



# Monthly Labour Law Update

February 2021



# Disclaimer

- This Presentation is meant for informational purpose only and do not purport to be advice or opinion, legal or otherwise, whatsoever.
- This is not intended to advertise services or solicit work through this monthly update.



# Let's take a tour

Amendments  
& Ordinance

Circulars &  
Notifications

News

Know Your  
Codes

Did you Know

Case Law

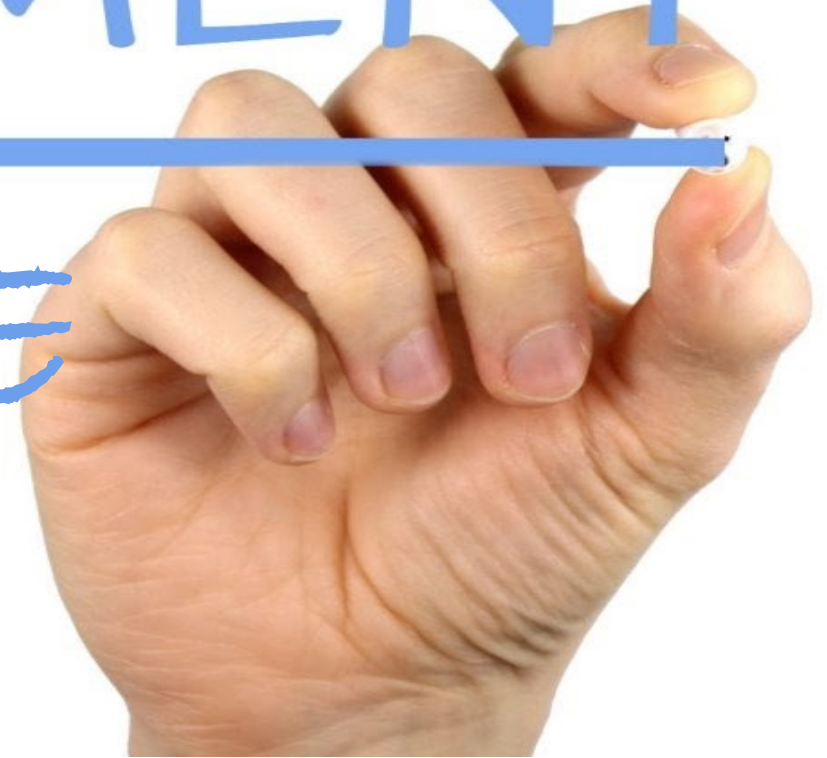
Compliance-  
March 2021



AMENDMENT



ORDINANCE





# **The Karnataka Shops and Establishments (Second Amendment) Act, 2020**

**Received Assent of Governor: 17.02.2021**



# The Karnataka Shops and Establishments(Second Amendment)Act,2020

Under S.15(7) of the Act relating to “Annual Leave with Wages”-if an employee does not in any one calendar year take the whole of the leave allowed to him under sub-section (1) or sub-section (2), as the case may be, any leave not taken by him shall be added to the leave to be allowed to him in the succeeding calendar year:

- Change in first proviso: Provided that the total number of the days of leave that may be carried forward to a succeeding year shall not exceed **45 days**.



# Circular & Notification





# **Tamil Nadu Maternity Benefit Rules**

**Notification Dated: 13.01.2021**





# Tamil Nadu Maternity Benefit Rules

- The Government of Tamil Nadu vide its recent notification has amended the Tamil Nadu Maternity Benefit Rules, 1967. As per this amendment, every establishment in the State of Tamil Nadu having 50 or more employees will now be required to have a creche facility, which shall be provided and maintained by the employer.
- The notification also stipulates: (i) the facilities to be made available in the creche facility; (ii) deployment of staff to manage the creche facility; and (iii) such other obligations of the employer which includes maintenance of creche records/register and monitoring the said facility at regular intervals.



# **Office of Director of Factories, Andhra Pradesh**

**Circular Dated: 12.02.2021**



# Online filing of annual returns extended

- The due date for filing online annual returns by the management in Single Desk portal is extended up to 30.04.2021.
- Manual submissions of returns cannot be accepted/insisted as the online facility for filing of returns is available.



# **Labour Dept.–Puducherry**

**Notification Dated :15.02.2021**



# Self Certification cum Online Inspection Scheme

- The Government of Puducherry has proposed to introduce Self Certification cum Online Inspection Scheme for shops & other establishments in view of Implementation of "Business Reform Action Plan-Ease of Doing Business.
- A new clause has been added stating complaints inspections/surprise inspections shall be conducted with permission from the Labour Commissioner.



# Self Certification cum Online Inspection Scheme

- Joint inspection shall be conducted by the Inspecting Officers regarding
  - Equal Remuneration Act, 1976
  - The Maternity benefit Act, 1961
  - The Minimum Wages Act, 1948
  - The Puducherry Shops and Establishments Act, 1964
  - The Payment of Bonus Act, 1965
  - The Payment of Wages Act, 1936
  - The Payment of Gratuity Act, 1972
  - The Contract Labour (Regulation and Abolition) Act, 1970



# **Maharashtra State Tax on Professions, Trades, Callings and Employments (Second Amendment) Rules, 2021**

**Notification dated : 12.02.2021**



# Maharashtra State Tax on Professions, Trades, Callings and Employments (Second Amendment) Rules, 2021

## Highlights:

- Under Rule 4-A, the following proviso has been inserted:
- An employer shall provide his Permanent Account Number/Tax Deduction and Collection Account Number (TAN) of all directors and authorized signatory of the company while applying for certificate of registration.
- In case of NRI Employer- Passport+ PAN/TAN
- Rule 8 is deleted.





# **Employees State Insurance Corporation**

**Circular dated : 18.02.2021**



# Enabling Ease of Medical Care to ESI Beneficiaries

- ESI Beneficiaries can now avail medical services from nearby ESIC empaneled hospitals in case of non-availability if ESIC hospital or dispensary within 10km radius of their residence without any referral from ESI hospital.
- The beneficiary to avail such services may visit the ESI empaneled hospital with ESI e-pehchan Card/Health Passbook along with Aadhar/Govt. issued identity Card. They are also eligible for reimbursement of purchased medicines in OPD.
- The empaneled hospital shall obtain permission for cases relating to indoor treatment from the ESI authority within 24 hours through online mode.



# **Employees Provident Fund Organization**

**Circular dated: 12.02.2021**



# Member Profile Name Correction

- Any error in name, father/husband name DOB and gender can be corrected.
- Minor( Ex. Change in surnames etc.) and Major changes have been classified and the APFC/RPFC-II & RPFC-I/RPFC-II(OIC) shall approve the corrections respectively.
- Any major change shall only be approved after submission of relevant documentary proof, explanation from employer and verification of the genuineness of the case.



# **Employees State Insurance Corporation**

**Press Release Dated: 22.02.2021**



# Policy initiatives benefitting Insured Worker/Women

- An Insured Women will be qualified to claim sickness benefit in the corresponding benefit period if the contribution in her respect were paid or payable for not less than half the number of days available for working in such shorter contribution period. This relaxation will be effective from 20.01.2017 i.e. the date from which the enhanced duration of Maternity Benefit is effective.
- An Insured Woman will be entitled to avail Maternity Benefit, if the contributions in respect of her were payable not less than 35 days in immediately preceding two consecutive contribution periods.





# Rules under Labour Codes Finalized

- The Code on Wages, Industrial relations, Social security and Occupational Safety, Health & Working conditions (OSH) have already been notified after getting the President's assent.
- The Ministry of Labour and Employment has finalized rules pertaining to the four Labour Codes.
- The States are also effectively working towards the process of notifying draft rules and holding tripartite consultations for implementation.





# EPF interest payments Delayed

- EPF interest payments to around 4 million people for the year 2019-2020 have not been paid yet.
- According to the Officials of EPFO the said delay is due to KYC mismatch of employees at employer's end.
- The officials have further clarified that the organizations credits interest establishment wise which means even if there is mismatch of details of few employees, the payment of interest for entire establishments gets delayed.



**KNOW YOUR CODES**



# Employment of Women

The Occupational Safety, Health and Working Conditions Code, 2020 provides for employment of women in all establishments for all types of works.

Women may also be employed beyond 6 a.m. and 7 p.m. provided:

- prior consent is obtained.
- adequate transportation facilities from and to her residence shall be provided
- the workplace including passage towards conveniences or facilities concerning toilet, washrooms, drinking water, entry and exit of women employee is well-lit and safe.
- in case of below ground mine ,atleast 3 women employees shall be on duty at any place.
- The provisions of the Sexual Harassment of Women at workplace (Prevention, Prohibition and Redressal) Act, 2013 shall also be complied with.





# Rules Governing Online Platforms

## Highlights:

- The Government has formulated rules relating to online platforms such as Facebook, Twitter, Prime etc.
- The said rules will require social media platforms to get undertaking from users that no information will be posted which is patently false or misleading in nature but may be reasonably be perceived as a fact.
- The new rules also require them to include provisions against posting of any material that “threatens the unity, integrity, defence, security or Sovereignty of India, friendly relations with foreign States, or public order, or causes incitement to the commission of any cognizable offence or prevents investigation of any offence or is insulting any foreign states”.
- Online video platforms, such as Hotstar, Prime Video should “take into consideration India’s multi-racial and multi-religious context and exercise due caution and discretion when featuring the activities, beliefs, practices, or views of any racial or religious group”
- The new rules also introduce a five-fold classification of video content.



# Sahara India directed to pay Rs.1,1181 crore over unpaid dues

- The RPFC-I, Lucknow has directed Sahara India, Lucknow to pay Rs.11819917390 crore for unpaid pension and provident fund dues of more than a million employees for 2010-11 and 2011-12.under section 7-A of the Employees Provident Fund and Miscellaneous Provisions Act,1952 vide order dated 15.02.2021 within fifteen days from receipt of this order
- The EPF order further stated that the establishment has been continuously defaulting with respect to compliance under three schemes:
  - provident fund,
  - pension fund
  - employees' deposit-linked insurance scheme

And that administrative charges had to be paid by Sahara India.





# **Mr. Malcolm John Campbell Vs The Regional Provident Fund Commissioner and Anr.**

**Dated: 24.09.2020**





# Mr. Malcolm John Campbell Vs The Regional Provident Fund Commissioner and Anr.

- The Petitioner, a UK resident was employed as a mechanical supervisor on a project with the Respondent. The writ petition is filed seeking release and transfer of provident fund amount.
- The contention of the Respondent was that in respect of any international employee, who is covered under the provisions of Employees Provident Fund and Miscellaneous Provisions Act, 1952 the EPS contribution can only be withdrawn if there is a Social Security Arrangement (SSA) with the country in question to that effect. If there is no SSA with a specific country, the amount from the EPS account cannot be withdrawn.
- However, the Delhi High Court held that the petitioner shall be eligible to get the amount due and the respondent was directed to pay the Petitioner the amount due along with interest.

((Reported in 2020 LLR 1023 (Del HC))



**M/S Baroda U.P Gramin Bank  
Vs  
Presiding Officer Appellate Tribunal**

**Dated:21.01.2020**



# M/S Baroda U.P Gramin Bank Vs

## Presiding Officer Appellate Tribunal

- The Petitioner is a regional Rural Bank sponsored by Bank of Baroda. The writ petition was filed challenging the order passed by EPF tribunal and RPFC by which proceedings u/s 7-A of the Act were commenced and part time employees such as Safai-Karamchari are employees of the Bank.
- The issue before the Hon'ble High Court was whether "Safai-Karamchari employees came under the purview of S.2(f) of EPF act. The petitioner contended that the workers were not restrained from working elsewhere and they work upto 30 mins per day thus, they could not be termed as employees of the Bank.
- The High Court dismissed the writ petition holding that cleaning employees will answer to the definition under S.2(f) as management has full control over them and they are paid wages regularly implying master-servant relationship. Thus, those workers are entitled for all those benefits under the Act .

((Reported in 2020 LLR 1026 (All. HC))



# **M/S Central Travancore Specialists Hospital Vs The Regional Provident Fund Commissioner and Another**

**Dated:08.09.2020**



# M/S Central Travancore Specialists Hospital Vs The Regional Provident Fund Commissioner and Another

- The Petitioner is a Public Limited Company registered under the Companies Act. The writ petition is filed challenging the order of the respondent wherein the Petitioner was ordered to pay interest under Section 7Q of the EPF Act on belated remittances of dues.
- The petitioner contended that they were unable to pay due to financial difficulties and during this pandemic levying of interest is burdensome.
- The Kerala High Court dismissed the writ petition holding that once the amount due is determined, the levy of interest is automatic. The plea of the Petitioner that issuance of order to realize amount under Section 7Q was rejected. Furthermore, the Court held that an independent order u/s 7Q is not appealable.
- The Petitioner was directed to clear of dues in monthly instalments owing to the financial difficulties.

(Case Reported in 2020 LLR 1054 (Ker HC)).



**Zonal Officer, Zone-  
XIII, Madhavaram, Greater Chennai  
Corporation Vs Controlling Authority  
under Payment of Gratuity Act, 1972  
and another**

**Dated: 05.08.2020**



## Zonal Officer, Zone-XIII, Madhavaram, Greater Chennai Corporation Vs Controlling Authority & Anr.

- The Petitioner was directed to pay gratuity to the second respondent (wife of deceased employee) by the First Respondent u/s 7(4) of the Act. The writ petition was filed challenging the order of the 1<sup>st</sup> Respondent.
- The Petitioner contended that the benefit of Death cum Retirement Gratuity and pension has been extended to its employees as well and that the husband of the Second Respondent, viz., B.Punniyakoti, who was an employee of the Petitioner was paid DCRG and pension on his retirement from service. Since the amount of DCRG was lesser than the amount of gratuity payable under the Act, the Second Respondent, on the death of the said B.Punniyakoti, as his legal heir, made a claim for the differential amount of gratuity before the First Respondent.
- The Madras High Court dismissed the writ petition upholding the order of 2<sup>nd</sup> Respondent and held that the Petitioner is liable to pay the differential amount of gratuity due to the Second Respondent, after deducting the amount already paid under the DCRG Scheme.

(Reported in 2021 LLR 195 Mad (Mad HC))



# **Tata Refractories Ltd. Vs Presiding Officer, Labour Court, Jamshedpur & Anr.**

**Dated:19.05.2020**





# Tata Refractories Ltd. Vs Presiding Officer, Labour Court, Jamshedpur & Anr.

- The writ is filed challenging the award of the Respondent wherein the management was directed to reinstate the workman concerned with full back wages and continuity of service.
- The Petitioner contended that the 2<sup>nd</sup> Respondent was not a workmen as his work mostly consisted of supervisory nature and his termination was justified on grounds of loss of confidence.
- The Jharkhand High Court held that the 2<sup>nd</sup> Respondent did come under the purview of "workmen" u/s 2(s) of Industrial Disputes Act, 1947 and further held that even in cases of loss of confidence, the enquiry process must be adhered to.
- However, Hon'ble High Court affirmed the impugned award passed by the learned Presiding Officer, Labour Court, as far as the order of reinstatement and continuity of service are concerned. The Hon'ble High Court held that the 2<sup>nd</sup> Respondent shall not be entitled to back wages as he failed to submit, he was not gainfully employed elsewhere.

**(Reported in 2020 LLR 1008 (Jhar. HC))**



# **State of Andhra Pradesh Vs. Dinavahi Lakshmi Kameswari**

**Dated:08.02.2021**



# State of Andhra Pradesh Vs. Dinavahi Lakshmi Kameswari

- A public interest litigation was filed by former District and Sessions Judge seeking payment of deferred salaries and pension with interest.
- The Supreme Court observed that salaries and pensions are rightful entitlements of Government employees and the Government which has delayed the payment of salaries and pensions should be directed to pay interest at an appropriate rate.
- A division bench comprising of Justice D.Y.Chandrachud and M.R. Shah of Supreme Court in this case held that the Government of Andhra Pradesh shall pay simple interest at the rate of 6% per annum on account of deferred salaries and pensions within 30 days.



**COMPLIANCE**





REPORTING PERIOD - FEBRUARY-2021			
Act	State	Due Date	Activity
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-Mar	PF Remittance
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-Mar	IW Returns
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	25-Mar	Monthly Returns-For Exempted Employer Under EDLI Scheme (FORM 7(IF))
Employees State Insurance Corporation Act	Pan India	15-Mar	ESIC Remittance
Professional Tax Act	Andhra Pradesh	10-Mar	Professional Tax Remittance cum Return
	Telangana	10-Mar	Professional Tax Remittance cum Return
	Tamil Nadu	31-Mar	Professional Tax Remittance
	Madhya Pradesh	10-Mar	Professional Tax Remittance
	Gujarat	15-Mar	Professional Tax Remittance
	Karnataka	20-Mar	Professional Tax Remittance cum Return
	West Bengal	21-Mar	Professional Tax Remittance
	Maharashtra	31-Mar	Professional Tax Remittance cum Return
	Odisha	31-Mar	Professional Tax Remittance cum Return
	Assam	31-Mar	Professional Tax Remittance cum Return
	Nagaland	31-Mar	Professional Tax Remittance
	Meghalaya	31-Mar	Professional Tax Remittance
	Mizoram	31-Mar	Professional Tax Remittance
	Sikkim	31-Mar	Professional Tax Remittance
	Manipur	31-Mar	Professional Tax Remittance
	Tripura	31-Mar	Professional Tax Remittance
Kerala Shops & Commercialized Establishments Workers Welfare Fund Act	Kerala	05-Mar	WWF Remittance
Kerala Shops & Commercialized Establishments Workers Welfare Fund Act	Kerala	15-Mar	WWF Return



**Let's Connect again at 4PM on 27<sup>th</sup> March 2021**



*Thank  
you*

T.S.GOPALAN & CO

ADVOCATES & NOTARIES



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