



# THE LABOURTORIALS

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Monthly updates on Industrial and Labour Laws

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## KEY HIGHLIGHTS

### LATEST FROM THE SUPREME COURT OF INDIA

- SC ends extension of a limitation period; 15.03.2020-14.03.2021 excluded from limitation period.
- Bar on the Courts to take up contempt petitions on implementation of pension in proportion to the last drawn salary.

### LATEST FROM THE HIGH COURTS

- Gratuity has to be paid immediately after an employee quits: Karnataka HC
- Panels of the Internal Complaints Committee can be altered sans violation of law: Punjab & Haryana HC

### LATEST FROM THE CENTRAL GOVERNMENT

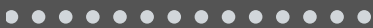
- Govt. raises threshold limit to 5 lakh for tax-free interest on Provident Fund.

### LATEST FROM THE STATE GOVERNMENTS

- State Governments have revised Variable Dearness Allowance (VDA) resulting in an overall increase in the rates of Minimum wages.



## Word of the month:



### HAWTHORNE EFFECT-

A term produced as a result of an experiment conducted by Elton Mayo whereby he concluded that expressing concern for employees and treating them in a manner which fulfills their basic human needs and wants will ultimately result in better performance.



# LATEST FROM THE SUPREME COURT OF INDIA

## SC ends extension of a limitation period; 15.03.2020- 14.03.2021 excluded from limitation period.

The Supreme Court on 8th March, 2021 lifted the extension of the limitation period for filing of cases granted by the Court in March last year on account of the COVID-19 pandemic and the nation wide lockdown.

"We are of the opinion that the order dated 15.03.2020 has served its purpose and in view of the changing scenario relating to the pandemic, the extension of limitation should come to an end", the Court observed.

### The bench in Re: Cognizance of Extension of Limitation disposed off the suo moto case with the following directions:

- In computing, the period of limitation for any suit appeal, application, or proceeding, the period from 15.03.2020 till 14.03.2021 shall stand excluded.

Consequently, the balance period of limitation remaining as of 15.03.2020, if any, shall become available with effect from 15.03.2021.

- In cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event, the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply.
- The period from 15.03.2020 till 14.03.2021 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, section

12A of the Commercial Courts Act, 2015, and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

- The Government of India shall amend the guidelines for containment zones, to state - "Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as time-bound applications, including for legal purposes, and educational and job-related requirements".

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

## Bar on the Courts to take up contempt petitions on implementation of pension in proportion to the last drawn salary.

The Supreme Court has barred all courts from taking up contempt petitions against the Employees Provident Fund Organization (EPFO) and the Central Govt. seeking the implementation of judgments that held that employees pension cannot be capped at Rs 15,000 and that the same should be proportional to the last drawn salary.

The bench passed this order while deciding to hear the review petitions on the pension's case.

The EPFO had contended before the Kerala HC that, payment of pension computed on the basis of the contributions made on their actual salaries by the employees would deplete the Pension Fund and would make the Scheme unworkable.

The HC rejected this contention and also found that the provision capping the maximum pensionable salary at Rs.15,000/- thereby disentiiling the persons who have contributed on the basis of their actual salaries to any benefits on the basis of the excess contributions made by them, is arbitrary and unsustainable.

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



# LATEST FROM THE HIGH COURTS

## Gratuity has to be paid immediately after an employee quits: Karnataka HC



The High Court of Karnataka has held that the payment of gratuity would not depend upon the employee filing an application before the employer demanding gratuity but it will have to be paid immediately on cessation of the employment.

The gratuity will have to be paid immediately by the employer on cessation of employment in terms of Section 4 of the Payment Gratuity Act, 1972, irrespective of the demand by the employee, the Court said.

Justice M. Nagaprasanna passed the order while rejecting the contention put forward on behalf of two companies - Varma Industrial Pvt Ltd., Bengaluru, and

IBC Knowledge Park Pvt Ltd., Bengaluru - that an employee is required to make application for payment of gratuity.

While Varma Industrial had paid gratuity to P.N. Janakiraman Shetty, who had retired in 2002, only after he made an application in 2015. The competent authority established under the Act had issued a direction to the company in 2017 to pay the interest for delay of 13 years for paying gratuity. The authority had also directed IBC Knowledge Park, in which Mr. Shetty worked for a few years, also to pay gratuity along with interest.

Both the companies had questioned imposition of interest

on the gratuity amount while contending that they were not at fault while blaming the employee for the delay in making application.

“The argument that gratuity becomes payable to an employee only on application being made to the employer becomes a figment of imagination” in view of the clear mandate in the Act to pay gratuity within 30 days of the employee’s cessation of service and interpretation Act by the apex court and various other High Courts.

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

## Panels of the Internal Complaints Committee can be altered sans violation of law: Punjab & Haryana HC

The constitution of Internal Complaint Committee (ICC) at workplaces to deal with complaints of sexual harassment can be changed if the situation warrants, but not in violation of the Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act, 2013, a Punjab & Haryana HC bench has held.

HC has dismissed a petition against constitution of a committee by the Rajiv Gandhi National University of Law, Patiala, which was challenged on the ground that it has to be presided over by a professor, as per the University Grants Commission (Prevention, Prohibition & Redressal of Sexual Harassment of Women Employees & Students in Higher Education Institutions) Regulations, 2015. But, in the committee, an associate professor was appointed as committee head.

High Court found that an associate professor who has been appointed as a chairman since there is no woman faculty member in the rank of professor. Therefore, the constitution of the committee cannot be declared bad.

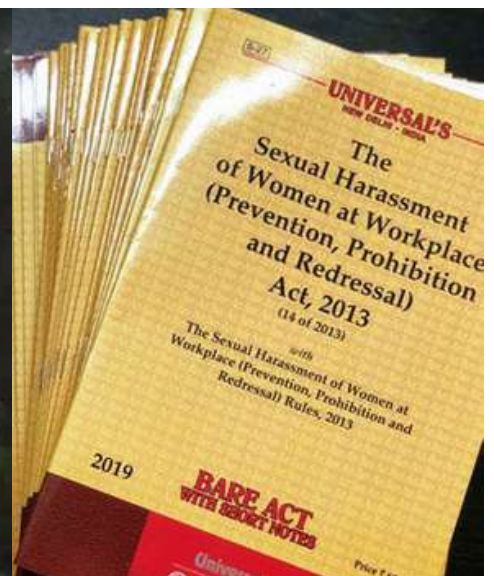
It may be noted that the 2013 law is a Parliamentary Act & holds supremacy after the Constitution of India, the bench observed, adding that the UGC's regulations are framed in exercise of the legislative powers conferred upon the executive body & are hence, referred as delegated/subordinate legislation.

"Therefore, **these regulations cannot supersede the parent/Parliamentary Act which is made by the legislature itself,**" the bench said, rejecting the argument that 2013 law is a general legislation, whereas the UGC's regulations are specific legislation & therefore, have to prevail over the 2013 law.

To an argument that two contractual employees have been appointed as members in the nine-member committee, the court observed that there is no prohibition in the Act or regulations to include contractual employees in the committee. Out of the 2 contractual employees, one is a medical officer & the other is an assistant librarian, it said.

The Court also found that it isn't mandatory that one member has to be from a non-governmental organisation or association. One member can either be from non-government organisations or associations committed to the cause of women or a person familiar with issues relating to sexual harassment, it said.

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





## LATEST FROM THE CENTRAL GOVERNMENT

### Govt. raises threshold limit to 5 lakh for tax-free interest on Provident Fund.

Finance Minister Nirmala Sitharaman on Tuesday raised the limit for tax exemption on interest earned on provident fund contribution by employees to Rs 5 lakh per annum in specified cases as against Rs 2.5 lakh proposed in the Budget.

In her Budget for 2021-22, Sitharaman had capped the tax-free interest earned on provident fund contribution by employees and employers together to a maximum of Rs 2.5 lakh in a year in an attempt to dissuade high earners from parking their surplus in what is supposed to be a common man's retirement fund.

This exemption, however, is subject to the condition that the up to Rs 5 lakh contribution does not include the employer's contribution



Nirmala Sitharaman, Minister of Finance of India

beyond the statutory limit of up to 12 percent of the basic pay.

The new provision would come into effect from April 1.

## LATEST FROM THE STATE GOVERNMENTS

### State Governments gear up to bring in the draft rules and regulations under the four Labour Codes.

Following the State of Bihar, several State Governments including that of Uttarakhand, Uttar Pradesh, Jammu and Kashmir, Karnataka, Punjab, and Madhya Pradesh have issued draft rules under the four labour codes. The State Governments issued drafts to welcome objections and suggestions on the said draft within the time as specified and on being emailed to the address as given. The four labour codes were notified in the year 2019 and 2020 but for them to be implemented the Central and State Governments require to notify the rules under the said Codes.

Once, the rules are notified the Code gets implemented. Perhaps, there is a delay on part of the Central and several other state governments to bring in the said Codes,



Courtesy: CbS Technologies Pvt. Ltd.

**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.	Chhattisgarh (Industry Workers)	01.04.2021- 30.09.2021	<a href="#">Government Notification</a>
2.	Assam (Workman employed through contractors)	01.07.2020	<a href="#">Government Notification</a>
3.	Maharashtra (Security Guards in Pune district)	01.01.2021- 30.06.2021	<a href="#">Government Notification</a>
4.	Uttarakhand (Engineering Industry)	01.02.2021	<a href="#">Government Notification</a>
5.	Kerala (Agricultural Laborer & Industrial workers)	Feb, 2021	<a href="#">Government Notification</a>
6.	Karnataka (Hotel Industry)	01.04.2021- 31.03.2022	<a href="#">Government Notification</a>
7.	Karnataka (Security Agency)	01.04.2021- 31.03.2022	<a href="#">Government Notification</a>
8.	Karnataka (Shops and Commercial Establishments)	01.04.2021- 31.03.2022	<a href="#">Government Notification</a>
9.	Bihar	01.04.2021	<a href="#">Government Notification</a>

### **Government of Haryana issues SOP for obtaining Parivar Pehchaan Patra.**

The State Govt. of Haryana on 3rd March 2021 has framed SOP for obtaining Parivar Pehchaan Patra for workers who come under the preview of Haryana Labour Welfare Board. The Benefits under various welfare schemes would be delivered only through this unique family ID under the Parivar Pehchaan Patra.

Every worker/employee who is currently residing in Haryana and has the residential address of Haryana irrespective of his status of domicile is required to get his/her PPP generated.

PPP will enable pro-active delivery of certain Government services, schemes, and benefits. Citizens will not have to go to any Government office or make an application for such services, schemes or benefits instead will be able to receive them at the doorstep.

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

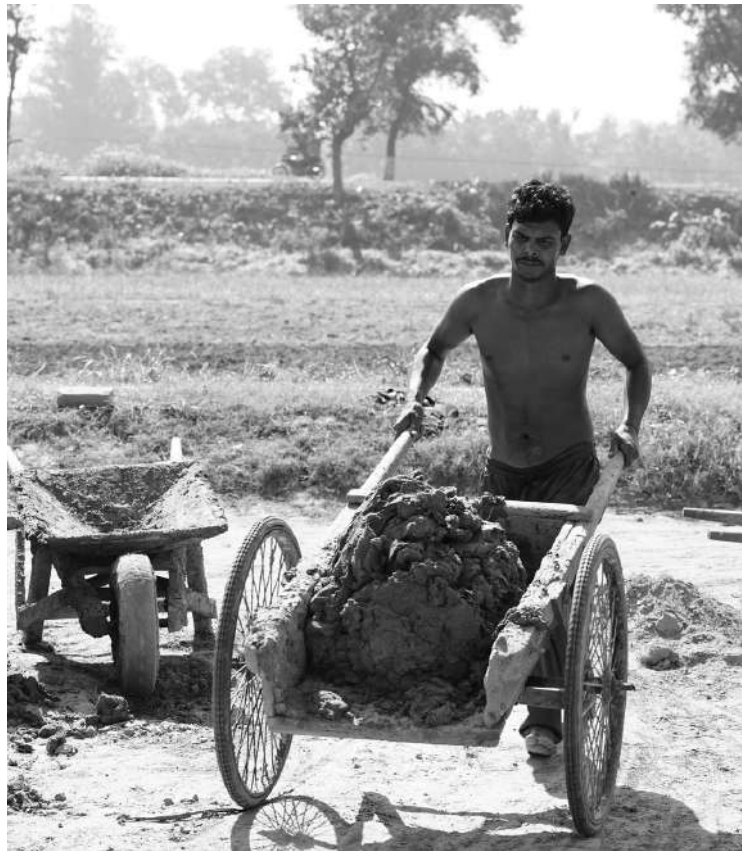
### **The government of Telangana minimizes the compliance burden of factories.**

The Government of Telangana has issued measures for simplifying/minimizing the regulatory compliance burden to the industry. In the interest of Ease of Doing Business, exemption from the applicability of certain provisions of the Factories Act, 1948 and Telangana Factories Rules, 1950 is provided. The exemption is given to factory law compliances including Return Filing & Statutory Reporting, Inspection, Examination & Audits requirements, maintenance of Registers and Records, Display Requirements, employee Safety & Welfare requirements etc.

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

## SUCH OTHER AMENDMENTS

- **Amendment notification under the Tamil Nadu Maternity Benefit Rules, 1967 in Tamil Nadu.** [Click here](#) to read more.
- **Final notification under Jharkhand Child Labour (Prohibition and Regulation) Amendment Rules, 2018.** [Click here](#) to read more.
- **Notification of Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Odisha Amendment Rules, 2020.** [Click here](#) to read more.
- **The Tamil Nadu Fire and Match Workers Social Security and welfare scheme, 2021 has been framed under the Tamil Nadu Manual Workers (Regulation of Employment and Conditions of Work) Act, 1982.** [Click here](#) to read more.
- **Notification of the Rajasthan Third Party BOCW Establishment Inspection scheme.** [Click here](#) to read more.
- **The government of Puducherry brings in The Puducherry Factories (Amendment) Rules, 2020.** [Click here](#) to read more.



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**"No work is insignificant. All labor that uplifts humanity has dignity and importance and should be undertaken with painstaking excellence."**

**- Martin Luther King**

**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.

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