



# Monthly Labour Law Update

September 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

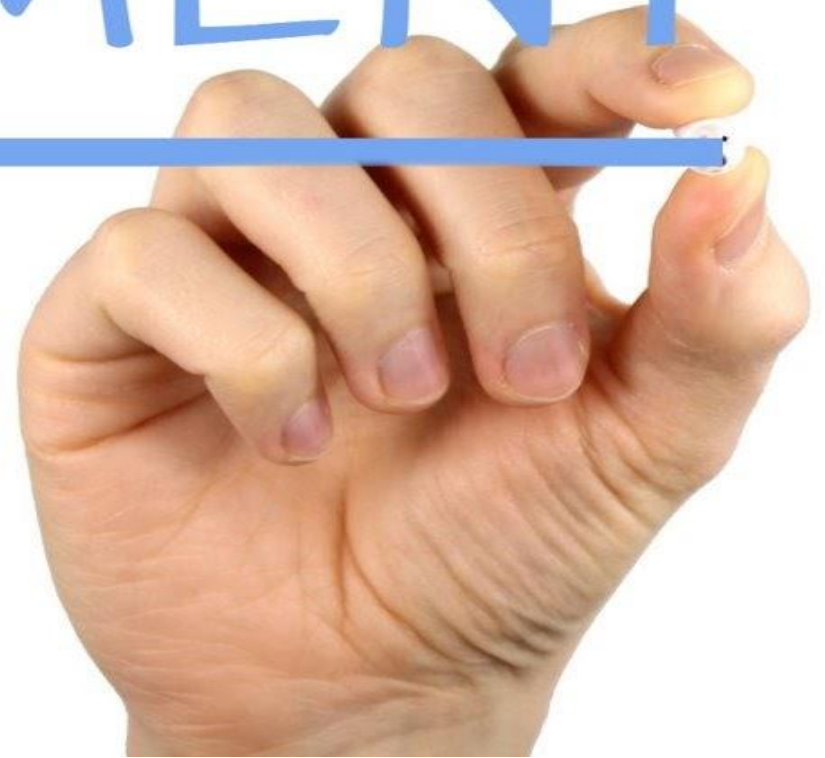
Compliance



AMENDMENT



ORDINANCE





**The Tamil Nadu Labour Welfare Fund  
(Amendment) Act, 2021.  
L.A. Bill No. 28 of 2021**

**Date: 13.09.2021**



# The Tamil Nadu Labour Welfare Fund (Amendment) Act, 2021.

- Section 15 of the Tamil Nadu Labour Welfare Fund Act, 1972, is sought to be amended.
- The annual contribution is sought to be increased to
  - Rs 50 by employees,
  - Rs 100 by employers and
  - Rs 50 from the State government.



**The Tamil Nadu Shops and Establishments  
(Amendment) Act, 2018  
L.A. Bill No. 29 of 2021**

**Date: 13.09.2021**



# The Tamil Nadu Shops and Establishments (Amendment) Act, 2021

- The amendment mandate all establishments, shops, storefronts, and commercial establishments to provide employees with seating facilities.
- Tamil Nadu becomes second state to recognize the employees' 'right to sit' after the State of Kerala.
- Bill seeks to minimize health risks owing to long standing hours of employees in shops and establishment during their duty time
- 22-A. Seating facilities.

*“The premises of every establishment shall have suitable seating arrangements for all employees so that they may take advantage of any opportunity to sit which may occur in the course of their work and thereby avoid ‘on their toes’ situation throughout the working hours.”*





# The Tamil Nadu Shops and Establishments (Amendment) Act, 2021 L.A. Bill No. 30 of 2021

Date: 13.09.2021



# The Tamil Nadu Shops and Establishments (Amendment) Act, 2021

- The inspector under the TN Shops and Establishment Act, 1947 on receipt of an application to register the establishment, shall issue a registration certificate to the employer within 24 hours in such form as may be prescribed.
- If the registration certificate is not issued within a period of 24 hours from the date of receipt of application by the inspector, the registration certificate shall be deemed to have been granted under the Act.



# Circular & Notification





# Payment Of Bonus Or Ex-gratia to Employees In West Bengal

Notification dated : 15 September 2021



# Payment Of Bonus Or Ex-gratia to Employees In West Bengal

The Governor of West Bengal has given the following guidelines to the employers on payment of bonus to employees in lieu of Durga Puja:

- Employers should adopt a flexible attitude on the issue of payment of bonus.
- Employers should consider payment of an amount of ex-gratia in lieu of bonus as it is admissible at the maximum stage workmen and employees who have crossed the eligibility limit.
- All employees, whether in casual employment or re-employed after retirement or employed through contractors worked for not less than 30 days during the year should be paid bonus.
- The employers who are in default towards payment of bonus for the previous years are also being requested to make such payments along with this year's bonus.



# Payment Of Bonus Or Ex-gratia to Employees In West Bengal

- All trade unions, and employers should extend their co-operation in maintenance of industrial peace and exercise their good offices for peaceful and effective settlement of industrial disputes
- The payments of bonus should be made before commencement of Durga Puja, 2021,
- All employers including the public sector undertakings should act according to the guidelines.
- Government has also stated that it expects bonus/exgratia to be extended to employees of unorganized sector also.



# Guideline for Rectification of Details for KYC Update of Member and Proof of Documents required for availing services

Notification dated:



- Employers have been requested to follow the prescribed guidelines for submission of correct proof of documents and records to enable the member to update the KYC and to avail the benefit of online settlement and EPFO services.
- Further, it has also been notified that complete change in the member profile cannot be allowed in the normal course through online or offline process except in extreme situations wherein employer can prove that the member name has been changed following the due process prescribed by law or if there has been erroneous upload of member data by the employer following which the employer has to produce documentary evidence of the member and after due verification, will be considered for correction.
- The details of the requirement of certain documents to be submitted by the Employer and the Member under various heads for rectification of details for KYC update can be found on the attachment. Hence, Employer has been requested to make note of the same and also notify their members who wish to rectify their profile for KYC update for availing services and settlement under EPFO





# Employees Provident Fund Organisation- relaxation of Aadhar seeding

Notification dated: 11.09.2021



# EPFO- Relaxation of Aadhar seeding

- EPFO had provided that the last date for mandatory seeding of Aadhar in UAN for filing ECR as 01.09.2021.
- The Employees Provident Fund Organization through circular dated 11 September, 2021 has provided relaxation for seeding of Aadhar in UAN till 31.12.2021.
- The delay in filing ECR for wage months of August 2021 and September 2021 due to non-seeding of Aadhar in UAN shall not be presumed as default by an employer and no penalty shall be levied.



# Government of Manipur- Extension of provisions of ESI Act

Notification dated: 20.09.2021



# Employees' State Insurance Act, 1948

- The Government of Manipur vide notification dated 20.09.2020 has extended the provisions of The Employees' State Insurance Act, 1948 (ESIC) to the classes of establishments situated within the areas as specified in consultation with the Employees State Insurance Corporation and with the approval of the Central Government.
- The following classes of establishments comes within the purview of the ESI Act:
  - Shops, Hotels, Restaurants, Road Motor Transport establishments, Cinemas Including preview theatres, newspaper establishments, educational institutions, medical institutions, municipal corporation, municipal board, municipal council and other Local bodies controlled by the State Government.
- All employees employed in the above classes of establishments will now be covered under the ESI Act in Manipur.



QUIZ!

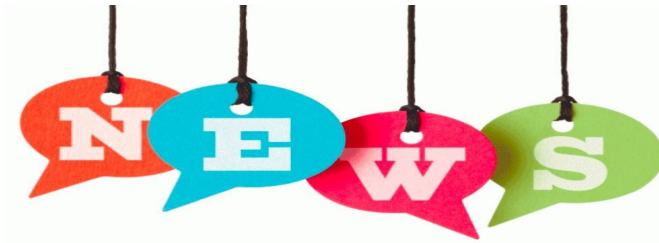


# QUIZ!

Under the Industrial Relations Code 2020, model standing orders can be published by?

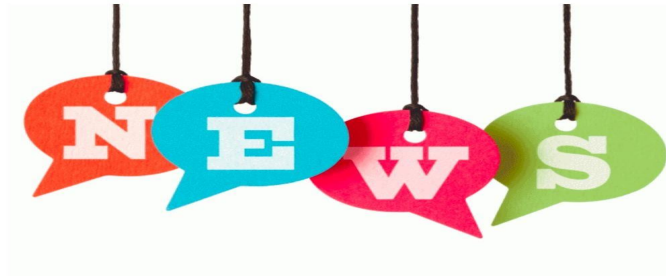
- a) Central Government
- b) State Government
- c) Appropriate Government
- d) Both (a) and (b)





- EPFO has recently started an initiative called **PRAYAAS**.
- By way of this initiative the Pension Payment Order (PPO) will be handed over to the member on the day of his/her retirement.
- Pension claim FORM 10D needs to be applied online/submitted to the concerned Regional office 1 Month prior to the date of retirement./
- This will facilitate the EPFO to register and generate PPO to retiring members.
- The employers can also organize retirement day in the premises of the company, where EPFO officials will participate and handover PPO to retiring employees.
- Any members having grievance can attend virtual/physical pension adalats held by Regional offices every month, to address their grievances.





- An Amsterdam District Court in September has held that Uber drivers come within the scope of definition of an ‘employee’ and not mere contractors.
- The Dutch court has ruled in favour of the Taxi Drivers’ Union and has brought them within the purview of all labour legislations applicable to employees of an establishment and shall be entitled to all benefits arising thereon.
- Earlier, a British Court had also held the same in a landmark decision in labour jurisprudence.





# DOMESTIC ENQUIRY AND EVIDENCE





# INDIAN EVIDENCE ACT 1872



# Beyond Reasonable Doubt & Preponderance of Probability



# State of Haryana Vs. Rattan Singh

1977(2)SCC 491



# State of Haryana Vs. Rattan Singh

This case was landmark in establishing the nature of evidence in industrial jurisprudence. The following can be inferred in this regard:

- Strict rules of evidence under the Indian Evidence Act, 1872 is not applicable in a domestic enquiry
- Any evidence that is prudent to a reasonable mind is admissible
- No burden of the employer to adduce evidence and prove case beyond reasonable doubt
- Mere preponderance of probabilities is enough to hold a person guilty of misconduct
- Hearsay evidence is admissible provided it has reasonable nexus and credibility



# Workmen of Balmadies Estate Vs. Management 2008 (4) SCC 517





## Workmen of Balmadies Estate Vs. Management

- The Supreme Court held that assessment of evidence in a domestic enquiry is not required to be made by applying the same yardstick, as a Civil Court would do when a lis is brought before it.
- The Evidence Act, 1872 is also not applicable to the proceeding in a domestic enquiry, though principles of fairness are to apply.
- It was further held, that guilt is not to be established beyond reasonable doubt.
- The proof of misconduct is sufficient, and it is permissible to look into all the materials, which are logically probative, including hearsay evidence, when it has a reasonable nexus and credibility.



# Strict rules of evidence not applicable in Domestic Enquiry

1. D. Jain Vs. The Management of State Bank of India and Anr.(  
AIR 1982 SC 673

2. B.C. Chaturvedi Vs. Union of India & Ors.  
AIR 1996 SC 464

3. Thanthai Periyar Transport Corporation Ltd. Vs. Harikrishnan & Anr  
2001(1)LLJ 1023 (Madras HC- DB)



# Preponderance of Probabilities

1. Bharat Cooking Coal Ltd. Vs. Bibhuti Kumar Singh Singh & Ors  
1994 (3) SCC 628
2. Food Corporation of India Workers Union Vs. Food Corporation of India  
(1996) 9 SCC 439
3. Divisional Controller, Ksrtc Vs A.T. Mane  
2005 (3) SCC 241



# CCTV Evidence is valid in Domestic Enquiry

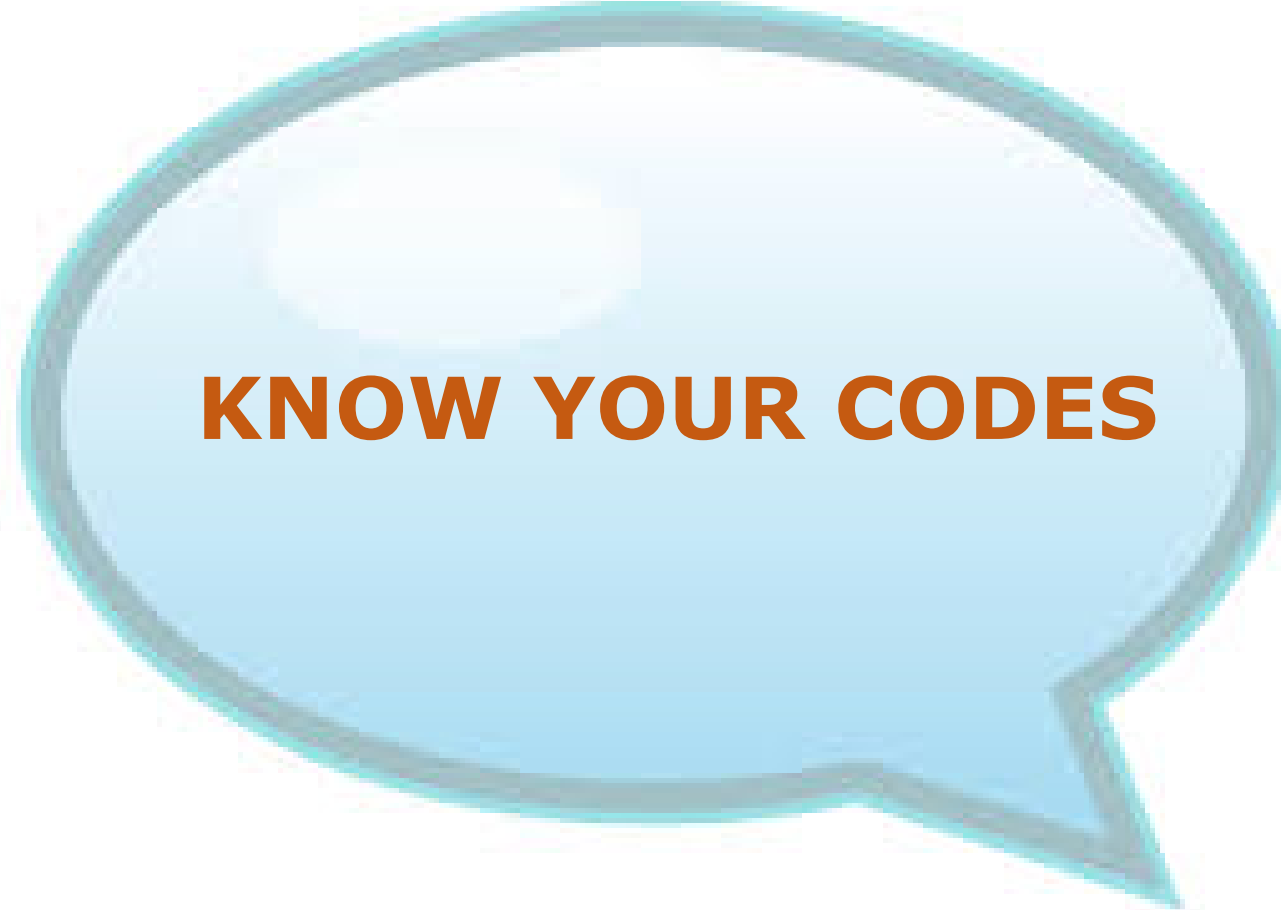
The Regional Manager, State Bank of India and Anr.

Vs.

Presiding officer, CGIT and Anr.

W.P.No.25287 of 2017

Dated: 14.09.2021



**KNOW YOUR CODES**



**KNOW YOUR  
CODES**

Under the Industrial Relations Code, 2020, if a worker is retrenched and the employer proposes to take into his employment any person within one year of such retrenchment, an opportunity will need to be given to the retrenched workers to offer themselves for re-employment and they shall have preference over other persons.

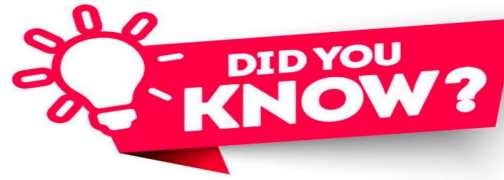


**KNOW YOUR  
CODES**

Under the Factories Act 1948, unless a worker had worked for 240 days, he was not eligible for earned leave. In the Occupational Safety, health and Working Conditions Code, 2020, a worker shall be entitled to annual leave with wages if he has worked 180 days or more in a calendar year.







- The Central Government has informed the Supreme Court that it has recommended compensation of ₹50,000 for every person who succumbed to COVID-19.
- It was also clarified by the Union Ministry of Home Affairs that the ex-gratia assistance shall be paid by the states from the respective State Disaster Response Funds (SDRF).
- The persons eligible for this compensation amount of ₹50,000 recommended by National Disaster Management Authority (NDMA) will include those who lost their lives in relief operations and preparedness activities, subject to the cause of death being certified as COVID-19.





Madhya Bharat Gramin Bank  
VS  
Pancham Lal Yadav

2021- LLR 681 SC

Dated: 03.09.2021



# Madhya Bharat Gramin Bank Vs. Pancham Lal Yadav

- The Supreme Court observed that the violation of section 25F of the Industrial Disputes Act, 1947 would not automatically entail reinstatement of workman with full back wages.
- An employee challenged the action of management, in terminating his service before Central Govt. Industrial Tribunal (CGIT) whereby the Tribunal held that he was not a regular employee as he was employed on daily wages.
- The Madhya Pradesh High Court held that the onus was on the employer to prove with sufficient evidence that he has not worked the required number of 240 days and granted relief to the employee.
- The Division Bench of the High Court dismissed the appeal by the bank on the ground that the bank failed to produce relevant records to show that the respondent has not worked for more than 240 days in a calendar year.



# Madhya Bharat Gramin Bank Vs. Pancham Lal Yadav

- The Hon'ble Supreme Court held that the violation of Section 25F of the Industrial Dispute Act 1947 did not automatically entail reinstatement with the back wages.
- The Court consequently granted a compensation of Rs.8,00,000/- to be paid to the respondent within 8 weeks.
- The ratio in Bharat Sanchar Nigam Limited vs. Bhurumal [(2014) 7 SCC 177], Telecom District Manager & Ors vs. Keshab Deb [(2008) 8 SSC 402] and Rajasthan Lalit Kala Academy vs. Radhey Sham [(2008) 13 SSC 248] were upheld by the Supreme Court.



**Rane TRW Steering Systems Limited  
Vs.  
Ministry of Labour and Employment**

W.M.P.No.19626 of 2021

in

W.P.No.18404 of 2021

Dated: 03.09.2021



## Rane TRW Steering Systems Limited Vs. Ministry of Labour and Employment

- RPFC passed an order directing the Petitioner to enroll all the persons engaged as trainees under the NEEM Regulations and to be treated as employees under the Section 2(f) of the EPF & MP Act, 1952
- The same was challenged before the Hon'ble High Court of Judicature at Madras
- The Petitioners contended that under the AICTE (NEEM) Regulations, 2017, the facilitate is obliged to pay all the trainees a remuneration, which is for the purpose of training and does not constitute employment and that the authorities may not be justified in passing this order under Section 7A of the Act.
- The Hon'ble Judge, was pleased to observe that a prima facie case had been made out and grant an interim stay of the order passed by RPFC.







REPORTING PERIOD – OCTOBER -2021			
Act	State	Due Date	Activity
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-Oct	PF Remittance
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	15-Oct	IW Returns
Employees Provident Fund & Miscellaneous Provisions Act	Pan India	25-Oct	Monthly Returns-For Exempted Employer Under EDLI Scheme (FORM 7(IF))
Employees State Insurance Corporation Act	Pan India	15-Oct	ESIC Remittance
Professional Tax Act	Andhra Pradesh	10-Oct	Professional Tax Remittance cum Return
	Telangana	10-Oct	Professional Tax Remittance cum Return
	Madhya Pradesh	10-Oct	Professional Tax Remittance
	Gujarat	15-Oct	Professional Tax Remittance
	Jharkhand	15-Oct	Professional Tax Remittance cum Return (15th of each Quarter (Apr, Jul, Oct, Jan))
	Karnataka	20-Oct	Professional Tax Remittance cum Return



	<b>West Bengal</b>	<b>21-Oct</b>	<b>Professional Tax Remittance</b>
	Maharashtra	31-Oct	Professional Tax Remittance cum Return
	Odisha	31-Oct	Professional Tax Remittance cum Return
	Assam	31-Oct	Professional Tax Remittance cum Return
	Nagaland	31-Oct	Professional Tax Remittance
	Meghalaya	31-Oct	Professional Tax Remittance
	Mizoram	31-Oct	Professional Tax Remittance
	Sikkim	31-Oct	Professional Tax Remittance
	Manipur	31-Oct	Professional Tax Remittance
	Tripura	31-Oct	Professional Tax Remittance
<b>Kerala Shops &amp; Commercialized Establishments Workers Welfare Fund Act</b>	Kerala	05-Oct	WWF Remittance
<b>Kerala Shops &amp; Commercialized Establishments Workers Welfare Fund Act</b>	Kerala	15-Oct	WWF Return
<b>Labour Welfare Fund</b>	Punjab	15-Oct	Remittance
<b>Labour Welfare Fund</b>	Chandigargh	15-Oct	Remittance



QUIZ!



# QUIZ!

Under the Industrial Relations Code 2020, model standing orders can be published by?

- a) Central Government**
- b) State Government
- c) Appropriate Government
- d) Both (a) and (b)



**Let's Connect again at 4PM on 30<sup>th</sup> October,  
2021**



*Thank  
you*

T.S.GOPALAN & CO

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