

ELB E-BULLETIN

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Welcome to the fourth 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.

Separately, the Union Budget 2025 highlighted that gig workers associated with online platforms play a crucial role in driving dynamism within the modern services economy. Recognizing their contributions, the Central Government will facilitate issuance of their identity cards and registration on the e-Shram portal along with entitlement to healthcare benefits under the Pradhan Mantri Jan Arogya Yojana (health insurance scheme providing financial protection for secondary and tertiary healthcare).

The Union Labour Minister recently convened a two-day conference with representatives from all states and union territories to discuss the final steps in drafting the rules for the implementation of the four labour codes, along with reforms aimed at boosting employment. During the conference, the Ministry of Labour and Employment (through the Union Labour Minister) directed all states to finalize their draft rules by 31 March 2025. Additionally, West Bengal committed to framing its draft rules while also engaging in discussions on broader reforms to enhance employment opportunities and address the needs of the ever-expanding working age population.

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.

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.

Tripura amends working hours requirements for women working in establishments under Tripura Shops and Establishments Act, 1970 (Tripura S&E Act)

By way of a notification published in the Official Gazette dated 24 March 2025, the Government of Tripura has introduced the Tripura Shops and Establishments (Sixth Amendment) Act, 2024 (Amendment Act) to amend the Tripura S&E Act. Through this Amendment Act, the Government of Tripura has introduced provisions permitting the employment of women in establishments beyond 8 PM and before 6 AM, subject to certain conditions. Employers are now required to obtain the written consent of the concerned woman employee and ensure adequate measures are taken regarding the provision of shelter, rest rooms, night creche facilities, ladies' toilets, and transportation from the establishment to the doorstep of the employee's residence. Further, employers must ensure adequate protection of the dignity, honour, and safety of women employees, along with measures for protection against sexual harassment at the workplace.

Employees' Provident Fund Organisation (EPFO) permits one-time payment of past dues through demand drafts

Through a notification dated 4 April 2025, the EPFO has permitted employers to remit past dues through demand drafts. This notification addresses challenges faced by employers who were previously unable to deposit past dues through the electronic challan-cum-return system. Further, the notification clarifies that where the officer-in-charge is satisfied that the employer's request pertains to a one-time payment



of past dues and that the employer intends to continue using internet banking for future remittances, the officer may collect the dues through a demand draft. Additionally, an undertaking is to be obtained from the employer for the purpose of verification of beneficiaries in the event a claim arises. To clarify, this notification does not absolve the employers of their liability to pay interest and damages, which would be computed as per law.

EPFO streamlines employees' provident fund (EPF) transfer claim process and enables Aadhaar-free bulk Universal Account Number (UAN) generation

In continuation of the press release dated 25 April 2025, issued by the Ministry of Labour and Employment, and subsequent notifications, the EPFO has introduced a revamped Form 13 (Transfer-Out) functionality aimed at simplifying the transfer of EPF accumulations during job changes and removing the requirement of approval from employer in such cases. This change is designed to streamline the process of transfer of EPF balances during job transitions, reduce claims processing time, and improve efficiency in field offices ultimately ensuring faster and more effective service to members.

In a related development, EPFO has also launched a facility to allow employers to generate UANs in bulk without mandatory Aadhaar seeding. This move is intended to ease the accounting of past accumulations remitted by exempted EPF trusts and other related cases. This tool has enabled the field offices to generate UANs based on existing member records. However, all such UANs will remain in a frozen state until Aadhaar seeding is completed as a safeguard.

Telangana publishes draft bill of the Telangana Gig and Platform Workers (Registration, Social Security and Welfare) Act, 2025 (Telangana Gig Worker Bill)

By way of a press note dated 14 April 2025, the Government of Telangana has published the draft of the Telangana Gig Worker Bill for the welfare of gig and platform workers in the state and will come into force on the date of its publication in the Official Gazette. The Telangana Gig Worker Bill contains provisions relating to the establishment of a 'Gig and Platform Workers Welfare Board', rights of gig and platform workers, registration of gig and platform workers and aggregators, working conditions, establishment of a social security and welfare fund for gig and platform workers, imposition and verification of welfare fund fees, redressal of grievances, penalties and punishments for offences, and submission of annual returns, among other matters.

Karnataka revises professional tax rates under the Karnataka Tax on Profession, Trades, Callings and Employments Act, 1976 (Karnataka PT Act)

By way of a notification dated 15 April 2025, the Government of Karnataka has introduced the Karnataka Tax on Profession, Trades, Callings and Employments (Amendment) Act, 2025 to amend the Karnataka PT Act. Through this Amendment Act, the professional tax (PT) rates have been increased, whereby salaried employees earning INR 25,000 or more per month are now subject to a contribution of INR 300 for the month of February, while the contribution for remaining months would continue to be INR 200 per month. Consequently, the annual PT liability has been revised from INR 2,400 to INR 2,500 per employee.



Kerala revises working hour limits for women working in specified factories

Through a notification dated 1 April 2025 published in the Official Gazette, the Government of Kerala has revised the working hour limits for women employed in certain specified groups or classes of factories, including those engaged in the production of milk and milk products, food items and beverages, bakery and confectionery products, factories manufacturing ice cream, tea factories, and printing presses, among others. Under the revised provisions, women employed in the factories listed in the schedule may now work between 6 AM and 10 PM, subject to specific conditions. These conditions include that no woman shall be employed between 10 PM and 5 AM, separate accommodation must be provided for women workers, free transport facilities along with security personnel must be arranged, and the prescribed daily working hours must be strictly adhered to etc. The management is also required to ensure adequate protection of the dignity, self-esteem, and safety of women workers.

Case Updates

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

Designation is irrelevant in determining 'principal employer' liability under the Employees' State Insurance Act 1948 (ESI Act): Supreme Court

In the case of *Ajay Raj Shetty v Director and Another* Special Leave Petition (Criminal) Number 3743 of 2024, the Supreme Court held that under the ESI Act, any individual, regardless of their official designation, may be considered a 'principal employer' if they function as an agent of the factory's owner or occupier, or if they exercise supervision and control over the establishment.

In the present case, the officials from the Employees' State Insurance Corporation (ESIC) visited the respondent company's premises to verify compliance with the ESI Act for the period from February 2010 to December 2010. It was observed that while deductions under the ESI Act had been made by the respondent company, the corresponding contributions had not been deposited with the ESIC. The appellant's name appeared in the inspection report as 'General Manager' and 'Principal Employer' of the company, resulting in a private complaint being filed against him. The appellant was thereafter convicted and sentenced to imprisonment along with a fine.

The court noted that the lower courts had rightly found the appellant liable, given that he held the post of 'General Manager' and failed to establish otherwise. The court further observed that the appellant had not disclosed the identity of any other individual responsible at the time of default. Reinforcing the legal position, the court held that the designation of an individual is immaterial if they act as an agent of the owner or occupier, or exercise supervision and control over the establishment, thereby falling within the ambit of the definition of 'principal employer' under Section 2(17) of the ESI Act. Finally, the court

emphasized that non-remittance of ESI contributions constitutes an offence punishable under the ESI Act, thereby dismissing the appeal.

Workmen entitled to statutory bonus despite charitable origins of employer: Supreme Court

In the case of the Management of Worth Trust v The Secretary, Worth Trust Workers Union Special Leave Petition (Civil) Number 20474 of 2019, the Supreme Court held that the workmen of the appellant were entitled to statutory bonus under the Payment of Bonus Act, 1965 (Bonus Act), despite the trust's claim for exemption from the Bonus Act under Section 32(v)(a) and (c) as it was an institution established by the Red Cross Society and not for profit.

The appellant's trust initially was established by the Swedish Red Cross Society, engaged in charitable activities for leprosy patients and other specially-abled individuals. However, later the trust expanded into commercial activities, including manufacturing automobile parts and industrial machinery components. The workmen, represented by their union, raised a claim for payment of statutory bonus under the Bonus Act, which was referred to the Industrial Tribunal. The tribunal ruled in favour of the union, holding that the workmen were entitled to statutory bonus. The High Court upheld this decision but adjusted the bonus to account for ex-gratia payments already made by the petitioner to the workers, leading to the present appeal.

The court noted that the trust's activities had evolved significantly from its original charitable purpose, particularly with the shift towards commercial manufacturing. The court found that since the workmen were employed in a factory, the Bonus Act applied to them. Further, the appellant failed to provide evidence that the trust was run by the Swedish Red Cross Society or was such an institution, thus failing to meet the exemption criteria under the Bonus Act. The court also noted that the appellant had been engaged in commercial activities since 1985 and was no longer dependent on the Red Cross Society. Regarding the appellant's argument about ex-gratia payments, the court held that such ex-gratia payments did not exempt the trust from its statutory obligation to pay statutory bonus, which is a legal right of the workmen.

Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF Act) ensures lifetime security for construction workers, proving to be more beneficial than the Building and Other Construction Workers (Regulation of Employment and Condition of Service) Act, 1996 (BOCW Act): Regional Provident Fund Commissioner, Kochi (Commissioner)

In the case of Veegaland Developers Private Limited v Union of India Writ Petition (Civil) Number 1807 of 2016, the Commissioner, Kochi, ruled that the petitioner, a construction company, must comply with the EPF Act, as it provides more beneficial schemes than the BOCW Act.

In the present case, the petitioner contended that the construction workers employed by them should be governed by the BOCW Act rather than the EPF Act as it was more suited to the nature of the workforce, which primarily consisted of casual labourers and migrant workers who typically returned to their hometowns upon completion of a project.

The Commissioner, upon examining both the BOCW Act and the EPF Act, found that the foundational objectives of the two statutes were different, and thus, they could not be considered complementary. It was noted that the EPF Act, with no minimum age criteria for applicability, allows for a longer contribution period and the ability to capitalize on compound interest over an extended duration. Further, under the EPF Act, employer-initiated enrolments are legally enforced, ensuring that eligible workers are not excluded from social security benefits, unlike the voluntary enrolment process under the BOCW Act. The Commissioner also noted that under the EPF Act, membership can be voluntarily terminated, and provisions like 'non-contributory periods' ensure continued membership during unemployment or reduced activity. In contrast, irregular contributions under the BOCW Act may lead to the loss of membership.



The Commissioner also highlighted the BOCW Act's lack of transparency, procedural inconsistencies, and disbursement rigidity, which undermine its effectiveness. Conversely, the EPF Act, with its contributory, account-linked, and tech-enabled framework, provides a more sustainable approach to worker protection. The court also observed that the EPF Act aligns better with Article 41 (right to work and public assistance) of the Constitution of India 1950 and international labour standards, offering enforceable entitlement benefits. While the BOCW Act appears suited for construction workers, the EPF Act, with superior enforcement and fund management, offers greater long-term value, making it the more effective framework.

Employer's duty to pay gratuity is not contingent on employee's application: Madhya Pradesh High Court

In the case of *Little World Higher Secondary School v State of Madhya Pradesh Writ Appeal Numbers 563 to 572 of 2023*, the Madhya Pradesh High Court held that an employer's statutory duty to pay gratuity begins immediately upon the employee's exit, and interest accrues if payment is delayed.

In this case, the respondent, who had served as a teacher for 10 years, was not paid gratuity upon his exit from the petitioner's employment. The respondent challenged the non-payment of the gratuity under the Payment of Gratuity Act, 1972 (Gratuity Act) before the controlling authority. The authority directed the petitioner to pay the gratuity along with interest, which was then contested by the petitioner in the present petition.

The court ruled that the employer's obligation to pay gratuity is not contingent on the employee submitting an application after leaving the organization. It noted that Section 7(2) of the Gratuity Act (determination of gratuity amount payable) operates independently and becomes applicable as soon as the gratuity is due, not upon the submission of an application by the employee. Further, the court emphasized that the Gratuity Act does not impose any time limit for an employee to claim gratuity.

Discretion of courts to grant interest under Section 33C(2) of the Industrial Disputes Act, 1947 (ID Act) in disputes pertaining to outstanding payments: Bombay High Court

In the case of *Deepak Vallabhdas Intwala v Casby Logistics Private Limited and Others Writ Petition Number 3428 of 2022*, the Bombay High Court held that courts have discretion to grant interest under Section 33C(2) of the ID Act.

The petitioner, who had been transferred from Mumbai to New Delhi, claimed that the transfer was made illegally, without following the required procedure under the ID Act. He filed a complaint before the Industrial Court, which ruled in favour of the petitioner declaring the transfer as an unfair labour practice and quashing the transfer orders. The petitioner then filed another complaint before the labour court for the recovery of outstanding amounts under Section 33C(2) of the ID Act, which was rejected. Hence, the present petition.

The court affirmed the labour court's decision, stating that while the transfer order was illegal and quashed, it did not entitle the petitioner to claim amounts for the period during which he was absent without authorization. The court further clarified that although outstanding amounts can include interest, it is

within the discretion of the court under Section 33C(2) of the ID Act whether or not to grant interest, and therefore, the petitioner's claim for outstanding amounts including interest was not permissible.

Employees entitled to higher pension under EPF Act even if contributions were made in bulk: Kerala High Court

In the case of *Gopinathan Pillai M and Others v Union of India and Others* Writ Petition (Civil) Number 1932 of 2025, the Kerala High Court held that employees cannot be denied the benefit of a higher pension under the EPF Act, even if contributions to the pension scheme were made in bulk instead of monthly basis.

In the present case, the petitioners had deposited EPF contributions based on their actual salary while in service. Upon retirement, however, the EPFO denied them a higher pension, citing that the employer made bulk payments rather than monthly contributions, leading to mismatched records.

The court noted that while regular contributions were not made for the periods 2004-2005 and 2007-2008, bulk payments were made by the employer for those periods, along with the corresponding administrative charges. Therefore, the court ruled that the petitioners could not be denied the benefit of a higher pension due to the bulk payments, as long as the contributions were made, regardless of the payment method.

Badli worker entitled to gratuity after years of continuous service: Calcutta High Court

In the case of *Hooghly Infrastructure Private Limited v SK Alam Ismail and Others* Writ Petition Application Number 28770 of 2024, the Calcutta High Court upheld the order granting gratuity to a badli worker who had served continuously for 37 years, affirming the employee's entitlement to gratuity as a matter of right.

The respondent had joined the company in 1978, enrolled under the EPF Act, and worked as a badli worker, replacing permanent employees during their absences. Upon reaching superannuation, the respondent applied for gratuity, alleging non-payment, and sought direction from the controlling authority for its computation and payment. The controlling authority directed the petitioner to pay gratuity for the full 37 years of continuous service, along with interest. Hence, the present petition.

The court emphasized that the respondent had served continuously for many years in a role equivalent to permanent posts and that the employer's refusal to pay gratuity was an abuse of the legal process. The court further noted that under beneficial legislation, an employee who has worked for such a long period in place of regular employees, and contributed to the company's operations, is entitled to gratuity. The court observed that the respondent had dedicated his entire career to the company and was thus entitled to his retiral benefits, including gratuity, without hindrance.

Convenience stores in Maharashtra can operate round-the-clock: Bombay High Court

In the case of *Accelerate Productx Ventures Private Limited v State of Maharashtra and Others* Writ Petition Number 1169 of 2025, the Bombay High Court held that there are no restrictions under the Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2017 (Maharashtra S&E Act) preventing convenience stores from operating 24x7.

In this case, the petitioner operated convenience retail stores under the brand name 'The New Shop.' The petitioner challenged arbitrary actions by police authorities imposing closure requirements after 10-11 PM, despite no such restrictions being mandated by the competent authority under the Act.

The court observed that the Maharashtra S&E Act does not impose any embargo on shops operating




round-the-clock and that restrictions regarding opening and closing hours are prescribed only for specific establishments such as permit rooms, beer bars, and dance bars etc., which do not include convenience stores like that of the petitioner. Further, the court emphasized that in modern times, 24x7 stores enhance consumer convenience and flexibility, particularly for individuals with non-standard working hours. It held that such establishments contribute to economic progress aligned with global standards, and therefore, no time-based restrictions should be imposed on their operations. Accordingly, the petition was allowed.

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.

Companies are reshaping corporate insurance to enhance employee benefits

India's corporate [insurance sector](#) is set for strong growth, fuelled by changing risk environments and a wider focus on protecting both employees and assets. Companies are moving beyond traditional group policies, increasingly investing in customised health insurance, gig worker coverage, cyber insurance, liability protection, and motor fleet insurance. Tailored health plans offering outpatient department benefits, wellness support, and digital access are gaining popularity, while dedicated insurance for gig workers reflects the growing informal workforce. The demand for cyber insurance is also rising rapidly, driven by increased digital adoption and stricter regulatory requirements, especially across finance, healthcare, and e-commerce sectors. Meanwhile, heightened legal risks are pushing businesses to secure general liability and professional indemnity, while motor insurance for corporate fleets continues to expand alongside the logistics and transport industries.



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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