

# LABOUR LAW MONTHLY UPDATE

**JUNE 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 & Ordinance

Circulars and Notifications

Across the Globe

Did you know

Case Law

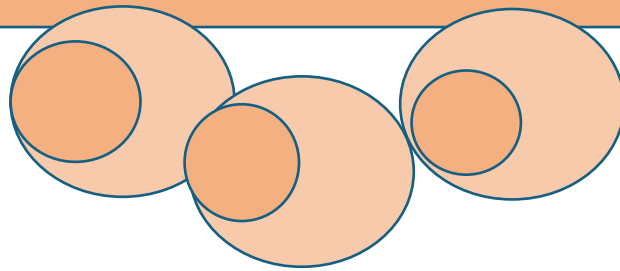
Compliance

Knowledge Corner



# AMENDMENTS AND ORDINANCE

# Circulars and Notifications



**Approval of rate of interest on EPF  
accumulations for Financial year 2023-2024  
Dated: 24.05.2024**

# Approval of rate of interest on EPF accumulations for the financial year 2023-2024

- The Central Government has given approval under para 60(1) of the Employees' Provident Fund Scheme, 1952 for crediting of interest @8.25% on the Employees' Provident Fund accumulations for the financial year 2023-2024 to the account of each member of the scheme.
- The EPFO has increased the interest rate to 8.25% for 2023-2024 from the previous years rate of 8.15%.

**Removal of mandatory uploading of the image of cheque  
leaf/attested bank passbook for facilitating speedy settlement  
of EPF claims**

**Dated: 28.05.2024**



# Removal of mandatory uploading of the image of cheque leaf/attested bank passbook for facilitating speedy settlement of EPF claims

- The Employees' Provident Fund Organisation has decided to relax the requirement of mandatory uploading of the image of cheque leaf and the attested bank passbook for the settlement of EPF claims.
- The claims will be processed through different verification techniques such as
  - Online Bank KYC Verification - Verification of Banks KYC Directly or via National Payments Corporation of India's KYC details directly
  - Verification of employers vis DSC
  - Verification of seeded Adhaar Number
- As most of the claims are being rejected due to non-uploading of image of cheque leaf, in order to facilitate speedy settlement EPFO has come up with relaxation of uploading of copy of cheque leaf or passbook.

**Order regarding deposit of fee for license to Private Placement  
Agencies providing workers under contract labour**

**Dated: 02.05.2024**

## **Order regarding deposit of fee for license to Private Placement Agencies providing workers under contract labour**

- The office of the Commissioner of Labour has facilitated online services of grant of license to Private Placement Agencies who provide contract labourers.
- The respective account functionaries who apply for license must deposit a license fee of Rs.5000/- in the Head 0230 Labour and Employment 00106 fees under contract Labour (Regulation and Abolition Rules).

**New Email ID for NPS related matters of EPFO**

**Dated: 03.05.2024**

# New Email id for NPS related matters of EPFO

- A separate mail id has been created for addressing NPS related matters of EPFO (i.e) [epfohq.nps@epfindia.gov.in](mailto:epfohq.nps@epfindia.gov.in). Any references of NPS related matters shall now be forwarded to the said email-id.

# **Nomination of Nodal officer and complaint officer to address the grievance of transgender person**

**Dated: 09.05.2024**

# **Nomination of Nodal officer and complaint officer to address the grievance of transgender person**

- The Deputy Labour Commissioner vide his order dated 09.05.2024 has nominated the Head of Office as Nodal Officer for providing information on transgender persons &
- The Section Officer (Admin) as Complaint Officer to deal with the grievance of transgender persons.

QUIZ!



The provisions of the Factories Act, 1948 mandate the employer to paint and refurbish the factory once in every ..... ?

- ❑ 3 years
- ❑ 5 years
- ❑ 7 years



ACROSS THE GLOBE

# Can Employees demand that they should be allowed to wear their trade Union uniform to workplace?

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- A Judge recently held that a popular coffeehouse violated Federal Labor Law by preventing its workers at Staten Island, New York store from wearing Union shirts while allowing other non-standard attire.
- The ruling was followed by a complaint from Workers United, which represented the employees after their Union vote in September 2022. The dispute intensified when the store manager enforced the dress code against Union shirts and stickers about store closures, leading to Unfair Labor Practice allegations.
- The Judge determined that the restriction on Union shirts and stickers violated the National Labour Relations Act as these were union activities protected by law.

# Singapore Employers to consider Flexible Working Requests

- Workers in Singapore can request for Four-day work weeks i.e. more work-from-home days and staggered work timings. Employees will also be entitled to ask for other arrangements such as flexible work locations come the end of this year.
- This new guideline requires all firms in Singapore to set up a process for employees to submit a formal flexible-working arrangement request.
- Employers can reject the request on the grounds that it would result in significant worsening of productivity, a significant increase in cost or unfeasibility given the nature of work. However, companies cannot reject a request on the basis that it runs counter to a firm's traditions or management does not believe in such flexible work styles.





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### **Stepping up to beat the Heat???**

- Companies are implementing initiatives to safeguard employees from relentless heatwaves.
- Companies have introduced flexible working hours.
- Have launched 'BeatTheHeat' campaign to remind employees of essential rules for staying safe and healthy.
- Have made arrangements to take discussions online, putting up of Hydration stations and awareness campaigns on heat exhaustion.



**TAMIL NADU MEDICAL SERVICES CORPORATION LIMITED VS TAMIL  
NADU MEDICAL SERVICES CORPORATION EMPLOYEES WELFARE  
UNION & ANR.**

**2024 SCC OnLine SC 982**



**TAMIL NADU MEDICAL SERVICES CORPORATION LIMITED VS TAMIL NADU MEDICAL  
SERVICES CORPORATION EMPLOYEES WELFARE UNION & ANR.  
2024 SCC OnLine SC 982**

- The issue in the present case was that whether the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981 ("the Act") would apply to the employees working in the Corporation and whether the Corporation comes within the term "industrial establishment" under the Act?
- The employees of the corporation approached the Inspector of Labour under the Act. The Inspector of Labour granted permanent status to the workmen. Challenging the order of the Inspector of Labour, the Corporation filed Writ Petition. The Hon'ble High Court disposed the Writ Petition by concluding that the Act would apply to the Corporation but however remanded the matter back for fresh consideration. This order was also challenged by the Corporation by way of a Writ Appeal.
- On remand the Inspector of Labour passed orders granting permanent status to the workmen on the ground that the workmen were continuously engaged for 480 days in 24 calendar months.



- Challenging the order of IOL, the Corporation again filed a Writ Petition. Both the Writ Petition and the Writ Appeal preferred by the Corporation was disposed by a common order directing the corporation to provide employment to workmen.
- The Corporation approached the Hon'ble Supreme Court. The Hon'ble Supreme Court by order dated remanded the matter back to the Hon'ble High Court to decide on whether the act would apply to the workmen.
- On remand the Hon'ble High Court on independent analysis of the facts held that the Act would apply to the Corporation. Challenging the said the Corporation approached the Hon'ble Supreme Court and contented that the Act would not apply to the Corporation as the Corporation does not falls within the definition of "commercial establishment", as defined under the Act.
- It was further contention of the Corporation that certain workmen have taken employment in private establishment and hence the Corporation could not be fastened with the liability to provide employment to the workmen. Further it was the contention of the Corporation, if the workmen is aggrieved by the disengagement, the same shall be challenged before the Labour Court under Industrial Disputes Act, 1947.
- The Union representing the workmen contented that the order of the Inspector of Labour had declared the eligibility of the workmen for grant of permanent status and hence there is no requirement to raise a separate Industrial Dispute questioning the non-employment.
- The Hon'ble Supreme Court held that the Corporation would fall under the term "commercial establishment" since the activities undertaken by the Corporation are for making some monetary gain.

## CONTI...

- The Hon'ble Supreme Court held that the Act would apply to the Corporation and negated the contention of the Corporation that Act would not apply to the workmen since they were employed in construction activities. The Hon'ble Supreme Court held that the Corporation cannot wash its hands off the responsibilities under the Act, since the construction to be undertaken by the Corporation is only one of the many activities to be undertaken by it.
- The Hon'ble Supreme Court further held since the issue is already decided that the Act would apply to the Corporation, the Hon'ble High Court ought not to have disturbed the order of the Inspector of Labour and allowed the claim of the workmen and dismissed the case of the Corporation.



**THE ZONAL MANAGER, CENTRAL BANK OF INDIA  
Vs. P.SHANMUGASUNDARAM  
WRIT APPEAL NO. 548 OF 2021**

# THE ZONAL MANAGER, CENTRAL BANK OF INDIA VS P.SHANMUGASUNDARAM WRIT APPEAL NO.548 OF 2021

- The Appellant, a nationalized bank, preferred an appeal against a decision regarding the employment status of the 1st respondent, who worked as a driver for one of the bank's executives in their personal capacity. The 1st respondent sought regularization of his service with the bank through a trade union, claiming an employer-employee relationship existed between the Bank and Him.
- The Appellate Tribunal rejected the plea for absorption into the bank's services, stating that no order of appointment was issued by the bank, thus implying no employer-employee relationship existed between the bank and the 1st respondent. Later, the 1st respondent, upon attaining the age of superannuation, filed a petition under the Payment of Gratuity Act, 1972 seeking gratuity benefits. The contention was that even though there was no formal order of appointment or relieving letter issued by the bank, the 1st Respondent engagement was approved by the Controlling authority. Hence he is entitled to gratuity.

## CONTINUATION...

- The appellant bank argued that since no employer-employee relationship was established, the 1st respondent was not entitled to gratuity under the provisions of the Act.
- The court considered the submissions of both parties and referred to a judgment of the Hon'ble Supreme Court of India in Punjab National Bank Vs. Ghulam Dastagir (1978) 2 SCC 358. The court emphasized that the crucial test to determine the employer-employee relationship is who exercises control and supervision over the workman. Based on this test, the court concluded that although an employer-employee relationship did not exist between the bank and the 1st respondent, the employment of the 1st respondent as a driver was established as Bank has a ***certain allowance*** to facilitate the Area Manager.

## CONTINUATION...

- The Hon'ble High Court of Madras directed the bank to pay an ex-gratia amount of Rs. 75,000 to the 1st respondent within six weeks.
- Factors that lead to the relief:-
  - Employment of driver was approved by the Bank
  - The Bank has certain allowance facilitated to the Area Manager
  - Cost of petrol, oil and maintenance fell within financial responsibility of the Bank.
  - The Manager paid salary of the drive only based on the allowance provided by the Bank.



# Can a dismissed employee seek interim relief?

# **Whether the Labour Court/Tribunal has power to Grant an Interim Relief?**



**The Management of Hotel Imperial, New Delhi**  
**Vs.**  
**Hotel Workers' Union**  
**1959 AIR 1342**

# The Management of Hotel Imperial, New Delhi Vs. Hotel Workers' Union

## 1959 AIR 1342

- The Management decided to dismiss 22 of their workmen who were found guilty of misconduct following enquiries held by them and suspended them pending application made under Section 33 of the Industrial Disputes Act asking permission to dismiss the workmen. There were disputes between the Imperial and their employees pending before the Government for consideration of reference and it was ordered. The reference also included the adjudication regarding the 22 workmen.
- The workmen made applications under Section 33A that they were suspended without pay indefinitely constituting breaching of Section 33 and filed applications for interim relief before the Industrial Tribunal which ordered to give wages plus sum of Rs. 25 for food expenses. The Management made an appeal to the Labour Appellate Tribunal challenging the interim relief which got dismissed. Thereupon the hotel made a SLP to the Supreme Court.
- The Supreme Court held that under Section 10(4) of the Industrial Disputes Act 1947, interim relief where it is admissible can be granted as a matter incidental to the main question referred to the Tribunal, even if the question of interim relief has not been referred to it in express terms. It was held that the Labour Court or the Tribunal must grant an interim relief.

**ITC Ltd Vs. Presiding Officer & Anr.**  
**1996 SCC Online Kar 749**

## **ITC Ltd Vs. Presiding Officer & Anr. 1996 SCC Online Kar 749**

- The Management of ITC dismissed the respondent employee from service after holding an enquiry. An application under Section 10(4)(A) was filed by the employee stating that the conduct of enquiry is bad in law. The Labour Court held that the enquiry is unfair and granted payment of last drawn salary from the date of setting aside the enquiry as interim relief because the employee is not gainfully employed. On appeal by the Management against the order of Labour Court granting interim relief, the Karnataka High Court concurred with the order of the Labour Court.
- Referring to the Supreme Court's decision in the Hotel Imperial case, the High Court said that the power of the Labour Court or the Industrial Tribunal under Section 10(4) is the incidental power and can grant interim relief.

**Manager, Jaipur Syntex Ltd. Vs. P.O. Industrial  
Tribunal & Ors.  
1987 SCC Online Raj 327**

# Manager, Jaipur Syntex Ltd. Vs. P.O. Industrial Tribunal & Ors.

## 1987 SCC Online Raj 327

- In this case, the Industrial Tribunal had granted interim relief on 14.10.1986 to 10 workmen who were dismissed from service in reference under Section 10(1) made by the Government for adjudication in respect of the justification and legality of the dismissal.
- The Rajasthan High court concurred with the finding of the Tribunal in awarding the interim relief holding that the Tribunal went into the question of interim relief only after addressing the objection raised by the Petitioner and after finding the conduct of domestic enquiry was against natural justice and without proper enquiry. Further it's no wrong to decide the interim relief in the same order deciding the fairness of enquiry. It also said that the issue of interim relief is an incidental matter that can be decided under Section 10(4) of the Act
- But the court said that the interim relief will be applicable only from the date of application and not from the date of dismissal. Further to the objection of the petitioner that the Tribunal should not have granted interim relief by way of interim award, the court opined that it doesn't make any difference except that like any other award, the interim award becomes effective after 30 days of publication whereas the interim order will be effective from the date it is made.

**Bharat Co-Operative Bank Ltd. And Anr. vs K.L.  
Baria, Judge, Labour Court And Anr.**

**(1998) 1 GLR 850**

# Bharat Co-Operative Bank Ltd. And Anr. vs K.L. Baria, Judge, Labour Court And Anr.

- The Respondent employees were working as peon and Clearing clerk respectively. The Bank terminated the two employees for money misappropriation without conducting enquiry for the bank has lost faith and confidence. The relationship of the bank and employee is governed by the Bombay Industrial Relations Act, 1946. The Industrial Court under the said act had granted subsistence allowance for the Respondents which was challenged by the Petitioner in the Gujarat High Court.
- The Court held that if for any misconduct the inquiries are to be dispensed with and the employees are straightway discharged from their services, it would amount to denying the opportunity to defend to the employees. It was open to the employer to suspend the employee by which he would have received subsistence allowance until the charge was established. However, if the employer chooses not to hold inquiry and straightaway dismisses the employee, this protection to receive the subsistence allowance until the charge is proved has got to be extended to the employee. In a situation like this, it is necessary that the Court should grant an amount equivalent to subsistence allowance during the pendency of the proceeding in the Labour Court.



**Nortanmal Joshi Vs. Rajasthan State Transport  
Corporation & Anr.**

**SB Civil Writ Petition No. 15809 of 2012**

# **Nortanmal Joshi Vs. Rajasthan State Transport Corporation & Anr.**

## **SB Civil Writ Petition No. 15809 of 2012**

- The issue before the Rajasthan High court was whether a dismissed employee is entitled to interim relief during the pendency of approval application under Section 33(2)(b) if the ID Act?
- The Rajasthan High Court held that the employee is not entitled to subsistence allowance during the pendency of the approval application by taking relevance from the laid position that if the approval of the dismissal is granted despite the enquiry is held to be unfair, the date of dismissal would be the original order of dismissal, thereby it would not be right for a dismissed employee to receive interim benefits subsequent to the order of dismissal and more so if the approval is not granted, the employee is safeguarded as he would be entitled to all the benefits.
- That employee who is suspended alone will have the benefit of interim relief as the employer-employee relationship continue to exist after suspension.

**M/s. Nettekallappa Aquatic Centre Vs. Saleem Javed**

**Writ Petition No. 21615 of 2022**

# M/s. Nettakallappa Aquatic Centre Vs. Saleem Javed

## Writ Petition No. 21615 of 2022

- The Management appointed that the respondent as Pool Manager on 03.12.2018. He was initially put on probation for a period of one year, reserving the right to extend the probation. The respondent has stopped working from 11.11.2019. The respondent contended that he was orally terminated on 02.11.2019 and later was issued a termination letter dated 11.11.2019. But the Management contended that the respondent tendered resignation on 02.11.2019 and therefore his termination was considering his resignation. The Respondent commenced proceedings under Section 10(4) of the ID Act, but the petitioner preliminary objected that the respondent is not a workman.
- The respondent asked for interim relief for subsistence allowance which was allowed.
- The Karnataka High court considered whether the Labour court erred in exercise of its jurisdiction in allowing the respondents application without framing Preliminary issue and enquiry in that regard.
- The court held that the labour court without considering the preliminary issue by allowing parties letting in evidence cannot assume jurisdiction. It also further held that respondent can either request for an inquiry to decide the jurisdiction question and a simultaneous decision on the interim relief or final adjudication of the main application on merits.

# **The Management of MRF Limited Vs. V. Paramasivam & Anr.**

**Writ Appeal No. 437 of 2000**

## **Whether a dismissed workman by the management seeking to quash the order of dismissal is entitled to seek interim direction for payment of 50% of his last drawn wages as subsistence allowance?**

- Neither that show-cause notice, nor notice of enquiry have been served on the employee
- Opportunity to take part in the enquiry after adequate notice of enquiry as warranted under law
- Absolute denial of opportunity
- violation of the principles of natural justice



LexPOSH



LexPOSH

Anita Suresh vs Union Of India & Ors

2019 LLR 947 (Del HC)



## **Anita Suresh vs Union Of India & Ors on 9 July, 2019 LLR 947 (Del HC)**

- The petitioner was working as an Assistant Director with ESI Corporation. The petitioner made a written complaint to the Director General of ESI Corporation alleging sexual harassment against respondent No.3.
- The petitioner is seeking a direction to withhold the retirement benefits of Delinquent and to initiate independent departmental enquiry against him based on the complaint made by the Petitioner.
- Respondent No.1 constituted an Internal Complaints Committee, the Respondent has denied all the allegation made against him. According to the Respondent, the Petitioner has made a false complaint against him.
- The IC was unable to find out the exact content of communication, the IC has recommended relocating both the complainant and the Respondent.

## **Anita Suresh vs Union Of India & Ors on 9 July, 2019 LLR 947 (Del HC)**

- The Committee further added that it is not believable that the petitioner would not remember the names of any colleague/staff member. The Committee examined all the persons who were on duty on that day, but no persons supported the allegations of the petitioner. The petitioner has not mentioned the alleged comments of respondent No. 3 in the complaint on the ground of modesty. The petitioner did not even disclose the alleged comments before the Committee. No reason or justification has been given by the petitioner for not disclosing the same before the Committee. The entire complaint of the petitioner appears to be false and has been filed with some ulterior motive.”
- Conclusion : The Hon'ble High Court of Delhi has dismissed a writ petition filed by the petitioner and has passed an order directing the petitioner to pay a fine of INR 50,000 for filing a false complaint and misusing the provisions of the POSH Act.

QUIZ!

**The provisions of the Factories Act, 1948 mandate the employer to paint and refurbish the factory once in every ..... ?**

- ☐ 3 years
- ☒ 5 years
- ☐ 7 years



**REPORTING PERIOD - MAY-2024**

Act	State	Due Date	Activity
<b>Employees Provident Fund &amp; Miscellaneous Provisions Act</b>	Pan India	15-Jun	PF Remittance
<b>Employees Provident Fund &amp; Miscellaneous Provisions Act</b>	Pan India	15-Jun	IW Returns
<b>Employees Provident Fund &amp; Miscellaneous Provisions Act</b>	Pan India	25-Jun	Monthly Returns-For Exempted Employer Under EDLI Scheme (FORM 7(IF))
<b>Employees State Insurance Corporation Act</b>	Pan India	15-Jun	ESIC Remittance
<b>Professional Tax Act</b>	Andhra Pradesh	10-Jun	Professional Tax Remittance cum Return
	Telangana	10-Jun	Professional Tax Remittance cum Return
	Madhya Pradesh	10-Jun	Professional Tax Remittance
	Gujarat	15-Jun	Professional Tax Remittance
	Karnataka	20-Jun	Professional Tax Remittance cum Return
	West Bengal	21-Jun	Professional Tax Remittance
	Maharashtra	30-Jun	Professional Tax Remittance cum Return
	Odisha	30-Jun	Professional Tax Remittance cum Return
	Assam	30-Jun	Professional Tax Remittance cum Return
	Nagaland	30-Jun	Professional Tax Remittance
	Meghalaya	30-Jun	Professional Tax Remittance
	Mizoram	30-Jun	Professional Tax Remittance
	Sikkim	30-Jun	Professional Tax Remittance
	Manipur	30-Jun	Professional Tax Remittance
	Tripura	30-Jun	Professional Tax Remittance
<b>Kerala Shops &amp; Commercialized Establishments Workers Welfare Fund Act</b>	Kerala	05-Jun	WWF Remittance
<b>Kerala Shops &amp; Commercialized Establishments Workers Welfare Fund Act</b>	Kerala	15-Jun	WWF Return

**Let's Connect again at  
On  
5PM on 4<sup>th</sup> July, 2024**



*Thank  
you*



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