

LABOUR LAW MONTHLY UPDATE

FEBRUARY 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

THE KARNATAKA LABOUR WELFARE FUND (AMENDMENT) ACT 2024

AMENDMENT DATED : 10.01.2025

THE KARNATAKA LABOUR WELFARE FUND (AMENDMENT) ACT 2024

Section 7A of the Act states that, In respect of every employee in an establishment there shall be paid contribution to the Board comprising the employer's contribution, employee's contribution and State Government's contribution, payable respectively by the employer, the employee and the State Government and the contributions so paid shall form part of the Fund.

Continuation...

- The Amendment Act of 2024 increases the contributions to be made by the employee, the employer and the government.
- The Contribution rates stand revised as follows:-
 - Employee Rs.20 to Rs.50
 - Employer Rs. 40 to Rs.100
 - Government Rs 20 to Rs.50



Circulars and Notifications

MINISTRY OF LABOUR AND EMPLOYMENT

Circular dated: 17.01.2025

DEPLOYMENT OF FUNCTIONALITY FOR CAPTURE OF DATA OF NON- EPS MEMBER

- A new functionality for capturing the data of Non-EPS members of P.F. Trusts has been deployed in the Employer's Portal.
- The UAN generation and activation are essential prerequisites for recording the data of Non-EPS members through this feature.
- It is reiterated that Exempted Trusts must submit the required information retrospectively from August 2023

GOVERNMENT OF NATIONAL CAPITAL, TERRITORY OF DELHI, LABOUR DEPARTMENT

Circular dated: 06.01.2025

THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION, AND REDRESSAL) ACT, 2013

- In *W.P. (C) No. 1224/2017, Aureliano Fernandes vs. The State of Goa & Others*, the Supreme Court has directed the proper implementation various provisions of the Act.
- The Ministry of Women and Child Development has also launched the *She Box Portal* for online complaint registration. Employers in both public and private sectors can register on the portal. All District In-Charges (JLCs and DLCs) and DISH must ensure that employers in their jurisdiction have set up Internal Complaints Committees and inform them about the *She Box Portal*

MINISTRY OF LABOUR AND EMPLOYMENT

Circular dated: 17.01.2025

DE-LINKING OF ERRONEOUSLY LINKED MEMBER IDs FROM UAN

- A facility has been introduced to enable members to remove any incorrectly linked Member IDs from their UAN that were added without their knowledge.

REMITTANCE OF PROFESSIONAL TAX

Notification dated: 20.01.2025

DEDUCTION OF PROFESSIONAL TAX FROM THE EMPLOYEE

The Greater Chennai Corporation has notified that employers must deduct the professional tax for the period 2024-2025 from the salary of the employees by January 2025 and remit the same to the Corporation along with arrears by 31.03.2025.

The Professional Tax Slab rates is as follows:

Sl No	Half Yearly Income (Rs)	Half Yearly Professional Tax Rates (Rs)
1.	Upto Rs.21,000 /-	NIL
2.	Rs.21,001/- to 30,000/-	180/-
3.	Rs.30,001/- to 45,000/-	425/-
4.	Rs.45,001/- to 60,000/-	930/-
5.	Rs.60,001/- to 75,000/-	1,025/-
6.	Rs.75,001/- and above	1,250/-

Karnataka Shops and Commercial Establishments (Amendment) Rules, 2024.

NOTIFICATION DATED: 29.11.2024

As per the notification dated 21.11.2024, the Fee for the registration of establishment and renewal of the registration certificate,. mentioned under the schedule I of The Karnataka Shops And Commercial Establishments Rules, 1963 is amended as mentioned below:

SCHEDULE I [See Rules 3 and 3-A]

S.No	Category of Establishment	Fees
1	Shops and Commercial Establishment having Nil employees	405
2	Shops and Commercial Establishment having 1 to 9 employees	810
3	Shops and Commercial Establishment having 10 to 19 employees	5400
4	Shops and Commercial Establishment having 20 to 49 employees	13500
5	Shops and Commercial Establishment having 50 to 99 employees	27000
6	Shops and Commercial Establishment having 100 to 250 employees	54000
7	Shops and Commercial Establishment having 251 to 500 employees	67500

CONTIN..,

S.No	Category of Establishment	Fee (In Rupees)
8	Shop and Commercial establishments Employing 501-1000 employees	94500
9	Shop and Commercial establishments Employing more than 1000 employees	101250

QUIZ!

Can the Central Board constituted under EPF Act reduce or waive damages levied on an establishment by the EPF Commissioner?

- Yes
- No



ACROSS THE GLOBE

Italy introduces Deemed Resignation from employment for unjustified absence

- Unjustified absence from work exceeding 15 days will lead to "deemed resignation" or voluntary resignation of the employee, unless the employee proves that force majeure, or employer-caused circumstances, prevented him/her from communicating the reasons for the absence. However, the exact timeframe for unjustified absence may vary depending on the applicable collective bargaining agreement.
- Employer can terminate their employment contract without needing to follow the standard dismissal procedures, unless the employee can prove they were unable to communicate their reasons for absence due to unavoidable circumstances or employer-related issues.
- However, employer is required to notify the territorial headquarters of the National Labour Inspectorate of the absence of the employee and the Labour Officer is required to verify whether the unjustified absence lasted more than 15 days.

Employment contracts in Germany no longer requires to be signed in "wet-ink"



- The Fourth Bureaucracy Relief Act allows employment contracts in Germany to be electronically signed and sent digitally without signing in "wet ink" (handwritten signature).
- Employees must be provided with digitally working conditions such as access to save and print the essential terms and conditions of employment contracts.
- Employers must request the employee to confirm the receipt of the transmission. However, employees can still request wet ink confirmation, which must be provided without undue delay.
- Failure to provide such written confirmation can result in a fine upto 2,000 Euros.





A recently introduced law in Slovenia requires the Employers to ensure the implementation of Right to Disconnect enabling the Employees' not to be at the Employers' disposal during the rest periods and other justified absences.



**ASSISTANT PROVIDENT FUND COMMISSIONER VS THE SAM TURBO
INDUSTRY PVT LTD
SPL.NO2092 OF 2019 AGAINST W.A.NO.776 OF 2017
SUPREME COURT**

ASSISTANT PROVIDENT FUND COMMISSIONER VS THE SAM TURBO INDUSTRY PVT

- The Employer defaulted in payment of PF contributions, consequently, the Assistant Provident Fund Commissioner (Petitioner) invoked the provisions of Section 14B of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, and levied damages at the maximum prescribed rate.
- The employer preferred an appeal, the Tribunal reduced the quantum of damages to 5% per annum, holding that the EPFO had imposed the maximum penalty without due consideration of mitigating factors.

CONTIN...

- In the Writ filed by EPFO, the learned Single Judge, upheld the findings of the Tribunal, observing that Section 14B of the EPF Act is discretionary in nature and does not mandate the imposition of maximum damages in every instance. Further held that the competent authority must exercise discretion judiciously and not impose penalties in a mechanical manner. Accordingly, the writ petition was dismissed.
- Aggrieved by the order, the EPFO preferred an appeal before the Division Bench of the Madras High Court.

CONTIN...

- The Division Bench, placing reliance on the precedent laid down by the Hon'ble Supreme Court in ESI Corporation vs. HMT Ltd., reiterated that the imposition of penalties must be preceded by due consideration of mitigating circumstances and damages under Section 14B cannot be imposed in a rigid and arbitrary manner without affording a reasonable opportunity to the concerned establishment. Consequently, the appeal was dismissed.

CONTIN...

- The EPFO preferred an appeal before the Hon'ble Supreme Court by way of a Special Leave Petition No. 2692/2019.
- The Hon'ble Supreme Court, vide order dated 02.08.2024, was not inclined to interfere with the judgment of the Division Bench, thereby affirming the orders of the Tribunal and the High Court.

- **ASSISTANT PROVIDENT FUND COMMISSIONER VS THE SAM TURBO**

INDUSTRY, SPL.NO2092 OF 2019

AGAINST

W.A.NO.776 OF 2017

(SUPREME COURT)



CENTRAL WAREHOUSING CORPORATION VS SHRI. G.C.BHAT & ORS
WRIT PETITION NO.102635 OF 2024
(KARNATAKA HIGH COURT, DHARWAD BENCH)
DATE: 10.01.2025

CENTRAL WAREHOUSING CORPORATION VS SHRI. G.C.BHAT & ORS

WRIT PETITION NO.102635 OF 2024

(KARNATAKA HIGH COURT, DHARWAD BENCH)

- Seven years after the date of dismissal filed proceeding before The Controlling Authority Under The Payment Of Gratuity Act claiming gratuity amount of Rs.14,03,860/- with interest
- The authority directed the Petitioner to pay gratuity amount of Rs.7,88,165/- with 10% interest, till the date of actual payment.
- The employer contended that the employee had been dismissed on account of serious charges of misappropriation, for having issued 93 negotiable warehouse receipts in the name of fictitious persons, causing a loss of sum of Rs.1,71,68,033/- and hence the employer was entitled to withhold the gratuity amount and adjust the amounts towards the losses which had been caused by the employee.

CENTRAL WAREHOUSING CORPORATION VS SHRI. G.C.BHAT & ORS

WRIT PETITION NO.102635 OF 2024

(KARNATAKA HIGH COURT, DHARWAD BENCH)

- The Hon'ble High court held that, Suspension from service and later on dismissal from service, would not in any manner retribute the losses caused to the employer. Such, dismissal is only a punishment meted out by the employer after following the necessary procedure as against the delinquent employee. It was for the employer to have initiated proceedings for recovery of the losses, which had been caused and during those proceedings, to forfeit and or adjust the monies due to the delinquent employee after holding necessary proceedings by providing an opportunity to delinquent employee to contest those proceedings.
- The Hon'ble High court held that the Corporation could not without initiating proceedings for recovery, retain the gratuity amount, without such proceedings being initiated, the contention of the employer that losses have been caused will only remain a contention and is not one which has been adjudicated upon .



DOCTRINE OF RELATION BACK

DOCTRINE OF RELATION BACK

- An act done at a later time is, under certain circumstances, treated as though it occurred at an earlier time.
- Orders passed by the Labour Courts/ Tribunals on a subsequent/ later date in favour of an employee or the Management will relate back to the date on which the event has actually occurred.

ORDER OF DISMISSAL, WHETHER PROSPECTIVE OR RETROSPECTIVE IN NATURE ??

**PH KALYANI VS AIR FRANCE, CALCUTTA.,
CIVIL APPEAL No. 419 of 1962 dated 15.02.1963**

PH KALYANI VS AIR FRANCE, CALCUTTA., CIVIL APPEAL No. 419 of 1962 dated 15.02.1963

- The employee was charge sheeted for certain acts of misconducts.
- The employee admitted to the charges in the enquiry, but pleaded it was due to over work. The employee was dismissed from service .
- Seeking approval of the dismissal, Management filed an application before the Labour Court. Challenging the action of the Management, an application under Section 33A was filed by the Appellant.
- The Labour Court held the enquiry as defective and the Management was afforded an opportunity to adduce fresh evidence to prove the charges.

PH KALYANI VS AIR FRANCE, CALCUTTA., CIVIL APPEAL No. 419 of 1962 dated 15.02.1963

- Based on the fresh evidence adduced, the Labour Court came to a conclusion that the order of dismissal was justified.
- The employee challenged the order of the labour court, on various grounds including that the order of dismissal should be prospective and hence he would ought to be entitled to wages till the date of dismissal.
- The Apex Court, considering the principle of law held the Management, having adduced fresh evidence to justify its action and the same was confirmed by the Labour Court, the order of dismissal dates back to the original date on which an employee was dismissed from the service

**DESH RAJ GUPTA VS INDUSTRIAL TRIBUNAL IV., UP,
LUCKNOW AND ANOTHER., CIVIL APPEAL NO.453
OF 1984 DATED 12.09.1990**

DESH RAJ GUPTA VS INDUSTRIAL TRIBUNAL IV., UP, LUCKNOW AND ANOTHER., CIVIL APPEAL NO.453 OF 1984 DATED 12.09.1990

- The Appellant herein, working in a Bank challenged his dismissal from service by way of a complaint before the Tribunal which was taken up as a dispute.
- Question of fairness of enquiry was raised as a preliminary issue by the Appellant which resulted in a preliminary award passed in favour of the Appellant. Thereafter, despite absence of plea by the Management seeking an opportunity to lead fresh evidence to substantiate the charges, the Tribunal permitted the Management to adduce evidence which ultimately resulted in upholding the dismissal of the Appellant.

DESH RAJ GUPTA VS INDUSTRIAL TRIBUNAL IV., UP, LUCKNOW AND ANOTHER., CIVIL APPEAL NO.453 OF 1984 DATED 12.09.1990

- Challenging the same, the Appellant approached the Single Bench of the High Court which dismissed the writ petition.
- Aggrieved over the same, the Appellant herein preferred the present appeal raising two points for consideration;
 - a. That the Tribunal was not right in permitting the Management to adduce fresh evidence when there was no plea seeking an opportunity to adduce so.
 - b. Irrespective of the findings on point (a), the Appellant is entitled to receive salary from the date of order of dismissal to the date of passing of award by the Tribunal.

DESH RAJ GUPTA VS INDUSTRIAL TRIBUNAL IV., UP, LUCKNOW AND ANOTHER., CIVIL APPEAL NO.453 OF 1984 DATED 12.09.1990

- Relying on the judgment in Gujarat Steel Tubes Ltd., Vs. Gujarat Steel Tubes Mazdoor Sabha, the Apex Court held that if the order of punishment passed by the Management is declared illegal and the punishment is subsequently upheld by a Labour Court/ Tribunal, the date of dismissal of the employee cannot relate back to the date of illegal order of the employer.

**WHEN AN ORDER OF DISMISSAL IS VOID,
WHETHER SUBSEQUENT VALIDATION OF THE
ORDER OF DISMISSAL BY THE LABOUR
COURT WOULD RELATE BACK TO THE
ORIGINAL DATE??**

**A.V. LAKSHMI VS. LABOUR COURT, SALEM.,
WP NO 3120 OF 1995 DATED 18.10.1996**

A.V. LAKSHMI VS. LABOUR COURT, SALEM., WP NO 3120 OF 1995 DATED 18.10.1996

- The Petitioner herein has challenged the award of the Labour Court, which dismissed the industrial dispute she raised against her order of dismissal issued by the Respondent Management.
- Before the High Court, the Petitioner sought interim relief of wages from the date of dismissal till the passing of the award on account of the enquiry being set aside and the order of dismissal being validated only by fresh evidence let in by the Respondent Management.

A.V. LAKSHMI VS. LABOUR COURT, SALEM., WP NO 3120 OF 1995 DATED 18.10.1996

- On behalf of the Petitioner, based on the precedents, it was stated that when an illegal order passed by the Management is validated subsequently by the Labour Court/ Tribunal, an employee is entitled to wages from the date of the order of dismissal till the date of passing of the award.
- The Hon'ble High Court, considering the precedents held that when the Management discharges an employee by a void order for want of conduct of domestic enquiry or principles of natural justice, the employee is entitled to wages from the date of the illegal order till the date of passing of the award by the Labour Court.

**R THIRUVIRKOLAM VS PRESIDING OFFICER
AND ANOTHER., DATED 18.11.1996**

R THIRUVIRKOLAM VS PRESIDING OFFICER AND ANOTHER., DATED 18.11.1996

- The Appellant employee was dismissed from service on 18.11.1981.
- An industrial dispute raised by the employee challenging his dismissal. As the domestic enquiry conducted against the Appellant was found to be defective, the Management was permitted to adduce fresh evidence which resulted in the Labour Court upholding the order of dismissal of the Appellant.
- As the order of the Labour Court was pronounced on 11.12.1985, the Appellant filed a writ petition seeking the implementation of the award only from the date of the order of the Labour Court and not relate back to the original date of dismissal.

R THIRUVIRKOLAM VS PRESIDING OFFICER AND ANOTHER., DATED 18.11.1996

- The Supreme Court on the moot question involved, after considering Desh Raj Gupta case. PH Kalyani and Gujarat Steel Tubes observed that if any void order of dismissal is subsequently validated by way of fresh evidence by an employer, the punishment dates back to the original order of dismissal issued by the employer and not from the order of the Labour Court which is pronounced at a later point of time.

WHEN WILL DISMISSAL TAKE EFFECT IN CASE IT IS PRECEDED BY SUSPENSION?

**WHEN WILL THE INCREASE IN WAGES
AND ALLOWANCES TAKE EFFECT BASED
ON THE ORDER OF THE LABOUR COURT ?**

FILMISTAN PVT LTD Vs. THE WORKMEN., Civil Appeal No. 159 of 1965 DATED 04.11.1965

FILMISTAN PVT LTD Vs. THE WORKMEN., Civil Appeal No. 159 of 1965 DATED 04.11.1965

- The dispute before the Tribunal originally passed an award in the year 1962.
- The Management went on an appeal before the Apex Court which remanded the matter back to the Tribunal.
- The tribunal passed an award in the year 1966 and that was again challenged by the management, particularly on effective date of implementation of wage scales and dearness allowance.

FILMISTAN PVT LTD Vs. THE WORKMEN., Civil Appeal No. 159 of 1965 DATED 04.11.1965

- On behalf of the workmen, it was contended that they are entitled to retrospective operation of the award thereby demanding the award to be implemented from the year 1962. Whereas the Tribunal denied the said contention of the workmen and decided the date of implementation of award from 1965, when the matter was remanded to the Tribunal earlier for fresh consideration.
- Before the Apex Court, the Management contended that the implementation of the award from 1965 will cast additional financial burden and hence, the award be made prospective.

FILMISTAN PVT LTD Vs. THE WORKMEN., Civil Appeal No. 159 of 1965 DATED 04.11.1965

- The Apex Court observed that generally it is the discretion of the Tribunal/ Court to decide on the implementation of benefits to be granted to the parties and only in the event of a question of any principle of law is involved, will the Appellate Courts be inclined to intervene.
- However, as regards the present case, considering the additional financial burden that will have to be borne by the Management, the Apex Court held the date of implementation of award from 1966, when the latest award of the Tribunal became enforceable and accordingly disposed the appeals.



LexPOSH



LexPOSH

HCL TECHNOLOGIES LTD.

VS.

N. PARSARATHY

**W.P. NO. 5643 OF 2020 [MADRAS HIGH
COURT]**

DATED 22.01.2025

HCL TECHNOLOGIES LTD. VS. N. PARSARATHY

W.P. No. 5643 of 2020 [Madras High Court]

Dated 22.01.2025

- In 2017, a complaint was filed against a Service Delivery Manager, for multiple instances of sexual harassment.
- The Internal Committee (IC), constituted under the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (the POSH Act), found him guilty of misconduct, citing unwelcome physical contact, inappropriate personal questions, and creating a hostile work environment.
- The ICC recommended disciplinary measures, including removing his supervisory responsibilities, restricting his role to India, and denying him pay raises for two years.
- The Respondent challenged the ICC's findings in the Labour Court, alleging procedural lapses, such as non-disclosure of CCTV footage and lack of cross-examination. The Labour Court accepted his plea and, in December 2019, set aside the ICC's decision, citing violations of natural justice.

HCL TECHNOLOGIES LTD. VS. N. PARSARATHY

W.P. No. 5643 of 2020 [Madras High Court]

DATED 22.01.2025

- The employer appealed to the High Court, arguing that the IC had conducted a fair inquiry. The High Court ruled in favour of the employer, stating that the victim's perception holds greater significance than the accused's intent in harassment cases. It emphasized that any unwelcome, inappropriate, and adverse behaviour constitutes sexual harassment under the POSH Act. Criticizing the Labour Court's approach, the High Court upheld the ICC's recommendations and quashed the Labour Court's order.
- The Court further clarified that the ICC functions as a quasi-judicial authority, and its findings should only be challenged in cases of procedural irregularities or clear injustice. It stressed that minor inconsistencies or the absence of CCTV footage should not undermine the substantive evidence and witness testimonies collected during the inquiry and

QUIZ!

Can the Central Board constituted under EPF Act reduce or waive damages levied on an establishment by the EPF Commissioner?

- Yes

(Provided the establishment has a sanctioned rehabilitation scheme under the Sick Industrial Companies Act, 1985)

- No



REPORTING PERIOD - JANUARY-2025			
Act	Location/s	Due Date	Activity
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-Feb	PF Remittance
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-Feb	IW Returns
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	25-Feb	Monthly Returns-For Exempted Employer Under EDLI Scheme (FORM 7(IF))
Employees State Insurance Corporation Act	Pan India	15-Feb	ESIC Remittance
Payment of Bonus Act	Pan India	01-Feb	Form D
Professional Tax Act	Andhra Pradesh	10-Feb	Professional Tax Remittance cum Return
	Telangana	10-Feb	Professional Tax Remittance cum Return
	Madhya Pradesh	10-Feb	Professional Tax Remittance cum Return
	Gujarat	15-Feb	Professional Tax Remittance (Employer & Employee)
	Karnataka	20-Feb	Professional Tax Remittance cum Return

	West Bengal	21-Feb	Professional Tax Remittance cum Return
	Maharashtra	28-Feb	Professional Tax Remittance cum Return
	Orissa	28-Feb	Professional Tax Remittance cum Return
	Assam	28-Feb	Professional Tax Remittance cum Return
	Nagaland	28-Feb	Professional Tax Remittance
	Meghalaya	28-Feb	Professional Tax Remittance
	Mizoram	28-Feb	Professional Tax Remittance
	Sikkim	28-Feb	Professional Tax Remittance
	Manipur	28-Feb	Professional Tax Remittance
	Tripura	28-Feb	Professional Tax Remittance
	Kerala	28-Feb	Professional Tax Remittance (Employer & Employee)
Kerala Shops & Commercialized Establishments Workers Welfare Fund Act	Kerala	05-Feb	WWF Remittance
Kerala Shops & Commercialized Establishments Workers Welfare Fund Act	Kerala	15-Feb	WWF Return

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

*Thank
you*



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