

THE LABOUR TUTORIALS

MONTHLY UPDATES ON INDUSTRIAL AND LABOUR LAWS



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VOLUNTARY RETIREMENT

As the name suggests, it is the process by which the employees can retire from their services voluntarily with pensionary benefits before attaining the age of superannuation.

KEY HIGHLIGHTS

LATEST FROM THE SUPREME COURT OF INDIA

- Master-Servant relationship continues during suspension period, workman to follow all rules governing post.

LATEST FROM THE HIGH COURTS

- Govt. cannot be asked to continue services of contractual employees engaged during Covid-19 pandemic: J&K and L HC.
- Dismissal order of Bank employee for sharing official ID-Password, illegal debiting of funds upheld: Allahabad High Court.

LATEST FROM THE CENTRAL GOVERNMENT

- Circular on changes in ESIC Aadhar seeding Application due to e-KYC changes by UIDAI- ESIC.

LATEST FROM THE STATE GOVERNMENTS

- Revised Minimum Wages.
- List of Holidays for the Year 2024.

LATEST FROM THE SUPREME COURT OF INDIA

Master-servant relationship continues during suspension period, workman to follow all rules governing post.

The Supreme Court addressed the issue of **deeming voluntary retirement** in a Bipartite Agreement and ruled that the master-servant relationship persists during the suspension period.

The bench emphasized that a workman remains obligated to adhere to all rules governing their post even during the period of suspension.

The court addressed the contention that, while suspended, a workman cannot be considered to have voluntarily retired. **It clarified that the relationship of master and servant does not terminate during**



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suspension, and all applicable rules and regulations remain in force. [**U.P. Singh v. Punjab National Bank**]

[Click here](#) to read Judgment.

LATEST FROM THE HIGH COURTS

Termination of employee over provocative Facebook posts upheld: Bombay High Court.

The Hon'ble High Court quashed a labour court order that had reversed the termination of an employee of an automobile company for his two 'provocative' posts on Facebook against the company. In doing so, the HC held that "**freedom of speech and expression cannot be allowed to be transgressed beyond reasonableness and if it is allowed, it could lead to disastrous consequences.**" A strong message needs to be sent out against such acts," the HC said, and upheld the termination of the employee.

Amidst the wage settlement dispute, Kadu had

put **two posts on his Facebook account**, which according to the firm **were defamatory and were intended to tarnish its reputation.**

The company alleged that the social media posts which asked employees to adopt "**militant approach against management**" showed an intention to instigate and incite the employees.

In April, 2018, an Enquiry Officer (EO) of the company held Kadu guilty of misconduct and his services were terminated through dismissal order of May 2, 2018.

Contd. ...



Contd. ...

Kadu then challenged his termination by approaching the Labour Court, which considered the preliminary issues regarding fairness of enquiry and findings of EO.

The Labour Court on May 31, 2018 held that the charge-sheet issued to Kadu and the enquiry conducted against him was illegal and the findings of EO were “perverse”. It held that while misconduct was committed by Kadu, it had no adverse effect. Aggrieved by this, the company approached the HC.

Bapat argued that the Labour Court committed “gross error” in holding that the said posts were “not violent in nature” and that they “did not amount to indecent behaviour”.

After perusing the Labour court order, Justice Jadhav noted in his verdict, “In a given case, **one cannot and should not wait for the consequences to occur. Such acts itself are**

required to be nipped in the bud. Otherwise it would convey a wrong signal to society at large”.

The HC said that “**merely because no (untoward) incident has taken place cannot be a ground for discharging the act of posting the defamatory and provocative posts** made by the workman, at the time when any disgruntled workman could have committed an act by getting incited by the two Facebook posts and the comments received thereto”.

The bench held that it ‘clearly stands proven’ that the said posts were directed against the company ‘with clear intent to incite hatred and were clearly provocative’ as they referred to ‘taking law into hands to teach a lesson to the management.’ **[Hitachi Astemo Fie Pvt. Ltd. v. Nirajkumar Prabhakarrao Kadu]**

[Click here](#) to read Judgment.



PC | The Bombay High Court | Facebook | Travel Trade Journal | Investopedia



'Serious act requires highest standard of proof' states Bombay HC holding the Disciplinary enquiry findings against BPCL employee accused of unnatural sexual act are perverse.

The Bombay High Court observed that, in disciplinary proceedings, it is necessary to have **the highest standard of proof for considering the evidence placed on record when a serious act is involved.**

The employee was accused of committing an indecent act, allegedly witnessed by three officers of the corporation. He had allegedly engaged in an unnatural sexual act with a dog on the first floor of the terrace of the Refinery Learning Centre building where he was employed. The chargesheet issued to him by **the corporation accused him of committing an indecent act of disorderly behavior in the premises, constituting a serious act of misconduct** under the Certified Standing Orders of the corporation.

The corporation suspended him and **conducted a departmental enquiry, eventually leading to his dismissal.** His legal heirs, his widow, and daughter were impleaded after his demise.

The corporation contested the tribunal's findings, asserting that the enquiry was fair, and the allegations were substantiated. **While deeming the enquiry fair, the tribunal held the findings as perverse.** The corporation filed the writ petition challenging this aspect. The legal heirs opposed it, contending the enquiry was not fair, and the allegations were improbable.

The High Court found that the findings arrived at by the Enquiry Officer were not proved and, considering the evidence on record, were found to be perverse. In that context, it was said that, "Merely because report was submitted by the 3 officers i.e. the 3 witnesses of the Petitioner – Corporation after 6 days cannot substitute the requirement of examination by a Medical Board or a Medical Authority of the original Respondent No.1. Considering the facts and seriousness of the incident, it was all the more imperative for the Petitioner – Corporation to have immediately called upon the CISF in-charge of guarding

the refinery premises to enter the said alleged incident in the log book in view of the fact that a stray dog had entered the premises. However, this was also not done. Further considering the fact that according to the Petitioner – Corporation and even otherwise the charges were extremely serious, **nothing precluded and prevented the Petitioner – Corporation from lodging a criminal complaint** under the provisions of Section 377 of the Indian Penal Code. This was not done by the Petitioner – Corporation."

In light of the same, it was held that while the enquiry held by the Enquiry Officer was fair and proper, the findings of the Enquiry Officer were perverse. Therefore, the petition was dismissed. **[Bharat Petroleum Corporation Ltd. vs XYZ & Ors.]**

[Click here](#) to read Judgment.



Govt. cannot be asked to continue services of contractual employees engaged during Covid-19 pandemic: J&K and L HC.

The Jammu and Kashmir and Ladakh High Court has observed that once the Government has decided to close down the temporary hospitals, established in view of emergency related to Covid-19 pandemic, it cannot be asked to continue services of contractual employees without any work or their need.

Accordingly, a Srinagar bench held, “...that **once the Government has decided to close down the temporary hospitals, established in view of emergency related to Covid-19 pandemic**, where the petitioners were the contractual employees, **the respondents cannot be asked to continue their services as contractual employees without any work or their need**. In this view of the matter the petition to the extent of asking the relief to continue to the petitioners for a period of three years, in view of the Government order dated 18.05.2021, cannot be granted”.

However, the bench was of the opinion that the prayer to release Ayushman as well as Covid incentives and to incorporate the condition in the future advertisement notice



PC | The Jammu & Kashmir High Court | Covid-19 | jkhighcourt.nic.in | Telegraphn India

with regard to “05 numbers” as weightage, as has been done in the previous advertisement notices, where ‘05 numbers’ as weightage, had been given to the candidates, who were engaged for the period of three months in the Government Institute under the ECRP on contractual basis could be considered.

Consequently, the bench, dismissed the petition to the extent of the relief asking for continuation of the petitioners

for a period of three years, while the petition was allowed to the extent of other reliefs directing the respondents to release Ayushman as well as Covid incentives in favour of the petitioners. **[Aabid Rashid v. Union Territory of J&K through Commissioner /Secretary to Govt. Health & Medical Education Department Civil Secretariat at Jammu /Srinagar]**

[Click here](#) to read Judgment.



Employees of autonomous bodies that have adopted Government service rules cannot be treated at par with Government employees: Allahabad HC.

In the present case, the Petitioner was an assistant teacher, initially posted in the Bahraich district, who applied for an inter-district transfer to the Unnao district. While she joined her new post, a subsequent order cancelled her transfer, claiming it was not as per the law. The teacher contended that her case falls under a specific clause in the government order governing inter-district transfers, which grants 10 weightage points for transfer if the spouse is in a government service as defined by the order.

The **Petitioner's husband, despite working for Lucknow University, lacks the key**

characteristics of a government servant, the Court added.

“From a perusal of Articles 309, 310, 311 & 320 of the Constitution of India it emerges that so far as the facts of the instant case are concerned the phrase "persons serving under the Government of India or the Government of State" appear to have reference to such persons in respect of whom the administrative control is vested in the respective executive Government functioning in the name of President or the Governor”, the Court observed.

The Bench held that **merely adopting government service**

rules doesn't automatically grant the same rights and benefits to employees of autonomous bodies as to government employees. The Court cited the case of the *State of Maharashtra and Anr v Bhagwan and Ors* [(2022) 4 SCC 193]. They do not fall under the category of "government employees" or "in government service" simply because their organization follows government rules, the Bench added. Accordingly, the Court dismissed the Writ Petition. **[Deepti Singh v State Of UP Represented By Its Addl. Chief Secy. Basic Shiksha Lko And 6 Others]**

[Click here](#) to read Judgment.



PC | The Allahabad High Court | India TV News



Dismissal order of Bank employee for sharing official ID-Password, illegal debiting of funds upheld: Allahabad High Court.

The Allahabad High Court upheld the dismissal order of a bank employee for sharing his official ID and password, leading to illegal debits to the tune of Rs. 10 lakhs.

The Court noted that as per Clause 7 of Schedule III Part D of the Circular of 2010, the duties of the Head Cashier (Class III) include independently clearing and transferring cheques, vouchers, etc., up to and including Rs.50,000/- and handling cash vouchers up to the same amount jointly with an authorized person. During the Appellant's tenure at UCO Bank, an entry of Rs. 10,00,000/- was made in the account of Zila Panchayat Raj Adhikari. Subsequently, this amount was credited to 20 fictitious savings bank accounts, and the funds were withdrawn in cash from these respective accounts.

The Bench held the Appellant accountable for the misuse of his password/ID. The Bench noted that **once an individual is employed in a bank and provided with a password/ID, it is both a legal and moral obligation to maintain the confidentiality of such credentials.** The Bench observed that the Appellant knowingly shared his password/ID with the then-branch manager, who subsequently made numerous fictitious entries using this information. The repetition of

such actions is evident from the Appellant's reply submitted to the Inquiry Officer/Disciplinary Authority.

The Court referred to the Supreme Court Judgment in the case of Chairman & Managing Director, United Commercial Bank v P.C. Kakkar [(2003) 4 SCC 364] and **reiterated the high level of responsibility and credibility expected in banking matters. The Court noted that bank officers are held to elevated standards of honesty and integrity.** Given their role in handling depositors' and customers' money, every bank officer/employee is obligated to protect the bank's interests and perform their duties with the utmost integrity, honesty, devotion, and diligence. The Court emphasized that **good conduct and discipline are integral to the functioning of every officer/employee in a bank.**

The Court observed that the punishment of dismissal from service, given the nature of the allegations, is not disproportionate. Accordingly, the Court dismissed the Appeal. **[Nagendra Kumar Pandey v General Manager UCO Bank Hazratganj Lucknow And Ors.]**

[Click here](#) to read Judgment.



LATEST FROM THE CENTRAL GOVERNMENTS

Circular on changes in ESIC Aadhar seeding Application due to e-KYC changes by UIDAI-ESIC.

Recently, the UIDAI has updated its e-KYC response and accordingly the ICT Hqrs. team has developed and updated the ESIC Portal. Now, the **users can select the date and month in (Date/MM) at the time of seeding Aadhaar details** based on available documentary evidence and when the declared Date of Birth matches with the same details in the ESIC records, Aadhaar will be seeded. However, **in case of mismatch, an update IP details request will be generated** for approval as per existing system.

Notification regarding extending the medical benefits to the insured persons families in certain areas- ESIC

The **medical benefits** as laid down in the said Regulation 95-A, Tamil Nadu Employees' State Insurance (Medical Benefits) Rules, 1955 and also in the Uttar Pradesh Employees' State Insurance (Medical Benefits) Rules, 1958 **shall be extended from 01/11/2023 to the families of the insured persons** in all the areas of Nilgiris district, in addition to the already notified areas in the State of Tamil Nadu. The medical benefits shall be extended similarly from 01/11/2023 in all the areas of Lalitpur, Kushinagar, Kaushambi, Budaun, Sultanpur, Deoria, Ballia, Jaunpur, Azamgarh, Baghpat, Chitrakoot, Sambhal and Ayodhya districts in the State of Uttar Pradesh.

[Click here](#) to read notification.

In view of the above, it is directed that **on the updated ESIC Aadhaar seeding application**, in cases where only Year is visible in date of birth column after seeding Aadhaar details, the functionary who is doing the Aadhaar seeding work will **enter the date and month in appropriate column on the basis of Aadhaar Card** or other documentary evidence of IP/Beneficiary and Aadhaar number will be seeded.

[Click here](#) to read Circular.

Standard Operating Procedure (SOP) for freezing/de-freezing the MID / UAN / Establishments- EPFO

This **SOP provides for a time-bound methodology for freezing MIDs / UANs / Establishments on account of verification requirement**, as a measure of due diligence to secure the funds in these MIDs/UANs/Establishments and the subsequent de-freezing, wherever required, on completion of verification of genuineness.

[Click here](#) to read SOPs.



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LATEST FROM THE STATE GOVERNMENTS

REVISED MINIMUM WAGES

Some states have revised the rates of Minimum wages. Click on the link below for updated rates.

S. NO.	STATE	W.E.F.	CLICK HERE TO VIEW NOTIFICATION
1.	Assam (Scheduled Employment)	01.06.2023	Government Notification
2.	Goa (Scheduled Employment)	01.10.2023	Government Notification
3.	Tripura	01.10.2023	Government Notification
4.	Kerala (Coir Industry)	12.12.2023	Government Notification
5.	U.T. of Andaman & Nicobar Islands (6 Scheduled Employments)	01.01.2024	Government Notification
6.	West Bengal (30 Scheduled Employments)	01.01.2024	Government Notification

Notification of the Maharashtra Building and Other Construction Workers (Regulation of Employment and Conditions of Service) (Amendment) Rules, 2023.

Certain Substitutions were made under Rule 45 namely **Functions of the Board** wherein the Board may **sanction loans and advances or financial assistance to a beneficiary for construction or purchase of a house not exceeding Rs. 2,00,000/-** subject to certain terms and conditions. Further, these Assistance schemes shall be applicable to the child of a beneficiary subject to terms and conditions as mentioned under this sub-rule.

[Click here](#) to read notification.



**Government of
Maharashtra**

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LIST OF HOLIDAYS FOR THE YEAR 2024

Few states have released the List of Holidays for the year 2024. Click on the links below to view complete list of holidays.

S. NO.	STATE	CLICK HERE TO VIEW NOTIFICATION
1.	Himachal Pradesh	Government Notification
2.	Meghalaya	Government Notification
3.	Mizoram	Government Notification
4.	Andhra Pradesh	Government Notification
5.	UT. Of Ladakh	Government Notification
6.	Uttar Pradesh	Government Notification
7.	Chhattisgarh	Government Notification
8.	Manipur	Government Notification
9.	Jammu & Kashmir	Government Notification
10.	Telangana	Government Notification
11.	Punjab	Government Notification
12.	Chandigarh	Government Notification
13.	Dadra & Nagar Haveli & Daman & Diu	Government Notification
14.	Haryana	Government Notification
15.	Madhya Pradesh	Government Notification

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— ERSKINE BOWLES



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