

LABOUR LAW MONTHLY UPDATE

JANUARY 2025

DISCLAIMER

- This Presentation is meant for informational purpose only and do not purport to be advice or opinion, legal or otherwise, whatsoever.
- This is not intended to advertise services or solicit work through this monthly update.

Let's
take
a
tour

Amendments & Ordinance

Circulars and Notifications

Across the Globe

Did you know

Case Law

Compliance

Knowledge Corner



AMENDMENTS AND ORDINANCE



Circulars and Notifications

EMPLOYEE'S PROVIDENT FUND ORGANISATION

Notification dated: 20.12.2024

UAN Activation and Seeding of Bank Account with Aadhaar

- The Employee's Provident Fund Organization has made the UAN activation and Aadhaar seeding in Bank accounts mandatory for all the eligible employees to access the benefits of the Employment Linked Incentive Scheme announced in the Union Budget 2024-2025.
- The EPFO has extended the last date to link the Universal Account Number (UAN) for the Employment Linked Incentive (ELI) Scheme to January 15, 2025, from December 15, 2024. Along with the extension of this deadline to activate UAN, the Government has also extended the date for the Aadhaar Seeding of bank accounts.

KARNATAKA LABOUR WELFARE BOARD, BANGALORE

Circular dated: 24.12.2024

Online Payment of Karnataka Labour Welfare Fund Contribution

- The Karnataka Labour Welfare Board issued a press note on December 24, 2024, mandating online payment of Labour Welfare Fund (LWF) contributions for the calendar year 2024.
- This directive applies to various establishments, including factories, plantations, workshops, motor omnibus services, rental service establishments, organizations registered under the Karnataka Society Registration Act 1960, commercial/ITBT establishments with more than 50 workers, and charitable trusts.

- Contribution Details:

Employee Contribution: ₹20 per employee

Employer Contribution: ₹40 per employee

Total Contribution per Employee: ₹60

Conti.

- The last date for payment of contributions is January 15, 2025.
- Delay in payment of contribution will attract penal interest at the rate of 12% per annum for the first three months of delay and 18% per annum for delays beyond three months. Inspections by the Welfare Commissioner and Labour Department officers will be conducted, and legal proceedings may be initiated for non-payment.
- The Contributions must be paid online through the official Karnataka Labour Welfare Fund website. All concerned establishments are urged to ensure timely payment to avoid penalties and legal actions.

EMPLOYEE'S STATE INSURANCE CORPORATION

Circular dated: 11.12.2024

Implementation of Bulk Aadhaar Seeding through Employer Portal

- The Employee's State Insurance Corporation [ESIC] has issued a circular introducing a system to enable employers to seed Aadhaar numbers of ESIC beneficiaries in bulk for better identification and verification.
- The ESIC has directed the employers to ensure that the Aadhaar details matches the database to avoid failures and for demographic mismatches, the employers are asked to update either ESIC or Aadhaar details as required. The Aadhaar verification is done using OTP, biometric, and face authentication through UIDAI.
- The system is to expedite Aadhaar seeding for IPs (Insured Persons) and their family members, ensuring seamless benefits delivery. Further the field offices must publicize the feature and monitor seeding progress, targeting employers with significant pending beneficiaries.
- A comprehensive user manual detailing steps for implementation is attached with this circular for employer reference.

KERALA LABOUR AND SKILLS DEPARTMENT

Notification dated: 16.12.2024

Minimum Rates of Wages payable to the Employees of the Paper Production industry Sector

- The Kerala Labour and Skills Department has issued a notification revising the minimum rate of wages payable to Employees employed in the Paper Production Industry Sector.
- In Suppression of the earlier notification dated 09.05.2017 and published in Kerala Gazette dated 12.05.2017 after considering the objections and suggestions has published a notification dated 14.03.2024. The notification has now revised the existing minimum rates of wages in the above said Industry.
- The Employees shall also be eligible to Variable Dearness Allowances in addition to the Basic Wages, the Dearness Allowances is calculated based on latest available consumer price index numbers for each month.
- In addition to this, if employees at present are getting higher wages than minimum wages they shall be entitled to continue with the same.

Conti.

- For the calculation of daily wages in Monthly wages category, the grand total of basic monthly wage including dearness allowances shall be divided by 26.
- If other posts in this sector is not been included in the schedule, the rate of minimum wages and dearness allowances which has been prescribed in the similar posts shall be provided.

QUIZ!

Certified Standing Order should be displayed in which language ?

1. English
2. Language known to Majority of workmen.
3. English and Language known to majority of workmen



ACROSS THE GLOBE

Australia criminalises Wage Theft

- Employers in Australia will face criminal charges if they intentionally underpay their employees due to the changes made in the Fair Work Legislation Amendment (Closing Loopholes) Act, 2023.
- Employers would be subjected to hefty penalties which applies to Company and/or the individuals who engage in conduct relating to underpayment.
- The Wage Theft offence will carry a maximum of 10 years imprisonment, and/or a maximum fine of the greater of:
 - 3 times the amount of underpayment, if the Court determines the amount, or
 - For an Individual: 5,000 penalty units (\$1.5 million) or
 - For a Company: 25,000 penalty units (\$7.8 million)

United Kingdom's Employment Tribunal uplifts compensation for 'Fire and Rehire' Code breaches

- The Employment Tribunal may order Protective awards of upto 90 days gross uncapped pay when an employer fails to meet the collective consultation requirements in redundancy situations involving 20 or more employees.
- Initially when the Code of Practice on Dismissal and Re-engagement took effect in July 2024, it omitted Protective awards from the list of claims eligible for compensation uplifts. However, the Trade Union and Labour Relations (Consolidation) Act 1992 (Amendment of Schedule A2) Order 2024 addressed this situation and added failure to follow collective consultation requirements to the list of claims eligible for upto a 25% compensation uplift for non-compliance with a relevant code of practice.
- Employers can no longer rely on 90 days' gross pay per employee as the worst-case scenario when assessing the maximum potential financial liability for failing to comply with the collective consultation obligations in a redundancy situation. An employer must now also consider whether the statutory code of practice on dismissal and re-engagement has been breached. In the likely event, the employer can add up to 25% to estimated worst-case scenario figures.

**IN CASE YOU
MISSED IT**

Jurisdiction of Labour Court and Jurisdiction of Tribunal

*Hind Filters Limited and Another versus Hind
Filters Employees Union
Dated 17.08.2023*

Who is a "Workman"?

Lenin Kumar Ray vs. Express Publication (SC)
Dated 21.10.2024

Merely having a junior does not make an employee a Supervisor or Manager

Nature of duty is Paramount

Senior Manager Sales is not a Workman

Bharti Airtel Ltd Vs. AS Raghavendra Rao
Dated 02.04.2024

**Mere absence of power to appoint, dismiss
or hold disciplinary Proceedings**

Resignation is 'not of his free will'

Prosecution under Section 29 and Sanction under Section 34 – Quashing of Prosecution

Yugal Sikri and Others vs State of UP

Dated

30.07.2024

Suppression of Criminal antecedent and Background verification

Union of India and Others vs. Shishupal
Dated 23.06.2024

Wage disputes- Loss and Financial Position of Employer

*VVF Limited employees Union vs. VVF India Limited
Dated 09.04.2024 (SC)*





As of December 2024, the Ministry of Labour and Employment has set a deadline for all states and union territories to complete the harmonization and pre-publication of draft rules under the Codes by March 31, 2025.





Ajeet Vikram Bahadur Singh vs State of Maharashtra
2024:BHC-AS:44547-DB
Dated 21.11.2024

Ajeet Vikram Bahadur Singh vs State of Maharashtra

2024:BHC-AS:44547-DB

Dated 21.11.2024

- A blaze from a machine caused injuries to the worker.
- The Manager of the Factory was prosecuted and fined under Section 92 of Factories Act, 1948 for Negligence in maintaining machinery.
- The Manager was also prosecuted under Sections 285,287,337 and 338 of Indian Penal Code, 1860
- The Bombay High Court quashed the FIR filed under Indian Penal Code,1860 against the manager.
- The High Court referring to Article 20(2) of The Constitution of India and Section 300 of Code of Criminal Procedure which prohibits Double Jeopardy as offences under both statutes arose from same facts. holding that it will constitute Double Jeopardy with reference to holding that it will constitute Double Jeopardy with reference to
- The Bombay High Court also held Police do not have the jurisdiction to investigate the matter for which the Factory Inspector has already filed Criminal Complaint.



IN THE SUPREME COURT OF INDIA
CIVIL APPEAL NO. OF 2024 (Arising out of SLP (C) No.5580 of 2024)
JAGGO VS UNION OF INDIA & ORS.
DATED: 20.12.2024

JAGGO VS UNION OF INDIA & ORS

CIVIL APPEAL NO. OF 2024

- The Appellants were part-time workers engaged by the Central Water Commission (CWC) for essential housekeeping and maintenance duties.
- Despite serving continuously for over a decade, they were not regularized, and they remained on ad-hoc terms.
- The Appellants argued that their work was integral, performed without interruption, and similar to that of regular employees.
- The Appellants sought regularization of their services through the Central Administrative Tribunal (CAT), their plea was denied on the grounds that they were not employed against sanctioned posts and had not met the criteria for regularization such as full-time service or educational qualifications. Following this order, their services were abruptly terminated without notice.

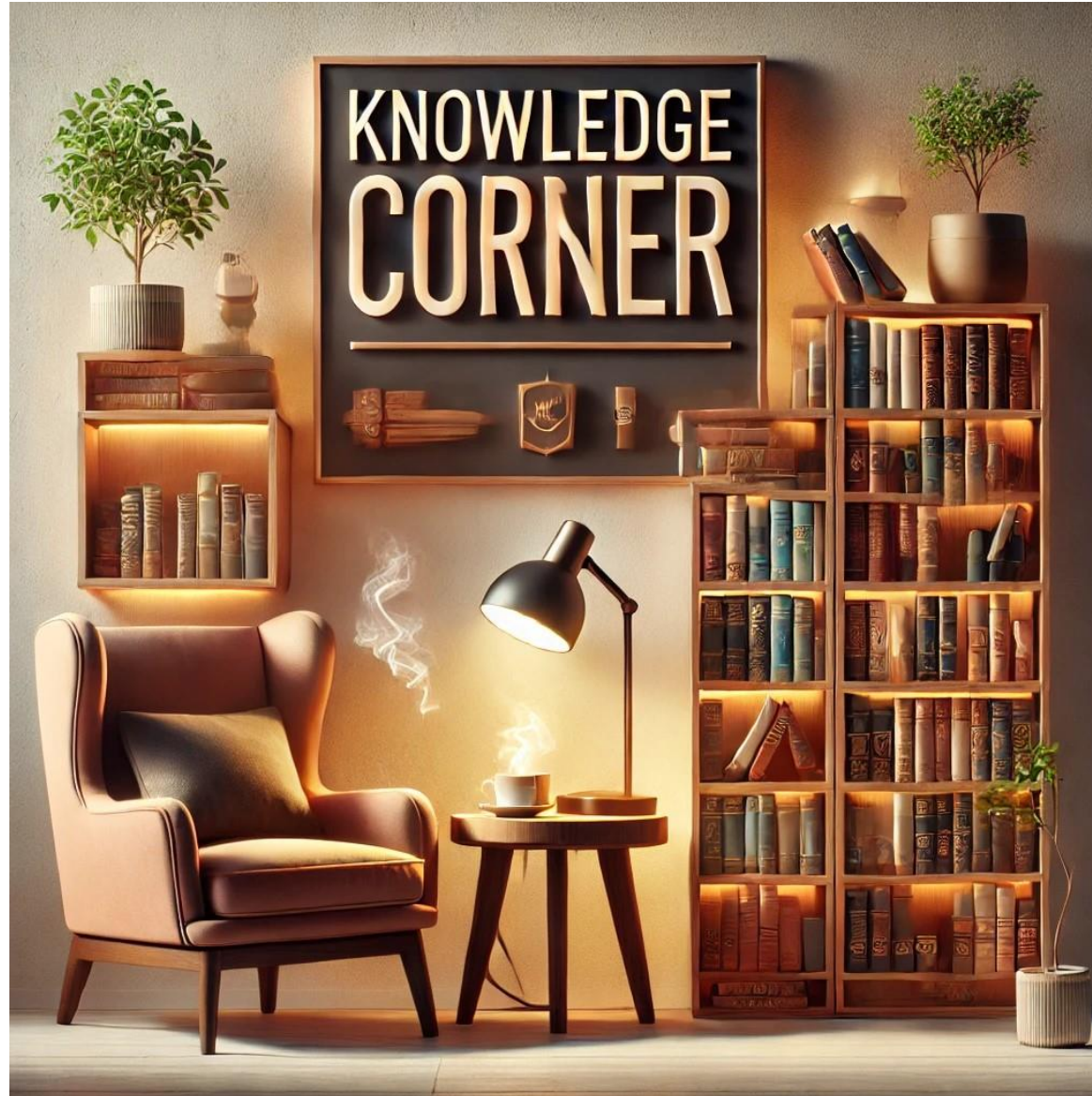
CONT...

- Aggrieved by the dismissal of their plea by the CAT, the Appellants challenged their termination and denial of regularization before the Delhi High Court, asserting that their long-standing service and reliance on *State of Karnataka v. Uma Devi (2006)* entitled them to regularization. The High Court upheld the CAT's decision, citing their part-time status, absence of sanctioned posts, lack of educational qualifications, and the employer's decision to outsource their work. The appellant filed an appeal before the Hon'ble Supreme Court, argued that their work was essential, continuous, and comparable to that of regular employees, emphasizing that their appointments were irregular, not illegal, under the principles of *State of Karnataka v. Uma Devi (2006)*. They further alleged discriminatory treatment, noting that other employees with lesser tenure and no qualifications had been regularized. The respondents contended that part-time workers lacked a vested right to regularization, defending outsourcing as a legitimate policy decision.

CONT...

- The Supreme Court allowed the appeals, finding that the appellants' work was indispensable, and their termination violated natural justice. The Court emphasized that *State of Karnataka v. Uma Devi* (2006) distinguished between illegal and irregular appointments, allowing regularization for employees engaged in essential, sanctioned roles for over a decade. It also cited *Vinod Kumar v. Union of India* (2024), which reinforced the need for fairness in recognizing accrued rights from long-term service. The Court quashed the termination orders, directed the appellants' reinstatement with immediate effect, and ordered their regularization, granting continuity of service for post-retirement benefits while denying back wages.

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**What constitutes
a
"MISCONDUCT"?**





What is a Misconduct?

- Under labour law, "**misconduct**" typically refers to an employee's behavior or actions that violate workplace rules, policies, or ethical standards, and it can serve as a legitimate reason for disciplinary action or even termination of employment.
- The Actions that are construed as Misconduct are provided under the Industrial Employment Model Standing Orders Act of the Respective states.

It is important for the Management to draw up those acts of omission which would be construed as Misconduct in his industry. It cannot be left to vagaries of management.

Glaxo Laboratories (India) Ltd vs. Presiding Officer
Meerut (1984) 1 SCC 1

If what is alledged as Misconduct does not constitute misconduct under the Rules, the Management has no power to impose any penalty for the alleged Misconduct.

A.L.Kalra vs. Project and Equipment Corporation of India Ltd (1984) 3 SCC 316

It is well settled law that unless it is mentioned in the certified standing order or service regulations, it is not open to an employer to construe any act as misconduct and impose punishment.

Rashiklal Vaghajibhai Patel vs. Ahmedabad Municipal Corporation and Another (1985) 2 SCC 35

Misbehaviour by an employee against another would constitute Misconduct – Subversive of Discipline

**Lalla Ram vs. Management of D.C.M Chemical
Works Ltd and Anr. (1978) 3 SCC 1**

Disobedience of Legitimate order of superior would amount to Misconduct?

Secretary of Government & Ors. Vs. A.C.J Britto
(1997) 3 SCC 387

**Acting without authority though no loss caused
to Bank is still a Misconduct?**

Mihir Kumar Hazara Choudhury vs. LIC and
Another AIR 2017 SC 4145

Incident outside the Factory – Is it a Misconduct?

M/s Glaxo Laboratories Ltd vs Presiding Officer, Meerut
(1984) 1 SCC 1

Tata Oil Mills Co. Ltd vs Its Workmen *1964 2 LABLJ 113*

Central India Coalfields Ltd vs Ram Bilas Shobnath *1960
SCC OnLine SC 120*



LexPOSH



LexPOSH

**ABRAHAM MATHAI
VS.
STATE OF KERALA,
DEC.03, 2024**



LexPOSH

- The Respondent (victim) was working as an accountant cum manager in the company. She was terminated for dereliction of duties. She approached the labour court challenging her termination.
- While so Anonymous complaint was received by the District Collector, against the Managing Director of the company, which was forwarded to the LCC and an inquiry was conducted.
- The LCC after enquiry directed that the Managing Director
 - (i) Apologize in writing to the complainant
 - (ii) Pay a lumpsum payment of Rs. 19.80 lakhs within 90 days as compensation and
 - (iii) to establish IC in the Company.
- **ORAL COMPLAINTS CANNOT BE SUBSTITUTED FOR WRITTEN COMPLAINTS AS MANDATED BY SEC. 9 OF THE POSH ACT.**

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REPORTING PERIOD – January

Act	Location/s	Due Date	Activity
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-Jan	PF Remittance
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-Jan	IW Returns
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	25-Jan	Monthly Returns-For Exempted Employer Under EDLI Scheme (FORM 7(IF))
Employees State Insurance Corporation Act	Pan India	15-Jan	ESIC Remittance
Professional Tax Act	Andhra Pradesh	10-Jan	Professional Tax Remittance cum Return
	Telangana	10-Jan	Professional Tax Remittance cum Return
	Madhya Pradesh	10-Jan	Professional Tax Remittance (15 th due date for Return)
	Gujarat	15-Jan	Professional Tax Remittance
	Jharkhand	15-Jan	Professional Tax Remittance cum Return (15th of each Quarter (Apr, Jul, Oct, Jan))
	Pondicherry	15-Jan	Professional Tax Remittance (Employer & Employee)
	Karnataka	15-Jan	Professional Tax Remittance cum Return(15th Jan & 15th July)
	West Bengal	21-Jan	Professional Tax Remittance cum Return
	Odisha	31-Jan	Professional Tax Remittance cum Return
	Assam	31-Jan	Professional Tax Remittance cum Return
	Maharashtra	31-Jan	Professional Tax Remittance cum Return
	Nagaland	31-Jan	Professional Tax Remittance
	Meghalaya	31-Jan	Professional Tax Remittance
	Mizoram	31-Jan	Professional Tax Remittance

	Sikkim	31-Jan	Professional Tax Remittance
	Manipur	31-Jan	Professional Tax Remittance
	Tripura	31-Jan	Professional Tax Remittance
Labour Welfare Fund Act	Tamil Nadu	31-Jan	LWF Remittance cum Return
	New Delhi	15-Jan	LWF Remittance cum Return
	Haryana	31-Jan	LWF Remittance cum Return (Extended to 31-03-2020)
	Maharashtra	15-Jan	LWF Remittance cum Return (Extended to 29-02-2020)
	Goa	15-Jan	LWF Remittance cum Return
	Gujarat	31-Jan	LWF Remittance cum Return
	Madhya Pradesh	31-Jan	LWF Remittance cum Return
	Chhattisgarh	31-Jan	LWF Remittance cum Return
	West Bengal	15-Jan	LWF Remittance cum Return
	Andhra Pradesh	31-Jan	LWF Remittance cum Return
	Telangana	31-Jan	LWF Remittance cum Return
	Karnataka	15-Jan	LWF Remittance cum Return
	Odisha	31-Jan	LWF Remittance cum Return
Kerala Shops & Commercialized Establishments Workers Welfare Fund Act (WWF)	Kerala	05-Jan	Remittance (Return due date 15th)

**Let's connect again
At
5PM on 03rd February, 2025**



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*Thank
you*



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