



# Monthly Labour Law Update

February 2022



## 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

Across the  
Globe

Knowledge  
Corner

Know Your  
Codes

Did you Know

Case Law

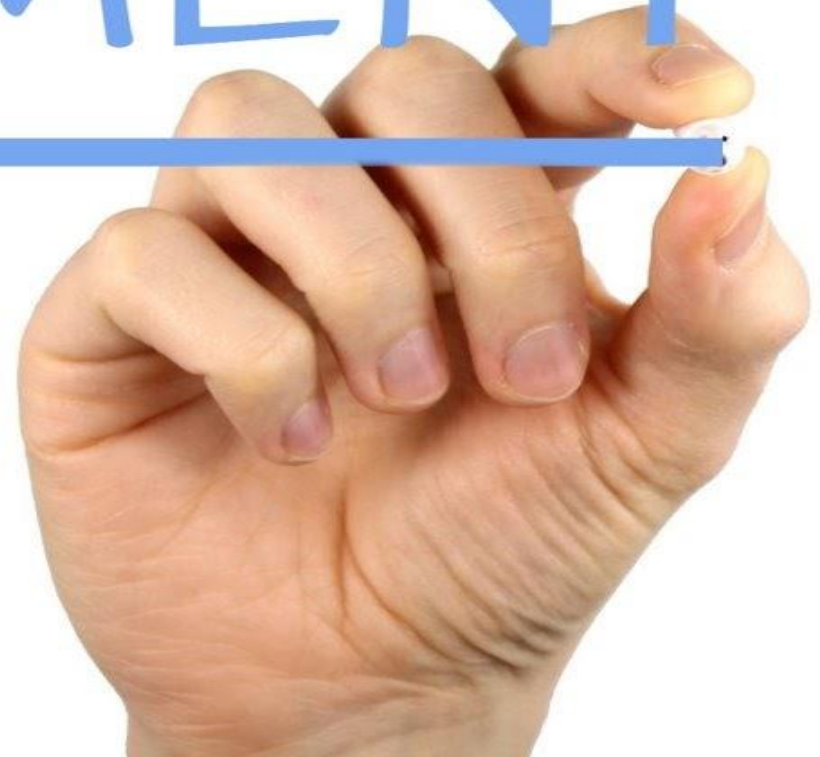
Compliance



AMENDMENT



ORDINANCE





# THE CONTRACT LABOUR (REGULATION AND ABOLITION) HIMACHAL PRADESH AMENDMENT ACT, 2020

Effective from : 09<sup>th</sup> July, 2020



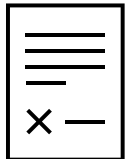
# THE CONTRACT LABOUR (REGULATION AND ABOLITION) HIMACHAL PRADESH AMENDMENT ACT, 2020

The applicability of provisions of an establishment of

**20 or more workmen**

has been amended to

**30 or more workmen.**





# Circular & Notification





# EMPLOYEES' STATE INSURANCE

February 1, 2022





# ESI COVID-19 RELIEF SCHEME

The Employees' State Insurance Corporation had notified 'ESIC COVID-19 Relief Scheme' under Section 19 of ESI Act as a welfare measure for employees covered under Section 2(9) of the Act.

The same was notified on 13.08.2021 for a period of 2 years w.e.f. 24.03.2020.

Must have been registered atleast 3 months prior date of diagnosis of Covid and should have paid contribution atleast for 70 days.



## ESI COVID-19 RELIEF SCHEME

Now the Employees' State Insurance Corporation has decided to relax the eligibility condition of the scheme are as under:-

*“The deceased Insured Person must have been in employment on the date of diagnosis of COVID19 disease. Contributions for at least 35 days should have been paid or payable in respect of him /her during a period of maximum one year immediately preceding the diagnosis of COVID-19 disease resulting in death.”*





# EMPLOYEES PROVIDENT FUND ACT, 1952

**Circular No. 46/2021-22**



## EPF- EXEMPTION UNDER EDLI

- EDLI scheme has been amended vide GO No GSR 299(E) dated 28th April 2021.
- With effect from 28.04.2021, the EPFO increased the maximum benefit to Rs.7 lakh.
- With effect from 28.04.2021, the bonus was increased to Rs.2.5 lakh.
- This revision shall remain in force for a period of three years from the date of publication in the official Gazette.



# EPF- EXEMPTION UNDER EDLI

- RPFC has instructed that all Zones to ensure that all establishments granted exemption from EDLI Scheme, 1976 through Insurance companies have obtained revised enhanced insurance cover .
- If the establishment, as a whole, has taken a master insurance policy in respect of all employees including contract employees , be also ensured that the revised insurance cover is taken under the master policy
- Members are requested to take note of this revised insurance cover of assurance benefit under EDLI scheme for ensuring the enhanced Insurance cover through concerned Insurance companies.



# EPFO – CLARIFICATION ON NEEM TRAINEES



QUIZ!



# QUIZ!

The Provisions of the Occupational Safety and Health Code, 2020 is applicable to?

- (a) Factories,
- (b) Shops,
- (c) Commercial Establishments,
- (d) Industrial Establishments,
- (e) All of the above





ACROSS THE GLOBE



## 4 DAY WORK IN WEEK

- Belgium has announced four-day work weeks.
- Employers who want to opt for the new work regime will be able to work up to 10 hours per day if trade unions agree, instead of the current 8 hours, in order to work one day less per week for the same pay.
- It has also recognized the right of employees to disconnect after normal working hours for companies with more than 20 employees.





# KNOWLEDGE CORNER



ASSISTANCE TO WORKMAN



IN



DOMESTIC ENQUIRY

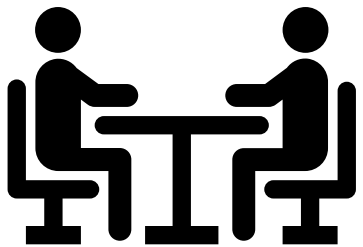


## ADVOCATE DURING ENQUIRY

Delinquent employee doesn't have an absolute right to be represented in departmental proceedings by the agent of his choice.

Rajasthan Marudhara Gramin Bank (RMGB) V. Ramesh

Chandra Meena and Another 2022 SCC OnLine SC 9





## ADVOCATE DURING ENQUIRY

The law in India also does not concede an absolute right of representation as an aspect of the right to be heard, one of the elements of principle of natural justice. It has been ruled by this Court in.....**that there is no right to representation as such unless the company by its Standing Orders recognizes such a right.**

Crescent Dyes and Chemicals Ltd. v. Ram Naresh Tripathi, (1993) 2 SCC 115



## ADVOCATE DURING ENQUIRY

In a disciplinary enquiry by a domestic tribunal, the employer appoints Presenting-cum-Prosecuting Officer to represent the employer by persons who are legally trained, the delinquent employee, if he seeks permission to appear and defend himself by a legal practitioner, a denial of such a request would vitiate the enquiry on the ground that the delinquent employee had not been afforded a reasonable opportunity to defend himself, thereby vitiating one of the essential principles of natural justice.



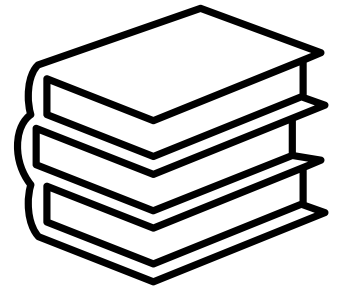
**Port of Bombay v. Dilipkumar Raghavendranath Nadkarni,**  
**(1983) 1 SCC 124**



## ADVOCATE DURING ENQUIRY

In the face of Army Rule 129, there was no reason to deny him the benefit of legal representation which he desired at his own expense. For these reasons, we are of the view that there was a clear violation of the principles of natural justice. The prejudice too is evident.

**Jaswant Singh v. Union of India**, (2019) 2 SCC 360







## ADVOCATE DURING ENQUIRY

These rules indicate that a person against whom the departmental proceedings have been initiated will be entitled to avail of the assistance of a co-Representative of his choice in those proceedings.

**Cipla Ltd. v. Ripu Daman Bhanot, (1999) 4 SCC 188**



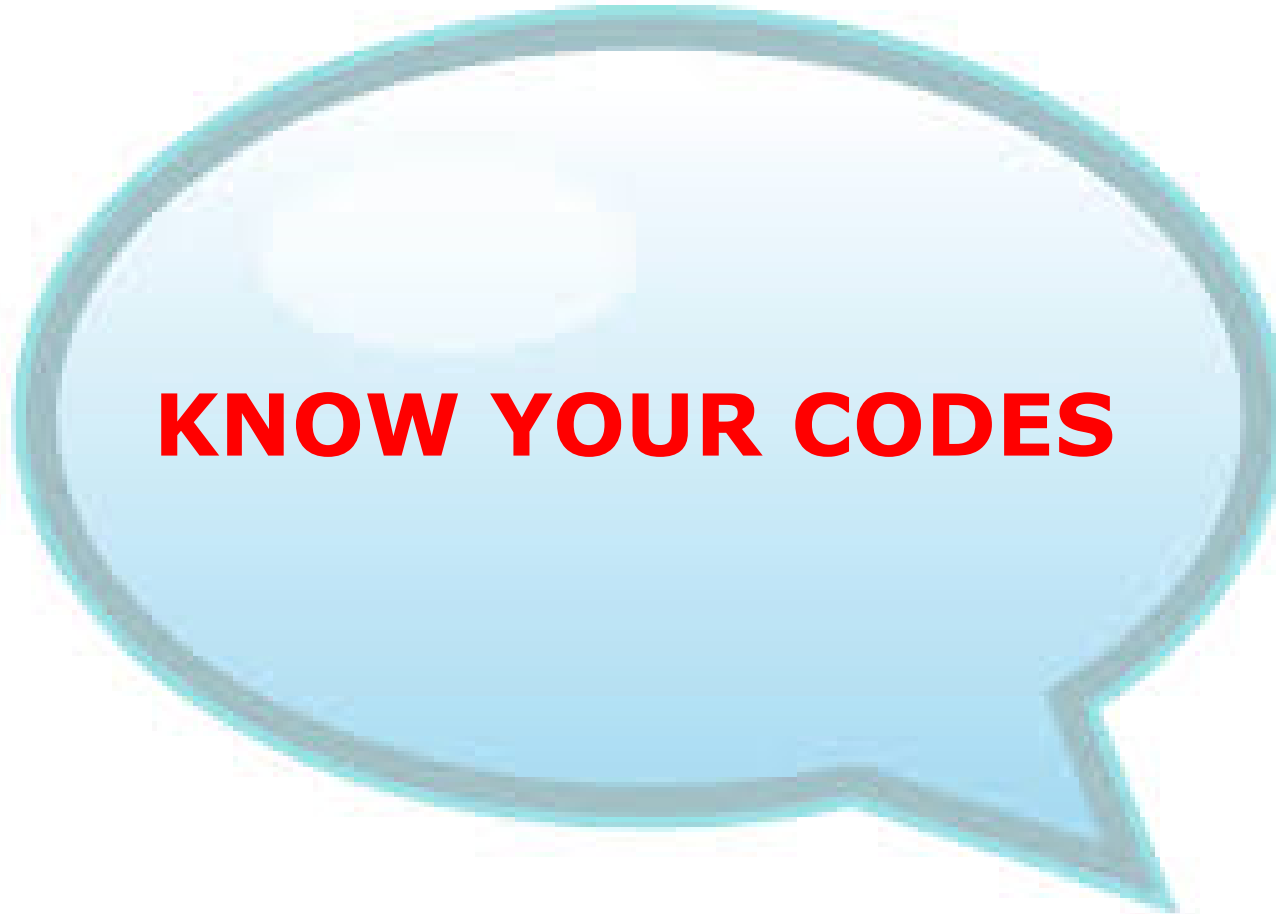


## RIGHT OF THE WORKMAN TO BRING OUTSIDER/ADVOCATE TO ASSIST HIM IN THE ENQUIRY

Normally, a lawyer has no place in a disciplinary enquiry.

But, when the presenting officer, even if he is not a lawyer, is one who is well trained in prosecution work and if the delinquent officer cannot have the services of a legally trained person and is allowed only to have the services of a colleague of his who, in the normal course, will not be well-versed in the subject, it goes without saying that that will be nothing but denial of an opportunity to the officer to defend himself in the disciplinary enquiry.

- **Union of India V. Karunakaran Nair** 1985 (2) LLN 698

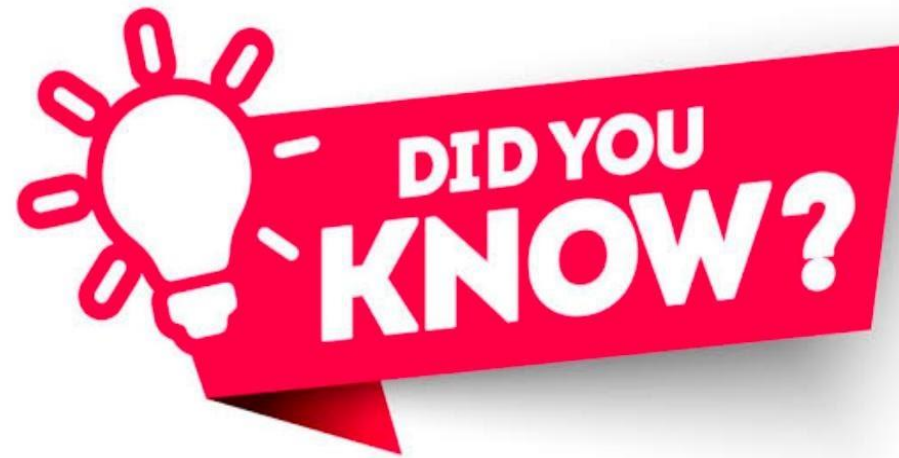


**KNOW YOUR CODES**



**KNOW YOUR  
CODES**

A industrial dispute under Section 2(k) has to be referred by the appropriate Government. However, there is no requirement for such a reference of dispute under the Industrial Relations Code 2020.





- The district Consumer Disputes redressal commission, Mohali, imposed a fine of ₹50,000 on four senior officials of Employees' State Insurance Corporation (ESIC), Punjab, for delaying the payment of medical reimbursement claim of a woman insured under the ESI Scheme.
- The officers included the ESIC regional director and director health services besides social security officer and medical officer at the ESI Hospital in Mohali.
- The order passed by the President of the Commission directed the officials to also pay interest at the rate of 9% per annum on the total payment of each medical bill — to the tune of ₹8,126, ₹11,383 and ₹2,59,637 — from the date of filing of the complaint.

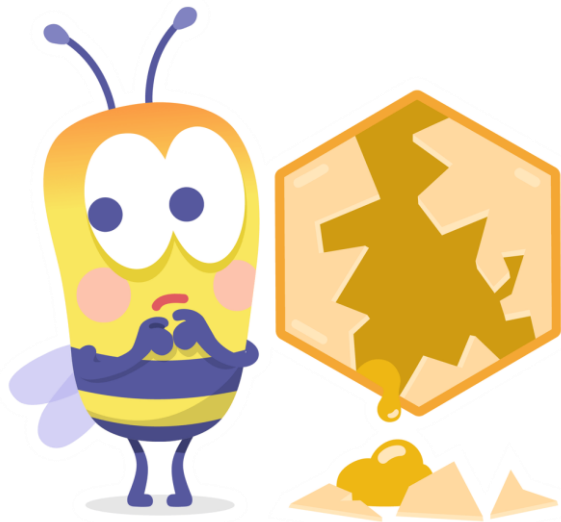




HORTICULTURE EXPERIMENT STATION GONIKOPPAL, COORG  
VERSUS  
THE REGIONAL PROVIDENT FUND ORGANIZATION

CIVIL APPEAL NO(S). 2136 OF 2012

Order dated: 23.02.2022







- The scope and ambit of **Section 85B of the Employees State Insurance Corporation Act, 1948** which is pari materia to Section 14B of the Act 1952.
- Reliance on the judgment of Division Bench of the Supreme Court in Dilip N. Shroff v. Joint Commissioner of Income Tax, Mumbai and Another, (2007) 6 SCC 329 held that for the breach of civil obligations/liabilities, existence of mens rea or actus reus **not a necessary ingredient** to levy damages and/or the quantum thereof.





OIL AND NATURAL GAS CORPORATION LTD  
V.  
THE PRESIDENT, OIL FIELD EMPLOYEES ASSOCIATION

CIVIL APPEAL NO. 1033 OF 2022

Dated: 04.02.2022



- The award of the CGIT, Mumbai in which the claims of certain contract workmen for having a uniform policy for all workmen, irrespective of contracts under which they were engaged in the matter of wages and allowances was countenanced.
- The Division Bench of the Bombay High Court confirmed the award of the CGIT, Mumbai.
- The Supreme Court while hearing the appeal rejected the contention raised by the ONGC (appellant) on the ground of jurisdiction and the reference made by the tribunal, that the Respondents were not “workmen” under Section 2(s) of the ID Act and upheld the finding of the High court that the Appellant having not contested the issue of jurisdiction before the reference court cannot take up the same before the writ court.





- Answering the second contention raised by the appellant that whether the settlement entered under the provisions of Section 12(3) of the ID Act with the majority of contract employees Union was binding on the Respondent minority Union, the Supreme Court confirming the order of the High court held that as the subject matter of the settlement and the dispute are different, the settlement entered with the majority contract employee unions are not binding on the minority Respondent union.





**COMPLIANCE**





## REPORTING PERIOD - FEBRUARY-2022

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
	TamilNadu	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
Kerala Shops & Commercialized Establishments Workers Welfare Fund Act	Kerala	15-Mar	WWF Return



## REPORTING PERIOD - FEBRUARY-2022

	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



# QUIZ!

The Provisions of the Occupational Safety and Health Code, 2020 is applicable to?

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- (d) Industrial Establishments, and
- (e) All of the above**





# EPFO – CLARIFICATION ON NEEM TRAINEES



Several representations have been received in Head Office for seeking clarification whether NEEM Trainees are exempted from the EPF & MP Act, 1952 in the light of Regulation 15.2 of the AICTE (NEEM) Regulation, 2017. The matter was examined in detail and it is clarified that:

- a. The NEEM trainees are not exempted from the definition of “employee” under section 2(f) of the EPF & MP Act, 1952 and the Regulation 15.2 of the NEEM Regulation, 2017 is *ultra vires* to the provisions of the Act.
- b. However certain criteria have been laid down in HO circular dated 12.10.2015 (copy enclosed) to distinguish a student-trainee from an employee engaged by an establishment covered under the Act. EPF Scheme, 1952 after ascertaining the facts and circumstances of each case on merit.
- c. Further a mechanism under para 26B of the EPF Scheme has already been provided whereby a Regional PF Commissioner has been vested with power to decide a question whether an employee is entitled to, or required to become a member of the scheme. after ascertaining the facts and circumstances of each case on merit.
- d. Cases of subterfuge shall be distinguished from genuine arrangements for training



**Let's Connect again at 4PM  
on  
26<sup>th</sup> March, 2022**



*Thank  
you*



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