ELB E-BULLETIN

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Welcome to the tenth edition of the e-Bulletin (Volume VII) brought to you by the Employment, Labour and Benefits practice group of Khaitan & Co. This e-Bulletin covers regulatory developments (including those relating to the upcoming labour codes), case law updates and insights into industry practices that impact businesses from a sector agnostic standpoint.

Labour Codes: Story So Far

In this section, we help you in understanding the developments that have taken thus far on the implementation of the 4 labour codes on wages, social security, industrial relations, and occupational safety, health, and working conditions, which received the Presidential assent between the years 2019 and 2020.

Broadly speaking, the labour codes, which aim to consolidate and consequently replace 29 Central labour laws, are yet to be brought into force, barring provisions relating to

- Employees' pension fund
- Central Advisory Board on minimum wages
- Identification of workers and beneficiaries through Aadhaar number for social security benefits

Moreover, even if the codes are fully brought into effect, the same would require the issuance of rules, schemes, and notifications of the relevant governments so as to have a comprehensive revised compliance regime.

Under the labour codes, the 'appropriate government' for an establishment can be the Central Government or the state government, depending on the nature of its operations or the existence of multi-state operations. Such appropriate government has the power to inter alia issue rules detailing some of the substantive aspects broadly set out under the codes and also prescribing procedural compliances such as filings, maintenance of registers, etc. In the past year, several key industrialised states such as Haryana, Delhi, Maharashtra, Gujarat, Andhra Pradesh, Telangana, Tamil Nadu, and Karnataka released draft rules under some or all of the labour codes for public consultation. As of now, 4 out of a total of 36 states and union territories are yet to publish draft rules on the code on wages, while 5 states have not released draft rules on code on industrial relations, social security and occupational safety, health and working conditions.

In the case of Indian Federation of Application-Based Transport Workers (IFAT) v Union of India and Others Writ Petition (Civil) Number 1068 of 2021, the Supreme Court while addressing concerns regarding the delay in implementing the Code on Social Security, 2020, has directed the Central Government to file an affidavit specifying the timeline for the implementation of the Code on Social Security, 2020.

Recently, the Ministry of Labour and Employment has formed an internal committee with an intent to push the Indian states to ensure alignment in the existing laws with the labour codes and thereby fast track the implementation of the labour codes. Such an attempt has been put forth to "improve on the ease of doing business, attract investments and facilitate job creation".

Regulatory Updates

In this section, we bring to your attention, important regulatory developments in the form of notifications, orders, bills, amendments, etc. witnessed in the past one month in the context of employment and labour laws.

Maharashtra promulgates the Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) (Amendment) Ordinance, 2025

The government of Maharashtra promulgated the Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) (Amendment) Ordinance, 2025 in the Official Gazette on 1 October 2025 amending the Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2017. We have covered these aspects in detail in our ERGO dated 9 October 2025 which may be accessed here.

Certain states introduce guidelines concerning employment of female workers during night shifts

In the past one month, the governments of Puducherry and Meghalaya have issued notifications concerning the guidelines to be adhered to as regards employment of women workers during night shifts. Set out below is a short summary of these updates:

1. **Puducherry:** The government of Puducherry through a notification dated 6 October 2025 has set out certain guidelines to be adhered by factories located in Puducherry under Section 66 of the Factories Act, 1948 (restrictions on employment of woman workers) and have prohibited employers from engaging women workers from 10 PM to 5 AM.

2. **Meghalaya:** The government of Meghalaya through a notification dated 26 August 2025 has exempted shops and commercial establishments from the applicability of Section 6 (closing of shops) and Section 8 (restrictions on employment of woman workers) of the Meghalaya Shops and Establishment Act, 2003, allowing women to work in night shift (i.e., after 7 PM) and for the establishment to be open 365 days of the year, until 31 December 2025. These conditions, among others, include the employer to

Give every employee one holiday per week without making any deductions

Appoint new staff for the extended timing

Pay salaries / wages, along with overtime wages to the employees in their designated savings account.

The conditions for employing women employees in night, among others, includes the obligation on the employer to ensure safety and security of the women workers, specifically as regards the employees reaching home after their shift.

EPFO issues circular for prominent display of the extract of Form 5A

Through a notification dated 7 October 2025, the Employees' Provident Fund Organisation (EPFO) has issued a circular requiring every establishment covered under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF Act) to ensure that there is proper display of the extract of Form 5A (return of ownership) either on the company's website along with the mobile application or at the entrance. The information which is specifically required to be displayed include

- Employer code
- Registered name
- Date of coverage
- Number of branches and primary branch address
- Regional office

The establishments are required to comply with this circular within 15 days from the date of issuance of the circular. Further, the establishments being in non-compliance with this circular will be subjected to legal action in accordance with the EPF Act.

Tripura introduces an ordinance to amend the industrial relations law

The government of Tripura has published the Industrial Disputes (Tripura Third Amendment) Ordinance, 2025 (Tripura Ordinance) in the Official Gazette on 8 October 2025. As per the Tripura Ordinance, the applicability threshold of Chapter V-B of the Industrial Disputes Act, 1947 (ID Act) has been revised from 100 workmen to 300 workmen. Further, the penalty for contravention of (i) Section 25M (prohibition on lay-off) and Section 25N (conditions precedent for retrenchment of workmen) of the ID Act has been revised from INR 1,000 to INR 5,000; and (ii) Section 25O (closure of an undertaking) and Section 25FFA (notice for closure of an undertaking) of the ID Act has been revised from INR 5,000 to INR 25,000.

EPFO introduces a revamped ECR system to streamline the return filing process

Through a notification dated 26 September 2025, the EPFO introduced a revamped electronic challan-cum-return (ECR) system, effective from the wage month of September 2025.

The key features include:

a. Employers are permitted to file returns in three different categories, i.e.,
   i. Regular return that refers to returns for active employees
   ii. Supplementary return, to register an employee after the regular return has been approved
   iii. Revised return to correct the wages or contribution details provided, subject to certain conditions

b. Different payment options such as full / part and payment for administration and inspection charges

c. Initial relaxation of four months for the ease of transition.

That said, after the relaxation period, the system will enforce strict condition that the regular return for a specific month will only be allowed if returns for all active members during the relaxation period have been filed.

EPFO issues guidelines for processing part payments of provident fund settlements

Through a notification dated 19 September 2025, the EPFO has directed the relevant officers to process part payments of employees provident fund settlement, irrespective of the non-remittance, inadequate contributions for certain wage months or non-transfer of earlier employees provident fund accumulations by the employers, to impede any financial distress on the members. Additionally, the circular emphasizes that on the receipt of the full contributions or the transfer amounts, the outstanding balance should be paid to the respective member without any delay.

ESIC issues circular regarding the filing of monthly contribution to ensure accuracy

Through a notification dated 9 October 2025, the Employees' State Insurance Corporation (ESIC) requested the respective regional offices to analyse the monthly contribution data submitted by the employers. This raised concerns regarding the actual employment status of these individuals, i.e., whether they

- Were on the payroll but on long leave
- Had exited insurable employment but were not removed from the employer's records, resulting in their entries being incorrectly retained
- Were being deliberately shown with zero days to avoid statutory compliance, while still being retained to potentially shift financial liability to ESIC in case of any contingency

The circular further highlighted that portraying a person as an employee under the Employees' State Insurance Act, 1948 (ESI Act), without them being in insurable employment, amounts to submitting a false return, which is a punishable offence under Section 85(e) of the ESI Act. Additionally, under Regulation 103A (1) of the Employees' State Insurance (General) Regulations, 1950, an employee becomes eligible for medical benefits for a period of three months upon first-time insurance. In cases where employees leave before completing this period, they should not continue to be reflected in the monthly contributory data.

Telangana exempts establishments employing up to 10 employees from the applicability of provisions under the Telangana S&E Act, subject to certain exceptions

The government of Telangana through a notification in the Official Gazette dated 24 September 2025 has exempted smaller establishments that employ up to 10 workers, from the applicability of certain provisions of the Telangana Shops and Establishments Act, 1988 (Telangana S&E Act). Establishments with less than 10 employees will be exempted from certain provisions of the Telangana S&E Act such as

- Opening and closing hours of shops
- Interval for rest
- Daily and weekly hours of work for young persons
- Pay during leave and holidays

Nonetheless, the smaller establishments with less than 10 employees will have to still comply with other provisions of the Telangana S&E Act such as a) registration of establishment; b) daily and weekly hours of work; c) holidays, among other aspects.

Ministry of Labour and Employment introduces the Employees' Provident Funds (Amendment) Scheme, 2025

The Ministry of Labour and Employment through a notification in the Official Gazette dated 10 October 2025, has amended the Employees' Provident Funds Scheme, 1952 to introduce provisions concerning the Employees' Enrolment Campaign, 2025. We have covered this update in detail in our ERGO dated 18 October 2025 which may be accessed here.

Case Updates

In this section, we share important judicial decisions rendered in the past one month from an employment and labour law standpoint.

Presiding officer of an IC is not required to be senior to the respondent: Bombay High Court

In the case of Dr Shyam Bihari v Nuclear Power Corporation of India Limited and Others Writ Petition Number 11696 of 2025, the Bombay High Court held that the internal committee (IC)'s constitution under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH

Act) cannot be questioned solely basis the decision being unfavourable.

In the present case, the petitioner was accused of sexual harassment during the conduct of a medical examination of the aggrieved woman. Thereafter, an IC was constituted by the employer of the petitioner to inquire into the allegations. The petitioner claimed that the presiding officer of the IC was not senior to the petitioner, and accordingly, such appointment was non-compliant under the POSH Act, as the law requires a higher-level woman officer to preside over the inquiry.

The court noted that the petitioner did not raise any objections during the proceedings of the IC and only raised them after a delay of about 9 months. Further, the court noted that the POSH Act does not require the presiding officer of the IC to be senior to the petitioner, and the only requirement is for the women employee appointed as presiding officer to have a senior role at the workplace. The court dismissed the petition while noting that the petitioner could have availed the remedy under Section 18 (appeal) of the POSH Act.

Gratuity cannot be withheld on account of the employee being a guarantor for a loan: Orissa High Court

In the case of Cuttack Central Co-operative Bank Limited v The Joint Labour Commissioner, Bhubaneswar-cum-Appellate Authority under Payment of Gratuity Act and Others Writ Application Number 323 of 2025, the Orissa High Court held that gratuity payment cannot be withheld, even if the employee was a guarantor to a loan disbursed to the principal borrower who defaulted in the payment of the loan.

In the present case, the respondent was employed as a deputy manager in the appellant Bank and subsequently attained the age of superannuation. The retirement benefit of gratuity was withheld by the appellant, as the respondent was a guarantor to a loan disbursed to the principal borrower, who did not repay the loan amount. Thus, the liability to repay the loan amount was levied on the respondent.

The court held that the rationale for the forfeiture of gratuity was not in accordance with the Payment of Gratuity Act, 1972. The court noted that gratuity is not in the nature of a bonus payment, but rather a deferred payment to an employee, which recognises their successful employment with the employer. The court held that the gratuity amount could not be withheld in the specific circumstance, directed the payment to be made to the respondent.

Dissolution of partnership at will does not require separate closure permission under the ID Act: Bombay High Court

In the case of the Court Receiver High Court, Bombay v Mumbai Labour Unions and Others Writ Petition Number 2310 of 2007, the Bombay High Court held that a partnership firm being a partnership at will is capable of being dissolved by issuance of a notice under the Partnership Act, 1932. A separate closure permission under Section 25(O) (procedure for closing down an undertaking) of the Industrial Disputes Act 1947 (ID Act) is not required.

In the present case, the respondents were partners in business. Subsequently, a dispute arose amongst them, leading to the dissolution of the firm. The respondent trade union filed a complaint before the

Industrial Court to request that the services of the employees should not be terminated without following the procedure stipulated under Section 25(o) of the ID Act. The Industrial Court held that the Court Receiver (Receiver), who was appointed to manage the business /assets of the firm, had practised unfair labour practices and the operations of the factory should continue.

Aggrieved by this, the petitioner approached the court. The court noted that the Industrial Court was erroneous in its decision and highlighted that the Industrial Court had already directed the sale of assets of the firm, and thus, the business had come to an end. The court held that a separate closure permission under the ID Act would not be required in the present situation. However, considering the long-standing claims of the workers, the court directed the Receiver to pay closure compensation and gratuity to the workers.

Employees cannot be directed to return the retrenchment compensation amount for challenging the retrenchment: Bombay High Court

In the case of Surendra v Agrofab Machineries Writ Petition Number 5679 of 2021, the Bombay High Court held that the employee cannot be required to deposit the amount of his retrenchment compensation as a pre-requirement to challenge his retrenchment.

In the present case, the petitioners were terminated from their employment by way of retrenchment, which was later challenged by them in the Labour Court. The respondents subsequently demanded that the petitioners should return the retrenchment compensation paid to them. Consequently, the labour court directed the petitioners to deposit the amount of the retrenchment compensation.

The High Court noted that payment of retrenchment compensation is a precondition for the retrenchment of an employee. This is a statutory obligation on the part of the employer with the purpose of providing financial support to the retrenched employee. The court held that an employee cannot be directed to return the amount, even if the retrenchment is subsequently challenged by the employee.

Grant of subsidies and infrastructure to a facility does not establish an employer-employee relationship between the employer and workers of the facility: Supreme Court

In the case of General Manager, Uttar Pradesh Cooperative Bank Limited v Achchey Lal and Another Civil Appeal Number 2974 of 2016 with Civil Appeal Number 3011 to 3013 of 2016, the Supreme Court examined whether the petitioner bank could be considered as the employer of the canteen workers (respondents), who were deployed by a separate society.

In this case, employees formed a society (Society) to provide canteen facilities to their members (after taking permission from the petitioner), and the respondents were appointed to run the canteen. However, no formal orders of appointment were issued. In 1995, the Society requested the Bank to enhance the subsidies for the purpose of running the canteen, which was denied by the Bank. As a result, the canteen was closed, and the four respondents were terminated from service.

The respondents disputed their termination of employment, and the dispute was referred to the labour court to decide whether the termination was illegal and invalid. The Labour Court decided that the services of the four workmen were illegally terminated, and the respondents should be reinstated in service with back wages. The petitioner challenged the decision before the Allahabad High Court, which upheld the decision of the labour court. The petitioner then approached the Supreme Court. The Supreme Court set aside the labour court's decision and held that there was no employer-employee relationship between the Bank and the canteen workers who were engaged by the Society.

The court elaborated on factors to be taken into consideration to determine employer-employee relationship, such as control over work, manner in which work is conducted, integration into the business of the principal employer, economic control and whether the work is being conducted for oneself or a third party. The court held that in the present case, no such conditions were being fulfilled. The canteen workers were engaged by the Society, and there were no factors to indicate that the Bank managed the canteen's affairs. Although the Bank provided subsidies, however, without directly managing the appointment of the canteen workers, subsidies alone cannot establish an employer-employee relationship.

Industry Insights

In this section, we delve into interesting human resources related practices and/or initiatives as well as industry trends across various sectors in the past one month.

India Inc shifts focus to job readiness over formal degrees

India Inc has observed a growing shift in hiring practices, with employers increasingly prioritizing demonstrable job readiness and practical skills over traditional academic qualifications. This trend reflects a broader move toward evaluating candidates based on their ability to perform in real-world scenarios, rather than relying solely on degrees as a measure of competence.

Skills such as communication, problem-solving, adaptability, and digital literacy are becoming central to recruitment decisions. Internships, apprenticeships, and project-based learning are being recognized as credible indicators of employability. Industry-academia collaborations and government initiatives like the National Apprenticeship Promotion Scheme (NAPS) are further supporting this transition by helping bridge the gap between education and workforce expectations.

As this trend continues to gain momentum, job readiness and hands-on experience are expected to become the cornerstone of talent acquisition strategies across sectors.

We hope the e-Bulletin enables you to assess internal practices and procedures in view of recent legal developments and emerging industry trends in the employment and labour law and practice landscape.

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