



THE LABOURTORIALS

P. K. AGARWAL &
ASSOCIATES
9999009685

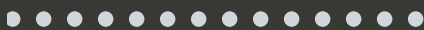
Monthly updates on Industrial and Labour Laws

MAY 2021
VOL. I, ISSUE 10

KEEP CALM
AND
MASKS ON!

Credit: Getty Images/iStockphoto

Word of the month:



SUSTAINABLE WORKPLACE-

A sustainable workplace established the goal of balancing the planet, people, and profit to produce success and viability in the long-term. What this means is a business will be regarded as unsustainable if it fails to safeguard the health, safety, and welfare of their most cherished asset- EMPLOYEES.

KEY HIGHLIGHTS

LATEST FROM THE SUPREME COURT OF INDIA

- Limitation period with respect to all judicial and quasi-judicial proceedings extended until further orders.

LATEST FROM THE HIGH COURTS

- Peon served for 20 years on a temporary basis despite clear vacancy- " It amounts to employee's exploitation": Orissa HC

LATEST FROM THE CENTRAL GOVERNMENT

- ESIC reaches out to its beneficiaries to provide medical care and relief during Covid-19 pandemic.

LATEST FROM THE STATE GOVERNMENTS

- Govt. of U.P. announces 28 days mandatory paid leaves for those affected or quarantined due to Covid-19.

FROM THE VAULT

- In this distressing time let's not do it your or my way, let's do it in the best way!
- Lost your job during the lockdown? See how ESIC can help you!

LATEST FROM THE SUPREME COURT OF INDIA

Limitation period with respect to all judicial and quasi-judicial proceedings extended until further orders.

The Supreme Court passed an Order dated 27.04.2021 that the limitation period under any general or special laws in respect of all judicial or quasi-judicial proceedings in the entire country shall stand extended until further orders. It restored the order dated 23rd March 2020 which was again called for on 8th March 2021. It is clarified that the period from 14th March 2021 shall also stand excluded in computing the limitation period.

The Court passed the order in view of the COVID-19 situation after a plea was moved in this regard by the Supreme Court Advocates-on-Record Association (SCAORA).

[Click here](#) to read the Order.

Supreme Court to hear only urgent matters from April 22, 2021

A notice to that effect was published by the top court stating that the concerned Advocate-on-Record will have to send signed, verified mentioning application with synopsis containing grounds of urgency.

[Click here](#) to read the circular.

LATEST FROM THE HIGH COURTS

All subsisting interim orders issued by Delhi High Court, subordinate courts, extended till July 16.

The Delhi High Court on 27.04.2021 ordered that all interim orders issued by it and by courts subordinate to it subsisting as of April 19, 2021, will stand extended till July 16, 2021, or until further orders (Court on its own motion v. State of NCT of Delhi).

[Click here](#) to read the Order.

The order was passed by a Full Bench of the Delhi High Court in view of the fact that the High Court had, on April 18, decided that it will only hear extremely urgent matters for the time being in view of the COVID-19 pandemic.

[Click here](#) to read the Order.



Calcutta High Court decides to advance summer vacations; courts to remain closed across the State from May 3 in wake of Covid widespread.

Centre, Delhi Govt Doing Its Best To Provide Ration To Migrants At Relief Camps: Delhi HC

The Delhi High Court while hearing a petition on the supply of food to the migrant labourers at relief camps observed that the Centre and the Delhi government were doing 'their best' to provide ration and essential items during these taxing times and amid multiple restrictions posed by the COVID-19 pandemic and lockdown.

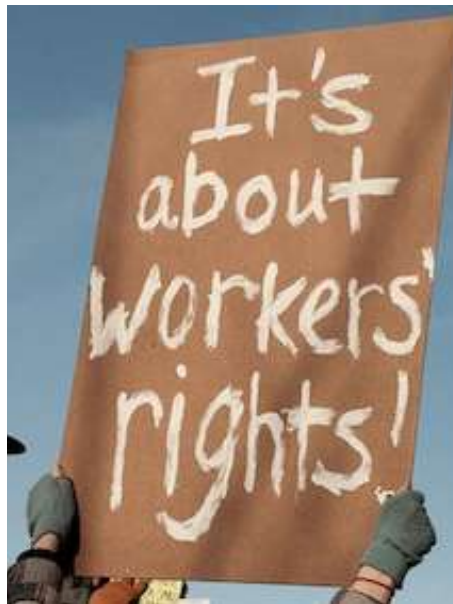
The Delhi government agreed to the Court's suggestion that Nodal officers for the said camps shall be appointed and their names and mobile numbers for each of the aforesaid clusters shall be conveyed to counsel for the petitioner and thereby the Hon'ble Court disposed of the said petition saying that no further order is required.



[Click here](#) to read the final Order.

Peon served for 20 years on a temporary basis despite clear vacancy- " It amounts to employee's exploitation": Orissa High Court

The Petitioner was engaged on 10th September 2001, as a Night Watcher-cum-Peon, however, he worked in the office of the child development project officer (CDPO), as a peon since 1990. Thereafter, he moved High Court seeking direction for regularisation of his service. It was submitted that he had been in service for more than 30 years on a temporary basis. The Court observed that "The matter of taking out service from the petitioner for long 20 years on a temporary basis in the



presence of a clear vacancy in the post of Peon amounts to exploitation of employee". It directed the CDPO "To take a decision to regularize the petitioner in the vacant post of Peon by

completing the entire exercise within a period of six weeks from the date of communication of the order."

The Court further directed that the petitioner, who had already completed more than 20 years long as an ad hoc employee, be considered for grant of appropriate pension.

[Click here](#) to read the judgment.

LATEST FROM THE CENTRAL GOVERNMENT

ESIC reaches out to its beneficiaries to provide medical care and relief during Covid-19 pandemic.



Extending a helping hand to its beneficiaries who have been infected by the Coronavirus, the Employees' State Insurance Corporation (ESIC) has announced that all **insured persons and their family members are eligible for availing free medical care** in any of its hospitals, which have been declared as dedicated Covid centers. Each ESIC hospital has been directed to function with a minimum of 20% of its bed capacity reserved for ESI staff, pensioners, and beneficiaries, according to Labour Ministry sources.

ESI beneficiaries can also seek emergency or non-

emergency medical treatment from a tie-up hospital directly without a referral letter, as per the person's entitlement. In case the beneficiary or a family member being infected with COVID-19 takes treatment in any private institution, then the reimbursement of expenditure can also be claimed.

The corporation has in addition to this, announced a slew of measures for its beneficiaries, under which, in case the insured person abstains from work on being infected with the virus, then he or she can claim sickness benefit for

the period of absenteeism as per entitlement. Sickness benefit is paid at 70% of average daily wages for 91 days.

Similarly, if an insured person becomes unemployed, then he may avail relief under Atal Beemit Vyakti Kalyan Yojana (ABVKY). For more information turn to page-9.

The ESIC has further announced that if an insured person becomes unemployed reason being the retrenchment or closure of the establishment, then the person can claim unemployment allowance **contd...**

contd... for a period of two years subject to qualifying conditions under Rajiv Gandhi Shramik Kalyan Yojana (RGSKY). Also, in the event of a beneficiary's death, the funeral expenses of ₹ 15,000 would be paid to the eldest surviving member of the family.

For your additional information Plasma therapy to save the lives of serious COVID-19 patients, is also available in ESIC Medical College & Hospital, Faridabad (Haryana) and ESIC Medical College & Hospital, Sanath Nagar (Telangana).

[Click here](#) to read the official Press Release.

ESIC issued a Circular dated 01.04.2021 regarding State Wise Updated List of Implementation under ESIC 2.0 Vision - 2022.

[Click here](#) to read the circular.

EDLI hikes the maximum sum insured to Rs. 7 lakhs.

The Ministry of Labour and Employment through a notification dated 28.04.2021 has issued the Employees' Deposit-Linked Insurance (Amendment) Scheme, 2021 under which it has been decided to hike the maximum sum assured from the existing Rs 6 lakh to Rs 7 lakh, and for a minimum sum assured to continue at Rs 2.5 lakh to member beneficiaries.

The Employees' Deposit-Linked Insurance Scheme, 1976 through amendment dated 15th February 2018, fixed the minimum assurance benefit ceiling as two lakh and fifty thousand rupees for a period of two years, which expired on the 14th February 2020. The current amendment has extended the minimum assurance benefit ceiling with retrospective effect from the 15th day of February 2020. This shall be in effect for a period of three years from the date of publication.

The amendment was aimed at providing additional assistance to families and dependents of members of the scheme in the event of their death while in service.

[Click here](#) to read the notification.



LATEST FROM THE STATE GOVERNMENTS

Several State Governments have revised Variable Dearness Allowance (VDA) resulting in an overall increase in the rates of Minimum wages given to different categories of employees. The chart hereunder shows the states issuing notices to amend VDA and the dates from which these rates are coming into effect.

S.NO.	STATE	W.E.F.	CLICK HERE TO VIEW NOTIFICATION
1.	Central (for various employments)	01.04.2021	Government Notification
2.	Madhya Pradesh	01.04.2021- 30.09.2021	Government Notification
3.	Telangana	01.04.2021- 30.09.2021	Government Notification
4.	Uttarakhand	01.01.2021- 30.06.2021	Government Notification
5.	Gujarat	01.01.2021- 30.06.2021	Government Notification
6.	Tamil Nadu	01.04.2021	Government Notification
7.	Jharkhand	01.04.2021	Government Notification

Govt. of U.P. announces 28 days mandatory paid leaves for those affected or quarantined due to Covid-19.

The Government of Uttar Pradesh vide its notification dated 26.04.2021 has ordered that all the employees, whether employed in any Shop/Commercial Establishment/ Factory, who are affected or who are quarantined due to COVID-19 shall be paid 28 days paid leaves by their respective employers.

However, such paid leaves shall be permissible only if such employee(s) produce a Medical certificate upon resuming work post-recovery.

[Click here](#) to read the Circular.



Govt. of TN issues Amendment notification under Tamil Nadu Factories Rules, 1950. [Click here](#) to read the notification.

Govt. of Harayana publishes the Punjab Labour Welfare Fund (Haryana Amendment) Act, 2021

The amendment says that every employer shall pay to the Fund both his contribution and the contribution of the employee before the 31st Dec. of every year through online mode in favour of the Welfare Commissioner.

[Click here](#) to read the notification.

FROM THE VAULT

In this distressing time let's not do it your or my way, lets do it in the best way!

Just at the time when people started believing that deadly coronavirus has spared mankind relieving them of the distressed 2020, the second wave of covid-19 hits the nation much harder. The nation stands with numerous challenges in hand. Crying for lives people are not



talking about financial crises, be it loss of jobs, pay cuts, unemployment, business losses, debts, liabilities, etc.

Several IT sector companies have acted quickly and implemented their SOPs for handling Human Resources. Infosys said that employees who have contacted or are recovering from Covid will get 21 days of additional paid leaves. Further Cognizant has allowed its employees to avail involuntary absence for the entire 14-day Quarantine period and follow flat up with the sick leaves. Other Companies including Capgemini and Wipro have covered the employees and their dependents infected with Covid- 19 and who require homecare facilities under the company's medical insurance. Adding to it they have been extending vaccination reimbursement to the employees.

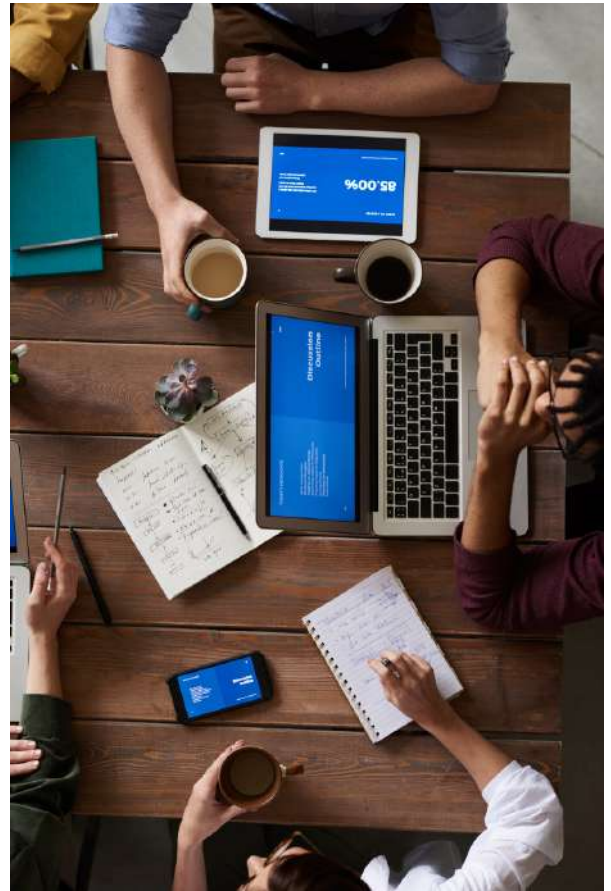
The situation has been comparatively more challenging for MSMEs. They haven't coped up from living for hand to mouth for a year now. But learning from the past year's experiences they too have designed their pay structures smart and comparatively liberal seeing the adverse conditions of the Country. They do not intend to cut the salaries for the ones suffering from covid 19 but they might ask the employees to use their sick leaves.

Besides this, the Government of Uttar Pradesh vide its notification dated 26.04.2021 has ordered that all the employees, whether employed in any Shop/Commercial Establishment/ Factory, who are affected or who are quarantined due to COVID-19 shall be paid 28 days paid leaves by their respective employers.
contd...

contd... However, such paid leaves shall be permissible only if such employee(s) produce a Medical certificate upon resuming the work post-recovery.

Even though the Order passed by the Hon'ble Supreme Court of India last year on June 12 has no clarity on its validity on lockdown imposed as the second wave of covid hits the country. But still, since the Order came from the apex body, it had suggested negotiating with the employees on the percentage of the salaries that are to be paid. It creates a win-win situation for both the parties and should be taken as advice for the Management to deal with its employees whether the company being big or small, the employee being blue-collar or white.

This may also pave the way for a harmonious approach, strengthening the bond between the employer and employees and/or workers, thus giving rise to a congenial environment wherein the employees and/or workers would be more open to sharing the responsibility to contribute towards the sustenance of the company or industry, in times of turmoil. Any understanding reached mutually will be legal and held to be fair.



Lost your job during the lockdown? See how ESIC can help you!

ESIC has shaped a scheme last year to extend benefits to those who have lost their jobs during the covid-19 pandemic. The scheme under the name of Atal Beemit Vyakti Kalyan Yojana (ABVKY) is applicable to the persons Insured with ESIC and who have completed their employment (insurable employment) for a minimum period of two years immediately before their unemployment.

In Case (A): Unemployed Period 24-03-2020 to 30-06-2021, provided that IP has contributed for at least 78 days in relevant contribution periods and a minimum of 78 days in one of the remaining 3 contribution periods in 2 years prior to unemployment, the benefit shall be **50% of daily average salary for the allowed benefit period.**

In Case (B): Unemployed



Period on/before 23-03-2020 AND on /after 01-07-2021 provided that IP has contributed for at least 78 days during each of the preceding 4 contribution periods in two years prior to unemployment, the benefit shall be 25% of daily average salary for allowed benefit period.

The Insured Person shall make an application within one year from the date of his unemployment. The IP **will get salary for a maximum of up to 90 days** depending upon the days of unemployment. One must keep in mind that in case of submission of false information, the claimant is liable for fine or imprisonment which may

extend up to 6 months or both.

The scheme is quite facilitative. For availing this relief, the insured person can submit the claim online at the corporation's portal. As well as the claim can also be submitted directly at the ESIC branch office and the verification of the claim with the employer will be done at the branch office level. Adding to it the payment will be made in the bank account of the IPs directly subjected that the bank details are properly verified with the ESIC. The only condition is that the claim should be made within one year of the date of unemployment.

Disclaimer: This document is prepared and furnished for information and knowledge enhancement of all interested. You may choose to reproduce or redistribute this document for non- commercial purposes in part or full to any other person with due acknowledgement of the author. The opinions and analysis expressed herein are entirely those of the author. Even though the content of the document has been extracted or analysed from the government notifications, orders, circulars, news reports etc., it is not to be taken as complete and accurate in all respects.



P. K. AGARWAL & ASSOCIATES

DEAR ESSENTIAL WORKERS

INTERNATIONAL DAY OF WORKERS

Today and everyday, I am thankful to those who are working hard to keep us safe during Covid-19.



P.K AGARWAL AND ASSOCIATES

P.K. Agarwal & Associates deals in :

- Compliance under all labour related statutes;
- Drafting and vetting of appointment Letters, agreements, standing orders, notices, and such other documents required by the establishment in lieu of employer-employee relationship;
- Handling of court cases under all the labour statutes before Labour Inspectors, Officers, Commissioners, Tribunals, District Courts as well as High Court and Supreme Court; and
- Providing time to time consultancy on all labor-related matters.

