



SAM ELB

FINE PRINT

THE EMPLOYMENT, LABOUR AND BENEFITS NEWSLETTER OF
SHARDUL AMARCHAND MANGALDAS & CO.

SECOND EDITION

PREFACE

Welcome back to the second edition of Shardul Amarchand Mangaldas & Co.'s Employment, Labour and Benefits Fine Print.

This edition comes at a pivotal moment. India's labour law framework is being reshaped from the ground up with the rollout of the four new Labour Codes, and the ripple effects are already being felt across compliance structures, workforce policies, and day-to-day HR operations. In this briefing, we examine the amendments to State-specific Shops and Establishment Acts prompted by the Codes, key schemes and legislative updates to social security laws, emerging developments around gig and platform work, and the evolving reforms shaping the diversity and equity framework. We distil these developments into crisp, practical action points for business and HR teams. The goal, as always, is to keep our readers one step ahead, so that business and workforce strategies move in alignment with the shifting regulatory framework.

We hope you find this edition useful.

ELB Team



Pooja Ramchandani

Partner
Employment, Labour and Benefits

pooja.ramchandani@amsshardul.com



Kriti Kaushik

Partner
Compensation & Benefits

kriti.kaushik@amsshardul.com



Suruchi Kumar

Partner
Employment Relations

suruchi.kumar@amsshardul.com



Suryansh Gupta

Principal Associate
Workforce Management

suryansh.gupta@amsshardul.com



KEY HIGHLIGHTS



LABOUR CODES

- The Government of India has consolidated 29 central labour laws into four comprehensive Labour Codes, effective November 21, 2025. These Codes, namely, the Code on Wages, 2019, the Industrial Relations Code, 2020, the Code on Social Security, 2020 and the Occupational Safety, Health and Working Conditions Code, 2020, introduce reforms across wage architecture (including a unified wage definition), workforce structures, social security coverage and employee welfare, punishment regime, collective bargaining and simplification of compliance.



RULES UNDER LABOUR CODES

- The Central as well as majority of the State Rules under the Labour Codes are yet to be notified (except few such as Gujarat). The Central Rules are expected to be notified around April, 2026.



EMPLOYEES' ENROLMENT CAMPAIGN 2025 (REGULARISATION)

- The Government has launched a one-time "Employees' Enrolment Campaign 2025", allowing employers to regularise past employees' provident fund ("EPF") coverage for eligible staff with significant waivers on employee contributions and nominal damages of ₹100.



ESIC HEALTH CONNECT' APP (ACCESSIBILITY)

- The Employees' State Insurance Corporation ("ESIC") has rebranded and upgraded its mobile application 'AAA+' to 'ESIC Health Connect,' introducing a revamped interface and enhanced user experience for features like home sample collection, e-health records, and Aadhaar seeding for insured persons.



ESIC AMNESTY SCHEME 2025 (CLARIFICATION)

- ESIC has issued internal clarifications on the procedural requirements related to the Amnesty Scheme 2025, including that no steps in addition to those stated in the said scheme can be sought by the authorities under the Amnesty Scheme.



GIG WORKER WELFARE FEE (ENHANCED PROTECTION)

- Karnataka has introduced a mandatory welfare fee on gig transactions, requiring aggregators to contribute 1% of worker payouts (capped by vehicle/service type) toward a dedicated social security fund.



HIGHLIGHTS



PUDUCHERRY WORKPLACE SAFETY (BUILDS STANDARDISATION)

- Puducherry has notified safety and overtime conditions under the Occupational Safety, Health and Working Conditions Code, 2020, providing for double wages for overtime, adequate safety of employment of women in dangerous/hazardous operations, as well as safe transport and consent of women working night shifts.



NIGHT SHIFT EMPLOYMENT OF WOMEN IN FACTORIES (IMPROVES WORKPLACE SAFETY)

- States like Maharashtra, Punjab, and Jharkhand have tightened night-shift regulations for women in factories, requiring mandatory written consent and security infrastructure like CCTV surveillance.



MENSTRUAL LEAVE POLICY, 2025 (PROMOTES EQUITY)

- Karnataka has pioneered a landmark policy mandating one day of paid menstrual leave per month for all women employees, across both permanent and contract roles, without requiring a medical certificate.



REVISED APPLICABILITY THRESHOLD (INCREASES FLEXIBILITY)

- Haryana, Gujarat, and Uttar Pradesh, among other states, have raised the Shops and Establishment Acts ("S&E Acts") threshold to 20+ employees, exempting smaller businesses from formal registration to reduce their regulatory burden.



OPERATIONAL FLEXIBILITY (ENHANCES SHIFT FLEXIBILITY)

- States like Haryana and Gujarat have increased daily working hours and relaxed quarterly overtime caps to provide businesses with greater operational flexibility and the ability to manage peak workloads.



REMOVAL OF TIME RESTRICTIONS (FACILITATES EASE OF DOING BUSINESS)

- Certain states have made operating hours more flexible, allowing businesses to run 24/7 provided they adhere to employee shift limits and mandatory weekly offs.



HIGHLIGHTS



ONE-TIME REGISTRATION (SIMPLIFICATION)

- Andhra Pradesh has replaced periodic renewals with lifetime-valid registration certificate to reduce the administrative burden and long-term compliance costs for businesses.



DIGITISATION OF REGISTRATION AND COMPLIANCE PROCESSES (ENHANCED EFFICIENCY)

- Madhya Pradesh and Nagaland have provided for fully online portals for labour registrations and compliance, introducing automated digital certification.



WOMEN NIGHT SHIFT RULES (IMPROVES WORKPLACE SAFETY)

- Indian states and union territories are expanding night-shift opportunities for women, mandating written consent and high-security measures like transportation facility and CCTV monitoring.



ENHANCED PENALTIES (STRICTER COMPLIANCE)

- States like Haryana, and Tripura are decriminalising offences, replacing prison time with significantly higher monetary fines to improve compliance.



THE TRANSGENDER PERSONS AMENDMENT ACT 2026 (PROCESS BUILDING)

- Parliament has amended the Transgenders Persons (Protection of Rights) Act, 2019 to replace self-identification with mandatory medical board certification and has introduced stringent penalties for forced conversions.



PROTECTION OF PERSONS WITH DISABILITIES (ENHANCES SAFETY AND INCLUSION)

- Maharashtra has mandated new standard operating procedures to protect persons with disabilities from abuse, requiring employers to strengthen grievance redressal and ensure workplace safety.



LABOUR CODES

LABOUR CODES

November 21, 2025

KEY REFORMS

- The Government of India has implemented four Labour Codes, the Code on Wages, 2019; the Industrial Relations Code, 2020; the Code on Social Security, 2020; and the Occupational Safety, Health and Working Conditions Code, 2020, which came into effect on November 21, 2025. These Codes consolidate and replace 29 pre-existing central labour laws, replacing a fragmented regulatory framework with a unified, simplified structure aimed at modernising labour relations, strengthening worker welfare and social security, and promoting ease of doing business.
- The Labour Codes introduce several common reforms aimed at simplifying compliance and modernising labour administration, including a unified definition of 'wages' across all codes; decriminalisation of offences; compounding of offences on payment of a reduced penalty; introduction of an inspector-cum-facilitator; enhanced penalties; a single registration and return; electronic filing, web-based inspections and standardised digital registers.
- The final Central Rules under the four Labour Codes have not yet been notified. They are presently expected to be notified shortly, with full rollout of the Codes anticipated around April 2026. At the state/union territory level, Gujarat has notified its final rules. For most other states and union territories, only draft rules have been published for public comments and are yet to be finalised.

P.O.V.

- Please refer to of the SAM ELB Alert on Labour Codes, ([available here](#)).
- There is an ongoing transition phase, during which the Labour Codes (implemented from November 21, 2025) continue to operate alongside existing rules until the new Central and State Rules are fully notified. Employers should keep an eye out for updates in this regard.





OTHER LEGISLATIVE UPDATES

SOCIAL SECURITY

UPDATE

October 07, 2025

- **EPFO Mandates Public Display of Form 5A Extract.**

- The Employees' Provident Fund Organisation ("EPFO") issued a circular requiring every establishment covered under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ("EPF Act") to display the extract of Form 5A (return of ownership) either on the company's website along with the mobile application or at the entrance, within 15 days from date of issuance of the circular.

October 10, 2025

- **Employees' Enrolment Campaign 2025: Special Window to Regularise Past EPF Coverage**

- The Government has launched the Employees' Enrolment Campaign 2025, effective from November 1, 2025 to April 30, 2026. Employers can voluntarily declare and enrol eligible employees who joined between July 1, 2017 and October 31, 2025 but were not enrolled with the EPFO and are still in employment.

- **Key features:**

- Employee's share of contribution is waived for the declared period (if not previously deducted).
- Lump sum damages of ₹100 per establishment across EPF, employees' pension scheme and employees' deposit linked insurance.
- The employer is liable only for its share, interest under Section 7Q and administrative charges (in addition to damages of ₹100).
- Multiple declarations are not permitted.
- Mandatory Face Authentication-based UAN generation through UMANG App for each declared employee.

P.O.V.

- Employers to ensure immediate display of the relevant extract of Form 5A on their website or entrance of the establishment.

- This is a significant one-time opportunity for employers to regularise historical EPF non-compliance with minimal financial penalty. Employers participating in the campaign will also be eligible for benefits under the PM-VBRY Scheme, subject to its terms.

- **Key next steps:**

- Identify all eligible but unenrolled employees from the 2017-2025 period who are still on rolls.
- Generate UANs using Face Authentication on the UMANG App.
- File the declaration on the EPFO portal and remit dues before April 30, 2026.





OTHER LEGISLATIVE UPDATES

SOCIAL SECURITY

UPDATE

February 2, 2026

- **ESIC Launches Revamped 'ESIC Health Connect' App.**

- ESIC has launched the revamped version of its AAA+ mobile app, now called 'ESIC Health Connect', available on both Android Play Store and iOS App Store. The new app features a revamped user interface, improved user experience and an option for feedback submission.
- It offers enhanced functionality for appointment booking, Aadhaar seeding, e-Health records, home sample collection and other services.

December 8, 2025

- **Clarification on ESIC Amnesty Scheme 2025**

- The ESIC has issued important clarifications for the Regional Directors/ Joint Directors on the procedural requirements of the Amnesty Scheme 2025. This clarification ensures smooth and faster processing of applications. Please refer to the First Edition of the SAM ELB Fine Print ([available here](#)) for details regarding the Amnesty Scheme 2025.
- Under the recent clarification, it has been stipulated that in cases where the employer produces documents/ records to support their claims during the Amnesty period (October 1, 2025 to September 30, 2026), the concerned officer may examine the documents and thereafter take necessary action by withdrawing the case, if he/she is satisfied with the steps taken by the employer. Further, certified copies of such documents/ records are required to be retained for future reference by the concerned officer. Additionally, the clarification provides that no additional procedural steps beyond those mentioned in the scheme can be sought by the authorities.
- As a result, all Regional Directors/ Joint Directors have been directed to strictly follow the provisions of the Amnesty Scheme 2025 without any deviation.

P.O.V.

- **Employers should:**

- Promote the app widely among employees and family members.
- Encourage quick Aadhaar seeding and health record updates.
- Integrate the app into internal employees' state insurance awareness and benefit programmes.

- In light of the internal guideline and clarification issued by the ESIC, for employers with pending employees' state insurance cases, this is the best time to avail benefits of the Amnesty Scheme. Employers are encouraged to immediately submit required documents to the concerned Regional Office, given that the Scheme is only valid till September 30, 2026.





OTHER LEGISLATIVE UPDATES

GIG WORKERS

UPDATE

February 13, 2026 | March 26, 2026

- **Karnataka Notifies Gig Worker Welfare Fee**
The Karnataka Government has also notified the levy and collection of the Platform Based Gig Workers Welfare Fee under Section 20 of the Karnataka Platform Based Gig Workers (Social Security and Welfare) Act, 2025 read with Rule 17 of the Karnataka Platform Based Gig Workers (Social Security and Welfare) Rules, 2025. The fee is effective immediately.
- Platforms and aggregators (falling under Schedule I of the Karnataka Platform Based Gig Workers (Social Security and Welfare) Act, 2025) must pay 1% of every payout made to gig workers (excluding settled payments), subject to the respective category-wise caps per transaction. The fee is to be automatically calculated by aggregators, self-declared and remitted quarterly within five working days from quarter-end. Tips, incentives, referral fees and other special payments are excluded.

P.O.V.

- This notification activates the funding mechanism for Karnataka's gig worker law and creates an immediate quarterly compliance obligation for every platform operating in the state.
- **Key next steps:**
 - Embed automatic fee-calculation and capping mechanism into payout systems.
 - Review financial corpus in light of the added payment obligation.
 - Maintain clear records for payments made per transaction.
 - Monitor the Labour Department website for further details on payment mechanism.





OTHER LEGISLATIVE UPDATES

WORKING CONDITIONS

UPDATE

December 15, 2025

- **Puducherry Notifies Overtime, Night-Shift and Women's Safety Conditions.**

- On 15 December 2025, the Government of Puducherry issued three notifications under the Occupational Safety, Health and Working Conditions Code, 2020. The notifications prescribe overtime with double wages, a quarterly cap of 144 hours, and lay down mandatory conditions for employment of women during night shifts (including consent, safe transportation, proper lighting and washroom facilities), and specify additional safety measures for women working in hazardous or dangerous operations.

P.O.V.

- These notifications bring much-needed clarity and stricter compliance requirements for factories, construction sites and hazardous operations in Puducherry. Employers now have clear operational flexibility along with defined obligations on overtime tracking, night-shift safety and women's protection.
- **Key next steps:**
 - Update overtime policies and registers to incorporate the 144-hour quarterly cap and double-wage calculation for overtime.
 - Implement written consent, safe transport, proper lighting and toilet/washroom facilities for all women on night shifts.
 - Provide suitable respirators, nose mask, and information pertaining to hazards involved (in local language and English) for women in dangerous processes.
 - Train HR and line managers and conduct a quick internal audit to close any gaps.
 - Early alignment will minimise penal risks.





OTHER LEGISLATIVE UPDATES

WORKING CONDITIONS

UPDATE

Maharashtra October 3, 2025

Jharkhand October 24, 2025

Punjab November 28, 2026

- **Regulation of Night Shift Employment of Women in Factories.**
- Recent regulatory development by several states like Maharashtra and Jharkhand in October, and Punjab in November permitted employment of women workers during night shifts (7:00 p.m. to 6:00 a.m.), subject to certain conditions such as obtaining written consent and provision of adequate safety and security measures such as provision of CCTV cameras.
- During the transition phase where provisions of the Labour Codes that are dependent on subordinate legislations have not come into effect, it is pertinent to comply with these guidelines.

P.O.V.

From an employer's perspective, the following conditions must be ensured while employing women in night shifts:

- Employers must provide adequate pick-up and drop facilities for women workers, ensure proper illumination at workplace and arrange for comprehensive safety arrangements, including installation of CCTV cameras.
- Sectors which often operate 24/7 can consider tapping into a broader talent pool, but would need to invest in robust safety infrastructure.





OTHER LEGISLATIVE UPDATES

WORKING CONDITIONS

UPDATE

November 20, 2025

- **Karnataka's Revolutionary Menstrual Leave Policy, 2025.**

- The Government of Karnataka has issued a landmark order dated November 20, 2025, providing for mandatory paid menstrual leave for women employees across various sectors in the state.

- **Key Provision:**

- **Entitlement:** All permanent, contract, and outsourced women employees between 18 to 52 years of age are entitled to one day of paid leave per month, totalling 12 paid menstrual leaves annually.
- **Applicability:** This policy applies to all establishments registered under the following: The Factories Act, 1948, The Karnataka Shops and Commercial Establishments Act, 1961, The Plantation Labour Act, 1951, The Beedi and Cigar Workers Act, 1966 and The Motor Transport Workers Act, 1961.
- **No Medical Certificate Required:** Employees are not required to provide any medical documentation to avail of this leave.
- **Usage Rule:** The leave must be used in the respective month and cannot be carried over to the next month.

P.O.V.

- The Government of Karnataka's notification introducing one day of paid menstrual leave per month marks a progressive shift in workplace welfare and gender-sensitive employment practices.
- **Key next steps include the following:**
 - Employers in Karnataka should immediately update their leave management systems, policies and HR manuals to reflect this new category of statutory leave.
 - Managers should be sensitised to handle these requests without requiring medical proof.





OTHER LEGISLATIVE UPDATES

WORKING CONDITIONS

UPDATE

- Haryana | October 13, 2025; February 5, 2026; March 30, 2026
- Gujarat | February 27, 2026
- Uttar Pradesh | December 30, 2025
- Sikkim | December 6, 2025
- Andhra Pradesh | October 21, 2025; March 12, 2026
- Himachal Pradesh | February 11, 2026
- Puducherry | March 15, 2026
- Uttar Pradesh | December 30, 2025
- Gujarat | February 27, 2026
- Tripura | November 3, 2025; February 13, 2026
- Madhya Pradesh | December 15, 2025
- Nagaland | November 13, 2025
- Uttarakhand | February 17, 2026

• Revised Applicability Thresholds.

- Haryana, Gujarat and Uttar Pradesh have raised the applicability threshold of the respective S&E Acts to 20 or more employees. In Haryana all the provisions of the Haryana Shops and Commercial Establishment Act, 1958 will be applicable to shops and establishments with 20+ workers and a simple online intimation will be required for shops and establishments with workers fewer than 20. Further, Sikkim has vide a notification granted exemption from the provisions of the Sikkim Shops and Commercial Establishments Act, 1983 for all establishments employing 20 or fewer workers.

• Ease of Doing Business Measures.

• Increase in Daily Working Hours, Overtime Limits and Related Operational Flexibility.

- Haryana, Gujarat and Andhra Pradesh have increased daily working hours, relaxed quarterly overtime caps, and adjusted rest intervals to provide greater operational flexibility. Further, Himachal Pradesh has increased quarterly overtime caps from fifty to one hundred and forty-four.

P.O.V.

• Key next steps include the following:

- Organisations in Gujarat, Uttar Pradesh, Haryana can now operate with reduced compliance burden. Most provisions now apply only to establishments with 20 or more employees. In some cases, smaller setups can simply file online intimations and continue operations, instead of a detailed registration.
- Utilise higher daily working hours, relaxed overtime limits, and flexible rest intervals (as applicable) in Haryana, Gujarat, Himachal Pradesh and Andhra Pradesh for better operational planning.





OTHER LEGISLATIVE UPDATES

WORKING CONDITIONS

UPDATE

- **Permission for 24×7 Operations and Removal of Opening/Closing Time Restrictions.**
- Puducherry and Uttarakhand have granted full exemption to all shops and establishments from any opening/closing hour restrictions by permitting 24×7 operations.
- **Introduction of Lifetime / One-Time Registration Certificates.**
- Some states such as Andhra Pradesh have permitted all shops and establishments employing 20 or more workers to obtain a Lifetime Registration Certificate with no periodic renewal required.
- **Digitisation of Registration, Licensing and Compliance Processes.**
- Madhya Pradesh has introduced a fully online portal-based system for registration, with automatic generation of digital certificates (fee capped at ₹2,500). Nagaland has made all registration, licensing, and renewal processes online through the Labour Department portal.
- **Women Night-Shift Permissions.**
- Puducherry, Gujarat, Haryana, Tripura, have permitted night shifts for women, subject to certain conditions, such as obtaining written consent and protection from sexual harassment. Further, Uttar Pradesh has also permitted employment of women during night shifts subject to express, written consent, provision of shelter, food, canteen, ladies toilet and transportation to respective residence.
- **Penalty Updates.**
- A few states have rationalised and increased monetary penalties while moving away from imprisonment for minor breaches.
- Tripura has significantly enhanced fines (first offence: ₹1,000–₹10,000; subsequent ones up to ₹10,000) and replaced imprisonment with monetary penalties. Similarly, Haryana introduced uniform higher penalties (first offence: ₹3,000–₹10,000; subsequent offences; ₹5,000–₹25,000 and ₹500 per day for continuing offences) and decriminalised many offences.

P.O.V.

- **Key next steps include the following:**
- Run shops and establishments round-the-clock without opening/closing restrictions in Puducherry and Uttarakhand (subject to employee consent, shifts, and statutory rest/OT rules).
- Obtain one-time lifetime registration (no renewal required) in Andhra Pradesh to cut recurring compliance costs.
- Obtain express written consent from every woman employee before assigning night shifts and comply with all other safety and security measures.
- Employers are advised to ensure strict compliance to avoid these enhanced monetary penalties.





OTHER LEGISLATIVE UPDATES

INCLUSIVITY AND ACCESSIBILITY

UPDATE

March 25, 2026

- **Parliament Passes Transgender Persons Amendment Bill 2026.**

- On March 30, 2026, Parliament passed the Transgender Persons (Protection of Rights) Amendment Bill, 2026. The Bill omits self-perceived gender identities and different sexual orientations from the definition of "transgender person", narrows it to specific socio-cultural identities (kinner, hijra, aravani, jogta, eunuch), intersex variations and cases of forced conversion, makes Medical Board recommendation mandatory before the District Magistrate can issue a gender identity certificate, and introduces stricter penal provisions for offences involving forced conversion of individuals into transgender identities through mutilation or coercion.

P.O.V.

- **Key next steps for employers:**
- Update DE&I policies, recruitment forms and identity documentation to reflect the new definition and certification requirements.
- Monitor forthcoming rules and clarifications for detailed impact on workplace inclusion programmes and anti-discrimination compliance.





OTHER LEGISLATIVE UPDATES

INCLUSIVITY AND ACCESSIBILITY

UPDATE

November 13, 2025

- **Maharashtra Issues Standard Operating Procedure for Protection of Persons with Disabilities.**

- In a significant step towards safeguarding the rights and dignity of persons with disabilities, the Government of Maharashtra has issued a standard operating procedure under the Rights of Persons with Disabilities Act, 2016 ("RPWD Act"), thus introducing a structured framework to prevent abuse, violence, and exploitation.
- The notification empowers District and Sub-Divisional Magistrates to act as competent authorities, enabling them to take immediate preventive and protective measures, ensure rehabilitation, and issue interim orders where necessary.
- Importantly, complaints can be filed not only by victims but also by NGOs, and authorities may act suo motu in serious cases.
- The framework emphasises timely intervention, access to medical and protective services, and periodic reporting mechanisms within the government officials.

P.O.V.

- **Key next step for employers:**
- With the introductions of a codified escalation mechanism, employer should conduct internal audits to assess compliance with RPWD Act.





JUDICIAL UPDATES



Validity of provisions relating to international workers upheld:

*The Delhi High Court in **Spice Jet Ltd. v. Union of India** and **LG Electronics India Private Limited v. Union of India**, upheld the validity of Notifications GSR 706(E) dated 01.10.2008 and GSR 148 dated 03.09.2010 inserting and substituting Paragraph 83 in the Employees' Provident Fund Scheme, 1952 ("EPF Scheme"). The Court held that the extension of the EPF Scheme to "International Workers" ("IWs") (foreign nationals holding non-Indian passports employed in establishments in India), with certain specified modifications, by the Central Government in exercise of its powers vested in it under Section 5 read with Section 7(1) of the EPF Act, was constitutionally valid. It ruled that the classification between Indian employees (required to contribute only if drawing pay up to ₹15,000 per month) and non-excluded IWs (required to contribute irrespective of the quantum of salary) is reasonable and does not violate Article 14 of the Constitution of India. The distinction is*

*based on the fact that foreign employees generally work in India for shorter durations of 2 to 5 years and do not face the same long-term economic duress experienced by Indian employees who serve until superannuation. Non-excluded IWs are mandatorily required to become members of the Provident Fund and contribute in accordance with Section 6 of the EPF Act. While the Court has not addressed the aspect of reciprocity as highlighted by the High Court of Karnataka in **Stone Hill Education Foundation vs. Union of India & Ors.**, the judgment has upheld the validity of IW-related provisions on the touchstone of Article 14. In light of this judgment and the contradictory judgments by various High Courts, employers should continue deducting and remitting contributions in respect of IWs on their full actual wages without ceiling.*



Adoption Leave for all: *The Supreme Court of India delivered a landmark judgment in **Hamsaanandini Nanduri v. Union of India & Ors.**, striking down the three-month age limit prescribed under Section 60(4) of the SS Code (pari materia to Section 5(4) of the Maternity Benefit Act, 1961) for grant of maternity benefit to adoptive mothers. The Court held that restricting 12 weeks' maternity benefit only to women adopting a child below three months is arbitrary, lacks rational nexus with the object of the legislation, and violates Articles 14, 19(1)(g) and 21 of the Constitution of India. It emphasised that motherhood is not merely biological but involves deep emotional bonding and caregiving responsibilities that adoptive mothers require irrespective of the child's age at adoption. The Court also emphasised the critical importance and need for meaningful paternity leave policies to promote shared parental responsibilities and achieve substantive gender equality. As a consequence, employers are required to extend twelve weeks paid maternity benefit to all women employees who legally adopt a child, irrespective of the child's age. Internal HR policies such as maternity benefit policies/leave rules should be updated accordingly.*



JUDICIAL UPDATES

Acceptance of resignation cannot be unreasonably withheld: The Kerala High Court held in *Greevas Job Panakkal vs. Traco Cable Company Limited* that an employer's financial distress is no justification for refusing to accept an employee's resignation, and that compelling continued service in such circumstances amounts to bonded labour prohibited under Article 23 of the Constitution of India. The decision was given in the context of a Company Secretary resigning from a State Public Sector Undertaking due to default in payment of salary. The Court held that an employer's duty to accept a resignation is subject only to contractual notice conditions, procedural requirements in the employment contract, or pending disciplinary proceedings for grave misconduct or monetary loss. Outside these narrow exceptions, refusal to relieve an employee constitutes a constitutional violation. The Court also noted that for Company Secretaries, an employer's failure to file the statutory form required on cessation of employment effectively prevents the individual from practising elsewhere, making the stakes of a wrongful refusal especially high. The Court also viewed initiation of disciplinary enquiry after submission of resignation as an attempt to coerce continued service. Therefore, the Court reaffirmed and further solidified the position that acceptance of resignation is the right of an employee and subject only to specific exceptions, as noted above. Employers should carefully craft their policies and employment agreements to specifically call out the grounds for rejection of a resignation, such as certain contractual notice requirements or pending disciplinary proceedings for serious misconduct, which constitute a lawful basis to delay or refuse. Financial difficulties or operational needs do not justify compelling continued service.



Trust Rules are not a bar to higher pension for exempted establishments: The Calcutta High Court in *Anuradha Roy & Ors. v. Union of India & Ors.* and thirteen connected writ petitions allowed all the petitions and set aside the orders passed by the EPFO rejecting applications for higher pension. The Court held that employees of exempted establishments (those having their own provident fund ("PF") trusts under Section 17 of the EPF Act) who were in service on 01.09.2014 have an entitlement to exercise a joint option for pension calculated on their actual wages (instead of the statutory wage ceiling) under Paragraph 11 of the Employees' Pension Scheme, 1995. This right was affirmed by the Supreme Court in *EPFO v. Sunil Kumar B.*, (2022). The EPFO had rejected the joint options solely on the ground that since internal PF trust rules of these exempted establishments contained clauses limiting contributions to the wage ceiling, there could not be a retrospective amendment. The High Court ruled that such restrictive trust rules cannot prevail because the Rules themselves include an overriding clause stating that in case of any conflict or

where the trust rules are less beneficial, the provisions of the EPF Act and the schemes shall prevail. The Court directed the EPFO to approve the joint options and release higher pension along with arrears to the eligible retired employees. Employers of exempted establishments and their retired employees (in service on 01.09.2014) are entitled to higher pension on actual wages. EPFO cannot reject joint options on the basis of restrictive trust rules where overriding statutory clauses exist. All pending joint options must be processed, demand notices issued (if required), and higher pension along with arrears disbursed without further delay.

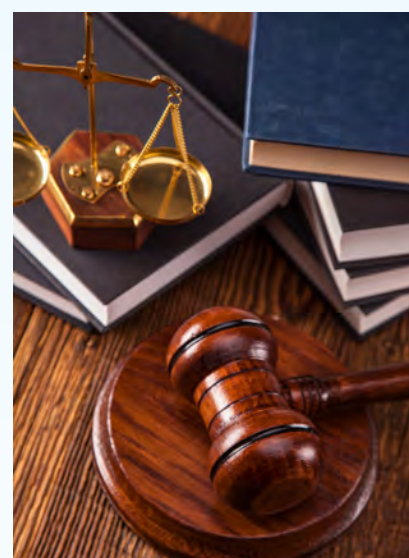


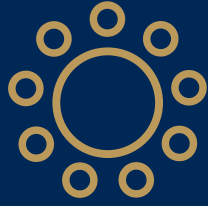
JUDICIAL UPDATES



Return of assets from officer of the Company: The Delhi High Court in *Punita Khatter v. Explorers Travel & Tour Pvt Ltd* dismissed a petition under Section 482 Code of Criminal Procedure, 1973 and upheld proceedings under Section 452 of the Companies Act, 2013 ("Companies Act") against a former Managing Director accused of wrongfully withholding company assets such as vehicles, credit cards, financial records and passwords even after removal from her post. The Court held that Section 452 of the Companies Act applies to past officers and employees and does not require proof of entrustment. The provision operates as a strict liability clause mandating return of company property the moment possession becomes unlawful. The Court further ruled that the petitioner's continued role as a non-executive Director after her removal as Managing Director did not entitle her to retain assets held by virtue of her Managing Director position. The demand notices were held to be sufficiently specific. Employers should ensure that employment agreements as well as company policies clarify the timeline for return of assets. Employers should also act promptly upon removal or resignation of directors and senior employees by issuing detailed demands for return of all company property. Clear records of the handover request, the items in question (vehicles, credit cards, documents, passwords, etc.), and the former officer's capacity will strengthen a case under Section 452 of the Companies Act. This judgment reinforces that this Section provides an effective statutory remedy for recovery of company assets without the need to establish entrustment.

POSH: The Supreme Court of India in *Sohail Malik v. Union of India (UOI) and Ors.* held that an internal committee ("IC") constituted at the workplace of the aggrieved woman has jurisdiction to entertain and conduct a preliminary inquiry under the Prevention of Sexual Harassment of Women at the Workplace (Protection, Prohibition, and Redressal) Act, 2013 ("POSH Act") against a respondent who is an employee of a different workplace. The Court held that the phrase "where the Respondent is an employee" in Section 11 of the POSH Act is a procedural direction to apply the applicable service rules and does not limit the inquiry to the IC constituted at the respondent's own workplace. Emphasising the wide definition of "workplace" under Section 2(o), particularly clause (v), the Court ruled that a restrictive interpretation would undermine the social welfare object of the POSH Act. The IC at the aggrieved woman's department shall conduct the fact-finding inquiry and forward its report to the respondent's employer for necessary action, including initiation of formal disciplinary proceedings where the respondent's departmental IC may act as the inquiring authority. Employers, particularly those operating across multiple departments, entities, or locations should immediately review their sexual harassment frameworks to ensure that IC jurisdiction is not treated as confined to a single workplace, that cross-departmental cooperation protocols are formalised, and that IC members are trained on inter-departmental/organizational complaint handling, as non-compliance with cooperation duties carries significant regulatory and disciplinary risk.





Shardul Amarchand Mangaldas

A DECADE YOUNG, A CENTURY STRONG

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