



THE LABOURTORIALS™

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ASSOCIATES
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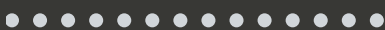
Monthly updates on Industrial and Labour Laws

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India unlocks with strict regulatory frameworks.

Word of the month:



GRANDFATHER CLAUSE-

A grandfather clause (or grandfather policy or grandfathering) is a provision in which an old rule continues to apply to some existing situations while a new rule will apply to all future cases. Those exempt from the new rule are said to have grandfather rights or acquired rights, or to have been grandfathered in.

KEY HIGHLIGHTS

LATEST FROM THE HIGH COURTS

- Kerala State Small Industries Association seeks waiver of penalty levied because of late uploading of ECR.
- Special Scheme for Employees Compensation Claims shall be effective from 02.08.21.

LATEST FROM THE CENTRAL GOVERNMENT

- ABRY scheme extended from 30.06.2021 to 31.03.2022.
- Centre issues advisory to State Governments / UTs to encourage Work-from-Home for nursing mothers.
- India Inc approaches States on labour law framework, seeks less compliance- ET

LATEST FROM THE STATE GOVERNMENTS

- Revised rates of Minimum Wages.
- Govt. of Punjab amends provisions related to registers and records under the CLRA and ISMW Act.
- Order regarding waiver of annual contribution/late fees/penalty for registration/renewal of construction workers: Delhi.

LATEST FROM THE HIGH COURTS

Kerela State Small Industries Association seeks waiver of penalty levied because of late uploading of ECR.

The Kerala State Small Industries Association and two others filed the petition before the Hon'ble High Court of Kerala with prayers for the extension of due date for the payment of EPF dues and challenging the legality of the EPFO disabling establishments to make payments in respect of those whose Aadhar details have not been linked with UAN.

After the said petition was

filed the Ministry of Labour and Employment (MOLE) released a Circular for extension of time for seeding Aadhar.

Thereafter, the petitioners prayed to the Hon'ble Court that the Order for Extension of date for Mandatory seeding of Aadhar was passed at 4 pm on 15.06.2021 and hence the members of the first petitioner Association did not have sufficient time for uploading

the ECRs which would result in penal consequences being mulcted on the employers.

The Ministry of Labour and Employment (Respondent 1 in the present case) submitted that the petitioner should submit his representations pointing out the reason for not uploading ECR on time and EPFO (Respondent 2) shall consider the same.

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

Madras HC calls for probe of Renault-Nissan plant's social distancing.

The Renault-Nissan workers union petitioned the Madras High court seeking to halt operations, saying that social distancing norms were being flouted and company-provided health benefits were outweighed by the risk to their lives.

The state's Directorate of Industrial Safety and Health (DISH) review, held a week before, also found that three in four workers at the plants of Renault-Nissan had not been vaccinated, one in seven workers had contracted the virus, and 21 had died.

The petitioners submitted that the Renault-Nissan workers have been pushing for an empty slot for every slot on the conveyor belt with a car, and for the reduction in conveyor



belt speed, saying it hindered maintenance of social distancing.

The guidelines apply to all carmakers including Ford and Hyundai. However, only the Renault-Nissan factory will be inspected as unions at other automakers have not raised objections, the court said.

In light of the above submissions, The Madras High Court on emphasized that

certain COVID-19 safety guidelines issued by the State's Directorate of Industrial Safety on June 18 should be followed by all car manufacturing factories that are working while the lockdown remains in force (**Workmen of Renault Nissan v. State of Tamil Nadu**).

[Click here](#) to read more.

Impact of the pandemic cannot be claimed as a ground for dispensing the services of its employees: Delhi High Court reinstates over 40 Air India Pilots.

The Delhi HC has recently directed the reinstatement of over 40 Air India pilots, quashing their termination by the national airline. A Bench of Hon'ble Justice Jyoti Singh ruled that financial constraints or impact of the pandemic cannot be claimed as a ground for dispensing the services of its employees in the manner adopted in the present case. The Court, therefore, directed that the pilots are entitled to back wages commencing from the date of expiry of their respective notice periods of six months and up to the date of reinstatement. The Petitioner-Pilots submitted that as per the rules applicable to them (Air India Employees' Service Regulations), a Pilot is required to serve a six months' notice if he intends to tender resignation. Since it was an undisputed fact that prior to their acceptance, the resignations were withdrawn, Air India could not have accepted the non-est resignations.

The Court further opined that **State or its Agencies under Article 12 of the Constitution could not claim financial constraints or impact of the pandemic as a ground for dispensing the services of its employees**, in the manner adopted in the present case.

"State has a fiduciary duty to perform towards the citizens under Article 19(1)(g) and



Article 21 of the Constitution and thus it becomes the bounden duty of the welfare State to secure the rights of livelihood of the citizens...financial crunch cannot be a relevant consideration in deciding the issue of acceptance of resignations," the Court held. The Court added that in any event, it was an admitted case that the financial distress was not a creation of COVID-19 but

existed from the year 2007 and that no permanent employee had been retrenched or terminated or laid off or in any manner.

The entire exercise of the grant of arrears of salary and other emoluments shall be carried out and completed by Air India within a period of six weeks, the Court said.

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

Special Scheme for Employees Compensation Claims shall be effective from 02.08.21.

The Hon'ble HC of Delhi formulated The Employee's Compensation Agreed Procedure which was based on the scheme formulated by this court in Rajesh Tyagi v. Jaibir Singh on 28th October 2015. Thereafter, the said scheme was modified vide judgment dated 08th January 2021. Since the scheme has been modified, the Hon'ble court hereby substitutes the Employee's Compensation Agreed Procedure to bring it in consonance with the Special Scheme for Employee's Compensation Claims.

The said **Special Scheme for Claims filed under the Employee's Compensation Act shall be effective from 2nd August 2021. (New India Assurance Corporation Limited v. Union of India)**

[Click here](#) to read the complete judgment along with the Special Scheme.

LATEST FROM THE CENTRAL GOVERNMENT

Atama Nirbhar Bharat Rozgar Yojana scheme extended from 30.06.2021 to 31.03.2022.

Finance Minister Nirmala Sitharaman through the press conference held on 28.06.2021 announced the extension of Aatma Nirbhar Bharat Rozgar Yojana (ABRY) till 31st March 2022. She said that since October 2020 about 21.42 lakh beneficiaries of 79,577 establishments have already been benefitted from the scheme. The scheme, launched in October last year, incentivizes employers for the creation of new employment along with social security benefits and restoration of loss of employment during the pandemic.

Centre Issues Advisory to State Governments / UTs to Encourage Work-from-Home for Nursing Mothers.

The Central Government on June 1, 2021, has issued an advisory to all the State Govts./UTs under the enabling provision for permitting work from home for nursing mothers under the Maternity Benefit (Amendment) Act, 2017. The Act provides that where the nature of work assigned to a woman is of such nature that she may work from home, the employer may allow her to do so after availing of the maternity benefit for such period and on such conditions as the employer and the woman may mutually agree.

Keeping in view the vulnerability of nursing mothers and their babies during the Covid-19 pandemic and to save them from getting infected by the coronavirus, it has been conveyed that the employers may be advised to allow work-from-home, wherever nature of work so allows, for nursing mothers at least for a period of one year from the date of birth of the child.

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

EPFO extends the date for mandatory seeding of Aadhar number for filing of ECR.

The Employees Provident Fund Organisation on 15th June 2021 has extended the deadline for seeding the Aadhaar number with the universal account number (UAN) for filing electronic challan-cum-returns (ECR) till September 1, 2021 against its earlier deadline 1st June 2021.

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

The Apprenticeship (Amendment) Rules, 2021.

The Ministry of Skill Development and Entrepreneurship vide its notification dated 24.06.2021 has amended the rules to include entries relating to Spinning Technician, Textile Wet Processing Technician, Weaving Technician, Solar Technician and Wind Power Plant Technician under the relevant groups of the Apprenticeship Rules, 1992.

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



Courtesy: Vedanshi Jain Gupta (Technical Support Engineer, UKG) | WFH: blessing for nursing mothers.

India Inc approaches States on labour law framework, seeks less compliance - The Economic Times.

Indian Inc has approached state governments, seeking greater flexibility in operations and reduced compliances, as they firm up rules under the four labour codes.

Several rounds of discussions have been held between the Confederation of Indian Industry (CII) and principal Secretaries of labour of Maharashtra as part of efforts to ease the stringent regulatory regime and relax the compliance burden.

“Labour in India is a concurrent subject. Multiple laws in different states act as a challenge for organizations operating pan-India,” the CII said in a representation of the states. **“The high cost of compliance compels firms to remain small.”**

The Centre has been reluctant

to dilute the rules under the codes and industry sees interactions with states as an opportunity to drive home its concerns about the rise in compliance cost after the implementation of the codes.

Some of the key changes sought by the industry include doing away with the creche facility and introducing grandfathering clauses to prevent higher payout by employers under the new wage definition which caps allowances at not more than 50% of the wages.

“The new definition of wages will lead to a sudden increase in cash flows for the industry. It is recommended to introduce the provision of grandfathering clause through the rules under the Code of Social Security for gratuity

computation,” the CII told the states.

Objecting to the provision of setting up a reskilling fund for retrenched workers, the CII said retrenched workers can be issued “skill vouchers” by employers which can be encashed or redeemed by the workers at any government authorized technical training institute.

Further, employer’ representatives have sought relaxation for services sectors including exemption from Standing Orders,” said the CII. “Considering global client demands (IT/ITeS) and local exigencies of work in e-commerce, powers of state government to exempt to be used.”



**LABOUR
LAWS
2021**

LATEST FROM THE STATE GOVERNMENT

Notification under the Aadhaar (Targeted Delivery of Financial and other subsidies, Benefits and Services) Act, 2016.

The government of Gujarat is administering to provide the UWIN Card Scheme to provide services and financial assistance to Unorganized workers and Smart Card/ Identify Card Scheme to provide subsidized and Healthy meals, Subsidized transport pass Assistance, Education Assistance, Maternity Assistance, Assistance in case of accidental death, funeral assistance, etc. to Building and Other Construction Workers.

The Government notifies that an individual eligible for receiving the benefits under the Scheme shall hereby be required to furnish proof of possession of the Aadhaar number or undergo Aadhaar authentication.

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

Govt. of Punjab amends provisions related to registers and records under the CLRA and ISMW Act.

The Government of Punjab amends Rules under the Contract Labour Act and Interstate migrant workmen Act.

The Amendment provides that the Register of Muster Roll, Fines, Damages and losses, Over-Time, Wages and Advances under these rules shall be such as may be prescribed under the Minimum Wages Act, 1948 and the Rules made thereunder.

Payment shall be made in the manner prescribed under the Payment of Wages Act, 1936 and the Rules made thereunder.

Further, every contractor shall, where the wage period is one week or more, issue wage slips in Form XIX, to the worker at least a day prior to disbursement of wages;

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

Order regarding waiver of annual contribution/late fees/penalty for registration/renewal of construction workers: Govt. of NCT of Delhi.

Construction workers have faced a lot of financial hardship during the lockdown/curfew as all the construction activities in Delhi were stopped. Therefore, in exercise of power of Section 16 (1) of BOCW (RE & CS) Act, 1996, it has been decided that annual contribution/late fees/ penalty if any for Registration/Renewal of Construction workers shall be waived off for next three months from the date of issue of this order. Further, the existing eligibility condition for registration and renewal of construction workers shall remain the same.

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



Courtesy: scroll.in | Govt. issued Covid prevention guidelines to followed by all establishments.

Several State Governments have revised the 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. | Haryana | 01.01.2021 | Government Notification |
| 2. | NCT of Delhi | 01.04.2021 | Government Notification |
| 3. | Tripura | 01.04.2021 | Government Notification |
| 4. | Kerala | April, 2021 | Government Notification |
| 5. | Jharkhand | 01.04.2021 | Government Notification |

Further extension of date of filing Profession Tax Return for 2020-21 - Govt. of WB.

The government of West Bengal further extends the date for filing Professional Tax Return. The date has been extended to 31st August 2021 for transmission of data electronically for that return and 7th September 2021 for furnishing it in paper form.

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



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No Masterpiece has been created
without great labour.

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- 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.

