

THE WORKFORCE CHRONICLES

Monthly Newsletter
July 2025

INDIPRISE PROFESSIONAL PARTNERS LLP (A LABOUR LAW EDITION)



Here's what has happened in the last month!

LATEST FROM THE HIGH COURTS

- Employee cannot be restrained from undertaking any employment in order to enforce negative covenant in employment contract: Delhi High Court.
- Guest faculty not workman under Industrial Disputes Act: Calcutta HC.
- Section 33(C)(2) of Industrial Disputes Act, 1947 applies only if entitlement is established through undisputed evidence: Bombay HC.
- Once employee testifies under oath, burden of proof shifts to employer to disprove claims: Delhi High Court.
- Denying a woman Child Care Leave offends her Fundamental Right to Life & Motherhood: Chhattisgarh High Court.

LATEST FROM THE CENTRAL GOVERNMENT

- EPFO enhances auto-settlement limit for advance claims to ₹5 Lakhs, ensuring faster access to funds for members.

LATEST FROM THE STATE GOVERNMENTS

- Public notice regarding Mandatory Registration on SHE-BOX portal: Govt. of Rajasthan & Govt. of NCT of Delhi.

Overview on Industrial Disputes Act, 1947

An Act to to make provisions for investigation and settlement of industrial disputes, and for certain other purposes. It aims to prevent and resolve industrial disputes, promote harmonious employeremployee relations, and ensure a stable work environment. This Act provides mechanisms for investigation, conciliation, arbitration, and adjudication of disputes, aiming to maintain industrial peace and protect the interests of both employers and workers.

Head of Department can be placed under suspension in matters of Sexual Harassment complaints where final decision is yet to be taken: Allahabad High Court.

The Petitioner, who was posted and working as District Program Officer, had invoked the extraordinary jurisdiction of the Court under Article 226 of the Constitution to assail the order of suspension passed against him by the Chief Secretary Child Development and Nutrition, Uttar Pradesh. The Single Bench observed, "Naturally if the employee is regularly discharging duties on a position that he holds as a head of the department, in matters of complaint of sexual harassment where a decision is yet to be taken finally by the authority, the authority may place the said employee under suspension firstly as a confidence building measure amongst the working women in the department and secondly to ensure that such an officer may not abuse his position to pressurize other working women or otherwise also to the aggrieved women even while the final action is still pending consideration." The suspension order was challenged on the ground that the words spoken to the aggrieved woman did not amount to sexual harassment concerning her workplace. It was the Petitioner's case that the internal complaint committee was not duly constituted as mandatorily required under Section 4 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition

and Redressal) Act, 2013. It was further his case that he was denied the opportunity to cross-examine the complainant as well as to make representation against the findings before the committee itself as contemplated under Section 11. The Bench, at the outset, observed, "It is well-settled principle in service jurisprudence that suspension is no punishment. An employee is placed under suspension by the employer only to ensure that he is not able to influence the enquiry in any manner, in as much as he is not able to interfere with the evidence or also in such cases where the employer finds it necessary to place an employee under suspension so as to have smooth disposal of disciplinary Proceedings." On the facts of the case, the Bench noted that the circumstances and the manner in which the 'body shaming' as verbal remarks had been attributed by the petitioner to the aggrieved women at the workplace may constitute sexual harassment. "However, observation if made as a final view in this regard may run adverse to the petitioner and may influence the disciplinary authority in taking final action therefore, I refrain myself from expressing any final view qua the act of 'body shaming' but since the petitioner has been indicted by the internal complaint committee, prima facie a case is made out to justify the department in placing

the petitioner under suspension pending final action in the disciplinary proceedings", it said. The Bench was of the view that the issue of non-compliance of provisions for constituting an internal complaint committee or that procedure having not been followed as contemplated under Section 11 can be looked into by the appellate authority exercising its power under Section 18 in the event the petitioner prefers an appeal. Thus, declining to grant indulgence in the matter of suspension, the Bench disposed of the Petition with a direction to the petitioner to prefer an appeal before the appellate authority within four weeks. "It is further provided that until the appeal is finally decided no disciplinary action shall be taken against the petitioner pursuant to the recommendations made by the internal complaint committee and suspension of petitioner shall also abide by the final outcome of the appeal, however, petitioner shall be regularly paid subsistence allowance so long as he remains under suspension", it concluded. [Shailendra Kumar Rai v. State Of Uttar Pradesh and Ors.]

[Click here to read Judgement.](#)

Employee cannot be restrained from undertaking any employment in order to enforce negative covenant in employment contract: Delhi High Court.

An appeal was filed by the employee against the order of the trial court for imposing injunction in favour of the Respondent Company restraining the employee from working with the clients or Business Affiliates of the employer until the final disposal of the Suit. The Bench observed, "Under Indian Law, all contracts falling within the terms of Section 27 of the ICA are void unless they fall within the specific exception under Section 27 of the ICA. Hence, the restriction sought to be enforced by the Respondent is clearly in restraint of trade and is void under Section 27 of the ICA". The Delhi High Court observed, "It is settled law that the negative covenant post termination of the employment can be granted only to protect the confidential and proprietary information of the employer or to restrain the employee from soliciting the clients of the employer. However, none of the cases relied upon by the Respondent has held that the employee can be restrained from undertaking any employment in order to enforce the negative covenant." Therefore, the Court set aside the order of the Trial Court of imposing injunction on the employee from working with the clients or Business Affiliates of the



employer. The Court emphasised that there is no question of any sharing of the confidential information, source code or intellectual property with the other company as the nature of work between the Respondent and the other company was limited to providing the supply of manpower. Accordingly, the Appeal was allowed. [Varun Tyagi V. Daffodil Software Pvt. Ltd.]
[Click here to read Judgment.](#)

Long-Term daily wagers with 10+ Years' service entitled to minimum pay & regularisation despite lack of sanctioned posts or educational qualification: Punjab & Haryana High Court.

The Punjab & Haryana High Court has held that long-serving employees engaged on a daily wage, ad hoc, or contractual basis are entitled to regularisation and the minimum of the pay scale if they have completed ten years of continuous service, irrespective of whether they hold sanctioned posts or possess the minimum educational qualifications. The Court dismissed a batch of 136 Letters Patent Appeals filed by the State of Punjab challenging a common order passed by a Single Judge granting such relief to over a hundred employees across departments. Once the appellants have not disputed the length of service of the respondents, they cannot deny their

legal right for being considered or entitled to regularisation merely on the ground that they have been working as such on daily wages. Appellants cannot be allowed to play according to their convenience. On the one hand, they have availed the services of the respondents, and on the other, they are denying them the benefit of regularisation", the Court stated. Consequently, the Court dismissed the batch of 136 Appeals filed by the State. [State of Punjab & Ors v. Sarwan Ram & Ors. & Connected LPAs]

[Click here to read Judgment.](#)

Guest faculty not workman under Industrial Disputes Act: Calcutta HC.

A single judge bench of the Calcutta High Court while dismissing a challenge to an industrial tribunal's award explained that a guest faculty who was paid honorariums for specific sessions, cannot claim the status of 'workman' under the Industrial Disputes Act, 1947. Hansraj Koley worked with UCO RSETI, an organisation that trains rural unemployed youth in developing self-employment skills. He started working with them in 2011, and performed administration, field coordination, documentation and event organisation duties. In 2012, his role was formalised through a letter sent to the Employment Exchange at Arambagh, who later sent another letter on 24 March 2012, outlining his specific duties. Koley claimed that he worked for over 240 days a year under the direct supervision of the director of

UCO RSETI, and other bank officials. He also received an honorarium of Rs. 5500. However, in November 2012, his services were terminated verbally. He argued that his termination was illegal, as he was not given any opportunity to be heard before being terminated. Aggrieved, he raised an industrial dispute before the Labour Court, Kolkata. The court examined the letter dated 24 March 2012. The court explained that the letter did not appoint Koley as a regular employee; instead, it only requested him to take certain training sessions and promised token honorarium for the same along with conveyance expenses. The court also agreed with the tribunal's finding that Koley was engaged as a guest faculty and did not receive 'wages' under the Industrial Disputes Act. The court noted that Section 2(rr) of the

Industrial Disputes Act defines 'wages' as regular remuneration paid for employment under certain expressed or implied terms. The court explained that this does not apply to Koley as he was only given token honorariums for occasional training sessions and was not paid fixed, regular payments for work. The court explained that to qualify as a "workman" under Section 2(s) of the Act, there ought to be a continuous employment relationship between Koley and UCO RSETI. Noting that he was only engaged occasionally, the court held that Koley was not in regular employment and was therefore not covered under the Industrial Disputes Act. Thus, the court dismissed the writ petition. [Sri Hansraj Koley v. The Secretary, Labour Department and Ors.]
[Click here to read Judgement.](#)

Excess amount paid to employee due to wrong refixation of pay cannot be recovered if there is no refund undertaking: Andhra Pradesh HC.

The Andhra Pradesh High Court observed that, "There is no dispute on the proposition of law that at the time of refixation, if it was made erroneously on the higher side and the payment was made to an officer or employee and he had undertaken at that time that any payment found to have been made in excess would be required to be refunded, such officer or employee would be liable to refund excess paid to him and that he cannot resile from the undertaking, if it is found subsequently that an excess payment was paid, to which, officer or employee was not entitled for

payment on the refixation of the pay which was on the higher side and made erroneously. But here any such undertaking of the applicant at the time of the fixation of his pay at the time of his reappointment after resignation could not be placed before us." It is not the case of the petitioners that the applicant played any role or committed any fraud in getting wrong fixation. The fixation of pay scale was made by the authorities, may be in ignorance of Rule 30 at that time or on a wrong consideration of such rule and

when it was realized that the fixation was incorrectly made they had right to correct, but any excess amount paid, could not be recovered", the Court held. In the view of the Court, the excess amounts paid to the Rtd. Police Constable, cannot be recovered. Accordingly, the Writ Petition was dismissed. [The Commissioner of Police, Vijayawada V. P.M Babji]
[Click here to read Judgment.](#)

Reinstatement not automatic remedy for illegal termination, Court awards lumpsum compensation: Madhya Pradesh High Court.

A single judge bench of the Calcutta High Court while dismissing a challenge to an industrial tribunal's award explained that a guest faculty who was paid honorariums for specific sessions, cannot claim the status of 'workman' under the Industrial Disputes Act, 1947. Hansraj Koley worked with UCO RSETI, an organisation that trains rural unemployed youth in developing self-employment skills. He started working with them in 2011, and performed administration, field coordination, documentation and event organisation duties. In 2012, his role was formalised through a letter sent to the Employment Exchange at Arambagh, who later sent another letter on 24 March 2012, outlining his specific duties. Koley claimed that he worked for over 240 days a year under the direct supervision of the director of

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Daily rated and casual workers must be counted while determining Gratuity Act applicability: Calcutta HC

A single judge bench allowed the grant of gratuity to a former employee of Midnapur District Service-cum-Marketing & Industrial Cooperative Union Ltd. The court held that the union came within the scope of Section 1(3)(c) of the Payment of Gratuity Act, 1972. The court held that denying these dues after 34 years of service amounted to unfair labour practices. [Midnapore District Service-cum-Marketing & Industrial Cooperative Union Ltd. v. State of West Bengal & Ors.] [Click here to read Judgment](#)

Controlling Authority cannot deny interest on delayed Gratuity: Calcutta HC

A single judge bench of the Calcutta High Court has directed the Food Corporation of India ('FCI') to pay the statutory interest on delayed gratuity to an employee. The court held that under Section 7(3A) of the Payment of Gratuity Act, 1972, the controlling authority has no discretion to deny interest on the delayed payment. [Himangshu Karmakar v. Food Corporation of India & Ors.] [Click here to read Judgment.](#)

Section 33(C)(2) of Industrial Disputes Act, 1947 applies only if entitlement is established through undisputed evidence: Bombay HC.

A single judge bench of the Bombay High Court dismissed a challenge to a labour court award that provided overtime wages with interest to retired employees. The court held that an employees' right to overtime wages was a pre-existing statutory right under Section 59 of the Factories Act, 1948, and that it can be enforced through Section 33(c)(2) of the Industrial Disputes Act, 1947. In the instant case, Three former employees of the Maharashtra Electricity Distribution Company Limited (MSEDCL) were holding the post of 'Artisan A'. They retired in 2011-2012. Before retiring, they had worked overtime for a certain period but had not received any wages for the extra hours, despite it being sanctioned by the executive engineer. Notably, they had always been paid overtime wages in the past.

The court noted that Section 59 of the Factories Act, 1948, explicitly recognises a statutory right to overtime wages at twice the ordinary rate. The court held that this provision is a pre-existing right, and provides the basis for the employees' claims under Section 33(c)(2). Thus, the court ruled that the labour court had jurisdiction under Section 33(c)(2). The court also noted that the claim before the labour court was not to decide whether any overtime pay was due in principle; instead, it was about executing the payment that was already sanctioned by an officer. Thus, the court held that Section 33(c)(2) is the appropriate provision to invoke, as there is no question of determining a new entitlement and it is only about executing the sanctioned payment.

The court explained that the facts of employment, overtime work or the sanctioned amounts were not disputed, and only the final approval step was. Lastly, the court explained that Section 33(c)(2) applies when an entitlement can be shown through undisputed evidence, like sanctioned bills, etc. Since the executive engineer had already sanctioned the amounts, the court held that MSEDCL could not withhold payment. Thus, the court dismissed the writ petition and held that labour court has jurisdiction under Section 33(c)(2) of industrial Disputes Act, 1947. [The Superintending Engineer (MSEDCL) & Anr. v. Pundlik Kondiba Pachpinde & Ors.]

[Click here to read Judgement.](#)



LATEST FROM THE CENTRAL GOVERNMENT

Notification regarding extension of medical benefits to the insured person family members in few additional areas of State of Maharashtra and State of Bihar w.e.f 01/05/2025- ESIC

The Director General, ESIC has fixed 1 May 2025 as the date from which the medical benefits as laid down in Regulation 95-A of Employees' State Insurance (General) Regulations, 1950 shall be extended to the families of insured persons in all the areas of Hingoli and Nandurbar districts in the State of Maharashtra and in all the areas of districts namely Araria, Saharsa, Aurangabad, Banka, East Champaran and Gopalganj in the State of Bihar. st

[Click here to read notification.](#)



Employee State Insurance Corporation Scheme (ESIC)

EPFO urges members to avoid approaching unauthorized agents and to use official EPFO Portals for free & secure online services.

It has been observed that several cybercafe operators/fintech companies are charging EPFO members large sums of money for services that are officially free. In many cases, these operators are simply using the EPFO's online grievance portal, something any member can do on their own, free of cost, from the comfort of their homes. The stakeholders are cautioned against visiting or engaging with third-party

companies or agents for EPFO- related services as this may expose their financial data to third-party entities. These external entities are not authorized by EPFO and may charge unnecessary fees or compromise the security of personal information of members.

[Click here to read notification](#)

EPFO enhances auto-settlement limit for advance claims to ₹5 Lakhs, ensuring faster access to funds for members

EPFO has taken a significant step forward in its efforts to enhance member services by increasing the autosettlement limit for advance claims from existing Rs. 1 lakh to Rs. 5 lakhs which will help members to receive funds faster, especially in times of urgent need.

[Click here to read notification.](#)



Guide on how to login to EPFO Portal

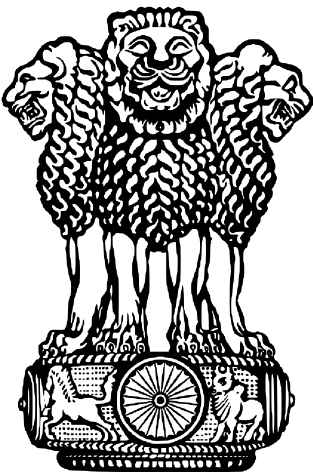
LATEST FROM THE STATE GOVERNMENTS

Public notice regarding Mandatory Registration on SHE-BOX portal: Govt. of Rajasthan & Govt. of NCT of Delhi.

To strengthen the redressal mechanism, the Government of India has introduced the Sexual Harassment Electronic Box (She-Box) – an online platform offering single-window access for women to file complaints related to sexual harassment at the workplace. Upon submission, the complaint is forwarded directly to the appropriate authority for prompt action. All public sector organizations, private sector entities and their subordinate offices are mandated to register their organizational details on She-Box portal to enable seamless complaint filing and resolution and for maintaining a repository for data. Also, information about the internal complaint

committee constituted in the office has to be entered on the portal. It is mandatory to complete the above work within 15 days of publication of the notification issued by the Rajasthan Government. Government of NCT of Delhi also directs earliest compliance of the said circular. In case of non-compliance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and the above mentioned directions, action will be taken and penalty will be imposed as per the Act 2013. To register, please visit: <https://shebox.wed.gov.in>.

[Click here to read notice.](#)



सत्यमेव जयते

महिला एवं
बाल विकास मंत्रालय
MINISTRY OF
**WOMEN AND
CHILD DEVELOPMENT**

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