



# The Compliance Watch 2023

QUALITY | WILL TO WIN | BUILDING & LEVERAGING RELATIONSHIPS



“If four things are followed – having a great aim, acquiring knowledge, hard work, and perseverance – then anything can be achieved.”

— A.P.J. Abdul Kalam

## UCS POV : THE HARYANA STATE EMPLOYMENT OF LOCAL CANDIDATES ACT, 2020 REVOKED

**SHAIJU MATHEW**  
CHIEF OPERATING OFFICER

The Haryana State Employment of Local Candidates Act, 2020 was enacted with the objective to reserve 75% of new jobs for local candidates in private sectors including private establishments, societies, trusts, and limited liability partnership firms. This reservation was for local candidates for all jobs whose monthly wage did not exceed INR 30,000. The candidates can be from any district in the state and the employer may opt to restrict the employment of local candidates from any district to 10% of the total number of local candidates. On 17th November 2023, the Punjab and Haryana High Court termed the 75% of such domicile reservation quota for locals in Haryana as 'unconstitutional'. (IMT Industrial Association Vs. State of Haryana CWP No.24967 of 2022).

Many legal experts at the time of publishing the Act expressed their view stating that job quota in the private sector is legally untenable as it is against constitutional provisions and the spirit of constitutional provisions (Articles 16 and 19). It is the fundamental right of Indian citizens to work anywhere in the country; Article 19 "Freedom to practice any profession, or to carry on any occupation, trade, or business anywhere in India for the Citizen". The Confederation of Indian Industry (CII) also objected to the state government stating such reservation affects productivity and industry competitiveness.

The Faridabad Industries Association had filed a writ petition earlier with the Punjab & Haryana High Court challenging the constitutional validity of the said Act. The High Court gave a stay order on 3rd Feb 2022 on enforcing the quota by state government. Further, the Haryana state government challenged the High Court to stay the order with the Hon. Supreme Court on 17th Feb 2022. The Hon. Supreme Court observed that the High Court has not given sufficient reasons for the stay and directed the Punjab High Court to hear the said petition again and decide on this matter. All the parties in this matter appeared before the Punjab & Haryana High Court for hearing. The High Court observed in its order that the restriction imposed in the statute as such has far reaching effect and cannot be held to be reasonable in any manner which would warrant no interference. The court also remarked that the said statute is deemed to be unconstitutional and violates Part III of the Constitution of India. Hence, the Punjab & Haryana High Court passed an order on 17th November 2023 stating the Haryana State Employment of Local Candidates Act, 2020 is ineffective from the date it was enacted.

Although Gujarat had introduced 85% reservation for locals in 1995 the policy was neither implemented in the private or public sector. Considering the state government's data from 2015 and 2016, it may be estimated that the percentage of locals working in private establishments in the state may be fulfilling the prescribed percentage by the Gujarat state government. Similarly, Andhra Pradesh and Maharashtra also introduced such reservations for local employment in the private sector for the industries that seek state incentives and tax subsidies. The Andhra Pradesh state government introduced the bill to extend the state's incentives and tax subsidies for the factories and industry units that employ 80% local candidates although it is optional and not mandatory. Considering the judgment by the Punjab and Haryana High Court, companies need not take any action currently. The state government has the right to appeal further with the Supreme Court and we will keep you informed on any further developments in this matter.

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## 70-HOUR WORK WEEK VIOLATES LABOUR LAWS, COMPLIANCE: TEAMLEASE VP

A 70-hour work week could raise compliance issues as it violates labour laws, a senior official of staffing company TeamLease said recently. "If somebody is spending 70 hours (in office), they are going beyond 9 hours. There is a fundamental disconnect, when you are an employee labour law allows you to work 9 hours," vice president and business head for TeamLease Degree Apprenticeship Dhriti Prasanna Mahanta said.

Former Infosys CEO N.R. Narayana Murthy had recently advocated for a 70-hour work week, drawing reactions from across the spectrum. The cost of employment, if a 70-hour work week is made possible, will also increase, and in a lot of places you are not allowed to pay overtime, he said.



He pointed that this works for entrepreneurs and self-motivated individuals but cannot be accepted due to labour law compliance norms in place. Speaking to PTI on hiring trends, Mahanta said around 65 per cent of the demand is coming from non-tech sectors for job roles in AI, machine learning and blockchain, especially from sectors like telecom, aviation, retail commerce, fintech, and electronics. The reason for the increase in the requirement of these profiles is primarily due to investment from both government and the private sector and also the change in customers' buying behaviours post-Covid, TeamLease noted.

"Indian companies have made a beeline to adopt AI tools like fish takes to the water, and the demand for talent familiar with AI is going to come from sectors ranging from finance, healthcare, transportation, logistics, etc, resulting in a 51 per cent skill gap for AI talent, which needs to be addressed via work-based learning programs like apprenticeships," Mahanta said.

The IT profiles requirement in non-tech sectors will have a strong multiplier impact in FY-24 and virtual global mobility will also add up the growth, Mahanta added. While cloud engineer jobs have seen 25 per cent upward trends, AI, blockchain and ML-certified professionals are seeing 35 pc upward trends in their hiring, whereas for network and computer systems administrator, there is a 10 per cent uptick.

For network security engineers, the company predicts 20 per cent upward trends as per approximations that were derived from various reports, and primary and secondary research.

**-SOURCE | THE WEEK**

## NEW LABOUR CODES: THOROUGH UNDERSTANDING IS REQUIRED BEFORE IMPLEMENTATION OF THE NEW REGIME

Implementation of employment policies is a crucial aspect of ensuring fair labour practices and protecting the rights of both employers and employees. The new Labour codes aim to balance the welfare of employees and ease of doing business in India. However, the transition to the new regime requires a thorough understanding of the laws applicable and their implications. The new labour codes are a consolidation of 29 statutes on labour that have required a critical reformation since decades. With all the speculation for the implementation of the labour codes, which is again on a halt, understanding the implications of the new codes is of paramount importance, regardless of whether one falls on the employer or employee side of the field.

As ease of doing business is one of the top priorities in a rapidly growing economy with one of the largest workforces in the world, these new codes may form an essential tool in facilitating the pursuit of this priority. While a few inconsistencies remain, one can be prepared to witness the new labour codes come into force next year. Various states and union territories have come up with draft rules under each labour code and pre-published them for public consultations.

The Four Codes are:

- The Code on Wages, 2019 (the **“Wage Code”**);
- The Occupational Safety, Health and Working Conditions Code, 2020 (the **“OSH Code”**);
- The Code on Social Security, 2020 (the **“SS Code”**); and
- The Industrial Relations Code, 2020 (the **“IR Code”**).

The policies at the employer level are typically established by governments at various levels (national, regional, or local) and can also be developed by individual organizations. Here are some key steps and considerations for implementing employment policies at the organisational level:

### Policy Development

Employer should ensure that the policies comply with all relevant or existing labor laws and regulations in the jurisdiction. Seek legal counsel if necessary to make sure they are up to date and in accordance with current legislation. Customization of the policy is the second major criteria, tailoring the policies to the specific needs and circumstances of every organization.

Different industries and companies may have unique requirements. The involvement of employees is also relevant while drafting policy, so consider employees, unions (if applicable), and relevant stakeholders in the development or revision of employment policies to ensure inclusivity and fairness.

### Communication and Training

After the policy has been drafted, clearly communicate the policies and applicable codes to all employees, making them easily accessible through employee handbooks, the company intranet, or other means. Provide training sessions or workshops to ensure that employees understand their rights and responsibilities under these policies and codes.



### Implementation:

The management should apply the policies and codes consistently across all levels of the organization. This helps prevent discrimination and favouritism. They should establish procedures for reporting violations and ensure that complaints are thoroughly investigated and addressed in a timely manner. Clearly outline the consequences of policy violations, which may include disciplinary actions, warnings, or termination, in accordance with your policies and applicable laws. Maintain detailed records of policy violations, investigations, and actions taken, as this can be crucial in case of legal disputes.

### Monitoring and Compliance

Periodically review and update your policies and codes to reflect changes in laws, regulations, or the needs of your organization. Conduct internal audits to ensure compliance with policies and codes.

Consider third-party audits for independent verification. Establish feedback channels for employees to voice concerns or suggest improvements to existing policies and codes. Provide mechanisms for employees to appeal decisions and seek remedies if they believe they have been treated unfairly or unjustly. Familiarize yourself with relevant government agencies, labor unions, or industry associations that can provide guidance and support for implementing labor codes and employment policies.

### **Employee Awareness and flexibility**

Continuously educate employees about their rights and responsibilities under the policies and labor codes. Foster a culture of mutual respect and inclusion to encourage employees to adhere to the policies voluntarily. Be prepared to adapt policies and codes in response to changing social, economic, or legal conditions.



### **Legal Counsel**

Consult with legal experts, when necessary, especially for complex legal matters or when facing legal challenges related to employment policies. Remember that effective implementation of employment policies according to the new labor codes is an ongoing process that requires commitment and vigilance to ensure fair and ethical labor practices within your organization. The new codes aim to balance the welfare of employees. However, the transition to the new regime requires a thorough understanding of the laws applicable and their implications.

Considering the implications of implementing the new labour codes, the government must consider implementing them in a phased manner. After notification of implementation, the impact that the new labour codes shall have on implementation shall vary from one industry to another, or from one employer to another, as the variation will depend on the present salary and organisational structure of the concerned industry/establishment.

This is for consideration that labor laws and regulations can change over time, and it's crucial to stay updated with the latest developments in Indian labor law to ensure ongoing compliance.

Additionally, specific implementation details may vary based on your industry and location within India, so consulting with legal experts familiar with your particular circumstances is advisable.

**-SOURCE | FINANCIAL EXPRESS**

## **FIVE LESSONS TO NAVIGATE UNCERTAINTY IN THE GIG ECONOMY**

Gig work, generally, refers to task-based work where individuals take on specific or specialised roles on a temporary or freelance basis. Although it is not a new phenomenon and has traditionally been associated with artisans, craftsmen, and blue-collar workers, the latest technological advancements and the swift expansion of digital marketplaces have actively opened avenues for white-collar professionals to engage in the gig economy across varied sectors.

A recent report indicates the increasing acceptance of professional gig work by both professionals and organisations. More than 60 percent of professionals are opting for gig work, and over 50 percent of organisations are actively seeking gig professionals. The primary appeal for gig professionals lies in the inherent flexibility and autonomy that they provide.

Professionals can choose their projects, workplace, workspace, working hours, and so on, allowing them to balance their professional and personal lives on their own terms. Unburdened by the confines of an employer-employee relationship, professionals can explore diverse work arrangements, embark on multiple career paths, and generate income from various sources to meet immediate and future needs. Organisations also benefit from this arrangement, as they harness the potential of gig professionals to leverage contemporary expertise, exploit a diverse range of experiences, and achieve cost savings.

A surge in technological adoption in recent years due to the COVID-19 pandemic further facilitated the increasing acceptance of gig work among white-collar professionals and organisations. This trend is substantiated by the FoundIt.in report, revealing an 11 percent year-on-year surge in demand for white-collar gig roles in March 2023. Nevertheless, the allure of the gig economy is shadowed by the uncertainty of employment, which worries every one out of three gig professionals. Five pivotal lessons are identified to alleviate these apprehensions and foster confidence among the professionals. These lessons are designed to equip individuals with the capabilities needed to adapt and flourish in both the current and future economic scenarios.

### **Acknowledge that lifelong employment is passe**

Traditionally, a successful career has been synonymous with a stable 9-to-5 job. Upon hiring, employees were trained by the organisation for a specific role that they were expected to carry for the next ten years. Employees expected a raise and stable career growth within the organisation. However, this lifelong promise of employer and employee is changing. Owing to the evolving technology, the current job market is changing at an unprecedented rate, with new jobs being created every five years, making some existing job avenues obsolete.

Organisations have reacted to the uncertainties and dynamism of the market with an increasing preference for hiring flexible and transitory talent, as training employees is a slow process requiring colossal capital and time investment. Thus, to navigate and build successful careers in today's fast-paced, changing environment, individuals need to let go of their desire to pursue lifelong employment and proactively take charge of their careers.



### **Prepare for Continuous Learning and Skill Acquisition:**

The shift away from traditional linear careers necessitates professionals embracing lifelong learning to maintain relevance in a non-linear work environment. Rather than following a predetermined career path, gig professionals will succeed in fostering personal agility. For instance, the introduction of Generative Artificial Intelligence (AI) has put to the test the agility of all professionals alike, motivating many to rethink their value in the job market. Almost 42 percent of business tasks are projected to be automated by 2027, per a Future of Jobs Report 2023. This necessitates professionals to reskill themselves, cultivating a digital mindset to leverage AI to increase their relevancy in the job market. Professionals need to indulge in continuous upskilling and reskilling attuned to the dynamic digital economy. This will empower them to navigate a fluid career landscape with the scope of elevating and branching into multiple career streams.

## Adopt a 'π' shaped skill model

Traditionally, professionals have been categorised into generalists—bringing diverse, transferable skills with flexible key performance indicators—and specialists—holding expertise in specific work domains. With changing work requirements over the years, generalists and specialists have held varying degrees of importance in the professional world. However, in the gig economy, being solely a generalist or a specialist is insufficient. The gig economy necessitates professionals to become agile, encouraging them to have generalist skills and acquire expertise in specific domains. Professionals can further benefit by specialising in more than one domain. This shift represents a move away from the traditional 'T' model (where the focus was specialising in only one domain) to a more versatile 'π' shaped skill model. In this 'π' model, the horizontal line represents generalist skills and capabilities, while the vertical bars denote specialisation in at least two (or potentially more) specific domains.



This model combines the attributes of generalists and specialists in multiple domains, ensuring that professionals foster agility and are well-prepared for the future.

## Leverage social skills to forge connections and build networks

Organisations evaluate gig professionals based on credentials such as work history, references, and task commitment, akin to traditional hiring processes.

This necessitates gig professionals to prioritise the development of robust social and emotional skills, which are pivotal for forging connections and networks that yield future references and recurring clients. Further, social connections among like-minded individuals and peers can empower them to address emotional and social challenges inherent to independent work and remain updated, providing them with a sense of belongingness and support. Gig professionals should employ both offline and online strategies to market their expertise and reach out to their peers effectively. This includes leveraging references and networks from past employments and maintaining a compelling online presence. They can extend their reach, enhance visibility, and formalise referrals and testimonials using digital platforms. Cultivating trust among past, present, and prospective clients is indispensable for gig professionals seeking to establish enduring independent communities. These communities offer dependable employment sources and avenues for sustained growth.

## Develop the entrepreneurial discipline to build a brand identity

Gig professionals need to craft a personal brand to market themselves to potential clients. This necessitates that they take charge of their work environment, cultivate their niche, create a brand identity, maintain it with constant marketing, and negotiate contracts. This is particularly important for women increasingly opting for gig work as it allows them to balance their professional pursuits with their caregiving responsibilities at home. Towards this endeavour, they must allocate time to complete the gig assignments, refine their niche, develop their brand, and make sales calls to potential clients. This allocation of time and space requires mutual respect and discipline from gig worker and their family members. In the absence of entrepreneurial discipline, individuals, particularly women, will lose out on the economic potential that the gig market offers.

## Conclusion

The gig economy is growing at an unprecedented pace, underscored by the changing job markets, rapid technological advances and changing outlooks towards employment for both employees and employers. Individuals seek opportunities with more flexibility, autonomy, and a better work-life balance owing to the current employment landscape, marked by high unemployment rates, measly compensations, overburdened workers, and the looming dread of layoffs. As professionals, both new and seasoned, gear up to join the gig economy in some capacity or another, it is necessary to be prepared for the associated opportunities and challenges.

They must recognise that pursuing more flexibility and autonomy gives away the certainty associated with traditional employment. Instead of worrying about this newfound uncertainty, they should use it as a driving force. It should nudge them to constantly adapt and evolve in response to the ever-changing market demands. Instead of being a source of concern, this uncertainty should become a catalyst for growth and resilience, enabling them to flourish in an environment marked by change and unpredictability. This approach gives the professionals more control over their work capabilities, enabling them to upskill and reskill confidently. They can work flexibly and autonomously, fully exploiting their skills to unlock their utmost potential to navigate uncertainty, nourish agility, and flourish with resilience.

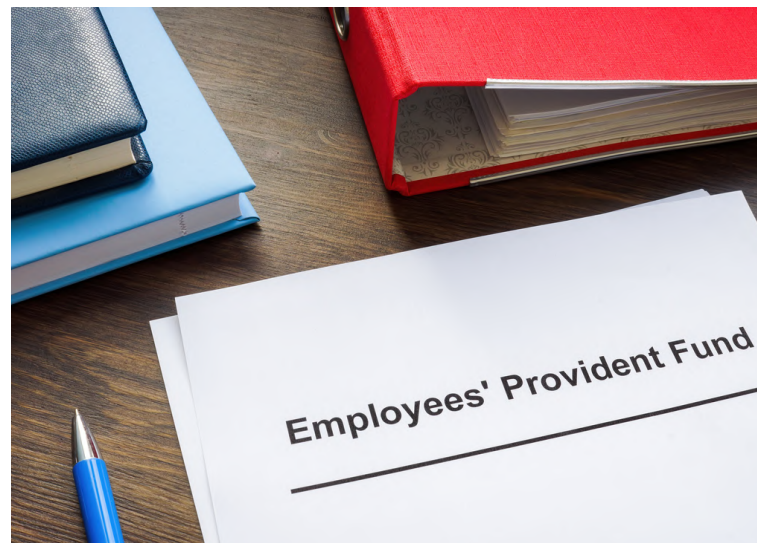
-SOURCE | FORBES INDIA

## PRIVATE SECTOR'S PF DEPOSIT DEFAULTS UP 10% IN 5 YEARS

The private sector of the country has been increasingly defaulting on deposits with the Employees' Provident Fund Organisation (EPFO) with defaults rising by about 10% over the past five years, sending the amount in cumulative arrears past the Rs 15,000 crore in FY23.

The provident fund is one of the earliest social safety organisation for workers of the organised sector in the country and was set up in March 1952.

The EPFO report said that default on PF dues by private sector entities stood at Rs 5,581.5 crore in 2018-19, Rs 7,146.18 crore in 2019-20, Rs 7,857.79 crore in 2020-21, and Rs 10,479.31 crore in 2021-22.



The Economic Times has quoted the EPFO's draft annual report for FY23 to show how the private sector has increasingly accounted for PF arrears in the country. In the past five years, the share of the private sector in total arrears stands thus: 74.2% in 2018-19, 77.6% in 2019-20, 79.8% in 2020-21, 82.2% in 2021-22 and 83.17% in 2022-23.

-SOURCE | BLITZ INDIA MEDIA

## REVISIT PENSION CALCULATION FORMULA UNDER EPS-95, SAYS FORMER OFFICERS' BODY

The formula for pension calculation under the Employees' Pension Scheme (EPS)-95 of the Employees' Provident Fund Organisation (EPFO) should be revisited, according to the Bengaluru-headquartered ITI Retired Officers Association. Arguing for an arrangement wherein the calculation formula should have a direct bearing with the Pension Fund, the association's president, R. Sridhar, contends that under the existing system of calculation, the "loss" incurred by a pensioner is



“quite substantial” for contributions made against a pensionable pay of ₹15,000 on the assumption that the monthly contribution to the Pension Fund would accumulate to its net present value at an annual rate of 8%, as is being the case with regard to PF contributions.

### Corpus Doubled

The EPS-95 is funded through the transfer of 8.33% of employer’s monthly Provident Fund contributions to employees, coupled with the Central government’s share of 1.16% of the monthly wages of employees, limited to the amount payable on pay of ₹15,000 per month. As per an estimate, the corpus of the Pension Fund almost doubled in the last five years from about ₹3.94 lakh crore in 2017-18 to around ₹7.8 lakh crore in 2022-23. Provisional data indicate that during the previous financial year, the contribution of employers to the Fund totalled approximately ₹56,000 crore and that of the Union government, nearly ₹8,715 crore.



The association, with its members of over 1,000, in a recent representation submitted to Prime Minister Narendra Modi and others, urged the authorities not to halve the amount of pension in the event of death of a member-pensioner before making the pension payment to the spouse. In view of the constant increase in the corpus of the Pension Fund, a provision should be made to revise the pension periodically, in proportion to the living cost of the index.

**-SOURCE | THE HINDU**

### ESI HOME DELIVERY OF DRUGS AND SAMPLE COLLECTION SOP

ESI Corporation has published the guidelines and standard operating procedures (SOPs) for ESIC Hospitals regarding home sample collection and home delivery of drugs for ESI beneficiaries. The facility of home sample collection and drug delivery is aimed at providing convenience to beneficiaries who may have to travel long distances to avail medical benefits. The guidelines outline the eligibility criteria, geographical areas, responsibilities of hospitals, and the process flow for sample collection and drug delivery.

#### Key Points

- Home sample collection is available for ESI beneficiaries above 40 years of age and senior citizens above 60 years, once a year during their annual health check-up.
- The hospitals are responsible for floating bids for hiring services for sample collection and ensuring proper transportation and care of samples.
- The selected vendor should send a SMS/Whatsapp to the beneficiary with the parcel tracking number.
- The report can be viewed by the beneficiaries through the AAA+ app under "e-Health records."
- Home delivery of drugs is available for senior citizens with chronic illnesses and ESIC beneficiaries seeking teleconsultation for chronic ailments.
- Hospitals need to float bids for hiring services for drug delivery, ensure appropriate packaging, and create a home drug delivery cell.
- The drugs should be delivered within 48 hours, excluding the day of prescription.
- The prescription should reflect "Home Delivery" to avoid duplication and misuse.

**-SOURCE | GOVT. NOTIFICATION**

## MINISTER PROMISES ACTION ON EPFO HIGHER PENSION DELAY

Union Labour Minister Bhupender Yadav met representatives of employees and employers on the Central Board of Trustees (CBT) of the Employees Provident Fund Organisation (EPFO) here at his office recently and assured them that the Ministry is addressing complaints of delays in processing joint options of employees for higher pension. CBT members have raised the issue earlier too. Trade union leaders allege that thousands of employees' applications are stuck over lack of subscription data for previous years. The meeting was primarily to discuss human resources and administrative issues in the EPFO. The CBT members pointed out that around 10,000 posts are lying vacant and most of them are in offices near industrial clusters.

### Pension not revised

"More than one year has passed since the Supreme Court verdict on higher pension. But no one has received the increased amount so far despite remitting huge amounts to the EPFO. Staff at the EPFO are struggling with applications. Staff shortage is creating hurdles in processing of joint options. The government does not have a plan to address this issue," said a CBT member. The last date for employers to approve joint options ends December 31.

Technical problems with the EPFO websites were also raised in the meeting. Every time we raise this issue, the Minister says that the government is studying the State Bank of India website. But that study is not done yet," another member said.

Representatives of EPFO employees and officers had complained to the CBT on shortage of staff and about anomalies in their promotions and work arrangements. The meeting also discussed such complaints and Mr. Yadav assured members that the Labour Ministry will hold discussions with representatives of the EPFO employees and officers on such pending complaints.



On technical delays, the Ministry told members that the performance of the website has improved and it is visible in the increase in disposal of requests such as withdrawals and transfers of subscriber's money. The CBT members also urged the Minister to consider a plea to increase the minimum PF pension ahead of the upcoming Lok Sabha elections in 2024.

-SOURCE | THE HINDU



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The Manipur  
S&E(Regulation Of  
Employment And  
Conditions Of  
Service) Act, 2021

Availing Of  
Medical Services  
By The IPs &  
Beneficiaries From  
Any ESIC/ Hospital  
..Across India

Update –  
Regarding CLRA  
Website  
Compliance Not A  
Mandate

75% Haryana  
Local Candidate  
Quota Is  
Unconstitutional –  
Punjab & Haryana  
High Court

Regarding Various  
Schemes Available  
Under The Punjab  
Labour Welfare  
Board

ESI Home Delivery  
Of Drugs And  
Sample Collection

Transfer Of  
Accounts After  
The Death Of A  
Member ... Under  
The EDLI Scheme,  
1976

Minimum  
Wages

Holiday List  
(NFH) 2024



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- Data Integrity
- Extensive Reporting
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