

Welcome to the third edition of the e-Bulletin (Volume VIII) brought to you by the Employment, Labour and Benefits practice group of Khaitan & Co. This e-Bulletin covers regulatory developments, 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. The Government of India has, through a series of notifications dated 21 November 2025, brought into effect the 4 labour codes. We have covered this aspect in detail in our [ERGO](#).

The codes consolidate and consequently replace 29 Central labour laws and bring about a more cohesive and modern framework for compliance. The consolidation exercise in the form of the labour codes does bring with it certain changes in the earlier labour law regime. The digitization of procedures (relating to registration and intimations) and the concept of deemed registration (in case authorities do not register the establishment within the specified timeline) are seen as a positive impact on the ease of commencing business as well as the ease of doing business. Similarly, the substitution of prosecution-oriented framework with facilitation process, whereby an employer would be given an opportunity to rectify any non-compliance, heralds an important change in the approach of the government.

While the Central Government has recently re-notified the draft Central rules under the 4 labour codes, in the absence of finalization and enforcement of Central / state rules, schemes, and notifications, the transition is still in the process of unfolding. Set out below are the updates that we have seen on the labour codes front, recently:

- 1. Issuance of FAQs:** The Central Government has released the FAQs on labour codes, and we have covered this aspect in detail in our [ERGO](#). Further, clarifications have been put forth by other authorities including the Employees' State Insurance Corporation (ESIC), through multiple circulars referring to the definition of 'wages' and emphasizing the requirement of the employers to register additional employees who may potentially be covered because of the revised definition of 'wages'. Recently, the



Central Government specifically also released FAQs to the [Code on Social Security, 2020](#) (SS Code), [Code on Wages, 2019](#) (Wages Code) and [Occupational Safety, Health and Working Conditions Code, 2020](#) (OSH Code).

- 2. Clarification on gratuity:** The Institute of Chartered Accountants of India has released a set of FAQs addressing key accounting implications arising from the implementation of the new labour codes. These FAQs note that any increase in gratuity liability due to the new labour codes must be recognised as an expense in the profit and loss account for the interim financial statements/results for the period ending 31 December 2025, in line with the applicable accounting standards.
- 3. Issuance of rules:** In the past year, several key industrialised states such as Haryana, Delhi, Maharashtra, Gujarat, Andhra Pradesh, Telangana, Tamil Nadu, Bihar, and Karnataka released draft rules under some or all of the labour codes for public consultation. As of now, 2 out of a total of 36 states and union territories are yet to publish draft rules on Wages Code, and 1 state has not released draft rules on the OSH Code, Industrial Relations Code, 2020 (IR Code) and SS Code. Further, states such as Gujarat and Mizoram appear to have released final rules under some of the labour codes. In the month of March 2026, the governments of Uttar Pradesh and Andaman and Nicobar Islands have released the draft rules pursuant to the labour codes.

## 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.

### **Andhra Pradesh allows establishments to operate 24\*7 and permits lifetime registration certificate with certain applicable conditions**

As per the notification dated 12 March 2026, Andhra Pradesh has permitted all establishments in areas where population is more than 4,00,000, to be open 24\*7 on all days of the year, under the Andhra Pradesh Shops and Establishments Act, 1988 (AP S&E Act). Such establishments operating 24\*7 are subject to certain conditions including



Filing of online returns



Providing the employees with a weekly off



Providing the employees with a compensatory holiday in lieu of working on notified holidays



Maintaining statutory registers in soft copy



Ensuring that no employee works for more than 48 hours in a week, with overtime payments to employees working beyond the stipulated threshold

Separately, as per another notification dated 12 March 2026, Andhra Pradesh has permitted commercial establishments employing 20 or more workers to obtain a lifetime registration certificate under the AP S&E Act subject to certain conditions including: a) establishments filing combined annual returns in Form B under Andhra Pradesh (Issuance of Integrated Registration and Furnishing of Combined Returns under Various Labour Laws by Certain Establishments) Act, 2015; and b) employers paying the prescribed registration fee as per the AP S&E Act at the time of new registration or renewal of registration.

### **Delhi enacts the Delhi Shops and Establishments (Amendment) Act, 2026**

The government of the National Capital Territory of Delhi has passed the Delhi Shops and Establishments (Amendment) Act, 2026 (Delhi S&E Amendment Act) to amend the Delhi Shops and Establishments Act, 1954 (Delhi S&E Act). The Delhi S&E Amendment Act introduces certain relaxations, including amendment of the applicability of the Delhi S&E Act only to shops and establishments employing 20 or more employees. The Delhi S&E Amendment Act further



Revises the definition of a child to increase the minimum age from 12 years to 14 years

Increases the daily working hour limit from 9 hours to 10 hours, inclusive of rest interval and lunch break

Increases the weekly working limit from 54 hours to 60 hours in a week, and 150 hours in a year to a quarterly overtime cap of 144 hours

Extends the continuous working period from 5 hours to 6 hours

Increases the spread over of hours from 10.5 hours (for commercial establishments) to 12 hours in a day, including intervals of rest



Further, the Delhi S&E Amendment Act also prescribes specific safety measures for employing women during night shifts—defined as 9:00 PM to 7:00 AM in the summer and 8:00 PM to 8:00 AM in the winter. It also requires employers to obtain prior written consent from women employees for such shifts, along with compliance with other prescribed conditions.

### **Gujarat promulgates the Gujarat Shops and Establishments (Regulation of Employment and Conditions of Service) (Amendment) Act, 2026**

The government of Gujarat has promulgated the Gujarat Shops and Establishments (Regulation of Employment and Conditions of Service) (Amendment) Act, 2026 (Gujarat S&E Amendment Act), which was published in the Official Gazette on 27 February 2026. The Gujarat S&E Amendment Act amends the Gujarat Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2019 (Gujarat S&E Act) and is deemed to have come into force with effect from 16 December 2025. We have covered aspects of Gujarat S&E Amendment Act in detail in our ERGO dated 16 March 2026 which may be accessed [here](#).

### **Puducherry allows establishments to operate 24\*7 with certain applicable conditions**

As per the notification dated 15 March 2026, the Union Territory of Puducherry has permitted all establishments to be open 24\*7 on all days of the year, under the Puducherry Shops and Establishments Act, 1964 (Puducherry S&E Act). Such establishments operating 24\*7 are subject to certain conditions including

- Providing every employee one day of holiday in a week on a rotation basis, and displaying details of such employee in a conspicuous place of the establishment
- Imposing adequate safety measures for women employees and seeking prior written consent from the women employees to work in the night shift, i.e., after 8 PM on any day
- Paying employees' wages along with overtime directly in their bank accounts
- Displaying details of employees availing leaves in a conspicuous place of the establishment on a daily basis

Further, the notification also provides that appropriate action will be initiated against the employer as per Section 27 of the OSH Code if an employee is found working on a holiday or post regular working hours without overtime payments.



## Case Updates

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

### **Inquiry by Internal Committee (IC) under the POSH Act not barred by criminal proceedings: Gauhati High Court**

In the case of Alope Kumar Ghoshal v Indian Institute of Technology, Guwahati (IIT) and Others, Writ Petition (Civil) Number 5959 of 2022, the Gauhati High Court held that a fact-finding inquiry by IC under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act) is not barred by the pendency of criminal proceedings on the same subject. Further, previous refusals by IC to inquire into the complaint does not preclude IC from conducting a fresh inquiry, since past refusals were not in accordance with the POSH Act.

A complaint of sexual harassment was filed in December 2014 against the petitioner, a faculty member of IIT Guwahati. Pursuant to the complaint, a criminal case was registered, and an inquiry was also initiated by the IC. On multiple instances, the IC declined to conduct a fact-finding inquiry, initially on the ground that the matter was sub-judice before a criminal court and subsequently, refused to conduct an inquiry on grounds of delay.

Few years later in 2022, the respondent again constituted an IC to examine whether the decision of previously constituted ICs' to not inquire into the complaint was in accordance with the POSH Act. The newly constituted IC recommended a fresh examination of the complaint. Accordingly, the IC issued a notice to the petitioner seeking their response which resulted in the petitioner approaching the Gauhati High Court challenging the re-initiation of IC proceedings on the grounds of lack of jurisdiction and delay.

The Gauhati High Court held that IC in refusing to conduct a fact-finding inquiry had abdicated its statutory responsibility under the POSH Act. The court clarified that pendency of a criminal proceeding does not bar the IC from conducting a fact-finding inquiry. Further, any refusal by IC does not extinguish the complainant's right to seek redressal when the delay was attributable to IC itself. Accordingly, the court dismissed the writ petition and directed the IC to conduct a fact-finding inquiry under the POSH Act.

### **Supreme Court directs husband's employer to deduct his monthly salary to deposit maintenance to wife and minor child**

In the case of Dimpal v Nishant Pravinbhai Soni, Transfer Petition (Civil) Number 3147 of 2024, the Supreme Court of India directed the employer of the husband to deduct the maintenance amount from



the respondent-husband's salary and to transfer it in the account of the petitioner's wife and his minor child, in view of the respondent's repeated refusal to comply with the court-ordered maintenance.

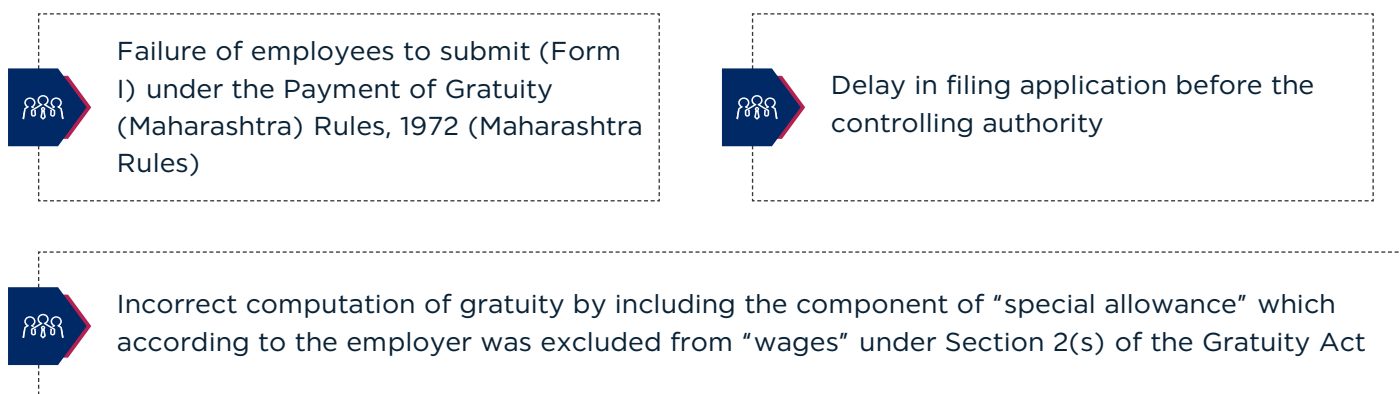
The parties had been living separately since 2022 and had a minor daughter in custody of the petitioner. Despite an interim order by the competent court in 2024, the respondent failed to pay any maintenance to the petitioner (i.e., his wife) and his minor child, due to which arrears of around INR 1,38,000 were accumulated. Further, the Supreme Court in its previous order had directed the respondent to deposit INR 25,000 towards travelling and other expenses of the petitioner and his minor daughter which the respondent failed to deposit.

In view of the respondent's continued defiance of orders of the court and his refusal to make payments of maintenance towards the petitioner and his minor daughter, the court directed the respondent's employer to deduct a sum of INR 25,000 per month from his salary and remit the amount directly to the petitioner's bank account to ensure effective enforcement.

### **Employee's claim of payment of gratuity cannot be denied on grounds of delay when the employer has failed to issue gratuity determination notice: Bombay High Court**

In the case of *Gundu Daji Desai v Aplab Limited* and connected matters, Writ Petition Number 2875 of 2025 along with batch of cross-petitions arising from the common dispute under the erstwhile Payment of Gratuity Act, 1972 (Gratuity Act), the Bombay High Court held that the employer cannot defeat an employee's gratuity claim on the ground of delay where the employer has failed to discharge its statutory obligation to determine and notify the gratuity payable.

The employees had resigned from the services of the employer between 2014-2015 and claimed payment of gratuity few years later by filing a claim before the controlling authority. These claims of payment of gratuity were opposed by the employer on the grounds of:





The controlling authority partly allowed the claim of the employee and directed the employer to pay gratuity along with an interest at the rate of 10% per annum. Both parties preferred appeals before the appellate authority. While the employer filed an appeal challenging the payment of gratuity and inclusion of special allowance in “wages”, the employee filed a cross appeal seeking gratuity computation based on 26 days’ wages. The appellate authority dismissed both the appeals and upheld the order of the controlling authority. Aggrieved by the decision of the appellate authority, both the parties filed an appeal before the Bombay High Court.

The Bombay High Court held that the employer has a statutory obligation under the Gratuity Act to determine the quantum of gratuity under Section 7(2) of the Gratuity Act and issue a notice to the employee and the controlling authority as soon as gratuity becomes payable, irrespective of the employee submitting a claim. Further, the court noted that second proviso to Rule 10 of the Maharashtra Rules removes limitation in cases where the employer defaults in complying with Section 7(2) of the Gratuity Act. Accordingly, the employer cannot defeat the claim of gratuity by relying on delay on part of employees, which stemmed from its own inaction.

On the issue of interest, the court reaffirmed that Section 7(3A) of the Gratuity Act mandates payment of interest where gratuity is not paid within 30 days, unless two conditions are met:



Delay is attributable to the employee

.....  
The employer has obtained written permission from the controlling authority for delayed payment

Since the employer had neither obtained such permission nor fully paid the gratuity within the statutory period, the court held that interest was payable. With respect to the issue on whether the “special allowance” formed part of “wages” for computation of gratuity, the court held that neither the controlling nor the appellate authority had undertaken the fact finding exercise to determine the issue. The court emphasized that nomenclature alone is not decisive and that the nature, purpose, and structure of the allowance must be examined based on evidence. Since, factual enquiry had not been undertaken, the court remanded the matter to the appellate authority for limited reconsideration on this issue.

Accordingly, the Bombay High Court partly allowed the writ petitions, upheld the employee’s entitlement to gratuity notwithstanding delay and remanded the matter to the appellate authority to determine whether the special allowance forms part of wages for gratuity computation.



## **Maternity leave is a fundamental right and cannot be considered as a break in bond service, penalty for availing maternity leave is unconstitutional: Bombay High Court**

In the case of *Dr Meenakshi Muthiah v State of Maharashtra and Others*, Writ Petition Number 3319 of 2025, the Bombay High Court held that a maternity leave is a fundamental right under Article 21 of the Constitution, and a woman employee cannot be penalised for availing maternity leave during a compulsory service bond period.

The petitioner was appointed as an Assistant Professor under the state government's Social Responsibility Service Scheme (Scheme). The Scheme required the petitioner to serve a 365 day compulsory bond period in a government institution as a condition to subsidised medical education. During the tenure of this bond period, the petitioner applied for maternity leave from 1 May 2024 to 30 September 2024, during which she was not paid her salary.

After the childbirth, the petitioner sought permission to resume duty and complete the remaining bond period. The respondent instead issued a communication treating her maternity leave as a break in bond service under the Scheme and imposed a penalty of INR 23,58,403. The respondent reasoned that the Scheme does not provide for the benefit of maternity leave and that the erstwhile Maternity Benefit Act, 1961 (MB Act) did not apply to bond service candidates.

The petitioner filed an appeal before the Bombay High Court, wherein the court held that maternity leave is not merely a statutory right but a constitutional right under Article 21 of the Constitution of India 1950 and no service bond or contractual obligations can override the aspects of dignity, health and reproductive autonomy of a woman. The court further held that availing maternity leave cannot be treated as a break in service and penalising a woman availing maternity leave is inconsistent with Section 27 of the MB Act (Section 161 of the SS Code).

Accordingly, the High Court quashed the penalty order, directed refund of the penalty, and ordered payment of salary for the maternity leave period. The High Court further directed that the petitioner be permitted to complete the balance bond period excluding maternity leave, or in the alternative, be issued a bond completion certificate if continuation of service was not feasible.

## **9-Judge bench reserves judgement on re-consideration of interpretation of the expression 'industry' under the erstwhile Industrial Disputes Act, 1947 (ID Act)**

In the case of *State of UP v Jai Bir Singh*, Civil Appeal Number 897 of 2002, the Supreme Court has on 19 March 2026 reserved judgement in the case considering the correctness of the judgement rendered by the 7-judge bench in *Bangalore Water Supply and Sewerage Board v A. Rajappa*, (1978) 2 SCC 213 (Bangalore Water Supply).



The Supreme Court will re-consider the interpretation of the expression 'industry' as defined under Section 2(j) of the erstwhile ID Act, as pronounced in Bangalore Water Supply. Further, the Supreme Court will also assess whether the IR Code will have an impact on the interpretation of the expression 'industry'. The 9-judge bench is also proposed to provide clarifications to various pending questions, including whether the social welfare activities undertaken by the government departments can be considered to be "industrial activities" for the purpose of Section 2(j) of the erstwhile ID Act.

This is an evolving development, and we will be covering the update of this judgement in the course of the next editions of this e-bulletin.

### **Supreme Court strikes down provision restricting maternity leave for adoptive mothers**

The Supreme Court in Hamsaanandini Nanduri v Union of India and Others, Writ Petition (Civil) Number 960 of 2021, has held Section 60(4) of the SS Code as unconstitutional and violative of Article 14 and 21 of the Constitution of India 1950 insofar as it restricts maternity benefit to adoptive mothers adopting a child below the age of three months.

We have covered aspects of the case in detail in our ERGO dated 27 March 2026 which may be accessed [here](#).

## **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.

### **Result-Oriented Work Environments (ROWE) emerge as the new productivity benchmark for India Inc.**

India Inc. is moving beyond the traditional metrics of activity-based work to a more transformative approach of [ROWE](#), to evaluate the productivity standards of the employees. Under this model, employees are evaluated on the outcomes and deliverables they produce, rather than the number of hours logged in or their physical presence at the office. This shift reflects a recognition that traditional productivity metrics such as attendance, number of emails sent, etc. are not adequate measures of the real performance in knowledge-based roles. As a result, Indian employers are redesigning performance frameworks.

However, organisations must deal with challenges of navigating a cultural shift, equipping managers to lead through outcomes, and identifying roles suitable for ROWE model. The rise of ROWE is a step towards redefining workplace productivity in India and balancing employee flexibility with performance.



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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