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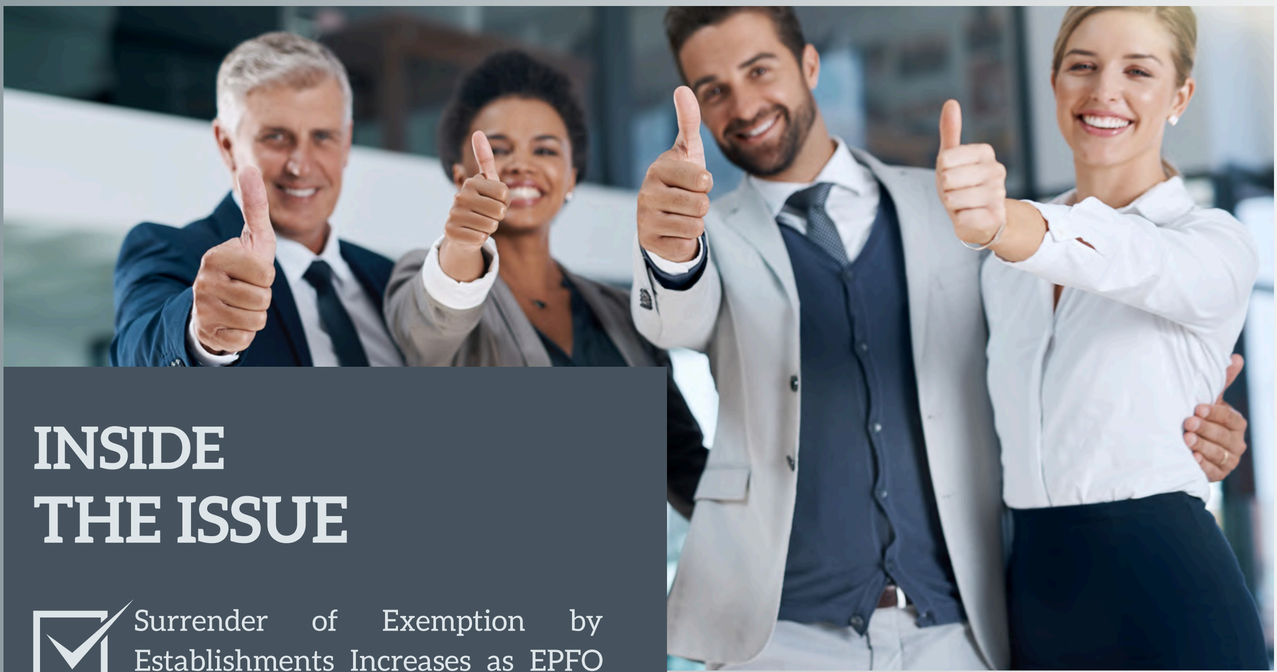

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UCS POV: IMMEDIATE IMPACT ON THE INDUSTRY ON IMPLEMENTATION OF LABOUR CODES

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CHIEF OPERATING OFFICER

The Central Labour Ministry intends to execute the labour codes, which have been included in the current government's 100-day agenda. At least two of the labour codes, from the Code on Wages, Code on Occupational Safety, Health & Working Conditions, Code on Social Security and Code on Industrial Relations may be implemented initially. However, it appears that the Codes may be implemented during the next fiscal year, beginning in April 2025. The Wage Code and Social Security Code may be implemented initially as the government's immediate aim is to change the minimum wages to living wages (floor wages) and provide social security for all unorganised workers.

Considering the draft published under Labour Codes we have listed a few of the immediate impacts on the industry once the codes are implemented:

- Living wage (Floor wage) to be introduced: The 'Living Wages' (Floor wages) may be introduced across India. However, the respective state government must assent to the same.

- Gratuity for Fixed-term employee (FTE): The FTE are eligible for gratuity based on their service tenure (Sec 53 (1) of the Code on Social Security) and will become eligible after one year of service. Companies will incur additional costs as gratuity shall be payable to fixed-term employees and will have to make the provision in the books of accounts.

- Amendment to the definition of Employee: The definition of 'Employee' is amended and now comprises supervisors and managers. This new definition means that supervisors and managers are eligible for additional benefits, such as overtime pay, resulting in additional expenditures for the companies. Currently, supervisors and managers are not entitled to overtime pay or compensation for working on national and festival holidays, or weekly off days.

- Basic wages must constitute at least 50% of gross wages: According to the Code on Wages, the monthly allowances together cannot exceed 50% of the monthly gross wages. The impact on companies will be similar in terms of gratuity settlement if the employees' present basic wages are less than 50% of their gross earnings.

- Inclusion of Gig and Platform workers: These workers may be covered under the definition of 'Employee' under the Code on Social Security and social security will apply to them. Companies will have to comply with an additional cost on social security amount paid to such employees.

- Healthcare facilities to be extended: The government may provide free annual health examinations to employees over a specific age limit or certain classes of employees or establishments under the OSH Code.

- Standing Order threshold raised: The Standing Order may apply to all industrial establishments having 300 or more employees. The regulations concerning layoffs, retrenchments, and changes in working conditions under the Industrial Dispute Act now apply to establishments with 300 or more employees, an increase from the previous threshold of 100 employees. The definition of 'Industrial Establishment' remains unchanged from the definition of 'Industry' under the Industrial Standing Order Act. However, states have the authority to include any other industries in the definition of 'Industry' when publishing the rules under the code.

We recommend that any changes to the existing company policy, salary structure, etc., in alignment with the above points, should only be initiated after the Codes are officially published in the Gazette notification as there is a probability of changes to the existing draft rules. Any such proactive changes implemented by the company cannot be reversed later as they will be deemed as changes in working conditions.

SURRENDER OF EXEMPTION BY ESTABLISHMENTS INCREASES AS EPFO STREAMLINES COMPLIANCE PROCEDURES

In the last two years, 27 establishments have surrendered their exemption, adding about 30,000 employees and an amount of Rs. 1688.82 crores to the Fund under the Employees' Provident Fund Organisation (EPFO). Due to improved services, more establishments are surrendering their exemptions granted by EPFO. These establishments prefer to let EPFO manage their employees' Provident Fund (PF) directly. This allows them to focus on their core business activities. With faster claim settlement, higher rates of return, strong monitoring, and ease of engagement, services provided to both establishments and members by EPFO are continuously improving.

EPFO, under the Ministry of Labour and Employment, has taken multiple steps in the last year to streamline compliance procedures for establishments exempted under the EPF Act.
In an effort towards standardizing procedures, EPFO has, for the first time, published elaborate Standard Operating Procedures (SOPs) and manuals encompassing all procedures relevant for exempted establishments. Furthermore, in a major step towards digitization, a new software and portal will be launched shortly to simplify the process of surrendering exemptions. Establishments that wish to manage the PF corpus of their employees need to seek exemption under Section 17 of the EPF Act. This allows EPFO to permit them to manage their own PF Trust without making statutory contributions. Such exempted establishments are statutorily mandated to provide benefits that are at least on par with those provided by EPFO to subscribers and comply with the notified conditions of exemption as outlined in the Act.

As of 31st March 2023, there are 1002 exempted establishments managing a corpus of Rs. 3,52,000 crores of 31,20,323 members.
The increasingly enhanced focus of EPFO on its stakeholders, along with professionally managed funds generating steady returns for members, has promoted the trend of surrendering exemptions.

Source: Press Information Bureau

STEPS TAKEN TO IMPROVE WORKING OF ESI SCHEME

The Employees' State Insurance Act, 1948 is applicable to all factories and establishments, other than seasonal factories, having ten or more employees, drawing wages up to Rs 21,000/- (Rs. 25,000/- for persons with disability). As such, the Act does not apply to the unorganised sector.
Various steps taken by ESIC to improve the working of the ESI scheme is mentioned below

a. Rates of benefits have been enhanced for Permanent Disablement Benefit (PDB)/Dependents' Benefits (DB) Beneficiaries.
b. Proposal for a new scheme has been approved to cater medical care (including SST) for superannuated beneficiaries who have contributed in ESIC but went out of coverage before superannuation.
c. Online module has been launched for updation/editing the particulars of Insured Persons (IPs) and their family details.
d. Aadhar based authentication of Insured Persons & their family members on voluntary basis has been adopted for providing social security benefits, including medical and cash benefits to beneficiaries.
e. For providing hassle-free services to Insured Persons (IPs)/Insured Women (IW), an online portal/facility has been started for submission of cash benefits claims under ESI scheme.
f. Relaxation in contributory conditions have been made for the Covid period starting from 01.04.2020 to 30.09.2020 by amending the Rule 55(1) & 56(1) of ESI (Central) Rules, 1950 in the year 2023 to remove the hardships faced by various insured persons in getting their maternity benefits/sickness benefits during the Covid period.

Source: Press Information Bureau

CENTRE, STATES MUST WORK TOGETHER FOR GIG WORKERS' WELFARE

The internet revolution has spawned a large number of platform-based e-commerce companies in India. The rapid growth of these companies has led to an employment boom for gig workers. A Niti Aayog report estimates that the gig workforce in India will be 2.35-crore-strong by 2029-30, constituting 6.7 percent of the non-agricultural workforce and 4.1 percent of the country's total workforce.

This growing workforce has for long been asking governments to bring them under a social security net. As labour is on the concurrent list, both the Centre and states are empowered to make laws to ensure these workers' welfare. Indeed, the absence of job security, health benefits and adequate safety measures for gig workers has pushed both the Centre and states to frame laws for their welfare.

However, the Union and state governments have failed to work together to put in place a uniform mechanism that brings gig workers under a safety net, while saving the fast-growing platform-based companies from unreasonable financial burden and punitive action. States, especially those ruled by non-NDA parties, do not want to follow the Union government's Code on Social Security passed by parliament in 2020. They want to have their own laws to collect money from the platform-based companies to run the welfare schemes. According to the central code, the Union government would collect 1 percent of the companies' turnover.

Most states want a flat fee on each transaction to create a welfare fund. Besides, they also want to ensure job security, which is not part of the central code. While the previous government in Rajasthan had passed a law on the subject, Karnataka and Jharkhand are in the process of doing so. This has led to a situation where the companies are crying foul over the possibility of facing double taxation—at the hands of both the Centre and the states. The Union and state governments need to work together to ensure they do not create parallel welfare structures that become unworkable, depriving gig workers of the much-needed benefits. PM Narendra Modi's 100-day agenda includes notification of the 2020 labour codes. The Centre needs to initiate a dialogue with the states before notifying the codes in order to put in place a national welfare plan for gig workers.

Source: New Indian Express

ANALYSIS | UNDERSTANDING KARNATAKA'S PROPOSAL FOR 14-HOUR WORKDAY

The Karnataka state cabinet has put on hold its proposal to extend daily work hours limits in the IT/ITeS sector to 14 hours a day. The government's proposal met with strong resistance from both the employees and their unions who defined the bill as an 'attack on basic rights of a worker'.

Later, to mitigate the situation, Karnataka's IT Minister, Priyank Kharge, explained to the media that he was unaware of the proposal as the draft bill was brought by the labour department. He, however, assured that more discussion will take place on it before it is approved. The Karnataka labour minister, however, clarified that the government is evaluating the Bill 'from the labour department's perspective'.

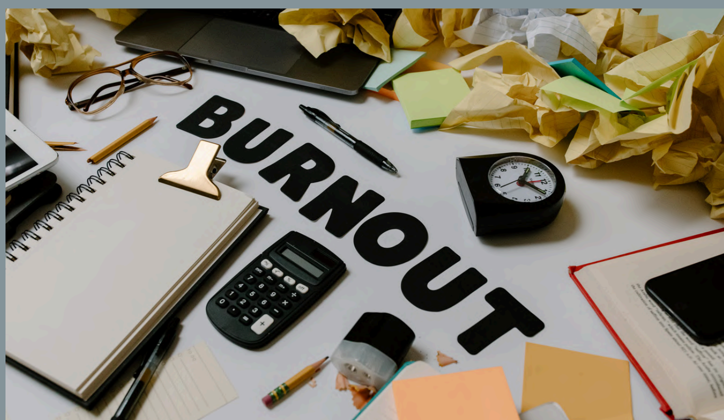
The Karnataka State IT/ITeS Employees Union's (KITU) fear is that the amendment could allow companies to switch from the current three-shift system to a two-shift system, which might result in one-third of the workforce losing their jobs.
The National Association of Software and Services Companies (NASSCOM) also made it clear that it does not support the move. "All we have asked of the states and the central government is to consider some flexibility within this 48-hour limit. This would help companies with a pan-India presence to standardise their operations. In Karnataka, we had a similar discussion with the IT department a few months ago," a senior NASSCOM official issued a statement.

Government's Proposal:
The new proposal is called the Karnataka Shops and Commercial Establishments (Amendment) Bill, 2024. Currently, the Karnataka Shops and Commercial Establishments Act, 1961, regulates the working conditions and rights of employees in shops and commercial establishments, which includes residential hotels, restaurants, theatres, and IT/ITeS companies. Presently, Section 7 of the Act recommends that no employee would work for more than nine hours a day and 48 hours a week. The number of hours, including overtime (OT), must not exceed 10 hours a day. As of now, OT hours are limited to 50 hours in three consecutive months. "In the proposed amendment, basic working hours will continue to be nine hours a day. The government wanted to change Section 7 to raise the cap on working hours and OT hours together to 12 hours a day and increase OT hours in three months to 125 hours. Since OT hours cannot breach 125 hours in three months, employees may need to work beyond 10 hours only on certain days. It is not possible for them to work 12-hour shifts every day, as the set limit ensures such extended shifts are not frequent," the source explained.

Section 10 of the Act says that the working period, including rest intervals, will not exceed 12 hours a day. The Karnataka government wanted to increase this limit to 14 hours. "Introducing such a drastic change through government policy disrupts established work models. Uncertainty and confusion are likely to arise regarding project deadlines, workload distribution, and compensation for extended hours. Forcing compliance through policy changes could stifle innovation and demoralise the workforce," says Sunil C, country manager, Adecco India.

Expanding Base:
Interestingly, Karnataka wouldn't have been the first state to exempt IT/ITeS from the purview of the Shops and Establishments Act. In states like Gujarat, Telangana and Odisha, all IT, ITES and financial services establishments have already been exempted from the applicability of fixing hours of work, giving employers greater flexibility to determine the working hours of their employees. The exemption covers various sections pertaining to operating hours, work timings and safety and security, overtime wages etc.

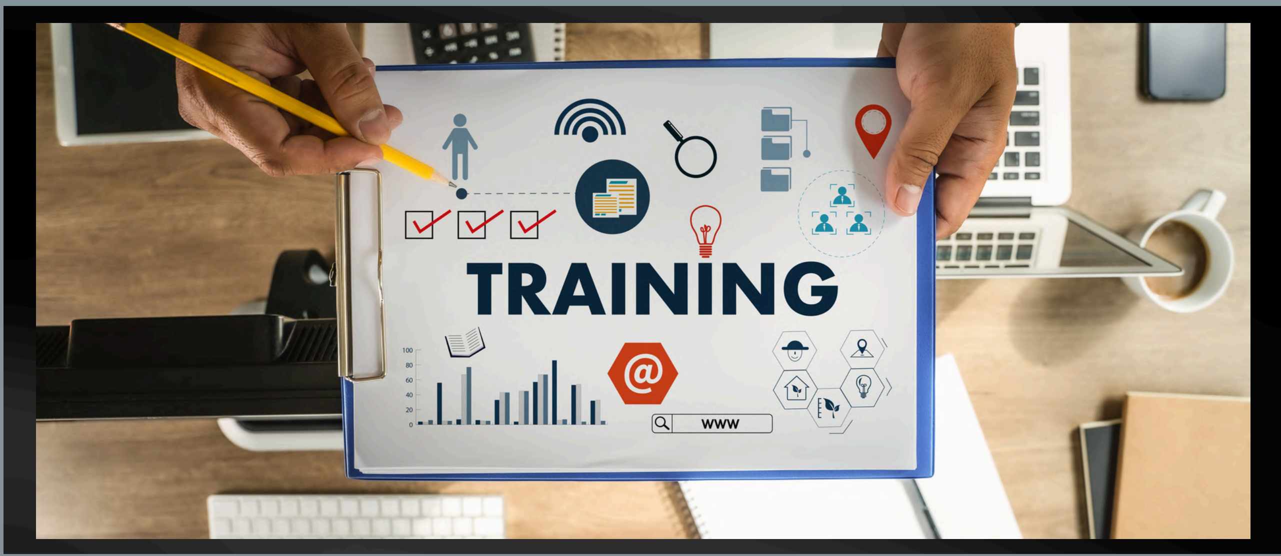
According to a Karnataka GCC Landscape Report released on July 15, Karnataka will have about one million professionals working in GCCs (global capability centres) by 2030. There are about 5.70 lakh people employed in GCCs, as of now, the report said and Bengaluru holds an impressive 39% market share of the larger GCC market in India. A source in Karnataka's IT-BT department says, "There was a call from the IT/ITeS companies to align the work hours here with the global shift of 12 hours. Our aim was only to provide flexibility to these industries that often operate round-the-clock. The government will always ensure that employees' rights and welfare are safeguarded, striking a balance between operational needs and employees' protection," the source adds. For instance, the recent global Microsoft outage created significant operational challenges, and to make up for the loss, extra work hours would have helped to meet the deadlines. Moreover, GCCs' expanding base along with a vibrant start-up ecosystem in Karnataka requires added manhours.



Impact on Health
The KITU pointed out studies on the health impact of extended working hours among IT employees. "As per the report of KCCI, 45% of employees in the IT sector are facing mental health issues such as depression and 55% facing physical health impacts. Increasing working hours will further aggravate this situation," it said. Presently, IT sector employees' work stretches to 10-12 hours during peak project delivery phases to meet increased demands. "14-hour work shifts are unlikely to be productive. Extended hours decrease focus, increase errors, and lead to burnout. Long hours are linked to health problems that reduce well-being and increase absences," says Sunil.

He adds, "A sustainable solution should prioritise creating adaptable work models rather than simply extending working hours. This could involve exploring options such as remote work or staggered shifts to achieve efficiency without compromising employee well-being." There are many studies and researches that say productivity does not necessarily increase when hours are lengthened, and that in many industries, it appears that shorter hours are associated with higher output rates per hour. Before coming out with any law that causes upheavals, the Karnataka government should consult all stakeholders for a realistic work boundary. Any impulsive government decision impacting the operation of IT/ITeS can backfire, with both the employers and the employees relocating to other cities that offer better support.

Source: NDTV



BUDGET 2024: INTERNSHIP FOR 1 CRORE YOUTH, INDUSTRY SEEKS CLARITY

Even though the general consensus across the industry about the government's announcement to create internship opportunities for a crore individuals at hundreds of top companies in the country was largely one of optimism, a number of questions around how the scheme would actually be operationalised on the ground has tempered the sanguine mood. The scheme is part of the central government's larger focus in the Union Budget 2024 on creating employment avenues for the country's youth, and comes after the issue became a hot button during the Lok Sabha polls held earlier this year.

To fill the talent void and also generate initial employment for young people, the government will launch a scheme for providing internship opportunities in 500 top companies for one crore youth in five years, Finance Minister Nirmala Sitharaman said. An internship "allowance" of `5,000 per month along with a one-time assistance of Rs 6,000 will be provided. Companies will be expected to bear the training cost and 10 per cent of the internship cost from their corporate social responsibility (CSR) funds.

The scheme is expected to cost about `66,000 crore, with each company having to shell out over `13 crore for the government's plan, corporate circles said. However, a section of the corporate sector is uncertain about the implementation of the scheme. There are doubts within the industry whether all the companies will be ready to execute the plan. Clarity on these fronts is expected in the next few days.

"There are a lot of fine print details needed to understand how successful the internship scheme can be. For instance, the government has said that it will provide internship opportunities at top 500 companies. But, what are these companies going to be? Is the government going to decide it? Is there going to be a bureaucratic hurdle or delay in the decision making process?" Rituparna Chakraborty, co-founder of staffing firm TeamLease Services, told The Indian Express.

Naushad Forbes, co-chairman of Forbes Marshall, told this paper that with the scheme, the government could be trying to "incentivise lower end job creation, and is a reasonable attempt". "We'd have to see what impact it has and whether Indian entrepreneurs warm up to it. These jobs can be created in sectors such as garments, leather goods, electronics etc. and if India has to create lower-end jobs, these are the sectors that need to be targeted," he added.

Concerns over criteria

While the industry has largely welcomed the internship scheme, some concerns have emerged over the eligibility criteria for companies that would be selected as part of the plan, whether it will be mandatory and the basic qualifications an individual needs to have to qualify as a beneficiary.

"We are waiting for the fine print of the scheme. How will they select the companies? Is it on the basis of market capitalisation? Is it mandatory for a company to implement the scheme? The big question is whether it's workable," an official of a Mumbai-based firm, said.

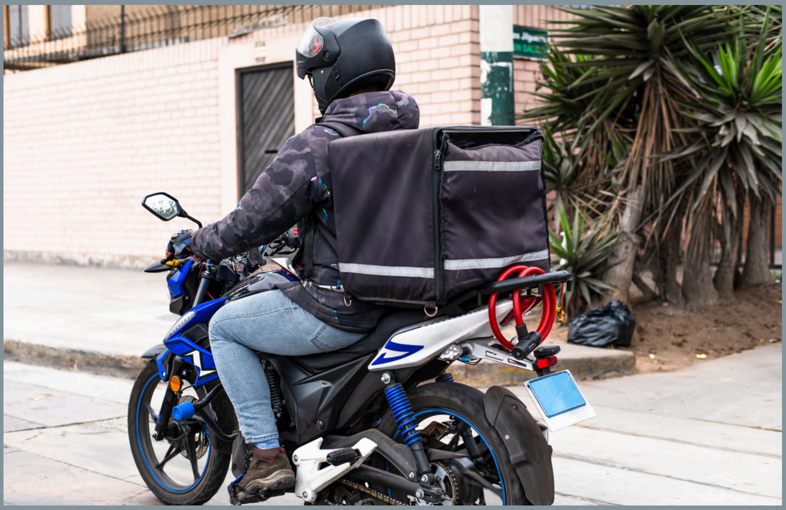
Chakraborty also flagged whether these internships can fall under the Apprenticeship Act. "From a labour law perspective, anything that is not an apprenticeship falls under employment. Apprentices receive stipends and employees receive a salary. But the term used in the Budget is allowance. It is unclear what an allowance means in that context," she said.

A senior executive from a major industry group said that the scheme should also clarify the individuals who could be eligible to be beneficiaries. "Are these people going to be undergraduates, graduates, or even school dropouts? A lot of clarity is needed," they said.

Source: Indian Express

KARNATAKA BILL MISSES GIG WORKERS' PRIMARY ASK

The government of Karnataka recently introduced a Bill called the Karnataka Platform-based Gig Workers (Social Security and Welfare) Bill, 2024. The Karnataka government's Bill is the latest legislative attempt to regulate the relationship between gig, or platform, workers and the digital platforms they work for. Legislation has long been needed, as — for the moment — existing labour laws are not applied to platform workers. Platforms classify them as "partners," use this classification to avoid labour laws, and the terms and conditions of work are determined by contract. However, the vast disparity of power between platforms and their workers means that not only do workers have no meaningful bargaining power in shaping the terms of these contracts, but also, the terms of work are frequently and unilaterally altered.



In some respects, the Karnataka Bill follows its predecessor law that was passed in Rajasthan last year. It envisions the setting up of a welfare board, which will be funded through cess-like contributions, as well as being funded by the state and central governments. It guarantees access to social security schemes for platform workers. And it introduces certain basic safeguards — such as a 14 days' notice before dismissal— that can help forestall arbitrary action by platforms. Unfortunately, however, the Bill fails to address the rather significant elephant in the room: The employment status of gig workers, and the rights they can claim by virtue of that status. This is a legal battle that has been taking place in multiple countries across the world.

Broadly, and at the risk of some simplification, many countries' labour laws are applicable to a class of workers commonly known as "employees", or those in an "employment relationship." In order to get around having to adhere to labour laws (which would include the payment of minimum wages, overtime and holiday pay, obligations of non-discrimination and non-interference with unionisation, protections against dismissal and so on), platforms across the world have claimed that they do not actually "employ" anyone, but only serve as a conduit for people to offer services for consumers. For example, a company like Uber argues that it is not in the business of transport, but that it is a "digital service." With a few exceptions, lawmakers and courts have been sceptical of these claims — and rightly so. Many of the platforms under discussion exert a significant amount of power and control over workers, through the device of the algorithm that underlies the so-called "digital service" (or, in common parlance, the "app"). They fix wages (and unilaterally alter them), exercise disciplinary powers (by kicking individuals off the app, especially if their ratings go down), and enjoy asymmetric control over information through their control over the proprietary software that runs the app. For this reason, even though modern-day digital platforms do not resemble the classic image of the factory and the workers on the shop floor, courts and legislators have frequently held that for the purposes of labour law, platform workers are employees and not partners.

Such a finding is crucial because, as noted here, the employment relationship — or the legal status of employment — is the gateway for workers to access the basic labour rights that mitigate the imbalance of power between workers and corporations. In this context, the Karnataka Bill's silence on the issue of employment status appears to be by design and is a serious shortcoming. Mere access to social security schemes (which is also promisedby the centrally-enacted new labour codes, which are yet to come into force) is not a sufficient substitute for employment status: Indeed, it is no substitute at all, as State largesse cannot substitute for labour rights. As anyone who reads the newspapers knows, some of the most shocking stories of exploitation and workers' suffering in recent times have come from the gig, or platform industry.

We hear of workers being run into the ground, of having to perform deliveries in blazing heat or dangerous rains, of having no recourse against arbitrary downgrading of wages or against dismissal. The reason for this is simple: Platform workers, at present, do not have recourse to law and legal rights — in particular, the rights guaranteed by labour laws (although there are pending petitions in the Supreme Court seeking this status through judicial declaration). Any new legislation that does not recognise and remedy this, for all its pious words, risks turning into a sham. One, therefore, hopes that the Karnataka government consider amending the Bill and clarifying that the default status (unless established otherwise) is that platform workers are employees and entitled to the rights and benefits under the nation's labour laws.

Source : Hindustan Times

CENTRE CONSIDERS INCREASING MONTHLY WAGE CEILING FOR EPFO AND ESIC TO RS 25,000

In a move that could expand the social security coverage for formal sector workers, the government is considering a proposal to increase the wage threshold under the Employees' Provident Fund Organisation and the Employees' State Insurance Corporation.

According to sources, the government could increase the wage ceiling under the two schemes to Rs 25,000 per month. This would be a sharp rise from the current wage threshold – just Rs 15,000 per month for the EPFO and Rs 21,000 for the ESIC.The wage threshold, which is the maximum pay up to which workers employed in firms with 20 or more employees mandatorily qualify for the schemes, have not been revised for several years. For the EPFO, the threshold was last revised in 2014 while for the ESIC, it was revised in 2017.

According to sources, this has been a long standing demand of trade unions and was also approved by an internal committee of the EPFO's Central Board of Trustees. While several meetings of the CBT have also discussed the issue, a decision has notbeen taken till now. The wage threshold for the ESIC will have to be approved by its respective board.

Sources pointed out that the current minimum wage for the Central government is Rs 18,000 and the EPFO's wage threshold is below that. Further, with higher inflation and changes in salaries, there is a need to further increase the threshold. A Rs 25,000 threshold would align the threshold for both the schemes and ensure that more workers can be included in these two social security schemes.

Sources said that discussion on this issue have been taking place and could be announced as part of the government's efforts to improve social security coverage and provide benefits to workers. In a recent meeting with the new Labour Minister Mansukh Mandaviya, trade union Bharatiya Mazdoor Sangh had also demanded doubling the ceiling of ESI and EPF eligibility. "The current ceilings were too low and not in tune with the rise of income and prices," it said in a statement, adding that such enhancement will also widen the coverage of the schemes to a large section of workers.

Source : Business Today

EPF INTEREST RATE FOR FY2023-24 NOTIFIED – CHECK THE LATEST RATE

Good news for EPF members. The Ministry of Finance has notified the EPF interest rate at 8.25% for FY2023-24. It may be noted that the Central Board of Trustees (CBT) of the Employees' Provident Fund Organization (EPFO) had in February this year suggested an annual interest rate of 8.25% for the FY2023–24. This proposal was made during the 235th meeting of the Board in Delhi, was sent to the Ministry of Labour & Employment for forwarding to the Ministry of Finance for approval.

In a social media post, the EPFO said that the rate of interest is typically announced after the conclusion of the financial year in the first quarter of the following financial year. This year's interest rate is the highest in recent memory, providing greater benefits to members compared to other small-scale savings, GPF, and PPF interest rates.

"The revised rates of interest have been applied to current and former members in their final PF settlements. Those members who opted for final settlements during the financial year 2023-24 and the beginning of FY2024-25 will not incur any losses, as they will receive the difference in interest. Additionally, all active EPF members will also be credited with interest at a rate of 8.25% for the financial year 2023-24," it said. EPFO said that it has commenced processing claims at an annual interest rate of 8.25%. The interest rate is determined based on the earnings from EPFO's debt and equity investments.

While the interest income from debt instruments is projected at the start of the fiscal year, the income from equity investment is only known after the redemption of equity during the fiscal year. The Ministry of Finance had in May this year given approval for an annual interest rate of 8.25%. Subsequently, the Ministry of Labour has informed the same through letter No R/11018/01/2023-SS-II dated 24.05.2024, which has been relayed to the field offices for the settlement of claims and the crediting of interest in the members' PF account.

The interest at the revised rates, since the notification, is being paid to the current and outgoing members in their final PF settlements. As a result, 23,04,516 claims have been settled, disbursing an amount of Rs. 9260,40,35,488 to the members, inclusive of the latest interest rate declared at 8.25% per annum.

Source : Financial Express

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