

ELB E-BULLETIN

April 2026 | Volume VIII | Issue IV

Welcome to the fourth 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.

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 April 2026 and May 2026, the government of Andhra Pradesh, Ladakh, Himachal Pradesh, Maharashtra, Chhattisgarh and Goa have released the draft rules pursuant to the labour codes.
- 4. Issuance of final rules and allied notifications by the Central Government:** The Central Government has notified and brought into effect the final rules under the labour codes on 8 May 2026. In addition, model standing orders and several other enabling notifications have been issued, including those relating to the establishment of the workers' reskilling fund and the levy and collection of cess in respect of building and other construction activities.

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.

Ministry of Law and Justice enacts the Transgender Persons (Protection of Rights) Amendment Act 2026

The Ministry of Law and Justice enacted the Transgender Persons (Protection of Rights) Amendment Act, 2026 (Transgender Persons Amendment Act 2026), published in the Official Gazette on 30 March 2026. The Transgender Persons Amendment Act 2026 amends the Transgender Persons (Protection of Rights) Act, 2019, to



Revise the definition of transgender persons which importantly, now excludes individuals with different sexual orientation and self-perceived sexual identities from its ambit.



Provide that a certificate of identity may be issued only after consideration of the recommendation of the medical authority and, where required, consultation with medical experts.



Require transgender persons who have undergone surgery to mandatorily apply for modification of their certificate of identity, with the concerned medical institution being required to furnish relevant details in relation to such surgery.



Revise the composition of the National Council for Transgender Persons.

A petition has been filed before the Supreme Court of India challenging the constitutionality of the Transgender Persons Amendment Act 2026.

Introduction / Proposal of amendments to shops and establishment legislations

In the past one-month, multiple states have introduced certain amendments / proposed amendments to their respective applicable shops and establishment legislations. Set out below is a short summary of these updates:

1. Haryana: Pursuant to a notification dated 30 March 2026 published in the Official Gazette, the Government of Haryana has exempted shops and commercial establishments situated in Haryana and registered online through the auto-mode self-certification process from the applicability of Section 9 (opening and closing hours) and Section 10 (close day) of the Haryana Shops and Commercial Establishments Act, 1958, subject to certain conditions. These conditions include, inter alia:

a

Obtaining exemption approval for employment of women during night shifts (8:00 PM to 6:00 AM).

b

Restricting working hours to 48 hours per week and 10 hours per day.

c

Payment of overtime wages at twice the ordinary rate of wages.

d

Providing a rest interval of at least half an hour after every 6 hours of work.



- 2. Maharashtra:** The government of Maharashtra published the draft Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) (Amendment) Rules, 2026 (Amendment Rules) in the Official Gazette on 23 March 2026. The Amendment Rules intend to
- a. Reduce the timeline for rejection of a registration application from 7 working days to within 1 working day.
 - b. Remove certain details from Form A such as additional workplace details, family members employed, and adding details on whether the business is run from owned premises or run from rented premises, among others.
 - c. Expand the list of acceptable address proofs for registration of establishment such as electricity bill, sale deed, among others.

Ministry of Women and Development releases a press release on the SHe-Box Portal

The Ministry of Women and Child Development (MWCD), through a press release published on 1 April 2026, stated, inter alia, that:



The SHe-Box Portal (Portal) has been adopted, with more than 1,61,000 workplaces registered on the Portal.

The MWCD is engaging with various authorities to streamline implementation of the Portal across sectors.

The Hon'ble Supreme Court has directed state and district officers to conduct surveys of organisations to ensure compliance with the requirement to constitute internal committees under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act).

Authorities have been directed to strengthen local committees by updating details of the relevant officers, as mandated under the POSH Act.

Training and awareness sessions are being conducted in relation to the POSH Act and the Portal, among other initiatives.



Chhattisgarh amends the Chhattisgarh Factories Rules 1962

The Government of Chhattisgarh introduced amendments to the Chhattisgarh Factories Rules, 1962 through a notification published in the Official Gazette on 9 February 2026 (Chhattisgarh Factories Rules). The amendments, inter alia:

- a. Prohibit the employment of pregnant women, lactating mothers (i.e., a woman up to six months after childbirth), and young persons in hazardous processes specified under the relevant schedules.
- b. Permit the employment of women and other persons, excluding pregnant women, lactating mothers, and young persons, in such hazardous processes subject to enhanced safety and monitoring requirements, including in relation to exposure periods, emergency response training, and health monitoring, as prescribed under the relevant schedules, among other conditions.

Karnataka introduces the Karnataka Tax on Profession Amendment Act 2026

The government of Karnataka published the Karnataka Tax on Profession, Trades, Callings and Employments (Amendment) Act, 2026, which received the Governor's assent on 27 March 2026. Such amendment provides that:



Every enrolled person who has paid the applicable professional tax a year will be deemed to have filed the return for that year

The relevant authority may by notification, exempt employees from furnishing the applicable return, subject to conditions specified in the notification.

Revision of contribution cap under the Haryana labour welfare fund

The Haryana labour welfare board, by notification dated 8 May 2026, has revised the maximum monthly employee contribution under the Haryana Labour Welfare Fund Act, 1965. With effect from 1 January 2026, employees' share of contribution is required at 0.2% of their salary, wages or remuneration, subject to a revised cap of INR 35 per month, increased from the earlier cap of INR 34 per month applicable until 31 December 2025. The employer's contribution continues to be twice the employee's contribution.

Odisha repeals professions tax legislation

The Governor of Odisha has promulgated the Odisha State Tax on Professions, Trades, Callings and Employments (Repeal) Ordinance, 2026 on 21 April 2026, which repeals the Odisha State Tax on Professions, Trades, Callings and Employments Act, 2000 (Odisha PT Act). The Ordinance has come into force with effect from 1 April 2026. The repeal does not affect the previous operation of the repealed Odisha PT Act, including any assessments made, taxes paid or liabilities incurred prior to its repeal.



Case Updates

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

Domestic enquiry for sexual harassment cannot be invalidated for non-constitution of an internal committee as per the Vishaka Guidelines: Bombay High Court

In *GlaxoSmithKline Pharmaceuticals Limited v Suhas Shankar Pagare and Another*, Writ Petition Number 2297 of 2026, the Bombay High Court held that a domestic inquiry into allegations of sexual harassment conducted prior to the enforcement of the POSH Act will not be vitiated solely due to non-constitution of an internal committee (IC) in the exact manner as prescribed in the case of *Vishaka v State of Rajasthan*, (1997) 6 SCC 241 (Vishaka Guidelines).

The second respondent, an employee of the petitioner company was accused of sexually harassing and physically assaulting a female co-worker in 2011. Upon receipt of the complaint, the petitioner initiated a preliminary inquiry, issued show-cause notice and thereafter issued a charge sheet under the applicable model standing orders. A domestic inquiry was conducted by an appointed inquiry officer, during which the second respondent was provided with a reasonable opportunity. Upon conclusion of the inquiry, the second respondent was found guilty of the sexual harassment charges and his employment was terminated. The second respondent challenged the employment termination before the industrial tribunal (Tribunal). The Tribunal held that the inquiry conducted by the petitioner was illegal since the petitioner had failed to constitute an IC in accordance with the Vishaka Guidelines.

Aggrieved by the award of the Tribunal, the petitioner approached the Bombay High Court. The court observed that while the Vishaka Guidelines were binding prior to the enactment of the POSH Act, their primary objective was to ensure principles of natural justice in inquiries relating to sexual harassment. The court held that mere absence of an IC in accordance with the Vishaka Guidelines would not solely render a domestic inquiry illegal provided that the employee had been informed of the charges, supplied with relevant material and afforded a reasonable opportunity.

The Bombay High Court further held that the Tribunal had erred in invalidating the inquiry without examining actual prejudice and violation of principles of natural justice. Accordingly, the court set aside the award to the extent it declared the inquiry illegal and perverse, and remanded the matter to the Tribunal for fresh consideration.



Blocking workplace access does not constitute as valid termination without any prior enquiry: Madras High Court

In the Vice President, Human Resources, Cognizant Technology Solutions India Private Limited v Joint Commissioner of Labour and Others, Writ Petition Number 517 of 2025, the Madras High Court upheld the order of the appellate authority holding the termination of the second respondent illegal for non-compliance with the procedure prescribed under the Tamil Nadu Shops and Establishments Act 1947. The court held that blocking entry access of an employee in the workplace without conducting any inquiry or prior communication of a termination order is illegal.

The second respondent was an employee with the petitioner company. In April 2018, a show cause notice was issued to the employee due to underperformance. Upon submitting his explanation, the second respondent was advised by the human resources representative of the petitioner to proceed on leave. When the second respondent returned in May 2018, his access card to the workplace was blocked and a sum of INR five lakhs was credited to his account. Neither an inquiry was conducted nor a written employment termination order was served on him.

The second respondent challenged the termination before the appellate authority. The petitioner argued that the employment termination of the second respondent was due to his unauthorised absence and that multiple attempts were made directing the second respondent to report for work. The appellate authority found that the employment termination order when sent through a courier was not received by the employee. Further, in the absence of a proper inquiry and considering that the charges were only for poor performance and unauthorised absence, the employment termination of second respondent was held as illegal.

Aggrieved by the appellate authority's order, the petitioner approached the Madras High Court. The Madras High Court held that termination of employment must strictly comply with statutory safeguards and principles of natural justice, particularly when an employee has rendered long years of service. The court observed that no domestic inquiry had been conducted either with respect to the allegation of poor performance or unauthorised absence. The court held that using access control systems to effectively disengage an employee without due process violates basic human rights. Accordingly, the court dismissed the writ petition, finding no perversity or illegality in the order passed by the appellate authority.

Menstrual leave policy must be effectively implemented across establishments: Karnataka High Court

In Smt Chandravva Hanamant Gokavi v State of Karnataka and Others, Writ Petition Number 109734 of 2025, the Karnataka High Court directed the State to ensure strict implementation of the Policy across all establishments and sectors through appropriate guidelines and circulars until Karnataka Menstrual Leave and Hygiene Bill, 2025 is enacted. The petitioner approached the court seeking enforcement of



government order dated 20 November 2026 and gazette notification dated 12 November 2025 (Orders) introducing the Policy which provides 1 day of paid leave per month to women employees during their menstrual cycle. It was contended that despite the issuance of the Orders, the policy was not being implemented across establishments, particularly in the unorganized sector where women workers are most vulnerable.

However, it should be noted that the High Court's ruling does not determine the legal validity, enforceability, or binding nature of the Menstrual Leave GO itself. The proceedings were confined to the question of whether menstrual leave benefits under the existing policy framework should be extended to the unorganised sector. A separate writ petition challenging the validity of the Menstrual Leave GO is presently pending before the Karnataka High Court. The outcome of that proceeding will be determinative for assessing the enforceability of the GO against private employers.

Criminal prosecution against the employer for non deposit of EPF dues not get extinguished by insolvency resolution or subsequent payment of the dues: Odisha High Court

In *Anil Kumar Gilra v State of Odisha and Another*, Criminal Miscellaneous Case Number 4645 of 2024, the Odisha High Court refused to quash criminal proceedings initiated against the employer for non deposit of employees' provident fund (EPF) contributions. The court held that subsequent approval of a resolution plan under the Insolvency and Bankruptcy Code, 2016 (IBC) does not extinguish criminal liability for offences already committed under the erstwhile Indian Penal Code, 1860 (IPC) and non-compliances under the erstwhile Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (EPF Act).

The prosecution arose from a first information report (FIR) lodged in 2014 against the petitioner, who was serving as promoter director of the company at the time. It was alleged that the petitioner deducted EPF contributions from wages but failed to remit the same within the statutory time period, thereby committing criminal breach of trust under Section 406 and 409 of the IPC read with Section 405. Subsequently, the petitioner though various transactions from July 2014 to February 2015 cleared the outstanding EPF contributions. Later, in 2022, the company underwent insolvency by an order of National Company Law Tribunal whereby going concern of the company was acquired by the successful Resolution Applicant.

The petitioner contended that the EPF dues were subsequently deposited, which was also acknowledged by the provident fund authorities. Additionally, the resolution plan approved in the pending insolvency proceedings before the NCLT provided that any litigation or proceedings initiated against the promoter group of the company shall stand extinguished. Further, Section 238 of IBC provides that IBC by virtue of being a special legislation has an overriding effect over other laws. As a result, the petitioner contended that the continuation of criminal proceedings post approval of the resolution plan defeated the object of insolvency resolution. Insolvency resolution proceedings extinguished all past liabilities, including criminal proceedings relating to non-remittance for EPF contributions.



The respondents contended that the petitioner failed to discharge the duty of the employer of clearing all the outstanding dues and that insolvency proceedings or subsequent remittance cannot nullify offences already committed.

The High Court held that failure to deposit EPF contributions constitutes an offence and cannot be waived off by NCLT which lacks authority to extinguish criminal liability. Accordingly, the High Court dismissed the petition and declined to interfere with the pending prosecution.

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.

ILO study flags concerns over impact of AI surveillance on employee wellbeing

Workplaces are increasingly adopting [AI technology](#) for various tasks in the cycle of the employment relationship such as recruitment, training, monitoring and surveillance, including performance tracking systems and real-time activity logs, to boost efficiency and productivity. A recent ILO working paper highlights the concerns associated with the use of such technology regarding employee safety, health and wellbeing, including psychosocial and ethical risk. AI systems facilitate large scale data collection enabling extensive control and intrusion in the work environment. Excessive surveillance has significant implications on employee health and wellbeing due to shrinking of job autonomy, erosion of trust, and lack of transparency. As the regulatory framework remains unequipped to address the challenges raised by AI integration, organisations must support employee safety and wellbeing by limiting intrusive surveillance, protecting employee autonomy and building transparency into decision making mechanisms.

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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