

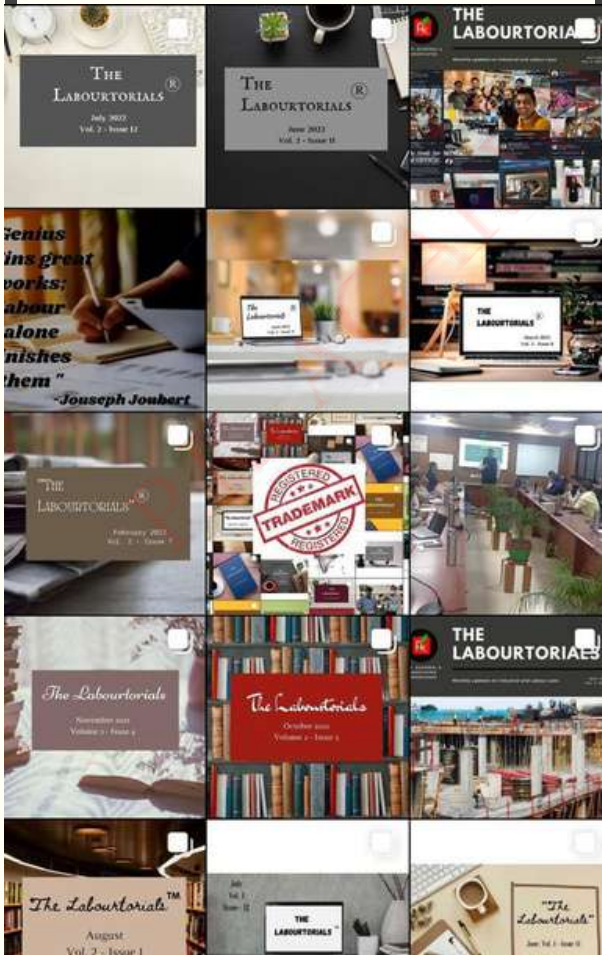
# THE LABOURTORIALS<sup>®</sup>

MONTHLY UPDATES ON INDUSTRIAL AND LABOUR LAWS

## WORD OF THE MONTH

### FURLOUGH

A furlough is a temporary layoff, an involuntary leave, or some other modification of normal working hours without pay for a specified duration.



Happy two years to The Labourtorials!

## KEY HIGHLIGHTS

### LATEST FROM THE SUPREME COURT OF INDIA

- Military personnel entitled to disability pension only if disability attributable to or aggravated by military service.

### LATEST FROM THE HIGH COURTS

- Amputee workman's compensation for 100% loss of earning capacity despite 40% disability; upheld : Bombay High Court.
- Belief that government workers cannot be punished for doing wrong needs to stop: Bombay High Court.

### LATEST FROM THE CENTRAL GOVERNMENT

- Clarification on status of student/trainees of educational/technical institute- EPFO.

### LATEST FROM THE STATE GOVERNMENTS

- Direction to factories for putting up National Flag at the Factory premises and homes of its workers- DDF, Noida
- Revised rates of Minimum wages.
- Amendment in SEZ Rules, 2006.

# LATEST FROM THE SUPREME COURT OF INDIA

## Military personnel entitled to disability pension only if disability attributable to or aggravated by military service.

Military personnel will be entitled to disability pension only if the disability is attributable to military service or was aggravated by such service and if such disability is more than 20 percent, the Supreme Court ruled [**Union of India and ors. vs Ex-Naik Ram Singh**].

The Court, therefore, rejected the claim of an Indian Army personnel who had sustained injuries two days after he reached the leave station and which was not connected in any manner to military service.



The Hon'ble Supreme Court of India

[Click here](#) to read Judgement.

# LATEST FROM THE HIGH COURTS

## Belief that government workers cannot be punished for doing wrong needs to stop: Bombay High Court

The widespread notion that no action can be taken against government servants for their wrongdoings should be done away with, the Bombay High Court recently said while hearing a service matter [**Jaising Nivrutti Sonawane v. Maharashtra State Road Transport Corporation**].

The appellant Jaising Sonawane is a former Maharashtra State Road Transport Corporation (MSRTC) bus conductor. In December 1995 he was on duty on a bus running from Pune to Borivali. An inspection squad found that he had wrongly punched tickets

of 6 passengers as being for Borivali to Pune instead of Pune to Borivali. He had an excess of about 25 rupees. Further, there was no entry in the Way Bill. A chargesheet was filed and he was terminated after the enquiry.

Sonawane raised an industrial dispute in the Labour Court which was dismissed after consideration. He then filed a writ petition against the Labour Court Award wherein it was noted that Sonawane in the past had been terminated twice for ticket related misconduct but was reinstated both times due to leniency. The

Court refused to interfere with the award noting that Sonawane had a record of similar misconduct. Hence the current appeal.

"The argument by Mr Govilkar that there was **no actual defalcation or misappropriation is less than impressive. It means that unless somebody actually commits theft, no action can be taken even if the person is apprehended while in the process of attempting a wrong doing**", the court said.

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

## Whether S. 5 Limitation Act, 1963 apply to appeals under S. 18 of POSH Act, 2013?- Delhi High Court

The Delhi HC has observed that under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act/SHW Act), a victim's delay in filing appeal against the inquiry report can be condoned if such a delay is properly explained.

Hon'ble Justice added that sec. 5 of the Limitation Act (which provides for extension of prescribed period in certain cases) would apply in respect of appeals which may be sought to be preferred under sec. 18 of the Sexual Harassment at Workplace Act.

**antithetical and inimical to the very scope and purpose of the SHW Act, if a Court were to refuse to condone a delay of as little as 36 days in an alleged victim of sexual harassment preferring an appeal under Section 18 against the report of the inquiry committee. Such a delay - if properly explained - should, clearly, not stand in the way of the appeal of the alleged victim of sexual harassment being decided on merits, by the authority competent to do so,"** the Court observed.

Sec. 18 of the Act states that any person aggrieved from the recommendations made by the

inquiry committee or non-implementation of such recommendations may prefer an appeal to the court or tribunal in accordance with the service rules applicable to the said person or as per the law applicable.

Under the Act, it has been provided that on the completion of an inquiry, the Internal Committee or the Local Committee, shall provide a report of its findings to the employer, or the District Officer within a period of ten days from the date of completion of the inquiry.

The Court agreed with the observations made by the Industrial Tribunal that a victim of sexual harassment remains in a state of trauma and it cannot be expected that she would immediately rush to a Court seeking appellate remedies. **DB Corp Ltd. v. Shailja Naqvi**

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

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### **Plea before Delhi HC alleges 53,000 Delhi Police officials drawing cycle maintenance allowance despite not using cycle.**

The Delhi HC asked the Central and Delhi govts. and the Commissioner of Delhi Police to respond to a plea alleging that police officials are drawing cycle maintenance allowance 'fraudulently.'

Petitioner contended that nearly 53,000 Police officials are drawing ₹180 per month for cycle maintenance but almost none of them use it for transportation.

## Amputee workman's compensation for 100% loss of earning capacity despite 40% disability; upheld: Andhra Pradesh High Court

The Court was hearing a challenge to an order passed by the commissioner granting the injured respondent compensation of ₹2,36,688 with an interest at the rate of 12 per cent per annum, while holding the employer and insurance company jointly and severally liable for his injury. The respondent was 23 years old and working as a lorry cleaner when an accident took place, as a result of which he acquired permanent total disability.

The appellant challenged the Commissioner's order on two grounds:

Firstly, qualified medical practitioners had assessed the respondent's physical disability at 40 per cent, and therefore, loss of earning capacity could not be more than 40 per cent.

Secondly, stating that first compensation was to be determined and only on default in payment, could interest be awarded.

The Andhra Pradesh High Court upheld an order of the Workmen's Compensation Commissioner holding that **the loss of a workman's limb amounted to 100 per cent loss of his earning capacity, despite a medical board assessing his disability at 40 per cent [The Divisional Manager v Harijana P].**

Hon'ble Court refused to accept the appellant insurance company's contention that despite amputation of the workman's leg up to the thigh, he could still find other work to earn a livelihood. The Court said that **when even after three years of the accident,**

**the respondent required the help of an attendant to attend to calls of nature, he could not be expected to take up any work.**

It was held that the percentage of the permanent disability cannot be mechanically applied as the percentage of economic loss or loss of earning capacity. Instead, the assessment of compensation for loss of future earnings would depend on the effect and impact of the disability on one's earning capacity.

On the issue of interest Hon'ble Court found that "The claimant is entitled for interest on compensation from the date of the accident, till its payment".

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



The Kerala High Court held that a licence under the Kerala Places of Public Resort Act, 1963 is necessary for opening and running a gymnasium in the State **[Dhanya C & Anr. v State of Kerala & Ors.]**

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

## Compassionate appointee has to furnish caste certificate if demised parent had secured job in reserved category: Bombay High Court

The Bombay HC held that a person, who has got a job in public service on compassionate grounds, will have to furnish his or her caste/tribe validity certificate, if their parents who had secured employment in the reserved category, had failed to submit the same during their lifetime [Om Anjanwad vs State of Maharashtra].

Further, the Court said that **if an ineligible**

**person is appointed, it would have a deleterious effect on good governance. Depriving a legitimate candidate of an appointment, as a result of the recruitment granted to an impostor would violate the rights of genuine candidates,** the judgment stated.

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

## LATEST FROM THE CENTRAL GOVERNMENTS

### Clarification on status of student-trainees of educational/technical institute- EPFO

The EPFO has prescribed certain guidelines/clarification to decide about the status of student-trainees:

- The educational/technical institute/University and the academic course in which the student trainee is enrolled shall be recognized by the competent authority.
- "On-the-job training" shall be an integral component of such a course.
- "On-the-job training" shall not exceed the period as may be specified in such course.
- In case any student-trainee does not complete the training within the specified time including the period of extension, he/she shall cease to be a student-trainee.

- Industry shall engage student-trainee pursuing courses relevant to the industry.
- A number of such student-trainee shall not exceed the percentage of the total workforce employed in the concerned factory of an establishment.
- Engagement of the student-trainee shall not be for a purpose other than as specified in the course/scheme.
- The employer shall declare details of such student-trainees in ECR or furnish such details every month as may be directed by the Commissioner.

[Click here](#) to read more.

### TRIVIA

- In a recent meeting it has been decided that the ESIC shall distribute various prosthesis, hearing aid and appliances like artificial limbs, spinal support, cervical collars etc. to IPs in special health camps to be organized regularly at ESI Hospitals. [Click here](#) to read more.
- Approval for bearing 100% expenditure cost of repair and replacement of cochlear implant to ESI beneficiaries. [Click here](#) to read more.

# LATEST FROM THE STATE GOVERNMENTS

## Direction to factories for putting up National Flag at the Factory premises and homes of it's workers- DDF, Noida



Deputy Director of Factories, Noida, GautamBuddh Nagar issued direction to Factories for putting up National Flag at the Factory premises and also at homes of its workers under the campaign '**Har Ghar Tiranga**' of "Azadi ka Amrit Mahotsav" that is to be organized from 11th August to 17th August 2022. It is also directed to ensure that the workers are duly facilitated with the National Flags and that the photography recordings and report is submitted to its office by 18th August 2022.

[Click here](#) to read Circular.

## Online registration and renewal of license for Factories under Factories Act, 1948: Puducherry

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

## Notification for amendment in SEZ Rules, 2006

The Ministry of Commerce and Industry has issued a notification for SEZ to allow maximum of **50% of the employees including contractual employees to Work From Home** or from any place outside the Special Economic Zone (SEZ) subject to certain conditions.

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

## Permission to all Shops and Establishments to keep open for 365 days of year: Punjab

The Governor of Punjab permits all the establishments to keep open on all the 365 days of the year, for a further period of 1 year i.e., up to 31-05-2023, subject to certain conditions.

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

## Delhi Labour Welfare Board hosted new portal for taking online contribution from Employer/ Employee w.e.f. 01.07.2022: Govt. of NCT, Delhi

[Click here](#) to get the link.

## REVISED MINIMUM WAGES

S. NO.	STATE	W.E.F.	CLICK HERE TO VIEW NOTIFICATION
1.	Tripura	01.04.2022	<a href="#">Government Notification</a>
2.	Tripura (Private Security Guard)	01.04.2022	<a href="#">Government Notification</a>
3.	Tamil Nadu	01.04.2022	<a href="#">Government Notification</a>
4.	Tamil Nadu (Cashew Nut Industry)	01.04.2022	<a href="#">Government Notification</a>
5.	West Bengal	01.07.2022- 31-12-2022	<a href="#">Government Notification</a>

Shri Bhupender Yadav, the Union Minister for Labour & Employment has launched Pension and EDLI calculator which provides online facility to Pensioner and family members to calculate the benefits related to Pension and Death Linked Insurance. He also released the Training Policy of EPFO which aims at developing the officers and staff of EPFO into a competent, responsive and future-ready cadre.



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**We are not a team  
because we work  
together.**

**We are a team  
because we respect,  
trust and care for  
each other.**

**- VALA AFSHAR**

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