


Monthly Labour Law Update



July 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

Knowledge
Corner

Know Your
Codes

Did you Know

Case Law

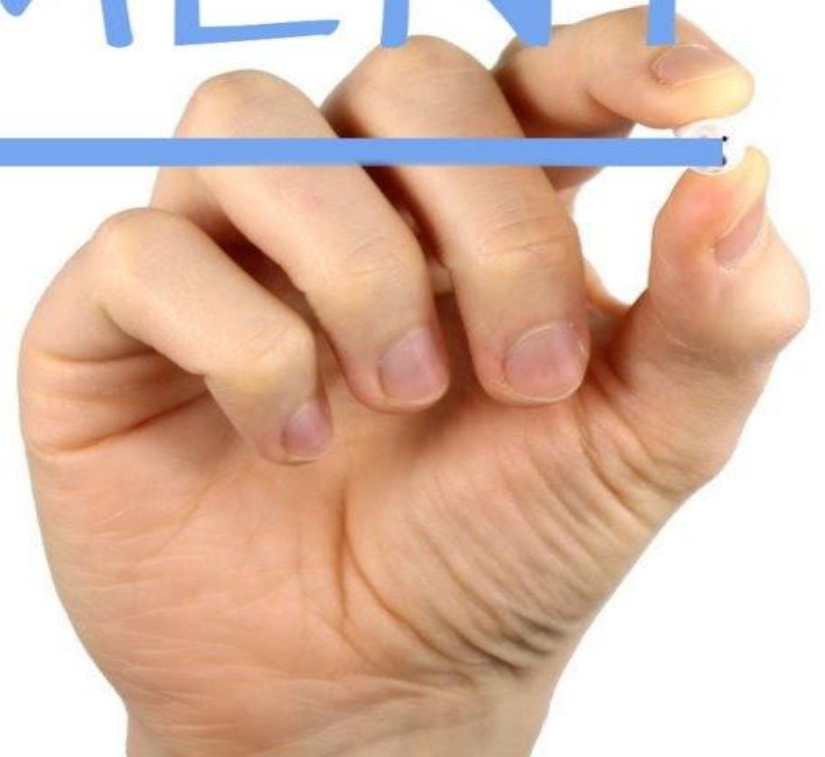
Compliance



AMENDMENT



ORDINANCE



The Code on Wages (Himachal Pradesh) Draft Rules, 2021

Notification Dated: 7th July 2021

Goa Factories (15th Amendment) Rules, 2021

Notification Dated: 15th July, 2021

Goa Factories (Fifteenth Amendment) Rules, 2021

- Highlights in the Amendments:
 - For the application through online mode, the payment shall also be made through e-challan.
 - Medical Examination of the workers shall be before the employment and thereafter every five years by the Certifying Medical Officer.
 - Medical Certificate issued to the labour is valid for 5 year even if the workers is employed in another factory during such give years, provided that such workers is not engaged in dangerous operation or hazardous process in either factory.
 - Sanitary Napkins shall be made available in the women's toilet conforming to Indian Standards along with disposal bag.
 - Education Qualification for the supervisors has been prescribed.
 - Health Inspector also can direct the supervisors to undergo the Certificate Course on the subject Health and Safety as specified.



Circular & Notification



Atal Beemit Vyakti Kalyan Yojana Extension

Notification Dated: 07th July, 2021

Atal Beemit Vyakti Kalyan Yojana Extension

- Atal Beemit Vyakti Kalyan Yojana is a welfare measure for employees covered under the section 2(9) of ESI Act, 1948 in the form of relief payment up to 90 days, once in a lifetime from 01.07.2018 and extended up to 30th June 2021.
- Regional Director of the Employees State Insurance Corporation dated 07.07.2021 extended the said scheme from 1st July, 2020 to 30.06.2022.

Changes in the Minimum Rate of Wages in West Bengal

Circular Dated: 30th July 2021

Changes in the Minimum Rate of Wages in West Bengal

- Commissioner of Labour, West Bengal has issued a Circular notifying the changes in minimum wages for the employment of Establishment as defined under the Shops Establishment, Act, 1963 w.e.f. 01.07.2021.
- The Wage Rate has been notified for the category of people like Unskilled, Semi-Skilled, Skilled and Highly Skilled Employees in the establishment covered under the Shops Establishment Act, 1963 and also Municipal and city areas has separated as Zone A and other areas has categorized as Zone B.



QUIZ!

QUIZ!

Within how many days the employer should register the establishment from date of applicability of OSH Code, 2020?

a)90 days

b)60 days

c)45 days

d)30 days





New Labour Commissioner for Tamil Nadu

Notification Dated: 18th July, 2021

Tamil Nadu Government Appointed New Labour Commissioner

- Tamil Nadu Government through Notification dated. 18.07.2021 new labour commissioner for the Tamil Nadu.
- Dr. Atul Anand, IAS has been appointed as Principal Secretary/Commissioner of Labour for the Tamil Nadu.

Safe return to office post-COVID-19 pandemic

Safe return to office post-COVID-19 pandemic

- After the second wave, the majority of companies have ensured that their employees are vaccinated to ensure their security.
- A Major Tech company is all set to bring the employees back to the office that will be five days a week or 9 am to 5 pm job. It is going to be a flexible workplace that will contain 2-3 days to work from office and work from home for the remaining days.
- Another major tech company is offering a Hybrid Work Model that will start in September and will be three times a week working from the office for employees. Whereas an automobile based company will follow the 2 days in one week and 3 days in the next week model or 5 days in a week with 0 days in next week model.



**KNOWLEDGE
CORNER**



**Types of Vaccine approved
by World Health
Organization and is being
used in different states in
India.**





Guidelines for Vaccination

Guidelines for workplaces/Industries/Factories

The Directorate of Public Health and Preventive Measures on 24.07.21 issued the following guidelines/preventive measures against Covid19:



- a. Screening of staffs during entry to workplace
- b. Wearing a mask
- c. Social distancing
- d. Rules regarding Dining Area
- e. Transportation

f. Vaccination to all staff and family members

g. Workplaces and industries with more than 300 employees or 10,000sqft space should appoint a qualified health inspector, 'at their own cost', for monitoring and to coordinate/implement health activities on the premises.



**Vaccination to all
staff and family
members**



**Is vaccination
mandatory or
discretionary?**



**Recourse available in
case of employees who
refuses to get
vaccinated?**



**Can employer refuse to
pay wages to Non-
vaccinated employees?**



**Is it necessary for
employer to maintain
records of vaccinated or
Non-vaccinated
employees?**



**Can the employer initiate
Disciplinary action
against employee for
refusing to get
vaccinated?**

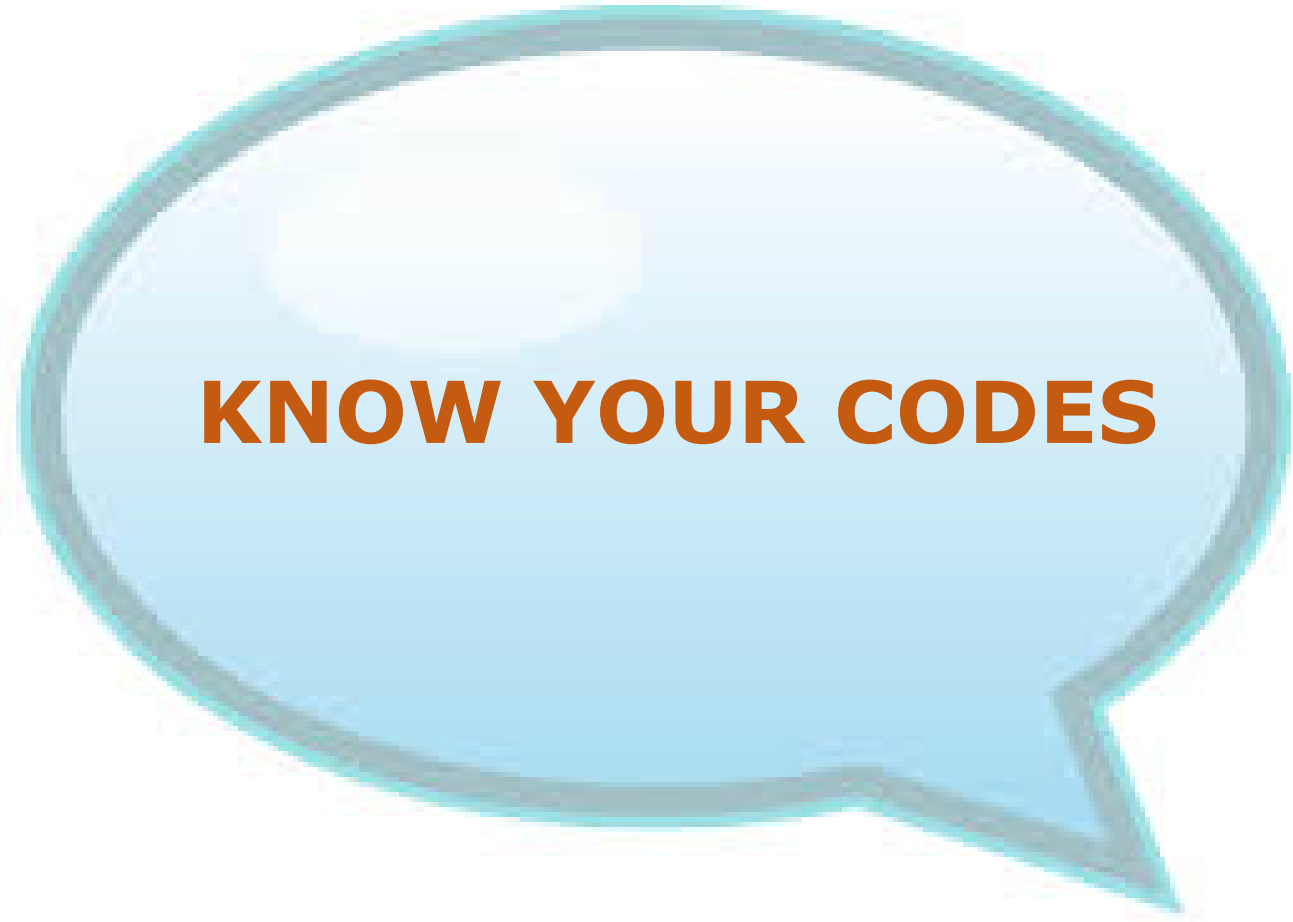


What records are to be maintained in respect of employees who refuse to get vaccinated?



Practices of Industries with regard to Non-Vaccinated employees

- i. Restricting transportation**
- ii. Badges**
- iii. Negative Appraisal**
- iv. Work from home**
- v. Weekly RTPCR test**



KNOW YOUR CODES



**KNOW YOUR
CODES**

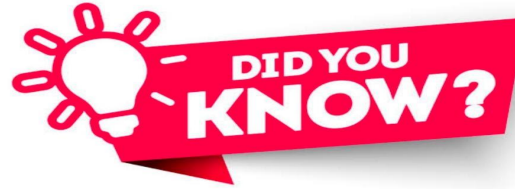
Under S.86(14) of the Industrial Relations Code, 2020 any act done by the employer in furtherance of an illegal lock-out shall be punishable with fine of Rs.50,000 which may extend to 1L or imprisonment which may extend to one month or with both.



**KNOW YOUR
CODES**

Under S.134 of the Code on Social Security, 2020, an employer committing the same offence again after his previous conviction on failure to pay contribution, cess, maternity benefit or gratuity shall be punishable with imprisonment for a term upto 2-3 years and shall also be liable to pay fine of Rs.3,00,000





- A report has estimated that California-based tech-giant is saving a lot of money as employees are working from home.
- According to the report, the company had saved roughly Rs 1,987 crores in expenses from company promotions, travel, and entertainment in Q1 2021, as compared to the same period a year earlier.
- The report cited that these savings come as a result of COVID-19 primarily. Given that the quarterly savings come at \$268 million, it brings the annual savings to more than \$1 billion (roughly Rs 7,400 crores) for the tech giant.



A Topic for discussion in social forum was surrounding whether or not an employee should be judged on the basis of their performance during notice period. An entrepreneur, suggested on the microblogging site that potential employers should consult previous employers to find out how a person worked during their notice period, because that reflects on their work ethic.



**Tamil Nadu Agro Engg. and Service Co-
operative Federation Limited**

VS.

**The Director (Recovery), Employees'
Provident Fund Organization and Ors.,**

2021 LLR 657 (Mad. HC)

Tamilnadu Agro Engg. and Service Co-operative Federation Limited vs. The Director (Recovery), Employees' Provident Fund Organization and Ors.,

The Assistant Provident Fund Commissioner has taken steps for recovery of damages and for non-payment fund dues under Employees Provident Fund Act. Even though the management submitted its explanation to the EPFO that it has become sick unit and it has been closed as per the order of the State Government, without giving the opportunity of hearing passed an order of quantifying the damages. The court held that personal hearing to the employer under the EPF Act is imperative it shall not be denied.

2021 LLR 657 (Mad. HC).



**Regional Director, Employees State
Insurance Corporation, Puducherry V.
Murugan and Another**

2021 LLR 701 Mad HC

Regional Director, Employees State Insurance Corporation, Puducherry V. Murugan and Another

The following were placed for consideration before the Hon'ble Madras High Court:

1. Whether the order of ESI Court is correct in directing the appellant to pay Permanent Disablement Benefit to the first respondent from 09.03.2011 when the sickness benefit had been paid to him for 520 days from the said date?
2. Whether the ESI Court is correct in directing the appellant to pay the sum of Rs.48,850/- being the extended sickness benefit for 210 days when the first respondent had failed to attend the dispensary during the said period?
3. Whether the ESI Court is correct in passing an order for monitory compensation of Rs.2 lakhs when there is no provision under the Act?
4. Whether the ESI Court is correct in directing the appellant to refund the amount which was realized through recovery proceedings under Section 45-G of the Act?

Regional Director, Employees State Insurance Corporation, Puducherry V. Murugan and Another

- The 1st Respondent workmen met with an accident. He was permitted to take treatment in ESI Hospital under ESI Coverage. He took treatment in the ESI Hospital and the temporary disablement benefits were also sanctioned, as per the eligibility he received the said benefits. Later, the workman approached the Industrial Tribunal under Section 75 of the ESI Act, to direct the Management for referring the workmen to the Jipmer Hospital Medical Board and to determine the disability in respect grievous injuries and further, he sought for permanent disablement benefit and also to pay extended sickness benefits.
- Not satisfied with the quantum of amount received, the 1st respondent workman filed an appeal. The ESI Court adjudicated the issues and granted compensation of Rs.2,00,000/- and also the extended sickness benefit of Rs.48,825/-. The said order passed by the ESI court was challenged before High court of Madras.
- The Court considering the facts and arguments of counsels, accordingly, held that benefits, which all are not contemplated under the provisions of the Act, or the rules cannot be granted by the Courts. Courts are bound to grant the benefits within the scope of the statute.

2021 LLR 701 Mad HC



Bilbha Pandey
V.
Punjab National Bank and Others.,
2021 LLR 359 (Del. HC)

Bilbha Pandey V.

Punjab National Bank and Others.,

- The sexual harassment complaint was made against the bank the manager.
- After conducting enquiry under the POSH Act, IC came to the conclusion that the relationship between the Petitioner and Complaint were based on personal grounds with mutual consent and that the allegations are not sustainable.
- The IC also made an observation that the behavior of the parties had been inappropriate and unbecoming of Officer/Employees of the Bank and recommended to take suitable action.
- Aggrieved by the order of IC, the bank manager approached the Hon'ble High court, the court held that, if allegations are not proved, the IC can only recommend to the employer to not take any action in the particular matter, it should not "Moral Policing" the personal conduct of the parties.

2021 LLR 359 (Del. HC).



Sri Rama Bovi
V.
New India Assurance Co. Ltd,
2021 LLR 422 Kar HC

Sri Rama Bovi

Vs. New India Assurance Co. Ltd,

- Workman was appointed against a vacancy for Schedule Caste.
- After 31 years service at the time of retirement his services were dismissed based on the dictates of Additional Director General of Police on account of misrepresentation regarding his caste status for securing employment.
- The Appeal filed by the employee was also dismissed.
- The court held that, without holding enquiry by the Caste Verification Committee which is the competent statutory body, the dismissal order was unsustainable.

2021 LLR 422 Kar HC



Blissful Garments Pvt Ltd

V.

Employees Provident Fund Organisation,

2021 LLR 448 Ker HC

Blissful Garments Pvt Ltd

Vs. Employees Provident Fund Organisation

- The company was in default of remitting EPF dues, when it has not been disputed by the management, the EPFO authorities started revenue recovery proceedings.
- The High court granted liberty to pay the amount in 24 instalments and restrained the EPFO from taking coercive measures and also held that single default in compliance with these directions shall entitle the EPFO to continue with the revenue recovery proceedings.

2021 LLR 448 Ker HC



Naveen Kumar

V.

Employees' State Insurance Corporation,

2021 LLR 470 Del HC

Naveen Kumar V. Employees' State Insurance Corporation,

- Workers were engaged through contractor for 10 years, respondent appointed new contractor who engaged fresh manpower.
- The Old employees became unemployed, the court held that the employees of the old contractors have no legal right to claim either employment or re-employment from the principal employer or new contractor.
- Further the High Court held that, workers should approach the appropriate forum under the Industrial Disputes Act, and not the court straight by way of writ petition.

2021 LLR 470 Del HC

JUST FOR LAUGHS



A renowned Senior Advocate who often participated in debates in news channels appeared before a Learned Judge.

The Senior Counsel stated that he would not take more than a minute. The Learned Judge replied,

“Senior Counsel you are appearing before the Court and not in a television debate. You can hence take more than a minute.”





COMPLIANCE





REPORTING PERIOD - JULY-2021			
Act	State	Due Date	Activity
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-Aug	PF Remittance
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-Aug	IW Returns
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	25-Aug	Monthly Returns-For Exempted Employer Under EDLI Scheme (FORM 7(IF))
Employees State Insurance Corporation Act	Pan India	15-Aug	ESIC Remittance
Professional Tax Act	Andhra Pradesh	10-Aug	Professional Tax Remittance cum Return
	Telangana	10-Aug	Professional Tax Remittance cum Return
	Madhya Pradesh	10-Aug	Professional Tax Remittance
	Gujarat	15-Aug	Professional Tax Remittance
	Karnataka	20-Aug	Professional Tax Remittance cum Return

	West Bengal	21-Aug	Professional Tax Remittance
	Maharashtra	31-Aug	Professional Tax Remittance cum Return
	Odisha	31-Aug	Professional Tax Remittance cum Return
	Assam	31-Aug	Professional Tax Remittance cum Return
	Nagaland	31-Aug	Professional Tax Remittance
	Meghalaya	31-Aug	Professional Tax Remittance
	Mizoram	31-Aug	Professional Tax Remittance
	Sikkim	31-Aug	Professional Tax Remittance
	Manipur	31-Aug	Professional Tax Remittance
	Tripura	31-Aug	Professional Tax Remittance
Kerala Shops & Commercialized Establishments Workers Welfare Fund Act	Kerala	05-Aug	WWF Remittance
Kerala Shops & Commercialized Establishments Workers Welfare Fund Act	Kerala	15-Aug	WWF Return



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b)60 days

c)45 days

d)30 days

**Let's Connect again at 4PM on 28 August,
2021**



*Thank
you*

T.S.GOPALAN & CO

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