with sub-section (1) of section 7 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government has introduced amendment to the Employees' Pension Scheme, 1995.
- If a member exits from the scheme before completing 10 years, then the employee will be entitled to a lumpsum amount.

# Employees' Pension (Second Amendment) Scheme, 2024.

- The return of contribution on exit from the employment is calculated by Months of Service and Proportion of wages at exit.
- For Example: If the months of service is 47 the proportion of wages are 3.91

# Rate of Damages under Employees' Pension Scheme, 1952

Period of Audit	Rate of Damages (Percentage of arrears per annum)
Less than two months	17%
Two months and above but less than four months	22%
Four months and above but less than six months	27%
Six months and above	37%

**EMPLOYEES' DEPOSIT LINKED INSURANCE  
(AMENDMENT) SCHEME,2024**

**Amendment Dated:14.06.2024**

# **Employees' Deposit Linked Insurance (Amendment) Scheme, 2024**

- The Central Government vide its amendment notification dated 14th June 2024 has substituted sub paragraph (1) of paragraph 8A of the Employees' Deposit Linked Scheme, 1976 .
- Under para 8A sub paragraph (1) the Central Provident Fund Commissioner or any other officer as may be authorised by the Central Government to recover damages from the employer at the rate of 1% of the arrear of contribution per month or part thereof.

**MINISTRY OF LABOUR AND  
EMPLOYMENT- (Third Amendment)**

**Notification Dated 14.06.2024**



# **Employees' Pension (Third Amendment) Scheme, 2024.**

The rate at which damages can be recovered when an employer makes default in the payment of contribution or any charges payable under the Act, has been modified to just 1% of the arrears of contribution per month or such part of the arrear expunging the determined rates based on period.

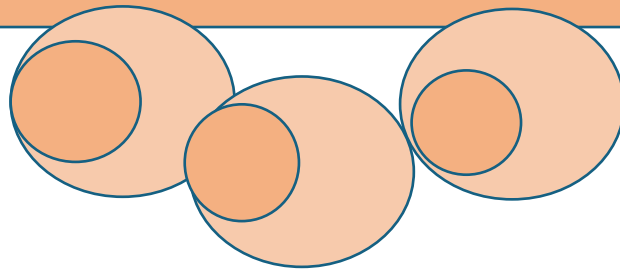
# **The Rights of Persons with Disabilities (Amendment) Rules, 2024**

**Dated:20.06.2024**

# The Rights of Persons with Disabilities (Amendment) Rules, 2024

- Department of Empowerment of Persons with Disabilities has amended rule 15(1) of the Right of Persons with Disabilities Rules, 2017.
- Rule 15 of the Rights of Persons with Disabilities Rules, 2017 provides accessibility related to the physical environment, transport, and information that all establishments must comply with.
- A new clause has been inserted in this rule which includes the accessibility code for **educational institutions** as notified by the Ministry of Education.
- The accessibility code for **educational institutions** focuses on identifying obstacles and barriers for children with disabilities in the physical infrastructure, as well as in the communication and learning ecosystem of the educational institutions while offering cost-effective solutions for the same.

# Circulars and Notifications



**THE EMPLOYEES STATE  
INSURANCE CORPORATION**

**Notification Dated 18.05.2024**

# Extension of Medical Benefits to certain areas

In exercise of powers conferred by section 46(2) of the Employees State Insurance Act, 1948 read with Regulation 95A of the Employees State Insurance, General Regulations, 1950 the medical benefits as laid down under Regulation 95-A has been extended to the areas of;

1) Almora 2) Bageshwar 3) Chamoli 4) Champavat 5) Pithoragarh 6) Rudrapur 7) Uttarkashi in the State of **Uttarakhand**.

**EMPLOYEES' STATE INSURANCE  
CORPORATION**

**Notification Dated: 13.06.2024**

# Facilitation of Aadhar Seeding for Insured Persons, ESIC Employees and Pensioners

The Employees' State Insurance Corporation concerning the necessity for seeding of Aadhar for Insured Persons (IPs), ESIC employees and Pensioners and for facilitating a seamless process has devised the following provisions:

**1)IP Portal:** All Insured persons (IPs) can conveniently seed their Aadhaar and that of their family members by accessing the IP Portal.



**2)Employer Portal:** Employers have been empowered to generate new Insurance Number using employees' Aadhaar through OTP or biometrics verification. Additionally, employers can seed Aadhaar numbers of existing IPs and their family members on their behalf.

**3)ESIC Staff:** Branch Offices/DCBOs/Dispensaries/Hospitals are designated facilities where IPs can seed the Aadhaar numbers of themselves and their family members.

**4)Employer Portal:** The Mobile app offer a convenient facility of IPs to seed their Aadhaar numbers and those of their family members either through OTP or through face authentication. Furthermore, the ESIC staff can also utilize the AAA+ app for Aadhaar seeding using OTP and face authentication.

**EMPLOYEED' PROVIDENT FUND  
ORGANISATION**

**Notification Dated 05.06.2024**

# **Mandatory Aadhaar Seeding with UAN of EPF Members for filing of ECR**

An Extension has been granted to EPF members to seed Aadhaar for filing of ECR upto 30.06.2024 in respect of certain class of Establishments i.e. Beedi making, Building and Construction and Plantation Industries and for states of Assam, Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland & Tripura.

# **EMPLOYEES' PROVIDENT FUND ORGANISATION NOTIFICATION**

**Dated: 24.06.2024**

# Discontinuation of Covid-19 Advances

A Non-refundable advance was provided to the Employees Provident Fund [EPF] members during the Covid-19 outbreak under para 68L(3) of the EPF Scheme, 1952 vide notification dated 27.03.2020 and another advance was also allowed in view of the second wave with effect from 31.05.2021. Now the EPF authorities had decided to discontinue the said advance with immediate effect. It is also notified that this notification will be applicable to the exempted trusts also.

# Modification in 'Table D' of EPF Scheme, 1995

- Pursuant to the Notification dated 14.06.2024 modifying Table D of EPF Scheme, 1995, it is now notified to consider, in cases who are not illegible for pension, the completed months of contributory service for calculation of the withdrawal benefits instead taking number of years of service as the basis of calculation.
- The Revised table is applicable for all withdrawal benefit cases settled after the date of notification irrespective of date of leaving service, in accordance with para 6A of the Scheme.
- The erstwhile Table D will continue to apply for members who have attained 58 years before 14.06.2024.

**G.O.MS. NO. 5 OF GOVERNMENT OF  
TELANGANA**

**Dated 07.06.2024**



# **Exempting IT Enabled Services and Establishments from Telangana Shops and Establishments Act**

- The Government of Telangana had exempted Information Technology Enabled Services and Information Technology Establishments from the provisions of Sections 15, 16, 21, 23 and 31 of Telangana Shops and Establishments Act, 1988 for a period of four weeks w.e.f 30.05.2024 subject to several conditions.
- A Few are listed below:
  - Weekly working hours – 48 weeks and wages for overtime.
  - Employee shall be given a weekly off.

- Permitted to engage young and women employees during night shift subject to provision of adequate security as well as to and fro transport facility.
- Careful selection of routes avoiding women employees being picked up first and dropped last.

**Notification of Government of Karnataka**  
**Dated 10.06.2024**

# Exempting Knowledge based Industries from the Standing Orders Act 1946

The Government of Karnataka has exempted IT/ ITES/ Startups/ Animation/ Gaming/ Computer Graphics/ Telecom/ BPO/ KPO/ Other Knowledge based Industries from Section 14 of the Industrial Employment (Standing Orders) Act, 1946 for a period of five years w.e.f 10.06.2024 subject to following conditions :

- Constitute Internal Committee as per Sexual Harassment at Workplace Act, 2013.
- Constitute Grievance Redressal Committee consisting of equal number of persons representing employer and employees to address any grievance of any employee.

- Intimate information about the cases of disciplinary action like suspension, discharge, termination, demotion, dismissal etc. of its employees to the Deputy Commissioner of Labour(DCL) and Commissioner of Labour(LC).
- Any information regarding service conditions of the employees sought by the DCL and LC to be promptly and fully submitted within the reasonable time fixed by the Authority.

**QUIZ!**

**Under EPF Scheme 1995, when the pay of the employee exceeds Rs. 15,000 per month, the employer's contribution can be restricted to Rs. 15,000, even if employee contributes is on the entire earned salary.**

☐ True

☐ False



ACROSS THE GLOBE



# Washington DC enacts new Wage Transparency Law

- The new wage transparency law amends the Wage Transparency Act, 2014 requires private employers to include salary information in job postings and further prohibits them from enquiring salary histories of the Applicants.
- Employers are required to include minimum & maximum projected salary or hourly pay information for all the job postings. The range shall extend from lowest to highest salary or hourly pay that the employer would pay for the advertised job.

# Conti.

- Though the old law prohibits an employer from retaliating against an employee from discussing "wages". The New law expands this protection and prohibits an employer from retaliating against an employee who discusses "Compensation".
- Employers who violate the new law may be subjected to penalties
  - upto \$1,000 for the first violation
  - upto \$5,000 for the second violation
  - upto \$20,000 for each subsequent violation.

# Federal Government passes legislation to ban Replacement Work

- Bill C-58 will repeal the existing Canada Labour Code with regard to the provision relating to the limited prohibition of replacement workers.
- Employers will be prohibited from using replacement workers or bargaining unit workers who seek to "cross the picket line," to do the work of unionised employees in a bargaining unit that is on strike or locked out.

# Conti.

- Under the new code, employers, unions and bargaining unit employees engaged in a strike or lockout must maintain services, operations of facilities or production of goods to the extent necessary to prevent an immediate and serious danger to the safety or health of the public.
- The unlawful use of replacement workers will constitute an offence resulting in fine not exceeding \$100,000 for each day if the employer is found guilty.





In Singapore, Shared Parental Leave is a statutory right. A working father, can apply to share upto 4 weeks of wife's paid Maternity Leave of 16 week, subject to wife's agreement.





**MAHANADI COALFIELDS LTD. VS BRAJRAJNAGAR  
COAL MINES WORKERS' UNION  
2024 SCC OnLine SC 270**

# **Mahanadi Coalfields Ltd. Vs Brajrajnagar Coal Mines Workers' Union 2024 SCC OnLine SC 270**

- The appeal before the Hon'ble Supreme Court arises from a writ petition filed by Mahanadi Coalfields Ltd., challenging the dismissal of their petition by the Orissa High Court. The dispute concerned the regularization of 32 workers engaged by a contractor for coal transportation, based on clauses 11.5.1 and 11.5.2 of the National Coal Wage Agreement-IV, which prohibit contract labor for jobs of a permanent and perennial nature.



## CONTINUATION ...

- After representation by the Union, the Assistant Labour Commissioner sent a notice for conciliation, and the process culminated in a settlement on 5-04-1997 under Rule 58 of the Industrial Disputes (Central) Rules, 1957. Considering that the settlement was confined to only 19 workmen, the Central Government referred the entire dispute to the Industrial Tribunal under Section 10(2A)(1)(d) of the Industrial Disputes Act, 1947 on 20-05-1997 wherein, 3 witnesses were examined by workmen and 4 witnesses were examined by the management.
- The Industrial Tribunal vide judgment dated 23-05-2002 allowed the dispute and directed regularization of remaining 13 workmen. The Tribunal proceeded with considering nature of work of 13 workmen and held that the work of removing spillages in the railway siding, below the bunker and operation of chutes (in the bunker) were regular and perennial in nature.

**Mahanadi Coalfields Ltd. Vs Brajrajnagar Coal Mines**

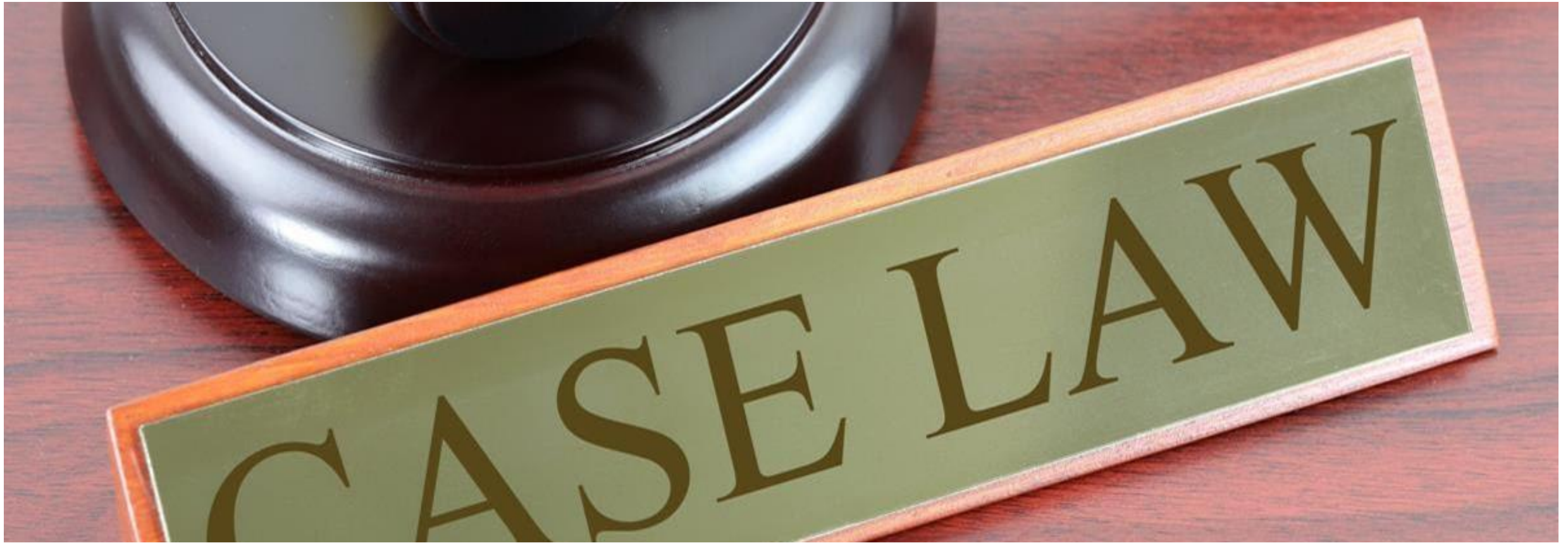
**Workers' Union**

**2024 SCC OnLine SC 270**

## CONTINUATION ...

- The Tribunal further concluded the nature of work to be perennial. The appellant Coal India's subsidiary challenged the said decision through a writ petition before the Orissa High Court which was dismissed on 11-11-2021, hence, the instant appeal.
- The Hon'ble Supreme Court held that the work performed by all 32 workers was similar and that distinctions made by the appellant were unsubstantiated. It ruled that the denial of regularization to the 13 workers was unjustified and amounted to wrongful denial of employment. Further, the workers were entitled to back wages from the date of the Tribunal's decision in 2002, considering the prolonged litigation. The appeals were dismissed accordingly, and no costs were awarded.

**Mahanadi Coalfields Ltd. Vs Brajrajnagar Coal Mines  
Workers' Union  
2024 SCC OnLine SC 270**



**RAMESH VS THE MANAGING DIRECTOR, KSRTC**  
**2024 LLR 490**

# **Ramesh Vs The Managing Director, KSRTC**

## **2024 LLR 490**

- In the case of Ramesh v. Managing Director, Karnataka State Road Transport Corporation (KSRTC), the High Court of Karnataka deliberated on the legality of forfeiting gratuity under the Payment of Gratuity Act, 1972. Ramesh, a former Assistant Engineer with KSRTC, had challenged the Corporation's decision to forfeit his gratuity following his dismissal for misconduct.

## CONTINUATION ...

- The dispute centered around an order dated 14/7/2015 issued by KSRTC under Section 4(6)(b)(ii) of the Gratuity Act, which allows for the forfeiture of gratuity in cases where an employee's service is terminated for an offence involving moral turpitude. Ramesh had been dismissed on 13.04.2015 after an enquiry found him guilty of obtaining employment through fraudulent means. KSRTC alleged that Ramesh had presented qualifications belonging to another person, thereby misleading the Corporation during his appointment process.

**Ramesh Vs The Managing Director, KSRTC**

**2024 LLR 490**

## CONTINUATION ...

- The employee challenged the order of dismissal by way of a writ petition. The Employee, represented by his counsel Sri P. Dhananjaya, contended that the forfeiture of gratuity should not be automatic and necessitated misconduct of severe nature involving moral turpitude. He argued that the reply submitted to the show cause notice regarding gratuity forfeiture had not been duly considered by KSRTC.
- On the contrary, KSRTC, asserting that Ramesh's actions constituted an offence involving moral turpitude under Section 4(6)(b)(ii) of the Gratuity Act. The Corporation maintained that Ramesh had obtained employment by submitting fraudulent documents and misrepresenting facts, which justified the forfeiture of his gratuity.

**Ramesh Vs The Managing Director, KSRTC**

**2024 LLR 490**

## CONTINUATION ...

The Hon'ble High Court of Karnataka held that KSRTC was justified in forfeiting Ramesh and the allegations against Ramesh were proven during the enquiry. These allegations included submitting false qualifications and documents belonging to another individual to secure his position at KSRTC. Such actions were deemed to constitute an offence involving moral turpitude as per Section 4(6)(b)(ii) of the Gratuity Act and the Section 4 of the Gratuity Act permits the forfeiture of gratuity in cases where an employee's conduct amounts to an offence of moral turpitude committed during employment. The appeals were dismissed accordingly.

**Ramesh Vs The Managing Director, KSRTC**

**2024 LLR 490**



# STRIKE AND PENAL WAGE DEDUCTIONS



# **STRIKE UNDER THE INDUSTRIAL DISPUTES ACT, 1947**

# STRIKE UNDER THE INDUSTRIAL DISPUTES ACT, 1947

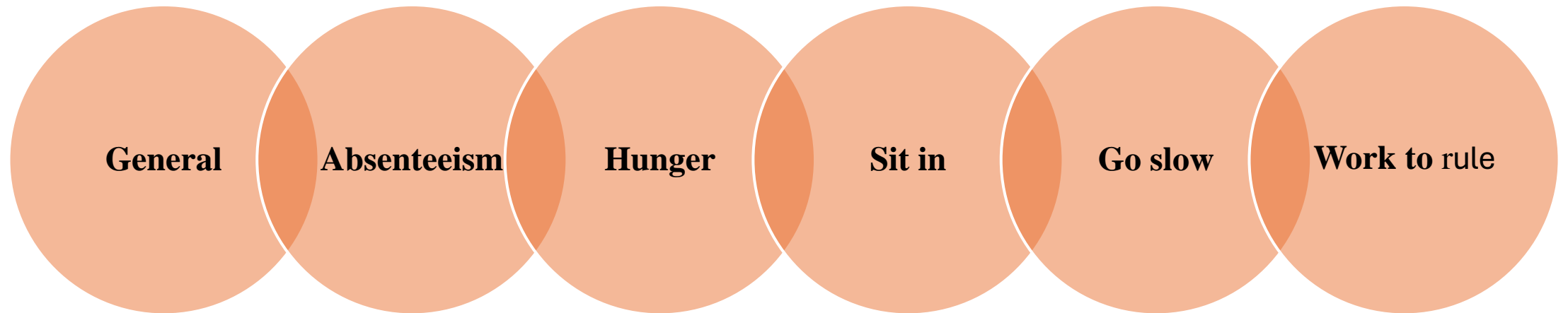
(q) “strike” means a cessation of work by a body of persons employed in any industry acting in combination or a concerned refusal, or a refusal under a common understanding, of any number of persons who are or have been so employed to continue to work or to accept employment.



# GENERAL PROHIBITION OF STRIKES

- During pendency of conciliation proceedings before a Board and seven days after the conclusion of such proceedings.
- During pendency of proceedings before a Labour Court/ Tribunal/ National Tribunal
- During pendency of arbitration proceedings before an arbitrator.
- During the tenure of an award or settlement.

# TYPES OF STRIKES



# **STRIKE UNDER THE MODEL STANDING ORDERS**

**Notice for absence from duty and penalty for absence without due notice.**—If ten or more workmen acting in concert and without giving to the employer fourteen days' notice and without reasonable cause, absent themselves from work or being present at the work spot refuse to work, each one of them shall be liable to pay to the employer in lieu of such notice an amount equal to his wages for eight days.

# Section 9 of the Payment of Wages Act, 1936

## *Deductions for absence from duty:-*

(1) Deductions may be made under clause (b) of sub-section (2) of section 7 only on account of the absence of an employed person from the place or places where, by the terms of his employment, he is required to work, such absence being for the whole or any part of the period during which he is so required to work.

(2) The amount of such deduction shall in no case bear to the wages payable to the employed person in respect of the wage-period for which the deduction is made a large proportion than the period for which he was absent bears to the total period, within such wage-period, during which by the terms of his employment, he was required to work:

Provided that, subject to any rules made in this behalf by [appropriate Government], if ten or more employed persons acting in concert absent themselves without due notice (that is to say without giving the notice which is required under the terms of their contracts of employment) and without reasonable cause, such deduction from any such person may include such amount not exceeding his wages for eight days as may by any such terms be due to the employer in lieu of due notice.

[Explanation.--For the purposes of this section, an employed person shall be deemed to be absent from the place where he is required to work if, although present in such place, he refuses, in pursuance of a stay-in strike or for any other cause which is not reasonable in the circumstances, to carry out his work].



**Can a Strike be legal but not justified?**  
**or**  
**Can a strike be illegal but justified???**

# WAGES DURING A STRIKE

- No work no pay
- Strike ought to be legal and justified.
- Strike which is illegal cannot be justifiable and thus employees would not be entitled to wages.



# **Management, Jawahar Mills, Salem Vs Industrial Tribunal, Madras., 1965 I LLJ 315 Mad**

- The management deducted two days wages of employees who resorted to strike in a public utility service. The Union raised a dispute challenging the same.
- Tribunal held that though the strike was illegal, concluded that the strike was for a reasonable cause.
- Aggrieved by the award of the Tribunal, Management filed writ petition before the Hon'ble High Court.
- Section 9 of the Payment of Wages Act, 1936 relied and discussed by the Management and also contended that what is declared by law to be an illegal strike cannot be got over and justified by a reasonable cause for the strike.

# **Management, Jawahar Mills, Salem Vs Industrial Tribunal, Madras., 1965 I LLJ 315 Mad**

- On the contrary, the counsel for the employees made their submissions relying on the principles of Section 31 (penalty for other offences) and Section 33A (adjudication on change in conditions of service of employees during pendency of proceedings) under the Industrial Disputes Act, 1947 to interpret Section 9 for the purpose of establishing reasonable cause for the strike, though illegal.
- The High Court negatived the arguments of the Union and concluded that once a strike was found to be illegal, there is no question of delving into reasonable cause for committing such strike, especially in the case of an illegal strike in a public utility service.

# **D Balaiah and Others Vs the Secretary, Indian detonators Ltd., 1975 (2) AP LJ 54**

- The question of whether an employer is entitled to deduct wages of employees under section 9(2) of the Payment of Wages Act, 1936 despite no rules being made by the State Government and whether a show cause notice should be given to employees before deducting wages was decided.
- The facts of the case are that 8 days' wages was deducted from the April month salary of the employees in the light of the strike held by them on 20th April 1970. Assailing the decision of the Management on deducting wages, the employees raised the dispute before the Authority under the Payment of Wages Act, 1936 claiming refund of the deducted amounts.
- The Authority decided the case in favour of the Management by upholding that the deductions made were in accordance with the provisions of the Act. Further, the question whether the Authority can decide the legality of the strike was also answered by the Authority stating that it was well within its powers to decide the same.

# **D Balaiah and Others Vs the Secretary, Indian detonators Ltd., 1975 (2) AP LJ 54**

- Feeling aggrieved by the order of the Authority, an appeal was filed by the employees before the Chief Judge, City Civil Court.
- The main contention raised on behalf of the employees is that in the absence of any rules under the Act, the Management is not entitled to deduct the wages. The Appellate Authority however, negated the said contention and held that rules are required to be made only in the case of breach of contract entered between the parties and not otherwise and upheld that the Management is entitled to deduct wages.
- Against the said order, review was preferred. In addition to the above contention, it was submitted that deduction of wages being a penalty imposed on the employees, notice was to be issued by the Management before deducting wages as part of compliance of principles of natural justice.

# **D Balaiah and Others Vs the Secretary, Indian Detonators Ltd., 1975 (2) AP LJ 54**

- The Court, while deciding the case turned down the interpretation given on behalf of the employees on Section 9 and held that the Management is entitled to deduct the wages in the absence of rules being made in that regard.
- As regards the second contention that notice is required, from the records, it was proved that the Management, in accordance with principles of natural justice despite not being obligated to do so, as per the Act, had issued a notice on 30th April 1970 that the "wages are being deducted" and the deduction was made only in May 1970. Based on this fact, the Court also rejected the contention of the employees as regards the notice to to be issued and thus dismissed the review petition.

# Syndicate Bank Vs. Umesh Nayak., 1994(5) SCC 572

- The question of whether the employees who resort to strike, whether legal or illegal are entitled to wages during the strike period was decided by the Constitution Bench in the light of conflict of opinions observed in three other decisions of the Apex Court as follows.
- Strike must be legal and justified to entitle the workmen to wages was held in *Churakulam Tea Estate (P) Ltd Vs Workmen.*, reported in *AIR 1969 SC 998* and in *Crompton Greaves(P) Ltd Vs Workmen.*, reported in *AIR 1978 SC 1489*.
- Whereas in *Bank of India Vs T S Kelawala.*, reported in *1990(4) SCC 744*, it was held that whether the strike is legal or illegal, the employees are not entitled to wages for the period of strike.

# Syndicate Bank Vs Umesh Nayak., 1994(5) SCC 572

- The facts of the case are that the Bank had entered into a settlement with the Employees Union to be implemented from a retrospective date. Though the employees had been pressing for implementation of the settlement, the Bank reverted stating that approval of the Government was awaited and hence, the delay in the implementation of the settlement. As no positive action was foreseen from the Bank's end, the employees' Union issued a notice that they will resort to strike in the event of the settlement not being implemented. Conciliation proceedings was initiated by the Officer upon an informal notice received regarding the strike notice sent by the Union.
- The Bank issued a circular stating that if the employees resort to strike, they will not be entitled to wages on the principle of "no work no pay" and that wages will be deducted. Despite the same, the employees went on strike and filed a writ petition to direct the Bank not to deduct wages.

# **Syndicate Bank Vs Umesh Nayak., 1994(5) SCC 572**

- The contention before the High Court by the Bank was that there existed an industrial dispute for want of approval from the Government for implementation of the settlement and thus the act of the employees resorting to strike during the pendency of the conciliation proceedings was illegal.
- On the contrary, the contention made on behalf of the employees was that there was no industrial dispute pending in the light of the settlements having been signed by the parties.
- The Single Bench upheld the submissions made by the Bank and held that the strike was illegal. However, an appeal was preferred by the Employee's Union before the Division Bench which reversed the decision of the Single Bench and held that there was no industrial dispute as the facts reveal that approval from the Government was not a precondition before entering into settlement.



# **Syndicate Bank Vs Umesh Nayak., 1994(5) SCC 572**

The Apex Court, before deciding the case traversed into the reasonings arrived at in the conflicting decisions elaborately to answer the following issues;

- Whether the employees who resort to strike, irrespective of being legal or illegal are entitled to wages ?
- Whether a strike has to be legal and justified to entitle the employees to receive wages ?
- Whether the High Court has powers to look into the facts and decide that the strike was legal and justified?
- Whether a strike which is illegal can be justified?

# **Syndicate Bank Vs Umesh Nayak., 1994(5) SCC 572**

- The Bench decided that the High Court exceeded its powers by recording its findings on the question of legality and justifiability which is well within the powers of an industrial adjudicator.
- As regards the question of deduction of wages, the Bench concurred with the decision of the Apex Court in T S Kelawala and held that irrespective of whether the strike was legal or illegal, the wages of the employees who resorted to strike are liable to be deducted.



LexPOSH



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ABHILASHA DWIVEDI VS  
DEPARTMENT OF WOMEN &  
CHILD DEVELOPMENT

*W.P. (CRL) 1639/2019 & CRL.M.A.  
11919/2019 ON 19 NOVEMBER  
2019*

# **Abhilasha Dwivedi vs Department of Women & Child Development**

***W.P. (Crl) 1639/2019 & Crl.M.A. 11919/2019 on  
19 November 2019***



LexPOSH

- **FACTS** : The Petitioner worked as a Psychologist at the Observation Home for Boys-II (OHB-II) under an NGO. The Petitioner alleged harassment by PK, the superintendent of OHB-II, citing inappropriate behavior including undressing in front of female staff, demanding their company without reason, engaging in vulgar conversations, and creating a hostile work environment.
- Despite reporting these incidents to the Delhi Commission for Women and uploading her complaint on the "She Box" portal, she received no response.



## **Abhilasha Dwivedi vs Department of Women & Child Development**

***W.P. (Crl) 1639/2019 & Crl.M.A. 11919/2019 on 19 November 2019***

When notified of her transfer to another facility where PK had visited recently, she requested to stay at OHB-II until her complaint was resolved. An Internal Complaint Committee (ICC) was formed, but she received an email from the ICC stating "we will not help you." This prompted her to file a petition seeking remedies.

- The Delhi High Court reviewed the case and observed that the email stating "we will not help you" was inadvertently sent to all email addresses and not specifically intended for Abhilasha Dwivedi.

**Abhilasha Dwivedi vs Department of Women & Child  
Development**  
*W.P. (Crl) 1639/2019 & Crl.M.A. 11919/2019 on 19 November  
2019*



The court differentiated between instances of PK shouting at her in anger and acts constituting sexual harassment. It noted that her allegations lacked substantiation and were of a general nature, with some not matching her initial complaint's details. The court highlighted the importance of substantiating allegations in cases of sexual harassment under the law.

# Abhilasha Dwivedi Vs Department of Women & Child Development

*W.P. (Crl) 1639/2019 & Crl.M.A. 11919/2019 on 19 November 2019*



LexPOSH

**CONCLUSION:** The Delhi High Court dismissed the Petitioner's petition while providing the legal analysis and clarifications. The ruling underscores the distinction between hostile work environments stemming from anger and those rooted in sexual harassment as defined by the Law. Additionally, it emphasizes the importance of substantiating allegations when filing complaints of sexual harassment. Lastly, the court acknowledges the authority of organizations in deploying human resources and suggests avenues for addressing concerns related to workplace conditions.



**QUIZ!**

**Under EPF Scheme 1995, when the pay of the employee exceeds Rs. 15,000 per month, the employer's contribution can be restricted to Rs. 15,000, even if employee contributes is on the entire earned salary.**

☒ **True**

☐ False



REPORTING PERIOD – JULY 2024

Act	State	Due Date	Activity
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-Jul	PF Remittance
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-Jul	IW Returns
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	25-Jul	Monthly Returns-For Exempted Employer Under EDLI Scheme (FORM 7(IF)
Employees State Insurance Corporation Act	Pan India	15-Jul	ESIC Remittance
Professional Tax Act	Andhra Pradesh	10-Jul	Professional Tax Remittance cum Return
	Telangana	10-Jul	Professional Tax Remittance cum Return
	Madhya Pradesh	10-Jul	Professional Tax Remittance
	Gujarat	15-Jul	Professional Tax Remittance
	Jharkhand	15-Jul	Professional Tax Remittance cum Return (15th of each Quarter (Apr, Jul, Oct, Jan)
	Karnataka	20-Jul	Professional Tax Remittance cum Return
	West Bengal	21-Jul	Professional Tax Remittance
	Maharashtra	31-Jul	Professional Tax Remittance cum Return
	Odisha	31-Jul	Professional Tax Remittance cum Return
	Assam	31-Jul	Professional Tax Remittance cum Return
	Nagaland	31-Jul	Professional Tax Remittance
	Meghalaya	31-Jul	Professional Tax Remittance
	Mizoram	31-Jul	Professional Tax Remittance
	Pondicherry	15-Jul	Professional Tax Remittance (Employer & Employee)
	Sikkim	31-Jul	Professional Tax Remittance
	Manipur	31-Jul	Professional Tax Remittance
	Tripura	31-Jul	Professional Tax Remittance
Kerala Shops & Commercialized Establishments Workers Welfare Fund Act	Kerala	05-Jul	WWF Remittance
Kerala Shops & Commercialized Establishments Workers Welfare Fund Act	Kerala	15-Jul	WWF Return
Labour Welfare Fund	Delhi	15-Jul	Remittance
Labour Welfare Fund	Maharashtra	15-Jul	Remittance
Labour Welfare Fund	Goa	15-Jul	Remittance
Labour Welfare Fund	Gujarat	31-Jul	Remittance
Labour Welfare Fund	Madhya Pradesh	31-Jul	Remittance
Labour Welfare Fund	Chattisgargh	31-Jul	Remittance
Labour Welfare Fund	Odisha	31-Jul	Remittance
Labour Welfare Fund	West Bengal	15-Jul	Remittance

**Let's Connect again at  
5PM on 1st August, 2024**



*Thank  
you*



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