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AN OVERVIEW OF THE SUPREME COURT JUDGEMENT ON PF PENSION

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The Honourable Supreme Court passed a verdict on 04th Nov 2022 regarding the PF pension. An overview of the Judgement and its impact is given below:

Current scenario: The EPFO accepts contributions to EPS at 8.33% of salary with a ceiling of Rs.15000 only, and the pension is also given based on Rs. 15000 per month. The ceiling was earlier set at Rs. 6500. As per the PF Act amendment dated 1st Sept 2014, the employees who joined after 1st Sept 2014, (first time under PF membership or closed their Pension Account) and whose basic wage is above Rs.15000 shall not be part of the Pension Scheme and the entire contribution shall be contributed under the EPF A/c No.1 (for both employer and employee). However, the employees who are already covered under EPF/EPF scheme pension shall be continued.

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A brief on Voluntary Higher EPS: Employees who were existing EPS members as on September 1, 2014, can contribute up to 8.33% of their 'actual' salaries as against 8.33% of the pensionable salary capped at Rs 15,000 per month towards pension. This would essentially imply a higher annuity after retirement. The court has also given the option of pension on higher earnings to subscribers of exempted provident fund trusts. The Judgement will not have any financial impact on employers.

A brief on the judgement by Supreme Court:

- Supreme Court has given 8 weeks for the EPFO to make the directives as per the judgement, an official notification from EPFO is awaited on further steps.
- Supreme Court holds the requirement of the members to contribute 1.16% of the salary exceeding Rs.15,000 to be invalid. However, this part of the judgement is kept in suspension for 6 months.
- Employees who retired before September 1, 2014, without exercising the option will not be entitled to the benefit of the judgement.
- Employees who could not exercise the option due to the cut-off date shall be given a further chance of 4 months to exercise the option.
- Members who did not exercise the option as it was before September 1, 2014, shall be eligible to exercise the option under Sec 11(4).
- For the six months or till such time any amendment is made, whichever is earlier, the employee's contribution shall be as a stop-gap measure and the said sum shall be adjustable based on the alteration to the scheme that may be made.
- The judgement shall apply to exempted establishments in the same manner as regular establishments.



A brief on action to be taken by employees:

- Employees who retired before 01.11.2014 without exercising the option under para 11(3) would not get benefits extended in the judgement.
- Employees who retired before 01.11.2014 by exercising the option under para 11(3) shall be covered by the provisions as they stood before the amendment of 2014.
- Members who do not exercise option under 11(3) would be entitled to exercise option under 11(4) within 4 months.
- Employees who have been contributing to restricted PF before 01.09.2014 and now have changed to actual PF remittance would not get benefits extended in the judgement.
- In the current establishment, if the employee is entitled to a Voluntary Higher pension and has opted for it and later is moving to a new employer, it is the employee's responsibility to keep the new employer informed about this to arrive at the pension treatment without a ceiling.

The Beneficiaries of this judgement are:

- Employees who have been members of the Provident Fund Scheme before 01.09.2014.
- Those who have earned basic wages exceeding the ceiling limit, and,
- Those who have been contributing their entire basic wages over and above the ceiling.

A brief on tax impact:

- Pension income is taxable income. Hence, by increasing the annuity and monthly pension, the applicable Income Tax slab rate shall apply.
- Employee PF and Employer PF alone attract the rate of interest, and EPS contributions do not attract any interest rate as declared by EPFO body.

The Honourable Supreme Court Judgement gives way for the employee to decide from the investment point of view and is not directly linked with the compliances. Based on the employee's decision, the company can facilitate filing the Joint Declarations and processing the EPS calculations. The judgement, however, does not affect employers or the industry as a whole. The impact is primarily for the Voluntary Higher EPS enrolled/willing employees. Official communication from the EPFO will help companies decide on a further course of action.

WHAT IF GOVT RAISES CAP ON EMPLOYEES' PROVIDENT FUND ORGANISATION (EPFO) WAGE CEILING

The government is likely to revise the wage ceiling for the Employees' Provident Fund Organisation's (EPFO) flagship retirement saving scheme. As of now, the wage limit of the Employees' Provident Fund (EPF) scheme is ₹15,000 per month. A committee will be set up to determine a higher wage ceiling, The Economic Times reported. If the wage ceiling is revised, this will increase the mandatory contribution by both employees and employers. An employer makes a matching contribution of 12 percent of the workers' basic salary towards provident fund while the government contributes 1.16 percent to the Employees' Pension Scheme for every worker, with the wage ceiling fixed at ₹15,000. Of the employers' share of 12 percent, 8.33 percent goes into the pension account of the beneficiary.



Wage ceiling under the EPFO has been revised only eight times since the inception of the scheme in 1952. It stood at ₹300 in 1952, ₹500 in 1957, ₹1,000 in 1962, ₹1,600 in 1976, ₹2,500 in 1985, ₹3,500 in 1990, ₹5,000 in 1994, ₹6,500 in 2001 and ₹15,000 since 2014 onwards.

EPFO is India's principal organisation responsible for offering social security coverage to the organised sector workforce under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. It offers a number of services to its members including a provident fund, pension benefits to the members on their retirement and family pension and insurance benefits to their families in case of the untimely death of the member.

The Employees Provident Fund Organisation (EPFO) provisional payroll data released on Sunday showed that the EPFO has added 16.82 lakh net subscribers in the month of September 2022, which is an increase of 9.14 per cent in net membership as compared to the corresponding month during last year, 2021. As compared to the monthly average that was recorded during the last fiscal, the net enrolment during the month is 21.85 per cent higher.

According to the Ministry of Labour and Employment, around 2861 new establishments have started complying with the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ensuring social security cover to their employees.

Source : Live Mint

GRATUITY CANNOT BE ADJUSTED TOWARDS LOAN ACCOUNT: KARNATAKA

The gratuity amount of an employee cannot be adjusted toward his/ her loan account, the Karnataka HC has ruled recently. Rejecting a petition filed by Canara Bank, Justice Suraj Govindaraj has pointed out that there is a special treatment for payment of gratuity both under the Payment of Gratuity Act and under the Code of Civil Procedure, 1908. "Gratuity has been given a special protection and special treatment inasmuch as it is made absolutely clear that the gratuity amounts can neither be attached nor can any garnishee order be passed," the judge has added. Garnishee order means a legal order issued to recover money from an individual's wages towards the money he or she owes. Canara Bank had sought to defend its action to adjust a sum of ₹9.85 lakh towards housing loan & a sum of ₹1.29 lakh on account of Staff Welfare Fund liability from the gratuity to be paid to D Shrimantha Pujari, a former employee.

Bank acted unilaterally: Court

Dismissing the petition, judge has noted that home loan occupies a completely different position as it would be governed by the terms of the loan agreement which is a commercial transaction between the bank and the debtor. "Whether the debtor is an employee or not, it is the said terms of the loan that would govern the said relationship. In the present case, admittedly, there is no demand made for repayment of housing loan interest by the bank on the employee and/or after his expiry on his legal heirs/legal representatives. The bank has acted unilaterally on the basis of an alleged authorization," Justice Suraj Govindaraj has said, while directing the petitioner bank to comply with the directions issued by the Appellate Authority under the Payment of Gratuity Act.

Shrimantha Pujari joined the bank as a peon in March 1975. Later, he was promoted as a clerk in 1987. During his service, he obtained a housing loan and was repaying the same from time to time. In 2005, disciplinary proceedings were initiated against him for misconduct. In 2006, punishment of compulsory retirement was imposed upon him. The appeal filed by him was also rejected in August 2007. He then moved the Central Government Industrial Tribunal. During the pendency of the proceedings, Pujari expired and was replaced in the proceedings by his legal heirs, wife M Shantha Kumari and their children. The application filed by Shrimantha Pujari for release of gratuity amount was also rejected by the Controlling Authority in December 2017, holding that the bank was right in adjusting the gratuity amount to home loan and staff welfare fund. Shantha Kumari then challenged the order. On October 21, 2019, the Appellate authority set aside the order of the Controlling Authority and directed the bank to pay the gratuity along with interest at 10% per annum till the actual date of payment.

Source : Times Of India

GOOD NEWS FOR ESIC SUBSCRIBERS: CLAIMING MATERNITY BENEFITS BECOMES EASIER WITH NEW ONLINE PORTAL

In good news for Employees' State Insurance Corporation of India (ESIC) subscribers, claiming maternity benefits will become easier as the corporation has come out with an online portal for the same. Union Minister of Labour & Employment Bhupender Yadav launched the ESIC online maternity benefit claim facility during the commemoration of the 102nd birth anniversary of Dattopant Thengadi at Vigyan Bhawan, New Delhi.



Speaking on this occasion, Yadav lauded the efforts of ESIC for the initiative of using technology for easing the lives of Insured Women. He said that this portal will make the benefits easily accessible to the beneficiaries. The newly introduced facility will ease the process of claiming maternity benefits for Insured Women as the process has now been made online, where the beneficiaries, at their convenience can now claim the maternity benefits from anywhere. Earlier, the beneficiaries, to claim the Maternity Benefits, had to visit the respective branch offices physically but now with the introduction of this new facility, one can avail of the benefits at their convenience.

Maternity Benefit is given to insured women in the form of cash benefit in case of certain contingencies such as in the advanced stage of pregnancy, after delivery / in the unfortunate event of confinement or miscarriage and who meet the eligibility conditions. Payment at the rate of 100% of wages is paid for 26 weeks as maternity benefit to the insured woman by ESIC to compensate for the loss of income during her childbirth. A total of 18.69 lakh women beneficiaries have been provided maternity benefits of Rs 37.37 crore during the year 2021-22.

Rameswar Teli, Minister of State for Labour & Employment also attended the programme as the Guest of Honour. Teli, also praised the initiative during the event and said that this step will help to realize the aim of women's empowerment more effectively.

Source: Zee News

CENTRE TO SOON MERGE SOCIAL SECURITY CONTRIBUTIONS BY SMALL FIRMS: REPORT

The Centre may soon do away with separate contributions towards provident funds, pensions and insurance for small enterprises, allowing them to make a single payment towards the social security of their employees, as reported by Economic Times (ET). This is expected to boost compliance among small firms.

Currently, companies have to make separate payments towards the Employees' Provident Fund Organisation (EPFO) and Employees' State Insurance Corporation (ESIC). An expert committee will finalise the plan. The contribution may be kept at 10-12 per cent of the wages. This will be applicable to an organisation with 10-20 employees, ET report added. "An expert committee will be set up to arrive at the final unified rate, the labour ministry will notify it subsequently," an official was quoted as saying in the report. Currently, organisations with 10 or more employees need to make contributions under the ESIC. In organisations with over 20 employees, contributions are made under EPFO. The Centre may also reduce the threshold for contribution to EPFO from 20 to 10 employees.

Under ESIC, the criteria are expected to stay the same. The employers contribute 3.25 per cent of the wages while employees contribute 0.75 per cent of the wages to the ESIC. It provides employees with insurance cover. Also, the government is considering a universal security scheme to protect small companies in case of financial troubles. It would, in such a situation, get difficult for them to contribute to several schemes. This is also expected to boost compliance.

Source: Business Standard

FOR JOB SECURITY, GOA GOVT TO ISSUE ORDINANCE ON CONTRACT LABOUR

The state government intends to bring in an ordinance to regulate contract labour in the state, chief minister Pramod Sawant said. Speaking at a workshop on industry connect under the theme 'skilling for future', Sawant said that the government is keen to upskill local youth so that they can get employed in Goa itself.

Sawant also announced that the directorate for skill development will join hands with Tata Technologies to aid the state's skill development programmes.



“We are signing an agreement with Tata Technologies, which will spend approximately Rs 4 crore in each ITI, and this agreement will be signed within a month or so. This will help us skill and reskill our ITI students. But first, industry needs to tell us what kind of skills it wants,” said Sawant.

The chief minister said that over 2 lakh jobs in Goa’s hospitality sector have been filled by youth from other states and even Nepal. “Many times it is said that Goans don’t want to do blue collar jobs, they don’t want to work as labourers. I am not saying they should do these jobs, but at least take up the available white collar jobs. There is a skill gap and we need to fill this,” said Sawant.

He said that one of the main reasons why local youth do not seek employment in the private sector is due to the lack of job security. He said that the government is working on addressing these concerns.

“We are coming up with a law which the government of India has already passed and Gujarat has also passed. It is for regular services of contract jobs. We will bring in the ordinance soon. This will give job security and ensure that human resources are not wasted,” said Sawant.

Source : Times Of India

GOVT CALLS FOR STRICT IMPLEMENTATION OF ACT TO CURB SEXUAL HARASSMENT AT WORK

The women and child development ministry has directed all central ministries, department and PSUs to ensure effective implementation of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 in their respective departments.

Women and child development secretary Ivender Pandey in a communication, reviewed by Mint, has requested all government offices to ensure that the internal committee at workplaces get constituted and are functional.

Pandey further directed the internal committees to conduct special drive to review the pending cases and take appropriate action before 9 December, 2022. Union government on 9 December 2013 passed POSH Act to provide a safe and secure environment to working women.

The Act upholds women’s fundamental right to equality, right to live with dignity which includes right to safe and secure working place environment free from all forms of violence.

“Kindly take necessary action to ensure effective implementation of the Sexual Harassment Act. It is also requested to ensure that internal committees (ICs) at work places are constituted (if not already constituted) and functional within your respective domain. The ICs may also be directed to special drive to review the pending cases and take appropriate action before 9th December 2022,” Pandey communicated in a letter to the all secretaries of the Central ministries adding that the report of this exercise to be submitted by 20th December 2022.



A survey done by the Women’s Indian Chamber of Commerce and Industry’s (WICCI) Council of Ethics in which 1,101 females participated found that approx. 50% of women experienced “physical contact or advances” or inappropriate touching at least once at the workplace.

Source : Live Mint

INCREASE MINIMUM WAGE TO RS 26,000 PER MONTH: CITU

All India general secretary of the Centre of Indian Trade Unions (CITU) Tapan Sen demanded that the government revise the minimum wage to Rs 26,000 according to the hike in prices in the present conditions as per the Supreme Court verdict against the present minimum wage of Rs 18,000 per month which was recommended by the 6th Pay Commission. Sen made the statement at CITU founder Nanduri Prasada Rao’s memorial seminar on ‘Labour Codes, Minimum Wages, and Labour’ held at the Makineni Basavapunniah Vignana Kendram (MBVK) in Vijayawada.



Sen and other trade union leaders paid a great tribute by garlanding Nanduri Prasada Rao's portrait.

Sen said that Prime Minister Narendra Modi had been continuing his raids on the rights of labour and wages by decreasing the 29 labour acts into four labour codes. He pointed out that all prices, like those of essential commodities, petrochemical products, electricity, and bus charges, had been hiked. Therefore, in this situation, the central government should increase the minimum wage for labour to Rs 26,000 per month, he added.

He said as per the Supreme Court orders, about 25 per cent of the minimum wage should be spent on education, health, and entertainment, but several managements are not implementing the laws. The seminar unanimously passed a resolution for the government to initiate measures for the increase of minimum wages according to the hike in prices.

Source : Deccan Chronicle

WILL A FOUR-DAY WORKWEEK WORK IN INDIA?

The four-day workweek is a novel idea in India, where the Centre has been developing four new labour rules that will significantly alter employee pay, PF payments, and working hours. But will that work in India?

Professionals can choose from a variety of flexible working choices whether looking for a job or trying to adjust at their current position. Four days a week at work is one of these choices. The minimal requirement of 48 hours of work per week, or 12 hours per day, must be met by the employees. While it is feasible in some sectors, such as IT, it could be more difficult in others, including FMCG, manufacturing, construction, healthcare, etc.

WHAT IS A FOUR-DAY WORKWEEK?

An employment schedule known as a 'four-day workweek' sees full-time employees working four days each week as opposed to the customary five.

Employees typically work this schedule, which has grown common in various nations and companies, from Monday through Thursday.

The timetable is different from a compressed work schedule, in which workers put in the same number of hours across fewer days. For instance, they might work four days of 10-hour shifts.

PROS OF WORKING FOUR DAYS PER WEEK

This kind of work schedule adoption frequently has advantages for both businesses and professionals. Here is a list of benefits that this kind of work schedule might allow:

1.Increased productivity: Employer productivity can increase when employees work fewer days each week. This may be since they are more enthusiastic and engaged at work, and they are less likely to put off finishing their chores when they have fewer days to do so.

2.Workplace diversity: Having a four-day working schedule can make the workplace more accessible. This is because professionals who may not commit to a regular five-day workweek due to a disability or other commitment can find more employment options.

3.Employee satisfaction: A shortened workweek may result in happier workers. Employee productivity and morale can both rise when they are happier in their current positions.

Employers should take note of this since happy employees are more likely to suggest the organisation to others, which can support talent acquisition strategies.

4.Employee retention: Employee retention is the percentage of workers who remain with the same business. Due to the additional advantages of this schedule type, businesses that provide four-day workweeks may see higher employee retention rates.

Since workers who adhere to this kind of timetable are frequently happier and more likely to remain with the company.

5. **Work-life balance:** Having a positive work-life balance can also allow professionals to adopt a better attitude about their work, as they can return to their jobs well-rested. This can help employees remain productive and enthusiastic while working.

6. **Heightened employee engagement:** Companies may frequently achieve their objectives more rapidly when there is higher employee engagement. It may also inspire the organisation's staff to create a more positive work environment.

Employees are more likely to contribute to the organisation in ways that benefit it, enhancing the working environment.

7. **Environmentally friendly:** Working four days per week decreases the number of times a professional commute to work. This is helpful to the environment, as most vehicles produce emissions that can harm the environment.

CONS OF WORKING FOUR DAYS PER WEEK

Even though this work schedule has many benefits, not all businesses or employees may find it to be ideal. Consider the following drawbacks of a four-day workweek:

1. **Customer satisfaction:** Adopting this work schedule could have an impact on how satisfied customers are with customer-facing businesses.

Customers could believe that they don't have enough access to the business because staff members are only in the office for four days, which can prevent them from resolving issues.

Businesses that want to use this schedule type can manage it and keep their customers happy by making greater technological investments.

Without the involvement of a human employee, businesses can solve customer complaints with the aid of artificial intelligence tools like chatbots and task automation.

2. **Difficult implementation:** Because of its implementation, a four-day workweek would be challenging for some businesses to manage.

Managers can seek assistance from other professionals and look into training options if they feel that implementing this work schedule will be difficult.



TIPS FOR SUCCESSFULLY USING THIS WORK SCHEDULE

1. **Plan your tasks:** You can manage your day and maximise productivity by organising a to-do list and controlling the things you intend to do each day and each week.

2. **Set time limits for work:** Setting up a time-based timetable for when you accomplish things may also be beneficial.

3. **Automate repetitive tasks:** Find a technique to automate the daily repetitive actions you perform by identifying them.

This can assist you in reallocating your time so that you can finish more significant and difficult activities.

We are yet to see how this pans out in India. The pandemic proved that work from home was a successful experiment. The jury is still out for the four-day workweek.

Source: India Today

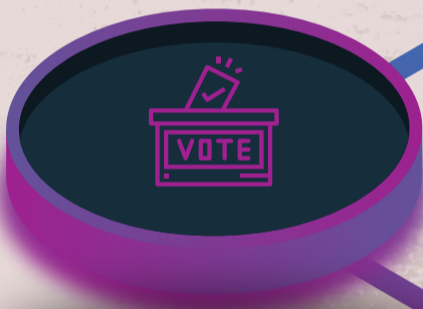
More Info

Haryana - Paid Holiday On Account of Bye-Election in Rajasthan on 05.12.2022



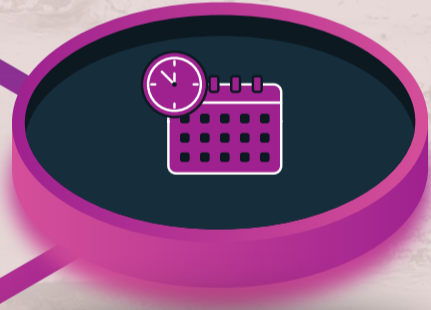
Delhi - Paid Holiday On Account of Municipal Election in Delhi on 04.12.2022

Haryana- Paid Holiday On Account of Municipal Election in Delhi on 04.12.2022



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