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*"Innovation
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Leader and a Follower."*

-Steve Jobs


INSIDE THE ISSUE


 UCS POV: THE NEW LABOUR CODES: BENEFITS, CHALLENGES, AND THE ROAD AHEAD

 KARNATAKA IT EMPLOYEES' UNION OPPOSES GOVERNMENT'S DECISION TO EXTEND EXEMPTION FROM LABOUR LAWS FOR TECH FIRMS

 FAST-TRACK FRAMING OF RULES UNDER NEW LABOUR CODES, CENTRE TELLS STATES

 EPFO CONTINUES TO SIT ON RISING COMPLAINTS OVER NON-PAYMENT OF PF

 NOT JUST EMPLOYERS WITH BENEFITS! INDIA INC LOOKS TO BE MORE TO WOO TALENT

 HIGH COURT JUDGMENT ON RETRENCHMENT COMPENSATION DISPUTE

 CENTRE ALLOWS SIX MONTHS MATERNITY LEAVE FOR STAFF IN CASE OF SURROGACY



LATEST NOTIFICATIONS & UPDATES

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UCS POV: THE NEW LABOUR CODES: BENEFITS, CHALLENGES, AND THE ROAD AHEAD

*Bala Harish,
Vice President*

The Indian labour laws are undergoing a major shift with the introduction of the new Labour Codes. These codes aim to streamline and simplify the existing legal framework by consolidating 29 separate laws into four codes: the Code on Wages, Industrial Relations, Social Security, and Occupational Safety, Health, and Working Conditions.

Though the Labour Codes were promulgated in the Parliament in 2019 and 2020, the implementation is pending as most of the states are yet to finalise their rules and some features of the codes are yet to be defined.

Given below is an outline of the benefits and challenges, and the potential impact on the businesses once the codes are implemented:

The new codes offer several potential benefits, including:

- Fewer and clearer consolidated laws will make it easier for businesses to stay compliant.
- Provisions like fixed-term contracts could potentially boost job creation.
- The Codes have provisions for potentially increasing the quantum of benefits offered under various social security schemes. This could lead to increased retirement savings and improved healthcare coverage.
- The Codes prioritise workplace safety, potentially reducing accidents that ensures workplaces adhere to a higher standard of safety measures.
- The Labour Codes seek to streamline regulations while inviting new investments and business prospects.



However, there are several challenges and aspects to consider:

- Some states are still finalising draft rules, causing implementation delays and inconsistencies in application across regions.
- Trade unions are seeking more involvement in consultations, while some sectors like IT, have expressed concerns about specific exemptions.
- Until clear precedents are established there is a possibility of varying interpretations of the codes by different stakeholders, potentially leading to legal disputes.
- Compliance with new codes may entail changes to existing HR processes and potentially necessitate additional paperwork and record-keeping requirements. This could result in increased administrative burdens and costs.
- The Labour Codes provide higher financial penalties for non-compliance compared to the prior regulations. The emphasis shifted from imprisonment (except for repeated offenses) to steeper fines.
- Some provisions may lead to higher outlays for employers, such as increased social security contributions or minimum wage increases.

To conclude the introduction of labour codes aims to bring a significant transformation to the existing labour laws in the country. The Ministry of Labour & Employment is actively working to address the challenges. Initiatives such as training workshops for state officials and promoting a collaboration between the central and state governments aim to ensure smooth implementation and consistent application across regions.

While a specific implementation date is yet to be announced, the government's approach indicates a commitment to bringing the new Labour Codes into effect.

EPFO NOTIFICATIONS

EMPLOYEES' PROVIDENT FUND

"Retirement benefits scheme for employees"



THE EMPLOYEES' PROVIDENT FUNDS (AMENDMENT) SCHEME, 2024

01

EPS Amendment Scheme 2024 Table B And Table D, Modified

02

EPS Amendment Scheme 2024 Table B And Table D

03

EPFO Reduces Penalties For Delayed PF, EPS, And EDLI Contributions

04

Mandatory Aadhaar Seeding With UAN Of EPF Members For Filing Of ECR – Extension Upto 30.06.2024

05

EPF – Discontinuation Of Covid-19 Advances Under Para 68L(3)



KARNATAKA IT EMPLOYEES' UNION OPPOSES GOVERNMENT'S DECISION TO EXTEND EXEMPTION FROM LABOUR LAWS FOR TECH FIRMS

Karnataka State IT/ITeS Employees Union (KITU) opposed state government's decision to extend the exemption provided to the IT/ITeS sector from the Industrial Employment (Standing Orders) Act for another five years, until 2029. According to a circular, the Karnataka government stated that the exemption would cover IT, ITeS, startups, animation, gaming, computer graphics, telecom, and BPO industries. In March 2024, KITU staged a protest in front of the labor commissioner's office (Karmika Bhavana), demanding that the state government end the exemption provided to the IT/ITeS sector. State labour minister Santosh Lad had stated last year that the government may not provide the exemption. "The government's decision to continue the exemption comes despite the concerns raised by the KITU regarding the failure of companies to comply with the conditions laid down during the previous exemption," said Sooraj Nidiyanga, general secretary, KITU.

"In March, KITU led a march with hundreds of IT sector employees, urging the labour commissioner to refrain from extending the exemption for the IT/ITES sector under the Standing Orders Act due to non-compliance by companies. Despite assurances from the labour commissioner to consider both sides, the government unilaterally extended the exemption for another five years, disregarding the concerns of 20 lakh employees. KITU has also filed a writ petition in the Karnataka High Court against this decision" he said.



According to government estimates, nearly 18 lakh professionals are currently employed across 8,785 IT/BT firms in Karnataka.

Karnataka had granted exemptions to IT, ITeS, business process outsourcing, and knowledge process outsourcing firms from labour regulations. On January 25, 2014, the state government issued a notification exempting companies from the Industrial Employment (Standing Order) Act, 1946. This exemption was further extended for an additional five years, recently.

The exemption is subject to several conditions, including the establishment of an internal committee in accordance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition, Redressal) Act 2013. It also requires setting up a grievance redressal committee with equal representation from both employers and employees, notifying the concerned labor authorities about any disciplinary actions against employees (such as suspension, discharge, termination, demotion, or dismissal) and being prepared to and being prepared to provide details on employee service conditions when sought by the government.

Source: Money Control

FAST-TRACK FRAMING OF RULES UNDER NEW LABOUR CODES, CENTRE TELLS STATES

The Centre recently held a review meeting with officials from the state labour departments and asked them to hasten the process of formulating rules under the new labour codes, as the implementation of the new labour codes remains one of the top agenda items for the new government. "It was a review meeting where the rules formulated by states were discussed. It was also decided that the process of formulating these rules should be hastened by the states that have not yet formulated them. Also, the need to make the rules uniform was discussed so that the whole exercise of enacting new codes doesn't go in vain. Representatives from all states agreed on the proposition," a person aware of the development told Business Standard.

Till now, a total of 24 states/UTs have formed rules under all four labour codes, and West Bengal, Meghalaya, Nagaland, Lakshadweep, and Dadra & Nagar Haveli are yet to formulate rules under any of the codes, according to a recent study by the government's VV Giri National Labour Institute. The study also found that the rules framed by various states and union territories that have formed these draft rules under the new labour codes have “too much” divergence and go against the basic ethos and spirit of the new codes. “The rules of some of the states/UTs prima facie seem to go against the basic ethos and spirit of the codes and may defeat the objective sought to be achieved,” the study has said.

Besides, the issue of construction workers was also discussed in the meeting and states were asked to make relevant rules and schemes to better utilise the funds available with the construction workers' welfare board. Previously, it has been reported that more than Rs 30,000 crore remain unutilised by the construction workers' welfare boards across the country.

"Moreover, it was also discussed to better streamline the process and integrate the various welfare schemes with the E-shram portal, so that it can act as a one-stop solution for workers to avail welfare schemes," the person said.



Source: Business Standard

EPFO CONTINUES TO SIT ON RISING COMPLAINTS OVER NON-PAYMENT OF PF

The Employees Provident Fund Organisation (EPFO) continues to fail to address the increasing number of complaints regarding non-availability of provident fund benefits to employees. EPFO has received 35 percent more complaints in 2023 than in 2022. As per the annual report, 98 percent of the complaints were resolved in two years. However, in most cases only the provision of grievance redressal was notified. Since it is an online system for grievance redressal, the action is taken without directly hearing the complaints and without thorough consideration of the facts. Recently, the High Court had opined that EPFO officials should show some sympathy. The court was considering a case related to Perambra native P K Sivaraman's suicidal death over denial of his PF.

EPFO estimates that of 15,51,710 complaints received in 2022-23, 15,09,899 were resolved. 35-30 percent of this is related to discrepancies in KYC. If KYC is not accurate, no withdrawals can be made. The procedure is to provide the personal information required for KYC to the employer and the employer submits the required information to EPFO. If the employer defaults in this, the benefit will be denied to the employee. In these types of complaints, it is customary to close the complaint by instructing the employee to submit a joint statement along with the employer.

P R Sreekumari, who worked at a self-financing college in Pathanamthitta, has not received the amount even after nine years of leaving her job. Upon enquiry, she received instructions to submit a joint statement as her employer had not submitted complete KYC information. Even though the joint statement was submitted four years ago, the file was unfairly closed citing that the same had not been filed.



After raising complaints again, she received a word on March 22 that a joint statement was received and that preliminary information had been added. The file was closed, instructing the employer to provide service details. When no action was taken even two months after this, Sreekumari submitted a complaint again and the EPFO officials once again demanded a joint statement. Sreekumari is planning to approach the court against the EPFO and demand compensation.

Source : English Mathrubhumi

NOT JUST EMPLOYERS WITH BENEFITS! INDIA INC LOOKS TO BE MORE TO WOO TALENT

Corporate India is increasingly offering new-age benefits to employees as they realise that it takes much more than just a fat pay cheque to attract and retain talent. Support for self-development, flexible work arrangements and health insurance for the sibling are some of the benefits on the table. As much as 76% of employees who responded to the 2024 Global Benefits Attitudes Survey conducted by risk advisory and broking firm WTW said the benefit package is an important reason to continue with their current employer. Two-thirds indicated that they could leave their current job for better benefits without a change in the salary package. Last month, consumer goods manufacturer P&G introduced an annual fixed cash allowance for employees to use towards personal development and family members, childcare and pet care, elderly care and adoption expenses, among others. Rolled out under the company's 'Inclusive Care Program',

this initiative helps employees choose what they need most, said Srinivas PM, P&G India's chief HR officer.

Health Matters

In a bid to ensure health gaps do not go unaddressed - as stress compounds the effects of a largely sedentary lifestyle of the modern workforce - ecommerce company Flipkart last August introduced free voluntary health check-ups for its employees, including those of online travel agency Cleartrip that it owns. Camps were held in 33 cities as part of this and thousands have availed of the benefit, said Aakriti Chandra, senior director of rewards, performance and corporate functions at the firm owned by Walmart. Elements of care and wellness in employee engagement and retention were not fully recognised in the past, Shweta Mohanty, head of HR at SAP India, told ET. "Prospective candidates now inquire about facilities, benefits, and insurance coverage, emphasising the importance of these aspects," she added. German tech firm SAP's Yellow Circle initiative seeks to support employees' mental health through open conversations, resources, mutual support and awareness.

Expanding Insurance Cover

Healthtech startup Dozee has extended its insurance to live-in partners of LGBTQ+ employees, while online payments solution provider Razorpay's new health insurance policy will cover employees' siblings and vital treatments like those for HIV/AIDS. With a young workforce, it is crucial to have a broad-based, inclusive, and customisable health insurance policy, said Chitbhanu Nagri, senior vice-president of people operations at Razorpay.

Connected technology company Harman India has expanded its healthcare options to cover infertility and Ayurvedic treatments, as well as sex change operations. Companies are increasingly supporting new parents during the challenging life stage. UK-based NatWest's policy allows employees on maternity leave to opt for 100% work from home three months before childbirth and avail of a graded scale of flexibility up to nine months after childbirth, according to Poulomi Saha, head of reward pension and benefits, international hubs at the company.



Professional services company Accenture has expanded its 'Caring for the Caregiver' programme - by expanding its partner network of 100-plus childcare centres across the country -for employees juggling caregiving responsibilities alongside their careers.

To supplement its existing benefits for employees at various parenting stages, the tech firm recently introduced adoption assistance. Healthcare company Novo Nordisk Global Business Services launched the Flamingo programme in March to support expecting and new mothers. It includes customised transportation options, a confidential mentorship model, centralised information resources, extended maternity leave options, and ongoing communication during maternity leave to ensure a smooth transition back to work. “We have already seen a significant uptake for this initiative, with over 76 pregnant employees enrolled and 65 colleagues volunteering as mentors,” said John Dawber, managing director of Novo Nordisk GBS.

Source : Economic Times

HIGH COURT JUDGMENT ON RETRENCHMENT COMPENSATION DISPUTE

In a significant legal development, the Delhi High Court recently passed a judgment on a retrenchment compensation dispute, affirming the decision of the Labour Court. The case involved a conflict over payment of compensation between the management and the workman.

Now, the management is obligated to pay Rs.2,00,000/- to the workman within one month, as per the High Court’s ruling. This judgment sheds light on crucial aspects of labour law and fair compensation practices.

Facts

- The Labour Court failed to appreciate that the workman has always been receiving the salary prescribed for unskilled work and never objected while in service.
- The judgment of the Industrial Tribunal in the designation case did not provide a ‘skilled’ designation as per the scheduled employment rates notified in Delhi.
- The workman’s salary was based on unskilled work, and there was no objection during the period of employment.
- The Labour Court wrongly associated this case with unrelated judgments, as the facts were different.
- The Union did not pursue the implementation of the impugned award, indicating a lack of urgency on both parties’ parts.
- The learned Labour Court found that Sections 9A and 25-N of the Act were not applicable in the case.
- The claimant did not work with the management from the date of transfer until the rejoining date.
- The management is required to provide retrenchment compensation based on actual working period as per Section 25-F.
- The High Court of Delhi stayed the order of the POIT regarding the illegal transfer of 20 workers in 2006.
- The service of the claimant was retrenched after several years of the stay order.
- The Labour Court awarded the claimant a compensation of Rs. 200,000 plus interest.
- The Labour Court ruled in favor of the workman, directing the management to pay the compensation within one month.

- The workman is entitled to skilled/semi-skilled wages which were not paid by the management.
- The back wages issue will be decided by the High Court at the final judgment.
- The management calculated retrenchment compensation based on the last drawn salary, not as per the designated skilled and semi-skilled worker as ordered by the POIT.

Issue

- Issue 2: Whether the stayed award of the Industrial Tribunal could be relied upon by the Labour Court to determine entitlement to compensation
- The Workman was being paid as 'unskilled' labor from the date of appointment until retrenchment
- The key question for adjudication is whether the Labour Court's decision warrants interference under Article 226 of the Constitution of India

Arguments

- The Petitioner argues that the impugned award was passed without considering all facts and circumstances.
- Despite transfer orders being deemed illegal by the Industrial Tribunal, the Petitioner reinstated the worker to avoid liability under section 17B of the Act.
- The Petitioner alleges the worker is being punished for forming a union to address grievances before labor authorities.
- It is contended that the retrenchment compensation issue is not clearly malicious.
- The Petitioner asserts that the court cannot reevaluate evidence and material on record in writ jurisdiction without showing illegality or perversity.
- Ultimately, the Petitioner believes the Labour Court was correct in issuing the impugned award.
- The Ld. ARM argued that the grant of designation to the claimant has been stayed by correctly calculating retrenchment compensation and notice pay based on their last drawn wages, not as per the award dated 29.09.2009.

- The claimant had filed a case against their transfer, and it was decided by POIT that they were performing an unskilled job.
- The award resulting from the transfer case was not challenged by the claimant before any forum, making it final and operating as res-judicata.

Analysis

- The Labour Court found that the workman's services were terminated in violation of Section 25F of the Act.
- The Workman was entitled to compensation as per the 2009 award for skilled/semi-skilled category, but the management wrongly calculated it based on unskilled laborer wage.
- The Seniority list was displayed and sent to the Labor Department, but the Workman failed to provide evidence contradicting it.
- The POIT observations did not hold as res-judicata in the designation case.
- The Labour Court rightly awarded compensation based on the designation given in the previous award since it was granted before the stay.
- The management failed to provide proper compensation as per the skilled/semi-skilled designation leading to the violation of Section 25F of the Act.
- The Court rejected the management's argument that the Labour Court could not award compensation based on the designation that was stayed.
- The Workman had rendered service for over 20 years and was entitled to compensation as per skilled/semi-skilled category.



- The findings of the Labour Court indicated illegal retrenchment by the management for not providing proper compensation in line with the designation awarded in the earlier Tribunal's decision.
- The Court analyzed all evidence, legal arguments, and factual circumstances to arrive at the decision.
- The stay on the designation matter imposed in 2013 did not affect the illegality of the retrenchment as the Workman was not compensated as per the designated category.
- Section 144 CPC allows for variation, reversal, setting aside of decrees.
- Restitution principle applies to ensure parties are in their pre-stay position.
- Instances cited where successful party entitled to restoration of benefits.
- Imposition of a stay on proceedings alters the legal position until final decision.
- Judicial dicta highlight the duty of the court to restore parties post dismissal of stay.
- The case of the respondent workman's retrenchment and subsequent restoration of designated status.
- Court's duty to restore parties post-stay as per settled jurisprudence.
- Distinction between repeal and suspension of law explained.
- Effect of stay on adjudication discussed citing legal precedents.
- Differentiation between quashing and suspension of adjudication outcomes.
- Case law examples supporting the obligation of parties after dismissal of stay.
- The obligation of pay compensation in cases of genuine closure upheld.
- Judicial dicta reaffirming principles of restitution in various scenarios.
- Section 25-F of the Act outlines conditions for retrenchment of a workman.
- Employer must provide one month's written notice or pay wages in lieu of notice for retrenchment.
- Compensation equivalent to fifteen days average pay for every completed year of service must be paid at the time of retrenchment.



- Employer must give notice to the appropriate government to have a valid claim for compensation.
- Workman must have been in continuous service for at least one year with the employer.
- Continuous service is a mandatory requirement for claiming compensation under Section 25-F.
- In the instant batch of petitions, the Court finds no merit and upholds the findings of the Labour Court.
- The petitioner management failed to present compelling arguments in their favor.
- The Labour Court consistently found in multiple writ petitions that the management illegally retrenched workers without proper compensation based on their designation.

Decision

- The issue before the Labour Court was the legality and justification of the workman's retrenchment.
- The management is directed to pay Rs.2,00,000/- to the workman within one month of the award.
- If the payment is delayed, interest at 9% per annum will be applicable.
- Parties are to bear their own costs.
- The judgment is upheld, and the management must pay the compensation awarded by the Labour Court to the respective workmen within three months.
- The award is to be published by Govt. of NCT of Delhi.
- Pending applications are dismissed, and the judgment is to be uploaded on the website.

Case Title: SAWHNEY RUBBER INDUSTRIES Vs. SH. MANOJ KUMAR (2024:DHC:4569)
Case Number: W.P.(C)-7984/2020

Source : News law

CENTRE ALLOWS SIX MONTHS MATERNITY LEAVE FOR STAFF IN CASE OF SURROGACY

Women government employees can take 180 days of maternity leave in case they have children through surrogacy after amendments were announced to a 50-year-old rule by the Centre.

It has also allowed the "commissioning mother" (the intending mother of the child born through surrogacy) with child care leave besides paternity leave of 15 days to the "commissioning father", according to the changes made in the Central Civil Services (Leave) Rules, 1972. "In case of surrogacy, the surrogate, as well as the commissioning mother with less than two surviving children, may be granted maternity leave of 180 days, in case either or both of them are government servants," read the amended rules notified by the Personnel Ministry.

Till now, there were no rules to grant maternity leaves to women government employees in case a child was born through surrogacy. "In case of a child begotten through surrogacy, the commissioning father who is a male government servant with less than two surviving children may be granted paternity leave of 15 days within the period of 6 months from the date of delivery of the child," the new rules said. In case of surrogacy, the commissioning mother with less than two surviving children, may be granted child care leave, reads the Central Civil Services (Leave) (Amendment) Rules, 2024, notified recently.



Existing rules allow "a female government servant and single male government servant" child care leave for a maximum period of 730 days during entire service "for taking care of two eldest surviving children, whether for rearing or for looking after any of their needs, such as education, sickness and the like".

The "surrogate mother" shall mean the woman who bears the child on behalf of the commissioning mother and the expression "commissioning father" would mean the intending father of the child born through surrogacy, the Personnel Ministry clarified in the amended rules.

Source : India Today

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