



JUDGMENTS | POLICY UPDATES | NEWS | ARTICLES | OPPORTUNITIES

**CENTRE FOR LABOUR LAW  
RESEARCH AND ADVOCACY**



Email: [cllra@nludelhi.ac.in](mailto:cllra@nludelhi.ac.in)

Website: <https://cllra.com>

Golf Course Road, Pocket 1, Sector 14, Dwarka, New Delhi, Delhi – 110078

**Managing Editor:**

**Dr. Sophy K.J., Associate Professor,  
NLUD & Director, CLLRA**

**Editor in Chief:**

**Dev Dhar Dubey, Researcher, CLLRA**

**Editors:**

- 1. Akanksha Yadav, Researcher,  
CLLRA**
- 2. Tejas Misra, Research Intern, CLLRA**
- 3. Kapil Verma, Researcher, CLLRA**



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The Centre for Labour Law Research and Advocacy (CLLRA) was established in August 2022 at the National Law University Delhi (NLUD) to revitalize Labour Law research in the context of evolving work structures and legal frameworks. The Centre focuses on a 'bottom-up' approach to address livelihood issues and aims to bring about social change and improve the quality of life for the most neglected sections of working people in India through the Rule of Law. The three-tiered team of CLLRA contains Institutional Patrons, an Advisory Board and a Centre Management team under the supervision of Dr. Sophy K.J., Director of CLLRA. The Centre's pedagogy is the use of "Praxis" i.e., the use of "Theory" and "Practice", always ensuring that one informs the other. Hence there will always be special efforts to listen to problems and insights that emerge from the grassroots and to specialised scholars from relevant social sciences with a critical mind. The Centre is open to learning and using lessons derived from International standards, Comparative jurisprudence, Constitutional law, Statutory law, case law and experiential learning. CLLRA remains particularly sensitive to deriving insights from the 'feminist movement' in the struggle against patriarchy, the movement of 'persons with disabilities', the 'child rights movement', and especially the social movements of the excluded and marginalised people, to seriously internalise different perspectives and contribute substantially to the realisation of an inclusive society.

This Newsletter, titled 'Labour Law Insights', started as there is a need for renewed thinking to reinvigorate Labour Law in the context of debates on new work, new employment relations and new legal frameworks. The lack of exchange and sharing of information on labour law and policy updates through a consistent medium has created a vacuum in the assimilation of knowledge around the discipline. This Newsletter attempts to fill in this gap by bringing forth important judicial discourse, legislative updates, scholarly discussions and information on labour to the readers. It aims to reach a wider audience, inclusive of both students and researchers and therefore, opportunities for career/future learning are also included in the Newsletter. At the very outset, it is necessary to clarify that in today's context when we say 'labour', we must take it to mean the entire 'workforce' in our society. The Centre will strive to study conditions in which all working people can live with dignity. There is an increasing need to study various anti-poverty and social justice measures with labour-related entitlements so that the workforce can access a package of measures which contributes to their enhanced quality of life. The 'Labour Law Insights' newsletter has four primary objectives:

- (i) disseminating legal knowledge by conveying developments in Indian labour laws,
- (ii) elucidating precedent through curated case laws,
- (iii) cultivating awareness about legal rights and safety among the workforce, and
- (iv) fostering scholarly discourse on labour law topics.

The Newsletter commits to providing an informative platform that enhances understanding of labour laws and their profound impact on the Indian labour landscape. Hope you will read and write to us at [cllra@nludelhi.ac.in](mailto:cllra@nludelhi.ac.in) with your feedback.

Best regards,  
**Sophy**

# LABOUR LAW INSIGHTS

Decoding Labour Discourse: Insights, Updates, and Analysis

## LANDMARK LABOUR JUDGEMENTS

### Supreme Court

#### Ad-Hoc Appointment

#### RAJASTHAN AGRICULTURAL UNIVERSITY, BIKANER, THROUGH ITS REGISTRAR V. DR. ZAFAR SINGH SOLANKI & ORS., 2024 INSC 581

**Facts:** The respondents were employed as lecturers with the petitioner on an ad-hoc basis before being appointed as Assistant Professors. The university made a decision to allow the benefit of the Career Advancement Scheme ('CAS') to only those Assistant Professors directly selected after regular selection. The CAS gave a higher pay-scale to those persons who had completed eight years of service after a regular appointment. The respondents prayed that they be considered also for the purpose of CAS benefit.

**Judgment:** The SC held that services rendered in an ad-hoc appointment as Lecturer before being appointed as Assistant Professor on a regular basis cannot be counted for determining the eligibility for the grant of the senior pay scale under the CAS. It held that such an exercise should be left to the government's directives unless patently perverse or arbitrary in law

SERVICES RENDERED IN AN AD-HOC APPOINTMENT CANNOT BE COUNTED FOR DETERMINING THE ELIGIBILITY FOR SENIOR SCALE

#### Pay Fixation

#### JAGDISH PRASAD SINGH V. STATE OF BIHAR & ORS., CIVIL APPEAL NO. 1635 OF 2013

**Facts:** The appellant was employed with the Bihar Government and after 8 years of retirement, the government had incorrectly calculated his pay fixation, and thus the government sought to recover the difference from him.

**Judgment:** The SC observed that any step of reduction in the pay scale and recovery from a Government employee would tantamount to a punitive action because the same has drastic "civil as well as evil consequences." The Court stated that such recovery should not put undue hardship on innocent employees and should be guided by principles of natural justice.

ANY STEP OF REDUCTION IN THE PAY SCALE AND RECOVERY FROM A GOVERNMENT EMPLOYEE WOULD TANTAMOUNT TO A PUNITIVE ACTION

#### Pension

#### UNION OF INDIA & ORS. V. LOKESH KUMAR ARYA, SLP (C) NO. 21758 OF 2023

**Facts:** In a decision of the Delhi High Court, it was held that paramilitary forces and Central Armed Police Forces personnel are Armed Forces of the Union and the Old Pension Scheme ('OPS') is applicable to them. The personnel had contended that despite various court decisions stating that the paramilitary forces are armed forces of the Union, they were not granted the benefit of the OPS.

**Judgment:** The Supreme Court allowed the Union to appeal against the High Court decision and confirmed an interim stay that was imposed on the HC order, and with an observation that the matter was not urgent, re-listed the matter for hearing.

SC ALLOWED THE UNION TO APPEAL AGAINST THE HIGH COURT DECISION ON OPS

## Health & Safety

**SUPREME COURT DIRECTED THE NATIONAL GREEN TRIBUNAL TO MONITOR AND ENSURE COMPLIANCE WITH MINIMAL STANDARDS IN INDUSTRIES PRONE TO SILICOSIS DISEASE**

### PEOPLES RIGHTS AND SOCIAL RESEARCH CENTRE (PRASAR) & ORS. V. UNION OF INDIA & ORS., WP (CIVIL) NO. 110 OF 2006

**Facts:** The petition was filed by an NGO to address the rampant spread of the incurable lung disease called “Silicosis” that was caused by prolonged inhalation of silica dust in industries such as mining, construction, stone cutting, and sandblasting. The petitioners contended that such a widespread prevalence of the disease was violative of their right to health under Article 21, and that the State had the mandate to protect workers’ health and security under Articles 39(e) and 42 of the Constitution.

**Judgment:** The Supreme Court directed the National Green Tribunal to monitor and ensure compliance with minimal standards in industries prone to silicosis disease and to take necessary steps to prevent the spread of the disease. It also directed the NHRC to oversee the compensation process of persons suffering from such disease across various states. The Supreme Court also directed its Registry to forward all relevant reports of State Committees, CPCB, NHRC, and DGMS to the NGT and NHRC and allowed the petitioners to approach these bodies to assist in implementing the Court’s directions.

## Sexual Harassment

**SUPREME COURT NOTED THAT IN MANY CASES, THE ICCS WERE NOT IN ACCORDANCE WITH THE POSH ACT, SUCH AS BEING HEADED BY A MALE MEMBER**

### AURELIANO FERNANDES V. STATE OF GOA AND OTHERS, CIVIL APPEAL NO. 2482 OF 2014

**Facts:** In 2023, the Supreme Court had directed the Union Government, State Governments and Union Territories to verify if all the Ministries, Departments, and other government bodies had constituted committees where the victims of sexual harassment can lodge their complaints under the ambit of the Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act). In the present matter, the Court was looking into whether the directions had been complied with.

**Judgment:** The Union of India stated that the government was in the process of developing a dashboard where all the information relating to various Internal Complaint Committees (ICCs) would be collated and displayed, and the Court directed the Union to file an affidavit furnishing the details of the dashboard. The Supreme Court noted that in many cases, the ICCs were not in accordance with the POSH Act, such as being headed by a male member, and further that many of the affidavits filed by the authorities were generalized and contained less information. The Court also noted that none of the PSUs had filed any affidavits. Thus, the Court directed for all the relevant authorities to file their affidavits in a tabulated form and directed the Ministry of Women and Child Development to ensure that the various PSUs collate the information as directed by the Court.

## Promotion

**EMPLOYEES PROMOTED TO A PARTICULAR CADRE CANNOT CLAIM THE BENEFITS GIVEN TO THOSE DIRECTLY RECRUITED IF THE DATE OF DIRECT RECRUITMENT WAS PRIOR TO THE DATE OF PROMOTION**

### MHABEMO OVUNG & ORS. V. M. MOANUNGBA & ORS., CIVIL APPEAL NOS. 9927 OF 2024

**Facts:** The Nagaland government published a seniority list that contained two sets of appointees for the position of junior engineer. There were two sets of appointees in the position of junior engineers wherein one set of appointees was directly recruited and another set was promoted to the position. The seniority list kept the engineers who were directly recruited at higher ranks than the junior engineers who were promoted. Aggrieved, the promoted engineers filed a writ petition before the High Court, which had dismissed their petitions.

**Judgment:** The Supreme Court observed that employees promoted to a particular cadre cannot claim the benefits given to those directly recruited if the date of direct recruitment was prior to the date of promotion. A promoted employee can only claim seniority from the date from when they joined the cadre through promotion and not from when they were working in the previous role. Thus, the Court upheld the original seniority list.

## Allowance and Benefits

### RAJKARAN SINGH & ORS. V. UNION OF INDIA & ORS., C.A. NO. 009721 OF 2024

**Facts:** The appellants were appointed to manage a special deposits fund of the Special Frontier Force in various positions, and received various special allowances along with their salary as per the 4th and 5th Central Pay Commissions ('CPC'). In 2006, the Union of India implemented the 6th CPC whose benefits were not extended to the appellants but instead, only an ad-hoc amount of 3000/- per month was given to each of them.

**Judgment:** The Supreme Court observed that the employees who were performing the duties indistinguishable from the regular government employees cannot be deprived of the benefits accorded to the government employees. The Court said that once it is established that the employee, who was not primarily appointed on a regular basis, performs the role and responsibilities of a regular employee for a long time and receives the same benefit as that of a regular employee, then such an employee no longer remains a temporary employee and should be considered as a regular employee. Accordingly, the appeal was allowed and the respondents were directed to extend the benefits of the 6th CPC to the appellants.

**EMPLOYEES WHO WERE PERFORMING THE DUTIES INDISTINGUISHABLE FROM THE REGULAR GOVERNMENT EMPLOYEES CANNOT BE DEPRIVED OF THE BENEFITS ACCORDED TO THE GOVERNMENT EMPLOYEES**

## Increments

### INDIAN COUNCIL OF AGRICULTURAL RESEARCH V. RAJINDER SINGH & ORS., 2024 INSC 622

**Facts:** A circular issued by the appellant provided for two advance increments to scientists upon acquiring a Ph.D. degree during their service. The respondents were technical personnel employed with the Indian Agricultural Research Institute (IARI) and sought similar benefits arguing that their Ph.D. qualifications equally enhanced their contributions to agricultural research.

**Judgment:** The Supreme Court held that merely having the requisite qualifications does not make applications eligible for grant of advance increments when the same has not been recommended for them. It noted that technical personnel were governed by different sets of rules, had their channel of promotion, and had different qualifications prescribed for recruitment. The duties assigned to them were also different as compared to the scientists, who are engaged in core work of agricultural research and education whereas the technical personnel provided support in different areas. Two different sets of employees working alongside but governed by different set of rules and having different duties does not entitle them to such benefits.

**SC HELD THAT MERELY HAVING THE REQUISITE QUALIFICATIONS DOES NOT MAKE APPLICATIONS ELIGIBLE FOR GRANT OF ADVANCE INCREMENTS WHEN THE SAME HAS NOT BEEN RECOMMENDED FOR THEM**

## Contractual Appointment

### SWATI PRIYADARSHINI V. STATE OF MADHYA PRADESH & ORS., CIVIL APPEAL NO. 9758 OF 2024

**Facts:** The appellant was appointed by the State on a contractual basis for one academic session, renewable for two years subject to satisfactory performance in the first year. However, five days after taking charge, her responsibility was withdrawn for various allegations including dereliction of duty, negligence, and indiscipline. Her contract was not renewed and aggrieved, she filed a writ petition contending that this was harassment as she had complained about her working environment. The State instead contended that the dismissal was not stigmatic and that it was a simple non-renewal of contract.

**Judgment:** The SC held that termination based on misconduct or inefficiency amounts to punishment and must follow due process. The mere absence of mentioning the background situation in a termination order does not make it non-stigmatic and the court can look into the context to determine the true nature of the termination order. Looking into the merits, the Court observed that the dismissal had not followed proper protocol and thus directed the appellant to be reinstated.

**SC HELD THAT TERMINATION BASED ON MISCONDUCT OR INEFFICIENCY AMOUNTS TO PUNISHMENT AND MUST FOLLOW DUE PROCESS**

## Compensation

### MEENAKSHI V. THE ORIENTAL INSURANCE CO. LTD., DIARY NO. 39746 OF 2018

**Facts:** The High Court of Karnataka held that components of house rent allowance, flexible benefit plan, and contribution to provident fund to the basic salary of the deceased should not be included while applying the principle of rise in income by future prospects while computing the compensation to be paid to the dependants of victims of motor accidents. This was appealed before the Supreme Court.

**Judgment:** Setting aside the High Court order, the Supreme Court observed that the emoluments and benefits such as house rent allowance, flexible benefit plan, contribution to provident fund, etc. accrued to the deceased ought to be included while computing the loss of dependency to determine the compensation. The Court held that the HC had not considered that allowances to a salaried employee do not remain static and are given several benefits outside of the basic salary.

**EMOLUMENTS & BENEFITS ACCRUED TO THE DECEASED OUGHT TO BE INCLUDED WHILE COMPUTING THE LOSS OF DEPENDENCY TO DETERMINE THE COMPENSATION**

## 2nd National Judicial Pay Commission

### ALL INDIA JUDGES ASSOCIATION V. UOI & ORS. WP(C) NO. 643 OF 2015

**Facts:** The petition was filed by the All India Judges Association Case relating to the implementation of the Second National Judicial Pay Commission.

**Judgment:** The Apex Court flagged concerns relating to the issue of meagre retirement pensions being given to the District Judges. The CJI stressed that judges are elevated to the High Court at the age 56-58 years from lower judiciary and retire with a meagre pension making it difficult for them to live a comfortable post-retirement life. The Court added that the majority of life of such judges is spent in the district courts and as guardians of the judicial system, the Supreme Court had to address such issues.

**SUPREME COURT FLAGGED CONCERNS RELATING TO THE ISSUE OF MEAGRE RETIREMENT PENSIONS BEING GIVEN TO THE DISTRICT JUDGES**

## Regularization

### MAITREYEE CHAKRABORTY V. THE TRIPURA UNIVERSITY & ORS., SLP (C) NO. 16944 OF 2022

**Facts:** The respondent university advertised 3 posts for the post of Assistant Professor in law. There were two lien vacancies, one in the open category and one in the OBC category. The appellant was selected in the open category and the appointment order issues to her mentioned that in case the lien was vacated, her service may be continued further in the university. The lien was then vacated but the respondent still did not appoint her to the post.

**Judgment:** The Supreme Court held that a statutory body such as a University cannot act unfairly and arbitrarily in matters of regularization. The decision to regularize cannot be based "on the whims of the decision-making authority", rather, it should have good reasons to justify the exercise of its power. The Court noted that the performance of the appellant had been satisfactory and that the appointment order had already given her legitimate expectations that she would be regularized in case the lien was vacated. Thus, a statutory body must explain such denial of legitimate expectations. Accordingly, the Court directed the respondent to pass an appropriate order in accordance with the judgment.

**A STATUTORY BODY SUCH AS A UNIVERSITY CANNOT ACT UNFAIRLY AND ARBITRARILY IN MATTERS OF REGULARIZATION**

Compassionate  
Employment

## U.P. STATE ROAD TRANSPORT CORPORATION & ORS. V. BRIJESH KUMAR & ANR., 2024 INSC 638

**EVEN IF SOMEONE IS EMPLOYED ON A CONTRACTUAL BASIS, HIS TERMINATION CAN NOT BE PASSED WITHOUT FOLLOWING THE PRINCIPLES OF NATURAL JUSTICE**

**Facts:** The respondent was the son of a deceased conductor employed under the appellant. The respondent was also appointed as a conductor on compassionate grounds. After being found guilty of misconduct, the appellant terminated his services. He challenged his termination and claimed that he was a permanent employee and could not be dismissed without a disciplinary inquiry.

**Judgment:** The Supreme Court first considered whether the respondent was employed under the rules of compassionate employment under the Dying in Harness Rules or was employed independent of it on a contractual basis. It observed that the respondent was extended the benefit of a policy decision taken by the appellant which gave preferential treatment to dependents of deceased employees, and thus was not appointed on a compassionate basis. Thus, the employee was not a permanent employee but a contractual one. Regardless, the Court noted that even if he was employed on a contractual basis, his termination was passed without following the principles of natural justice, and thus set aside the termination order.

## CALL FOR PAPER FOR NLUD JOURNAL ON LABOUR

1. Co-Authorship is allowed
2. Submission from researchers, activists, academicians and practitioners are acceptable.
3. Deadline is **30th Nov, 2024**
4. Submission can be made through [cllra.com](http://cllra.com) or via mail.
5. Double Blind Peer Review Process
6. Plagiarism and AI should be under 10%.
7. APA Citation Style is acceptable
8. Full paper need to be submitted



# NLUD Journal on 'LABOUR'

# CALL FOR PAPERS



**Call for Papers:**

Inaugural edition of NLUD Journal on LABOUR, themed 'Sociology of Labour'.

**SUB-THEMES**

- Nature of work, work relationship and occupational style
- Various sectors within informal/formal sector and its political economy
- Labour and Development discourse on work
- Feminist analysis of Labour, Migration and Development
- Intersectional analysis of Labour confluence
- Marginalised labour categories and historical injustices
- Structure of Labour Law and its influence on Labouring Lives
- Just transition debates on labour
- New industries, new cities and new labour
- Urban development and labour

**TYPES OF SUBMISSIONS**

- Special Articles [8000-10000 words]
- Short Articles [5000-8000 words]
- Insights/Perspectives [3500-4500 words]
- Book Reviews/ Case Notes [2500-3000 words]
- Field Notes/Pictorial Commentaries [1-2 Pages]

**SUBMISSION GUIDELINES**

- All submissions (except Book Reviews) should be accompanied by an abstract of not more than 300 words and 5 important keywords.
- All word limits are inclusive of footnotes.
- Referencing and citations must conform to the APA Citation style

**SUBMISSION PROCESS**

All the submissions must be made online at [submission portal \[cllra.com\]](http://submissionportal[cllra.com]) or at [jol@nludelhi.ac.in](mailto:jol@nludelhi.ac.in)

**IMPORTANT DATE**

20TH JULY 2024	30TH NOV 2024	15TH FEB 2025	30TH APRIL 2025	15TH JULY 2025
Paper submission begins	Paper submission deadlines	Acceptance and Review Process	Final Acceptance and Confirmation	Publication Date

More Information
Centre for Labour Law Research and Advocacy
[www.cllra.com](http://www.cllra.com)
[jol@nludelhi.ac.in](mailto:jol@nludelhi.ac.in)



## High Court

### Allahabad High Court

1. Baba Singh v. State of U.P. & Ors., Writ – A No. 12055 of 2024 - Employment prospects cannot be denied to candidates simply because s.498A of IPC has been lodged against them, as it can be lodged against the entire family to pressurize them.
2. Ram Niwas Singh & 5 Ors. v. State Of U.P. Thru. Addl. Chief Secy. Basic Edu. Lko And 5 Ors., Writ - A No. 341 of 2023 - The doctrine of relation back applies in service disputes where subsequent orders have been passed in favour of the employee relates to the initial disputes.
3. Ravi Prakash Mishra v. State Of U.P. Thru. Addl. Chief Secy. Panchayati Raj, Lko. & 7 Ors., Writ - A No. 5951 of 2024 - An employee involved in elections cannot be transferred without the prior permission of the State Election Commission.

### Bombay High Court

1. Divvela Ramaiah & Anr. v. Union of India & Anr., W.P. No.13205 of 2022 - The Court upheld the constitutional validity of Regulation 10 of the 'Institute of Actuaries of India (Admission as Member and Issuance of Certificate of Practice) Regulations 2017, which denied a Certificate of Practice (CoP) to Associate Members by not classifying them as actuaries.
2. Registrar General High Court of Chhattisgarh v. Fanendra Kumar Bisen & Ors., 2024:CGHC:29471-DB - Employees cannot claim the continuance of advance increments granted for family planning purposes after their promotion or revision of pay scale.
3. Shramik Janata Sangh v. State of Maharashtra, WP No. 1570 of 2023 - The High Court ordered the government to create a social media handle for citizens to report manual scavenging.

### Calcutta High Court

1. Md. Abu Raihan v. State of West Bengal & Ors., WPA 20165 of 2024 - Child care benefits must be extended to both male and female employees. The court further held that the family responsibilities must be shared by both the mother and the father.
2. Subal Makhal v. Indian Red Cross Society & Ors., WPCT 225 of 2023 - Findings in criminal trials should have bearing on disciplinary proceedings, especially when the charges are identical or closely related.
3. Rajib Brahma and Ors. v. State of West Bengal & Ors., MAT 638 of 2021 - The High Court directed the West Bengal School Service Commission to complete the appointment process of more than 14,000 candidates as Assistant Teachers in Government aided or sponsored schools, in order to ensure educational development in the State.

### Jammu and Kashmir High Court

1. Bashir Ahmad Sheikh v. Mehran Ibn Bashir & Ors., CRM(M) No.443/2024 - A father is obligated to maintain his children, even if the mother is employed.
2. Bashir Ahmad Wani v. J&K Forest Development Corporation & Ors., WP(C) No. 2183/2020 - While setting aside an order treating the absence of an employee as unauthorised and directing for its regularization, the competent authority has the option to secure a second medical opinion before concluding on the genuineness of medical leave.

### Delhi High Court

1. Vishav Bandhu Gupta v. Union of India, WP (C) 1522 of 2018 - Dismissal is the only commensurate punishment for an employee continuously castigating his employer with false and scandalous allegations.

### Gauhati High Court

1. Rangan Kr. Nath v. Union of India & Ors., WP (C) No. 196 of 2016 - An employee is not entitled to pensionary benefits if they submit a voluntary resignation, as it results in the forfeiture of their past service.

### Chhattisgarh High Court:

1. Registrar General High Court of Chhattisgarh v. Fanendra Kumar Bisen & Ors., 2024:CGHC:29471-DB - Employees cannot claim the continuance of advance increments granted for family planning purposes after their promotion or revision of pay scale.

### **Jharkhand High Court**

1. Mithun Nonia @ Mithun Mahto v. The State of Jharkhand, Cr. Revision No. 362 of 2022 - Awarding unrealistically high maintenance in cases involving individuals employed in the unorganised sector can lead to difficulties in realising the maintenance amount.

### **Karnataka High Court**

1. Guddappa Ningappa Kolaji v. The Management Of Grasim Industries, 2024:KHC-D:10369 - The High Court dismissed a petition to change the date of birth in service records where the opportunity to change the same was not availed by the employee in the first instance.
2. Shanthalakshmi v. State of Karnataka & Ors., WP No. 40204 of 2012 - Employees who have been working as daily wage workers for over 10 years without a sanctioned post are entitled to regularisation of service.
3. Uppinangady Co-operative Agricultural Society Ltd. v. State of Karnataka, 2024 SCC OnLine Kar 70 - S. 128-A of the Karnataka Co-operative Societies Act was declared unconstitutional by being violative of Art. 43-B as it empowered the Registrar to completely take away the right of a co-operative society to recruit, transfer or hold disciplinary enquiry against its employees.
4. Dr. Suvetha P. & Ors. v. State of Karnataka & Ors., WP No. 19783 of 2024 - The Court stayed a notification requiring students who have completed their PG Medical courses before August 2023, to register for rendering compulsory rural service.

### **Kerala High Court**

1. Fact United Employees Liberation v. The Fertilisers And Chemicals Travancore Limited, WP (C) No. 1071 of 2024 - When there are multiple registered trade unions, it is essential to determine which union must negotiate with the establishment to represent the interests of workmen and competing claims cannot be allowed.
2. Sajimon Parayil v. State of Kerala and Ors., WP(C) No. 24697 of 2024 - The High Court called for public debate and discussion to alleviate grievances regarding harassment and discrimination raised by women working in the Malayalam film industry.
3. The Managing Director, Quatro Investments v. Joy Mathew, OP(LC) No. 2019 of 2013 - An employee is entitled to arrears of salary because the employer could not produce enough evidence to prove that employee was engaged in dual employment.
4. C. K. Sridharan v. The Welfare Fund Inspector & Anr., WP(C) No. 22691 of 2013 - An employee who is merely associated with the conduct of business and not in a position to employ others on his own behalf, cannot be said to be an employer.

### **Orissa High Court**

1. Krushna Chandra Mahapatra v. State of Odisha & Ors., WPC (OAC) No.1490 of 2014 - Irregular appointment may be regularised if the employee has worked for more than ten years without the protection of a court order.

### **Madras High Court**

1. R Rakkiyappan v. The State of Tamil Nadu, WP No.10045 of 2023 - As per the Tamil Nadu Leave Rules 1933, a period of absence from work for employment abroad should not be treated as a break in service and must be counted for pension and other purposes.
2. Sahaya Philomin Raj v. The Principal Secretary To Government, Municipal Administration And Water Supply Department, Secretariat, Chennai, WP(MD) No.19570 of 2024 - The Court directed the municipal authorities of Madurai and Virudhunagar to file a status report to a public interest litigation petition seeking direction to the authorities to rehabilitate manual scavengers in the two districts.

### **Punjab and Haryana High Court**

1. Kasturi Lal s/o Kundan Lal v. Municipal Corporation, Amritsar & Ors., 2024:PHHC:080737 - Government employees cannot assume that they are only required to work for five days in a week and cannot claim compensation as a matter of right for working on Saturdays.
2. Vaibhav Vats v. State of Punjab & Ors., CWP-PIL-158-2024 (O&M) - The Court has asked the Punjab government to file a response on a plea filed seeking action against an alleged Panchayat resolution passed by a village in Kharar, Punjab, asking migrant labourers from UP, Bihar and Rajasthan to leave the village and directing others to socially boycott them.
3. Bahadur Singh v. P.R.T.C. & Ors., 2024:PHHC:095493 - An employee cannot be deprived from his service benefits by backdating the termination of his employment

## International Cases

Federal Trade  
Commission

### RYAN LLC V. FED. TRADE COMM'N, NO. 3:24-CV-00986 (USA)

**Court:** Northern District of Texas District Court

**Facts:** The Federal Trade Commission (FTC) of the US introduced a non-compete clause banning most non-compete agreements in employer-employee contracts.

**Judgment:** The Northern District of Texas ruled that such a FTC is unlawful and directed for a stay on the ban. The Court held that the ban failed on two bases: i) the FTC exceeded its statutory authority in issuing the ban, and ii) the ban was arbitrary and capricious. The Court noted that such a ban imposes a one-size-fits-all approach with no end state, and such a sweeping prohibition prohibits all non-compete agreements instead of targeting specific, harmful non-compete clauses. The Court noted that the ban also failed to consider the positive benefits of non-compete agreements.

NORTHERN  
DISTRICT OF  
TEXAS RULED  
THAT SUCH A FTC  
IS UNLAWFUL  
AND DIRECTED  
FOR A STAY ON  
THE BAN

Fair Labour Standard

### RESTAURANT LAW CENTER V. U.S. DEPT. OF LABOR, NO. 23-50562 (USA)

**Court:** Fifth Circuit of the USA

**Facts:** The Department of Labor (DOL) of the US initiated a new tip credit rule that restricted when employers may claim a tip credit for tipped employees. Under the rule, known as the 80/20 rule, an employer can only take a tip credit (which allows an employer to pay less than minimum wage to a tipped employee) if the employee spends at least 80% of their time performing the tipped job (such as waiting tables) and 20% or less of their time performing related non-tipped work, such as setting tables in the restaurant. Two restaurant associations challenged this rule before the Fifth Circuit.

**Judgment:** The Court ruled that the tip credit rule was not enforceable. The Court found that it was inconsistent with the text of the Fair Labour Standards Act (FLSA) and capricious and unlawful. The Court noted that the FLSA did not mandate to look at the amount of tips received or whether the given occupation was individually tip-producing. Accordingly, the Fifth Circuit vacated the 80/20 rule nationwide. The ruling makes it easier for employers to pay less than minimum wage to tipped employees like servers.

COURT HELD  
THAT TIP  
CREDIT RULE IS  
NOT  
ENFORCEABLE  
AS IT WAS  
INCONSISTENT  
WITH THE TEXT  
OF THE FAIR  
LABOUR  
STANDARDS  
ACT (FLSA)

Discrimination

### BRITISH AIRWAYS V. ROLLETT [2024] EAT 131 (UK)

**Court:** Employment Appellate Tribunal (EAT)

**Facts:** The claimants were employed with the British Airways (the respondent) and contended that the respondent had made certain changes to their schedules which disproportionately disadvantaged non-British nationals, who were more likely to commute from mainland Europe. They submitted that this amounted to indirect racial discrimination.

**Judgment:** The Tribunal held that though the Equality Act, 2010 of the UK did not allow for claims of indirect discrimination, the provisions had to be interpreted in accordance with EU law principles as far as possible. The tribunal therefore relied on rulings of the Court of Justice of the European Union (CJEU) that a person could claim indirect discrimination even if they did not have the relevant protected characteristic, provided they suffered the same disadvantage as the group with that characteristic. The Tribunal therefore upheld the claimants' argument, and this was directly incorporated into the Equality Act later on from 1st January 2024. The respondents, in appeal, contended that the tribunal had overstepped its bounds to align national law with EU law. However, the Employment Appeal Tribunal (EAT) dismissed the appeal, concluding that the tribunal had not committed any legal error.

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# POLICY AND LEGISLATIVE UPDATES

## NITES SEEKS MINISTRY'S ACTION ON INFOSYS' 2-YEAR ONBOARDING DELAY

Nascent Information Technology Employees Senate (NITES) has urged the Ministry of Labour & Employment to address a two-year delay in onboarding graduates by Infosys from the 2022-23 campus hiring. Graduates were required to undergo a 24-day unpaid virtual pre-training in July, followed by a competency assessment, with the risk of further deferring their joining date upon failure. Despite completing the program, many graduates have not received their joining dates, promised by 19 August or latest by 2 September.

## KARNATAKA GOVERNMENT EXTENDS DEADLINE FOR GRATUITY INSURANCE UNDER NEW RULES

The Karnataka Government, via Notification No. LD 325 LET 2023 dated July 4, 2024, has extended the deadline for obtaining insurance under the Karnataka Compulsory Gratuity Insurance Rules, 2024. The time limit has been increased from 60 days to 6 months, providing establishments more time to comply.

## EPFO PROMOTES FACIAL AUTHENTICATION TECHNOLOGY FOR DIGITAL LIFE CERTIFICATES

The Employees' Provident Fund Organisation (EPFO) has launched a campaign to promote the adoption of Facial Authentication Technology (FAT) for submitting Digital Life Certificates (DLC). This technology aims to reduce pensioners' dependence on banks and intermediaries for DLC submissions. EPFO's field offices are tasked with coordinating with banks to ensure the smooth implementation of FAT, including the deployment of iris and fingerprint scanners. Banks are also required to educate pensioners on using mobile phones for DLC updates, and awareness sessions will be conducted with employers' associations and employee unions to further facilitate the process.

## KARNATAKA EXEMPTS IT/ITES AND OTHER INDUSTRIES FROM THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946

The Karnataka Government has granted a five-year exemption, starting June 6, 2014, to IT, ITES, startups, animation, gaming, telecom, and other knowledge-based industries from the provisions of the Industrial Employment (Standing Orders) Act, 1946 (IESO Act). The Act typically applies to organizations employing 50 or more workers and requires certified standing orders for conditions like working hours and layoffs. Despite the exemption, these industries must comply with:

1. The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (POSH Act).
2. Section 9(C) of the Industrial Disputes Act, 1947, which mandates the establishment of a Grievance Redressal Committee (GRC) for organizations with 20 or more workers.
3. Informing the jurisdictional labour authorities about terminations, dismissals, suspensions, or discharges.

*The exemption will remain until the enactment of the Industrial Relations Code, 2020*

## EPFO ALLOWS TEMPORARY MEASURE TO SETTLE CLAIMS IN ABSENCE OF AADHAAR SEEDING

The Ministry of Labour & Employment, through a circular has allowed the temporary settlement of claims and benefits for deceased beneficiaries even without Aadhaar seeding. This measure is intended to address delays caused by discrepancies in Aadhaar details and applies only to cases where the member's details are correct in the Universal Account Number (UAN) but incomplete or inaccurate in Aadhaar records.

## TELANGANA EXTENDS EXEMPTIONS FOR IT AND ITES SECTORS UNDER THE TELANGANA SHOPS AND ESTABLISHMENTS ACT, 1988

The Telangana Government has extended the exemption granted to the IT and ITeS sectors from certain provisions of the Telangana Shops and Establishments Act, 1988, for an additional four years, starting June 7, 2024. The exemption applies to Sections 15, 16, 21, 23, and 31, which govern aspects such as working hours, provisions for young employees and women, and holidays. However, employees must still be provided with:

- Overtime pay for work exceeding 48 hours per week.
- A weekly day off.
- Compensatory holidays with wages for working on national or festival holidays.
- Security and transportation for young women employees working night shifts

## MAHARASHTRA PUBLISHES DRAFT NOTIFICATION INVITING SUGGESTIONS FOR REVISION OF MINIMUM WAGES

The Maharashtra Government has issued a draft notification inviting suggestions on revising minimum wages for employees in shops and commercial establishments, excluding banks and other specific entries under the Minimum Wages Act. Stakeholders are encouraged to submit feedback, after which the government will finalize the updated wage structure for legal enforcement.

## ESIC HAS ANNOUNCED ANNUAL PREVENTIVE HEALTH CHECK-UP FOR THE ESI INSURED PERSONS/INSURED WOMEN AGED 40 YEARS AND ABOVE

The Employees' State Insurance Corporation (ESIC) has introduced an annual preventive health check-up for ESI-insured persons and insured women aged 40 years and above. This initiative aims to promote early detection and management of health issues, ensuring better healthcare for insured individuals under the ESI scheme.

## DRAFT RULES TO AMEND THE RIGHTS OF PERSONS WITH DISABILITIES RULES, 2017

The Central Government has proposed amendments to the Rights of Persons with Disabilities Rules, 2017, and has issued a draft notification for public consultation. All persons likely to be affected by these changes are invited to submit their objections or suggestions within 30 days from the date of publication in the Official Gazette.

Submissions may be addressed to Shri Vineet Singhal, Director, Department of Empowerment of Persons with Disabilities (Divyangjan), at Room No. 505, 5th Floor, Pandit Deen Dayal Antyodaya Bhawan, CGO Complex, Lodhi Road, New Delhi, 110003, or via email at [udidsection-depwd@gov.in](mailto:udidsection-depwd@gov.in). All inputs will be considered by the Central Government before finalizing the amendments.

## MAHARASHTRA MINIMUM WAGES FOR THE PERIOD OF 01.07.2024 TO 31.12.2024 NOTIFIED BY THE OFFICE OF THE COMMISSIONER OF LABOUR

The Office of the Commissioner of Labour, Maharashtra, has notified the revised minimum wages for various categories of employment in the state, effective for the period from July 1, 2024, to December 31, 2024. Employers in Maharashtra are required to comply with the updated wage structure, ensuring that employees receive wages according to their respective categories, as stipulated in the notification.

These revisions are in line with the state's commitment to ensuring fair compensation, considering inflation and the cost of living. The notification applies to all applicable establishments across Maharashtra.

## DESK DISPATCHES

# A Welcome Move: The Rajasthan Platform based Workers (Registration and Welfare) Act, 2023

*V. Angelin Subiksha, Research Intern, CLLR*

### INTRODUCTION

The emergence of the gig economy has changed the nature of work in recent years, offering workers flexibility and new prospects across the globe. But there have also been difficulties as a result of this change, particularly with regard to the rights and welfare of gig workers. To address these issues at the state level in India, the Rajasthan Platform Based Gig Workers (Registration and Welfare) Act, 2023, is a pioneering initiative. This blog explores the background of gig work and provides an evaluation of the Rajasthan Gig workers Act.

### GIG ECONOMY AND GIG WORKERS

The phrase "gig economy" describes a labour market where freelance or contract work predominates over full-time employment. In the gig economy, people work at a variety of part-time or flexible professions, frequently made possible by online platforms that link them to clients or consumers.

There are many definitions of gig workers based on work arrangement, legal classification of workers, nature of work etc. The most accepted definition defines gig workers as temporary, flexible employees that are frequently hired by businesses on a project-by-project basis as opposed to full-time. For the first time in India, the Code on Social Security, 2020 attempted to formally define 'gig worker' as a person who performs work or participates in a work arrangement and earns from such activities outside of traditional employer-employee relationship. It defines 'platform work' as a work arrangement outside of a traditional employer-employee relationship in which organizations or individuals use an online platform to access other organizations or individuals to solve specific problems or to provide specific services or any such other activities which may be notified by the Central Government, in exchange for payment and defines 'platform worker' as a person who engaged in or undertaking platform work.

With the development of technology and the emergence of online marketplaces such as Uber, Zomato, and Amazon, the idea of gig employment has become increasingly popular. These platforms enable a broad range of services, such as food delivery and ride-sharing, generating a sizable workforce sector that works outside of conventional employment frameworks. The lack of official job status, basic labour protections etc for gig workers make the creation of

particular legislative measures necessary to defend their rights and wellbeing.

### LEGAL RECOGNITION FOR THE GIG WORKERS

The gig economy offers opportunity, but it also exposes people to risks including unstable employment, lack of health benefits, and insufficient social security. These problems highlight the need for the laws that guarantee gig workers receive social security and fair treatment. Very few attempts have been made in the past to give gig workers legal recognition. In 2017 a writ petition was filed before the High Court of Delhi seeking clarification whether the online based platform gig workers come under the definition of 'employee' under the Industrial Disputes Act, 1947. However, the petition was withdrawn before judgment was made. At the central level, the Social Security Code, 2022 recognizes the gig and platform workers and aims to provide them Social security. At the state level, the Rajasthan government has enacted the Rajasthan Platform Based Gig Workers Act, 2023, first of its kind in the country.

### KEY FEATURES OF THE RAJASTHAN PLATFORM BASED GIG WORKERS (REGISTRATION AND WELFARE) ACT, 2023

The Rajasthan Platform Based Gig Workers Act has several significant provisions:

- Section 3 of the Act establishes Rajasthan Platform Based Gig Workers Welfare Board and enables the board to exercise the powers conferred to it and perform the duties and functions assigned by the Act. The board will be made up of members from the government as well as the stakeholders. According to the Act, one-third of the nominated board members shall be women and it would be the responsibility of the state government to ensure its compliance.
- Section 8 and 9 of the Act attempts an appreciable move of making it mandatory for the platform based gig workers and the aggregators to register themselves to the state government. The aggregators must provide to the state government its database consisting of all gig workers onboarded or registered with them and all of them would be automatically registered with the state government. A unique ID will be generated for each registered gig worker. The aggregators are required to register themselves within 60 days of enforcement of the Act.

- The Act creates a fund for the benefit of the registered platform based gig workers namely 'The Rajasthan Platform Based Gig Workers Social Security and Welfare Fund' under Section 10. As per Section 11 of the Act, a fee called 'The Platform Based Gig Workers Welfare Fee' will be imposed on the aggregators and will be collected by the state government. This welfare fee forms a part of the welfare fund mentioned in section 10.
- The Platform based gig workers are given opportunity to address their issues through the establishment of a comprehensive grievances redressal mechanism under Section 14.
- The Act explicitly lists out the rights of platform based gig workers in Section 13 leaving no confusions.

### POTENTIAL DRAWBACKS

- The decentralized nature of gig employment may make implementation difficult. Strong monitoring and enforcement are needed to ensure compliance from gig workers and aggregators.
- The imposition of a welfare charge to aggregators may result in higher operating expenses that are later passed on to customers or, in the instance that businesses make cost reductions elsewhere, lower incomes for gig workers.
- Because of the additional administrative duties and expenses associated with the new regulations, aggregators may oppose them, which could impede their smooth adoption and enforcement.

### CONCLUSION

In conclusion, the Rajasthan Platform Based Gig Workers (Registration and Welfare) Act of 2023 is a crucial step in identifying and meeting the needs of gig workers. The Act provides social security, regulatory supervision, and an opportunity for employee involvement, thereby

establishing a model for other states and the central government. Despite certain challenges and need for development, the Act's enactment represents a positive shift toward inclusive labour laws that protect all workers, reflecting the dynamic and evolving nature of the contemporary labour market.

To sum up, the Rajasthan Act is a pioneering endeavor in labour legislation, stressing the necessity of an effective plan that protects the rights and well-being of its employees while fostering the gig economy. Equality and flexibility will undoubtedly be essential in ensuring a fair and equitable workplace for all as labour regulations continue to evolve.

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# Protection of Workmen from Unfair Dismissal: The Imperative Need for an Enquiry under the Industrial Disputes Act, 1947

*Manish Kundra, Research Intern, CLLRA*

## Introduction

The protection of workmen from unfair dismissal has been a subject of great concern in the realm of labour law. The Industrial Disputes Act, 1947, is the most important legislation that governs the employment of workmen in India. The Act provides for various provisions that safeguard the rights of workmen and ensure that they are not unfairly dismissed from their jobs. However, despite the existence of such provisions, instances of unfair dismissal continue to persist for various reasons including non-observance of duty, negligence in the performance of duty, absence without leave & good cause, leading to a need for a comprehensive enquiry into the matter. The paper discusses the crucial need for an enquiry under the Industrial Disputes Act, 1947 to safeguard employees from unfair dismissal. It specifically highlights the issues raised by the *M/S Nicholas Piramal India Ltd. And Ors v. Presiding Officer Labour Court Lko. and Ors* case by the Allahabad High Court. The paper while providing the background and an analysis of the reasoning of the court, also addresses the question of whether medical representatives can be considered as 'workmen' under the Industrial Disputes Act, 1947, which would entitle them to the benefits as per the provisions of the 1976 Act. It aims to explore the broader implications of the case for the medical representatives. By doing so, the paper will provide a comprehensive analysis of the issue and highlight the need for a fair and just system that safeguards the interests of workmen and promotes a healthy and equitable work environment.

## Background

Respondent no. 2 was working in the post of Medical Representative serving the petitioner, M/S Nicholas Piramal India Ltd. It has been alleged that while performing his duties as a Medical Representative, the workman-respondent no. 2 engaged in various acts of misconduct. Specifically, it is claimed that he submitted false call reports between October 5th and October 18th, 1996, falsely indicating that he had visited certain doctors and chemists when he had not. Following an enquiry, all the charges were allegedly found to be proven, and Respondent no. 2 was dismissed from service with a compensation of Rs.1,64,346/- and one month salary. An appeal from the respondent was rejected by the competent authority.

In response, he raised an industrial dispute under Section 4K of the UP Industrial Dispute Act in the Labour Court. The domestic enquiry conducted by the petitioner was deemed unlawful and arbitrary by the Labour Court. The charges against Respondent no. 2 were unproven, and the court

ordered their reinstatement with full back pay and benefits. The petitioner appealed the Labour Court's decision brought before the Allahabad High Court.

## Analysis

The High Court considered two major issues in the larger labour law scenario: whether the respondent was given a sufficient opportunity to defend himself. Was the domestic enquiry conducted fairly and appropriately with the principles of natural justice? Additionally, it needs to be determined whether the respondent qualifies as a 'workman' under the Industrial Disputes Act of 1947 and if the Labour Court has the jurisdiction to hear this case.

Based on the issues framed, the petitioner claimed that the domestic enquiry was carried out in accordance with the principles of natural justice; the respondent was duly heard and given sufficient opportunity to submit his documents and explanation; the enquiry officer proved the charges against the respondent, concluding that he had acted dishonestly and negligently in his work; and the respondent had submitted false call reports of visiting doctors and chemists on the dates he had attended a union meeting. They contended that he couldn't visit or call the Pharmacists or Chemists for the promotion of the sales products of the petitioner in such a short time as he was attending a union meeting at that time. Another claim that the petitioner made was that the Labour Court lacked jurisdiction to consider respondent no. 2's claim because he was engaged in sales promotion, which was neither manual nor clerical work as it did not require any of the skills. Thus, he, being a medical representative, could not be considered a 'workman' as per Section 2 (s) of the Industrial Disputes Act, 1947.

On the contrary, Respondent no. 2 – the workman argued that he was not given a fair chance to explain himself, and the domestic enquiry was biased and unjust. The doctors and chemists were located in Lucknow, where the alleged misconduct took place, while the enquiry was conducted in Delhi. The petitioner failed to consider the declarations of the pharmacists and chemists made in their certificates attesting to the respondent's visits on the pertinent dates, i.e. 05.10.1996 and 18/10/1996. Apart from that, the witness of the petitioner, the supervisor of respondent no. 2 - workman, gave the statement in favour of respondent no. 2 stating that the respondent had sufficient time to visit or call the doctors and chemists to promote the medicines of the petitioner and that the certificates adduced by the respondent are also valid. On a formal perusal of the facts, it makes it clear that the accusations made against the respondent were founded only on assumptions and suppositions, and they were not



supported by any substantial proof. The petitioner had a good service track record since the date he was employed. This has been evidenced by his supervisor. Additionally, the respondent showed that his call reports were accurate and that he had enough time to visit the doctors and chemists on the days of the union meeting.

The High Court of Allahabad upheld the Labour Court's conclusions that the domestic enquiry was unjust and arbitrary and that the petitioner's charges lacked sufficient evidence. The petitioner had not presented any substantial proof to back up their allegations, and the court noted that they had disregarded the doctor's certificates, which supported the respondent's account. The court further stated that the respondent has a good track record and a lengthy history of working with the petitioner. The petitioner's witness going contrary to them stated in favour of the respondent and said that the respondent had enough time to call and visit the doctors and chemists.

The decision of the High Court is a positive development, which is particularly advantageous for medical representatives.

### **Need of Fair Enquiry for Protection of Workmen from Unfair Dismissal**

Although the IDA does not specifically provide for any procedure for the proper disciplinary enquiry to be conducted for the dismissal of an employee, however, it is quite imperative to conduct a fair and impartial enquiry for the dismissal of a workman according to the principles of justice. Notwithstanding the decision of the court in favour of respondent no. – 2, it is very clear from the case that there was an unfair dismissal. The petitioner conducted an enquiry to dismiss respondent no. 2, but it was in bad faith. The enquiry did not give respondent no. 2 - the workman has a fair chance to prove his innocence in front of the enquiry officer. To support his case, respondent no. 2 needed statements and evidence from doctors and chemists who were located in Lucknow. However, he was called to Delhi for the enquiry instead. This made it difficult for him to obtain the necessary evidence to demonstrate that he had visited the doctors and chemists to promote the medicines of the petitioner, M/s Nicholas Piramal India Ltd. Apart from this, the appeal of the respondent was not allowed. Thus, the principle of *audi alteram partem* was not followed which is one of the significant principles of natural justice.

The Supreme Court in the *State Of Uttarakhand & Ors. v. Smt. Sureshwati* has held over the same issue of holding a proper disciplinary enquiry. It held that although there cannot be a claim of unfair dismissal merely on the ground that a disciplinary was not conducted to dismiss an employee the labour tribunal must consider such cases based on evidence adduced *prima facie* to check whether the dismissal was justified. However, the principle is not universal but wholly

based on the facts of the particular case. Thus, a fair chance is provided to the workman to keep a check on the dismissals by the employer. It cannot be overstated that a thorough enquiry by an employer is absolutely essential when it comes to dismissing a worker. This has been emphasized time and again by the Supreme Court as evidenced by a string of judgments. Therefore, to ensure that the dismissal process is fair and just, then conducting a proper domestic enquiry based on the principles of natural justice is non-negotiable.

### **'Workmen' under the IDA, 1947**

In 1967, the Supreme Court in *May and Baker (India) Ltd. v. Their Workmen* held that medical representatives shall not be included in the definition of 'workmen'. It defined 'workmen' as "any person employed in any industry to do any skilled or unskilled manual or clerical work for hire or reward."

The Parliament introduced the Sales Promotion Employees (Conditions of Service) Act in 1976. The definition of "sales promotion employee" per Section 2(d) of the 1976 Act included medical representatives. Section 6(2) of the 1976 Act specifies that the provisions of the IDA, 1947 shall be applicable to sales promotion employees in the same manner as they apply to workmen.

In the current case of *M/S Nicholas Piramal India Ltd.* the High Court decided that the respondent was covered by the 1976 Act's definition of "sales promotion employee" and not excluded by any of the definition's stated terms it covered medical representatives too. Thus, he was a workman under the IDA, 1947.

The decision of the Supreme Court in *May and Baker (India) Ltd*, which was determined prior to the implementation of the Act of 1976, was, on the reasoning given above, distinguished by the High Court concluding that it was no longer good law regarding the question of whether or not medical representatives were workmen.

If a person is suggesting ways to increase sales, even if they use imaginative thinking, they would not fall within the scope of the definition of a 'workman.' However, if a person actively implements these ideas by distributing pamphlets or engaging in door-to-door publicity, they would be covered as a 'workman' under the Industrial Disputes Act. Therefore, the respondent who promoted the petitioner's sales by visiting doctors would be considered a 'workman.'

In *H.R. Adyanthaya v. Sandoz (India) Ltd*, the Supreme Court made it clear that the 1976 Act after the amendment in 1986 w.e.f. 06.05.1987 expanded the definition of "sales promotion employees" without keeping any ceiling on their salaries. Thus, all the medical representatives would be deemed to be 'workmen' as per the provisions of the Industrial Disputes Act.

Further, the Bombay High Court in the case of S.G. Pharmaceuticals Division of Ambala Sarabhai Enterprises Ltd. v. U.D. Pademwar (decided in 1989) has also clarified that as per section 6(2) of the Sales Promotion Employees (Conditions of Service) Act, 1976, the medical representatives are 'workmen' under the Industrial Disputes Act, 1947.

**Conclusion**

To sum up, the issue of protecting workmen from unfair dismissal must be taken seriously. The Industrial Disputes Act, 1947, provides important safeguards for workmen, but these provisions are not always enough to prevent instances of unfair dismissal. The recent M/S Nicholas Piramal India Ltd. case has highlighted the need for a comprehensive enquiry under the Act to ensure that workmen are not unfairly dismissed. As we have seen, the case raises important questions about the definition of 'workman' under the Act, as well as the principles of natural justice in domestic enquiries. It is crucial that we promote a fair and just system that safeguards the interests of workmen and protects them from unfair dismissal.

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# DOMESTIC LABOUR LAW NEWS

## EPFO WAGE CEILING REVISION IMMINENT

Private sector employees may soon benefit from an increase in the EPFO wage ceiling. The Labour Ministry has proposed raising the ceiling from Rs 15,000 to Rs 21,000, a move that could significantly enhance pension contributions and benefits. The Finance Ministry is expected to make a decision on this proposal shortly. If approved, the revised ceiling will enable employees to receive a monthly pension of up to Rs 10,050 under the Employees' Pension Scheme (EPS). This adjustment follows recent pension reforms in the government sector, promising better financial security for private sector workers.....[Scan QR to read more.](#)



## CBIC URGES STRICT REVIEWS OF GOVT EMPLOYEES, MAY LEAD TO EARLY RETIREMENT

The Department of Personnel and Training (DoPT) has standards for periodic reviews of government personnel, which all division heads have been advised to strictly observe by the Central Board of Indirect Taxes (CBIC). Failure to do so could result in premature retirement. The review is applicable to employees who are 30 years of age or older and is based on criteria such as effectiveness and integrity. The importance of these reviews in improving administrative efficiency was underlined by the CBIC.



Committees chaired by senior authorities supervise various employee groups' processes. The administration made it clear that early retirement under these regulations is meant to preserve the public interest rather than serve as a punishment.....[Scan QR to read more.](#)

## SURVEY TO FIND IF ANYONE STILL DOING MANUAL SCAVENGING IN AHMEDABAD DISTRICT

The Ahmedabad district administration initiated a seven-day survey to identify ongoing instances of manual scavenging, despite the district's effective implementation of the Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013. The survey aimed to eradicate this practice by encouraging individuals involved in manual scavenging to report their activities to relevant urban or rural officials, providing evidence and location details. The administration clarified that the survey's purpose was solely to eliminate manual scavenging, not to offer loans or other assistance to those involved. This effort reflects the government's commitment to enforcing the 2013 Act and ensuring that manual scavenging is completely eradicated in the district.....[Scan QR to read more](#)



## COMMUTERS IRKED AS AUTO, TAXI DRIVERS BEGIN 2-DAY STRIKE IN DELHI-NCR

Transportation services in parts of Delhi and the NCR were disrupted due to a two-day strike by auto and taxi driver unions. Kishan Verma, president of the Delhi Auto Taxi Transport Congress Union, argued that cab aggregators like Ola, Uber, and Rapido were undermining their earnings and livelihoods. The unions demanded a ban on these app-based services, claiming they use private vehicles for passenger transport, affecting traditional drivers. Despite the strike, many autos and taxis continued to operate, rendering the strike partially ineffective. The Delhi Auto Rickshaw Sangh's Rajendra Soni noted that not all unions supported the strike, and app-based services were not direct competitors to autos. The demand for higher fares and the impact of rising fuel costs were key issues raised. The responses from Ola and Uber were not yet available.....[Scan QR to read more.](#)



## VISAKHAPATNAM PORT WORKERS TO LAUNCH INDEFINITE STRIKE FROM AUGUST 28 AS PART OF NATIONWIDE STIR

On August 20, a coalition of Indian port workers' unions announced a nationwide strike set to begin on August 28. This action, driven by unresolved pay and pension issues, threatens to intensify congestion at ports across Asia and Europe, potentially disrupting global trade. The dispute originated in March 2021, when a wage negotiation committee was formed but failed to resolve workers' demands after seven meetings. Sathya Narayanan, a senior union member, anticipated that around 20,000 workers would participate. While the immediate impact might be limited, Narayanan warned of severe consequences if the strike extends beyond a few days. The unions are demanding pay scale revisions, payment of arrears, and protection of existing benefits. The federal shipping ministry has not yet commented on the situation. Given India's significant role in global trade, a prolonged strike could delay shipments, increase costs, and strain supply chains worldwide.....[Scan QR to read more.](#)



## IT PROFESSIONALS PROTEST AGAINST THE 14-HOUR WORK DAY PROPOSAL IN KARNATAKA

In July 2024, Karnataka's state labour minister, Santosh Lad, proposed the controversial Karnataka Shops and Commercial Establishments (Amendment) Bill, 2024, which aimed to extend the standard 8-10 hour workday to 14 hours. This proposal, intended to boost economic growth, faced widespread criticism from employee unions and women's rights organizations. IT professionals in Bangalore protested, arguing that the extended hours would lead to exploitation, particularly of women, who already face disproportionate domestic responsibilities. The Karnataka State IT/ITeS Union (KITU) condemned the bill as inhumane, while the All India IT & ITeS Employees' Union (AIITEU) demanded fair wages and capped working hours. Critics also warned that the proposed changes would harm workers' well-being, disrupt work-life balance, and exacerbate health issues. The bill was seen as a step backward in labor rights, ignoring the global trend toward shorter workweeks to enhance productivity and worker satisfaction.....[Scan QR to read more](#)



## WOMEN DOMINATE MANUFACTURING JOBS IN URBAN INDIA, SAYS MOSPI REPORT

The "Women and Men in India, 2023" report by the Ministry of Statistics and Programme Implementation revealed that a higher proportion of urban women were employed in manufacturing (23.9%) and other services (40.1%) compared to their male counterparts. In contrast, urban men were more engaged in construction, trade, hotels, and transport sectors. In rural areas, women predominantly worked in agriculture, with 76.2% of rural female workers involved in the sector compared to 49.1% of rural men. Despite these employment patterns, women continued to face barriers in accessing quality jobs, including wage disparities and limited opportunities in urban areas. The report emphasized the need for strategic measures like job reservations, targeted training, and safe work environments to enhance female workforce participation. Notably, female unemployment in urban areas (7.5%) was higher than male unemployment (4.7%), particularly among those aged 15-29.....[Scan QR to read more.](#)



## URBAN UNEMPLOYMENT RATE DIPS TO 6.6% IN Q1FY25: PLFS

In Q1FY25, urban unemployment in India declined to 6.6%, improving from 6.7% in Q4FY24, according to the National Statistical Office's quarterly labour force survey. This improvement was driven by a decrease in the unemployment rate among males aged 15 years and above, which fell from 6.1% in Q4FY24 to 5.8%. Conversely, female unemployment in urban areas increased from 8.4% to 8.9% in the same period. The unemployment rate among urban youth (15-29 years) also saw a slight improvement, decreasing from 17% to 16.8%. However, female youth unemployment rose from 22.7% to 23%. The labour force participation ratio (LFPR) and worker population ratio (WPR) in urban areas both saw marginal declines, with LFPR dropping from 39.5% to 39.3% and WPR from 36.9% to 36.7% during Q1FY25.....[Scan QR to read more](#)



## LABOUR MINISTRY LAUNCHES CENTRALISED PORTAL FOR CONSTRUCTION WORKERS

The government launched the Building and Other Construction Workers (BoCW) Management Information System (MIS) portal to register construction workers for various welfare schemes. During a review meeting chaired by Labour Secretary Sumita Dawra, states and UTs were instructed to register on the portal and update details, including fund utilization and worker registrations. The portal will centralize data management and support the extension of central and state schemes, such as Ayushman Cards under PM-JAY, insurance under PM-JJBY, and disability protection under PM-SBY. Currently, 57 million workers are registered with state welfare boards, with Rs 66,000 crores spent on benefits from a Rs 1.15 trillion cess fund. The Ministry urged states/UTs to integrate BoC workers' data with the E-Shram portal for broader access to welfare schemes. The meeting also reviewed states' progress on finalizing rules under the new labor codes, with plans for regional meetings to enhance collaboration on labor reforms.....[Scan QR to read more](#)



## EPFO ADDS 19.29 LAKH NET MEMBERS IN JUNE 2024

The Employees' Provident Fund Organisation (EPFO) reported adding 10.25 lakh net new members in June 2024, with a total net addition of 19.29 lakh members for the month. This marked a 4.08% increase from May 2024 and a 1.05% rise compared to June 2023. The 18-25 age group constituted 59.14% of the new additions, reflecting increased employment opportunities and effective EPFO outreach. Around 14.15 lakh members rejoined after a job change, showing an 11.79% year-over-year growth.



Female membership also grew, with 2.98 lakh new female members, a 5.88% increase from June 2023, and a net addition of 4.28 lakh female members, up 8.91%. Maharashtra, Karnataka, Tamil Nadu, Gujarat, and Haryana led in net member additions, contributing 61.16% of the total. Significant membership growth occurred in industries such as education, finance, and expert services, which accounted for 40.70% of the net additions.....[Scan QR to read more.](#)

## FARMER SUICIDES: BKU TO COLLECT DATA FROM 1,500 VILLAGES

The Bharatiya Kisan Union (BKU) Ekta Ugrahan began collecting data on farmer suicides from its units in approximately 1,500 villages across Punjab, accusing successive state governments of neglecting these deaths for many years. Although the data collection covers only about 10% of Punjab's 13,000 villages, the organization aims to use this sample to urge the government to address the broader issue. Despite three universities in Punjab conducting a comprehensive survey from 2000 to 2015, which documented 16,606 suicides among farmers and laborers over 16 years, the BKU claims that compensation for these deaths has not been paid since 2010.....[Scan QR to read more.](#)



## ODISHA GOVERNMENT ANNOUNCES PERIOD LEAVE FOR WOMEN

Odisha became the third state in India to introduce menstrual leave for women in both public and private sectors. Deputy Chief Minister Pravati Parida announced during Independence Day celebrations in Cuttack that women employees could now avail one-day menstrual leave, either on the first or second day of their cycle. This move aligns with the BJP's election manifesto promise to implement a 'Menstrual Health Policy' in all government offices.



Odisha joined Bihar and Kerala in offering menstrual leave, with Bihar providing two days per month for government employees, and Kerala offering a three-day period leave for female students. While labor union leaders and women's rights activists welcomed the initiative as progressive, they urged the government to issue guidelines or an SOP for clear implementation, especially in the private sector. Despite its significance, the policy has not yet been integrated into labor laws, and consultations with the Labour department and private sector stakeholders are yet to occur.....[Scan QR to read more.](#)

## NHRC INDIA INVESTIGATES WORKER DEATHS FOLLOWING INDUSTRIAL EXPLOSION IN ANAKAPALLI, ANDHRA PRADESH

The National Human Rights Commission (NHRC) of India took suo motu cognizance of reports about a reactor blast at a private industrial unit in Anakapalli district, Andhra Pradesh, on 21st August 2024, which killed at least 17 workers and injured 50 others. The cause of the explosion remains unclear, with search efforts ongoing for survivors.



The NHRC observed violations of the victims' Right to Life due to apparent negligence by authorities. It issued notices to the Chief Secretary and Director General of Police, Andhra Pradesh, demanding a detailed investigation and report on safety norms, compensation, medical treatment, and action against responsible officers, within two weeks. The Commission sought clarity on FIR status and relief measures.....[Scan QR to read more.](#)

## SUPREME COURT GETS REVAMPED CRÈCHE FOR CHILDREN OF LAWYERS, STAFF

The Supreme Court of India expanded its creche facility for the children of staff and lawyers. Chief Justice of India D Y Chandrachud, while presiding over a five-judge bench, announced the opening of the new 450-square-metre creche, replacing the previous 200-square-metre one. The upgraded facility now accommodates up to 100 children, featuring a play area, sleeping area, redesigned bathrooms, a dining area, and a space for mothers to feed their children. Solicitor General Tushar Mehta suggested bar members contribute by donating toys. Additionally, a new high-tech branch of the Bank of Maharashtra, with automated lockers and advanced services, was inaugurated in the Supreme Court's administrative complex.....[Scan QR to read more.](#)



## EPFO OFFICIALS MEET EPS-95 NAC MEMBERS TO DISCUSS PENSION, OTHER DEMANDS

A delegation from the EPS-95 National Agitation Committee (NAC) met with senior officials of the Employees' Provident Fund Organisation (EPFO) to advocate for a minimum monthly pension of Rs 7,500 and full medical coverage for EPS members and their spouses. NAC President Ashok Raut stated that the pensioners have been protesting for this increase, as the current average pension is only Rs 1,450. Despite their demands being raised for the past eight years, no action has been taken. Earlier this month, Union Labour Minister Mansukh Mandaviya met with NAC representatives and assured them of government action. The NAC represents 78 lakh retired pensioners and 7.5 crore industrial workers, with its headquarters in Maharashtra.....[Scan QR to read more.](#)



## PUCL MOVES HIGH COURT OVER RAPE-MURDER OF TRAINEE DOCTOR AT KOLKATA HOSPITAL, SEEKS STATE'S REPORT ON COMPLIANCE WITH POSH NORMS

The People's Union for Civil Liberties (PUCL) approached the Calcutta High Court seeking a court-monitored investigation into the brutal rape and murder of a trainee doctor at a Kolkata hospital. PUCL's plea called for a compliance report from the West Bengal government regarding the implementation of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH). The petition emphasized the need for institutional accountability.



A division bench, comprising Chief Justice TS Sivagnanam and Justice Hiranmay Bhattacharya, heard multiple pleas, including one from the victim's parents requesting the investigation's transfer to an independent agency. The court is considering these petitions in light of the serious allegations and the need for transparency in handling the case.....[Scan QR to read more.](#)

## THE INVISIBLE LIVES OF SANITATION WORKERS WHO CLEAN MUMBAI'S DRAINS TO KEEP IT FROM DROWNING

Seasonal sanitation workers from rural Maharashtra migrated to Mumbai's slums to desilt stormwater drains before the monsoon. Despite the risks, they cleaned drains, manholes, and septic tanks, often using bare hands. Workers, including children, faced dangerous conditions, sometimes entering sewers in violation of the 2013 Prohibition of Employment as Manual Scavengers Act.



The BMC allocated ₹243 crore and hired agencies for desilting, but workers endured hazardous tasks with little safety enforcement. Activists demanded that these workers be classified as manual scavengers for rehabilitation, but the BMC denied their classification, leaving them vulnerable to exploitation and unsafe conditions.....[Scan QR to read more.](#)

# INTERNATIONAL LABOUR LAW NEWS

## COUNTRIES REINFORCE COMMITMENT TO GENDER PAY EQUALITY

Chile and Turkey have joined the Equal Pay International Coalition (EPIC), increasing the coalition's membership to 27 governments committed to achieving equal pay for women and men by 2030. Additionally, Spain, an existing EPIC member, and Japan have pledged to enhance their efforts to close national gender pay gaps. EPIC, which now includes 63 members from various sectors such as employers' and workers' organizations, international bodies, academia, and civil society, announced these commitments at a G20 event hosted by Brazil in Fortaleza in July 2024. Brazil, holding the G20 presidency, has prioritized gender equality and workplace diversity in its Employment Working Group (EWG) agenda.....[Scan QR to read more.](#)



## CONCERNS REMAIN OVER YOUTH EMPLOYMENT DESPITE DECLINING JOBLESS RATES

The International Labour Organization's (ILO) latest report, Global Employment Trends for Youth 2024 (GET for Youth), indicated an overall improvement in the global labor market for youth. The youth unemployment rate dropped to 13% in 2023, the lowest in 15 years, and was projected to decrease further. However, the report highlighted ongoing concerns, particularly for young people in specific regions and young women, who had not fully benefited from the post-pandemic economic recovery. Youth unemployment rates remained high in the Arab States, East Asia, and Southeast Asia and the Pacific.....[Scan QR to read more.](#)



## GUATEMALA RATIFIES SAFE AND HEALTHY WORKING ENVIRONMENT CONVENTION

On 6 August 2024, Guatemala's Permanent Representative to the United Nations in Geneva, H.E. Ms. Ángela María Chávez Bietti, formally ratified the Safe and Healthy Working Environment (Consequential Amendments) Convention, 2023 (No. 191) to the ILO Director-General, Gilbert Hounbo.....[Scan QR to read more.](#)



## CANADA AND ILO PARTNER TO COMBAT CHILD LABOUR IN THE PHILIPPINES

The ILO and the Government of Canada have launched a new initiative aimed at strengthening freedom of association and tackling child labour in the Philippines. The five-year project, announced on 6 August 2024, will enhance the enforcement of international labor standards, focusing on improving workers' rights and keeping children out of the workforce. This project is funded by Canada's Labour Program of Employment and Social Development (ESDC).....[Scan QR to read more.](#)



## PHILIPPINES EXPLORES RATIFICATION OF ILO WORK IN FISHING CONVENTION

In Manila, a recent meeting discussed the Philippines' potential ratification of the ILO Work in Fishing Convention, 2007 (No. 188). The Institute of Labor Studies (ILS) presented a gap analysis showing that while some legislative gaps remain, existing laws largely align with the Convention's requirements. The analysis suggested moving towards ratification while progressively implementing relevant provisions and ensuring substantial compliance with national legislation.....[Scan QR to read more.](#)



## AFRICAN UNION ADOPTS DECADE-LONG STRATEGY ON SOCIAL AND SOLIDARITY ECONOMY

At the fifth ordinary session of the Specialized Technical Committee on Social Development, Labour and Employment (STC-SDLE-5) held from 29-31 July 2024, the African Union adopted a ten-year strategy on the Social and Solidarity Economy (SSE). The strategy, developed with ILO technical support, aims to enhance social development, labor, and employment across the continent.....[Scan QR to read more.](#)



## OLYMPIC SOCIAL CHARTER SETS NEW STANDARDS FOR PARIS GAMES

The Social Charter, signed in 2018, establishes 16 binding commitments aligned with the ILO's decent work agenda. These commitments covered a range of areas including minimum working conditions, support for small and medium-sized enterprises, and ensuring compliance with international labor standards. The Charter also emphasizes gender diversity, the inclusion of individuals with disabilities, and skills development for youth, aiming to create a lasting social development legacy for the Paris Games.



The 112th International Labour Conference (ILC), which is held annually in Geneva during the first two weeks of June, was attended by representatives of the 187 ILO member countries as well as employers' organizations and the most representative trade unions. This year's ILC was presided over by the Republic of Moldova.....[Scan QR to read more.](#)

## ILO-THAILAND COLLABORATION STRENGTHENS SOCIAL SECURITY SYSTEM

The collaboration between Thailand's Social Security Office (SSO) and the International Labour Organization (ILO) has significantly improved the SSO's capacity to deliver efficient and sustainable social security services. On 30 August 2024, a concluding event in Bangkok highlighted the successes of the five-year project titled "Strengthening Social Security Office Capacities in Policy Design with a Focus on Research and Actuarial Services." This initiative has enhanced the SSO's capabilities in research, actuarial analysis, and policy-making, enabling the office to better anticipate and respond to the social security needs of Thailand's workforce through evidence-based strategies.....[Scan QR to read more.](#)



## ILO SUPPORTS COMMUNITY INFRASTRUCTURE WORKS IN ALEPPO

As part of the emergency employment scheme for earthquake recovery in Aleppo, the International Labour Organization (ILO) has renewed its collaboration with "COOPI, Cooperazione Internazionale." Funded by the Japanese government, the project aims to create job opportunities in the Kadi Askar Sector and Ramoseh area, which were severely impacted by conflict and natural disasters. This initiative is expected to provide 140 workers with employment, generating a total of 10,920 workdays over a three-month period.....[Scan QR to read more.](#)



## GHANA RATIFIES ILO'S WORK IN FISHING CONVENTION, 2007

On 28 August 2024, Ghana officially ratified the Work in Fishing Convention, 2007 (No. 188), becoming the 22nd country to do so. The Convention, which modernizes ILO fishing regulations, provides a comprehensive legal framework to ensure decent working conditions for fishers. It sets minimum standards for working conditions aboard fishing vessels, covering areas such as occupational safety, accommodation, health, and social security.....[Scan QR to read more.](#)





## NLRB RULES AMAZON MUST BARGAIN WITH DELIVERY DRIVERS

In a significant decision, the National Labor Relations Board (NLRB) determined that Amazon is a joint employer of delivery drivers at its Palmdale, California warehouse, making the company legally obligated to bargain with the Teamsters union representing the workers. The decision followed an NLRB investigation into Amazon's refusal to recognize the drivers' union, despite its significant control over their working conditions. Amazon had claimed the drivers were employed by a subcontractor, but the NLRB found the company violated labor rights by threatening workers, holding anti-union meetings, and spreading misinformation. This ruling, linked to the NLRB's new joint-employer rule, challenges Amazon's stance on employment relationships and marks a major victory for labor rights.....[Scan QR to read more.](#)



## AUSTRALIA GRANTS EMPLOYEES 'RIGHT TO DISCONNECT' OUTSIDE WORKING HOURS

Australia has introduced a new law granting employees the legal right to ignore work-related communications outside of designated working hours. Starting Monday, the legislation, which was passed in February, protects workers from the obligation to monitor, read, or respond to messages from their employers during off-hours. This law aims to promote a healthier work-life balance and aligns Australia with European countries like France and Germany, which have already implemented similar measures ensuring workers can disconnect from work-related communications.....[Scan QR to read more.](#)



## JAPAN PROMOTES FOUR-DAY WORKWEEK TO COMBAT LABOUR SHORTAGE AND LOW BIRTH RATES

In response to labor shortages and declining birth rates, Japan is promoting a four-day workweek as part of its "hatarakikata kaikaku" or "work style reform" campaign. The government aims to foster a better work-life balance by encouraging shorter hours and flexible work arrangements. The initiative offers free consulting, grants, and showcases success stories to motivate businesses, particularly small and medium-sized ones, to adopt these changes. According to Japan's labor ministry, the goal is to create a society where workers can choose flexible working styles, contributing to a virtuous cycle of economic growth and distribution while offering workers a more positive future outlook.....[Scan QR to read more.](#)



## UNIONS OPPOSE PUNJAB LABOUR CODE 2024, THREATEN RESISTANCE MOVEMENT

Labor organizations in Punjab have rejected the proposed Punjab Labour Code 2024, accusing it of undermining workers' rights. The Labour Alliance, representing 40 trade unions, voiced strong opposition during a press conference, stating that the code legalizes the contract system, weakens job security, and supports the advance (peshgi) system in the kiln industry. The code also limits the formation of trade unions, restricts the right to strike, and allegedly legalizes child labor. Alliance leaders, led by Hanif Ramay, demanded the government withdraw the code and initiate a tripartite dialogue between employers, employees, and the government. They warned of a resistance movement if the code is enforced without consultation.....[Scan QR to read more.](#)



## BANGLADESH GARMENT WORKERS HOPEFUL, YET CAUTIOUS AMID POLITICAL CHANGES

Following a significant political shift in Bangladesh, garment workers remain hopeful but cautious about the future of their wages, working conditions, and rights, including the ability to form unions. As the garment sector contributes 85% of Bangladesh's \$55 billion in exports, recent disruptions, including factory closures and internet shutdowns, have raised concerns. By August 7, some workers returned, hoping for stability. "We wish for all factories to remain open," one worker expressed optimistically.....[Scan QR to read more.](#)

# PUBLICATIONS: ARTICLES

## WORKING CONDITIONS OF SUBNATIONAL GOVERNMENT WORKERS IN SELECTED SOUTH AND SOUTH-EAST ASIAN COUNTRIES: BANGLADESH, NEPAL, INDONESIA, MALAYSIA AND THE PHILIPPINES

This study examined the working conditions of subnational government (SNG) employees in Bangladesh, Nepal, Malaysia, Indonesia, and the Philippines within the framework of decentralized governance. It explored how decentralization and governance restructuring impacted the quality, quantity, and inclusivity of SNG employment. The research combined secondary sources with qualitative interviews of trade unions, local authorities, SNG associations, and international organizations. The findings revealed that balancing centralized authority with SNG autonomy was a common challenge. Political interference persisted in human resource practices, undermining merit-based recruitment and promotion. Disparities between permanent and contract workers were evident, with contract employees increasingly affected by outsourcing and privatization. Social security provisions were uneven, and collective bargaining and unionization were limited, especially for contract workers. Training opportunities favored permanent staff, and gender equity policies were often ineffective, with women underrepresented in senior roles. The study underscored the need for greater fiscal autonomy, decent work conditions, and inclusivity in SNG employment to counter trends of informalization and privatization.....[Scan QR to read more](#)



## THE MIGRANT PERSONAL WORK RELATION: A NEW CATEGORY OF EMPLOYMENT -JACK BEADSWORTH

This paper examined the increasingly complex relationship between UK immigration law and labour law, highlighting the emergence of a distinct legal framework termed "migrant labour law." This framework integrated immigration and labour laws, creating a hybrid legal category for migrant workers, characterized by both private contract and public immigration status.



The study argued that this integration disrupted traditional employment classifications and challenged the orthodox contractual model of employment. Migrant workers were treated as separate legal subjects, subject to different regulatory regimes that introduced unique vulnerabilities, such as conditionality, deportability, deterrence, and immobility. These factors amplified power imbalances and excluded migrant workers from full participation in the labour market. The paper emphasized that the status-based nature of migrant employment undermined basic workers' rights and liberties, necessitating a re-evaluation of labour law's commitment to the contractual model. The author called for further exploration of the migrant labour sphere to find ways to reintegrate migrant workers into the protective framework of labour law.....[Scan QR to read more.](#)

## THE CASE FOR BANNING MOST WORKER NON-COMPETES IN AUSTRALIA- TOM KENNEDY

This article examined the impact of non-compete restraints (NCRs) on Australian workers, affecting around 20% of the workforce. NCRs prevent employees from joining competitors after leaving their current job, ostensibly to protect business interests. However, these restraints faced increasing criticism for hindering labour mobility and economic dynamism. The article explored whether banning NCRs, either entirely or below an income threshold, would boost Australia's real GDP. By conducting a comparative study with the US, where more empirical evidence on NCRs exists, the article concluded that Australia should ban NCRs for workers earning below the high-income threshold outlined in the Fair Work Act 2009, as this could positively impact the economy.....[Scan QR to read more.](#)



## EMPLOYMENT RELATIONSHIP, EMERGENCY SITUATIONS, FORMAL MODELS OF 'EMERGENCY' LABOUR LAW – ELIZA MANIEWSKA

The paper examined the formal legal framework for regulating employment relationships during emergency situations, focusing on the need for distinct formal and substantive legal models. The author defined "emergency situations" as exceptional, unforeseen events like epidemics, warfare, or natural disasters. Until the Covid-19 pandemic, little attention had been given to such regulations. The study primarily analyzed Polish law and the legislative responses to Covid-19, while also considering international conventions. The author proposed three formal models for regulating employment in emergencies: the permanent, mixed, and ad hoc models. She argued that the mixed model, balancing flexibility with democratic standards, is optimal. The study highlighted the uncertainty and inadequacy of some emergency legal measures, stressing the need for more predictable and functional legal solutions to reduce uncertainty in labour law during crises.....[Scan QR to read more](#)



## EMPLOYMENT LAW AND THE EUROPEAN CONVENTION ON HUMAN RIGHTS – ELENA SYCHENKO & ADALBERTO PERULLI

This review discussed the increasing influence of the European Convention on Human Rights (ECHR) on national labour laws of signatory states, highlighted by significant case law from the European Court of Human Rights (ECtHR). The Court's decisions on Article 11 ECHR, recognizing the rights to collective bargaining and strike in *Demir & Baykara v. Turkey* and *Enerji Yapi Yol Sen v. Turkey*, respectively, and on Article 8 ECHR, concerning employer duties to protect employee personal data in cases like *Barbulescu v. Romania* and *López Ribalda v. Spain*, were pivotal. Elena Sychenko and Adalberto Perulli's monograph, "Employment Law and the European Convention on Human Rights," analyzed ECtHR case law from 2017 to 2021, identifying trends in the Court's approach to labour rights within the employment relationship. The authors illustrated how the ECtHR expanded labour rights under the ECHR, including broadening the interpretation of Article 3 ECHR to address inhuman or degrading workplace conditions and recognizing the right to "private social life" under Article 8 ECHR, extending protection to issues like unfair dismissal.....[Scan QR to read more.](#)



## LABOUR MARKET EFFECTS OF EMPLOYMENT PROTECTION – WALWEI, ULRICH

The study analyzed the impact of Germany's employment protection regulations on labor market practices, exploring whether these regulations contributed to labor market challenges. Key topics included employment security, labor-economic critiques of employment protection, and the effects of such regulations in Germany and other OECD countries. The study found that the labor market effects of employment protection regulations were often overstated. It noted that, apart from a general statistical correlation between low regulation levels and high economic growth, there was little evidence that the strictness of regulations significantly influenced employment or unemployment rates. Consequently, the findings did not support large-scale deregulation of employment protection laws. However, the study recommended several economic policy adjustments to address recent changes in Germany's economic structure, emphasizing that these changes should be carefully considered rather than resorting to broad deregulation.....[Scan QR to read more.](#)



## SANCTITY OF RESTRICTIVE COVENANTS IN EMPLOYMENT CONTRACTS – K. GEETHIKA

Non-solicitation and non-compete clauses, part of restrictive covenants in employment contracts, have increasingly become the subject of litigation in India. These clauses are often imposed on employees who lack bargaining power and sign contracts without fully considering the restrictions. Section 27 of the Indian Contract Act, 1872, voids agreements that restrain lawful professions, while Article 19(1)(g) of the Constitution grants the right to practice any trade. In *Wipro Ltd. v. Beckman Coulter International S.A.*, the court ruled that a non-solicitation clause did not restrain trade and was not void under Section 27. ....[Scan QR to read more.](#)



## EVOLVING THEMES AND APPROACHES IN COMPARATIVE LABOUR LAW-INGRID LANDAU

This paper introduces readers to the field of comparative labour law. It explains how the field has evolved in recent decades and identifies emerging themes and concerns. It also discusses common approaches and methodologies in comparative labour law, and the benefits and challenges associated with adopting a comparative perspective. Recognizing that most comparative studies have focused on the global North, particular attention is paid in the chapter to comparative work on jurisdictions and regions in the global South.....[Scan QR to read more.](#)



## SELF-EMPLOYMENT AND SOCIAL PROTECTION IN EUROPE: IMPROVED PROTECTION AMID PERSISTENT GAPS AND FRAGMENTATION- SLAVINA SPASOVA AND SEPI ROSHAN

It analyses trends in social protection coverage and national reforms for the self-employed in the European Union (EU) Member States and the UK, including measures introduced during the COVID-19 pandemic. The findings show that while most countries provide some form of inclusive, legal access to social protection others continue to limit access to 'two gap schemes': unemployment, and accidents-at-work and occupational injury. In addition, effective and adequate access can be hindered by eligibility requirements and periods of receipt tied to salaried employment. Despite an overall trend towards improved social protection systems between 2010 to 2023, acute gaps in access remain. This chapter highlights that the COVID-19 health crisis not only put into the spotlight these gaps, but that the temporary income protection provided urgently to the self-employed can become a model for future economic and social crises, evolving into more permanent solutions, aligned with inclusive EU social model.....[Scan QR to read more.](#)



## VULNERABILITY THEORY-LISA RODGERS

This text explored vulnerability theory and its relevance to labor law, beginning with a clarification of the concept of "vulnerability." It provided an overview of vulnerability theory as a critique of liberalism, particularly American individualistic liberalism and liberal law. The chapter examined how vulnerability theory could be applied to various labor law topics. Despite acknowledging limitations in the theory, the chapter argued that vulnerability theory could contribute significantly in four areas: reinforcing the shift toward substantive equality in equality law, advancing the development of unfair dismissal law, broadening the scope of labor law, and enhancing the role of trade unions. The chapter concluded by considering the potential of vulnerability theory to inspire a more radical rethinking of the values and objectives of labor law, suggesting that it could offer a new perspective on the field's future direction.....[Scan QR to read more.](#)



## THE EFFICACY OF TANZANIA LABOUR LAW IN PROTECTING THE RIGHTS OF CASUAL EMPLOYEES IN SUGAR INDUSTRIES- MWALYAJE,, ANGETILE

The study assessed the effectiveness of Tanzania's labor law in protecting casual employees' rights within the sugar industry, focusing on Kagera Sugar Ltd and Mtibwa Sugar Estates. Using a sample of 369 respondents and a descriptive method, the study compared the protections offered under old and contemporary labor laws. Data analysis, conducted through the Statistical Package for Social Sciences, revealed that casual employees lacked access to essential benefits such as health insurance, leave, overtime pay, collective bargaining rights, and bonuses, which were only available to full-time employees. The study also found that many casuals were qualified and had been employed for over a year in the same roles. The study recommended changing the employment status of long-serving casuals to fixed-term contracts and urged Tanzania Plantation Workers Union (TPAWU) to include casual employees in their Collective Bargaining Agreements (CBAs). Additionally, it called for the government to amend the Employment and Labour Relations Act of 2004 to formally recognize and regulate casual employment in Tanzania.....[Scan QR to read more.](#)



## EXPLOITATION BY MISCLASSIFICATION OF WORKERS' EMPLOYMENT STATUS: EXAMPLES FROM THE SWEDISH ROAD FREIGHT TRANSPORT INDUSTRY IN A TRANSNATIONAL EUROPEAN CONTEXT- BY ANNETTE THÖRNQUIST

This chapter explored the issue of work in the "grey area" between dependent employment and independent self-employment, particularly focusing on the deliberate misclassification of workers as self-employed. Using examples from the Swedish road freight transport industry, the chapter examined how this trend reflects East-West economic and regulatory arbitrage within the EU. It highlighted the dual nature of this issue: as a mode of exploitation in the capital-labour relationship and as a survival strategy for workers.



The chapter distinguished between dependent self-employment and false self-employment, noting that employers could externalize risks, costs, and responsibilities to both dependent contractors and employees. The primary Swedish policy response to false self-employment involved applying a broad, flexible definition of "employee" under existing labor laws, rather than introducing new protective reforms.....[Scan QR to read more.](#)

## UNIONISATION OF SEX WORKERS IN INDIA- BY SHUBHANGI GUPTA & AVIRAL SRIVASTAVA

Prostitution, though one of the oldest professions, remained unrecognized as a legitimate occupation. In India, over 15 million women were forced into the sex industry, with each state having more than 100,000 women involved. Despite the legality of prostitution not being explicitly banned, related provisions made it difficult to engage in the trade without violating laws. The lack of legal recognition and regulation prevented sex workers from accessing essential rights like healthcare and protection from abuse. India's Supreme Court acknowledged sex work as a profession, stating that sex workers should not face police harassment.



However, the absence of a formalized system left these women vulnerable to violence, abuse, and disease. Unionization of the industry was proposed as a solution to protect sex workers and provide a platform for addressing grievances. Without this, prostitution could not be considered an industry under the Industrial Disputes Act of 1947.....[Scan QR to read more.](#)

## RICH COUNTRIES DRAIN 'SHOCKING' AMOUNT OF LABOR FROM THE GLOBAL SOUTH WORKERS IN THE GLOBAL SOUTH—FROM FARM WORKERS TO SCIENTISTS—POWER THE WORLD ECONOMY BUT FACE A YAWNING WAGE GAP-ETBYPHIE JACOBS

Recent research has revealed that the Global South provided 90% of the labor powering the global economy but received only 21% of global income. Researchers, led by Jason Hickel, used a model to track labor and goods flows from 1995 to 2021, showing that wealthier nations imported 906 billion hours of labor from poorer countries while exporting only 80 billion. The study found that wage disparities were vast, with Southern workers earning 87% to 95% less for the same work as their Northern counterparts. Despite contributing significant high-skilled labor, workers in the Global South faced exploitative conditions, with artificially low wages and increasing inequalities.



The authors suggested policies like a global minimum wage to reduce the gap, but noted that such reforms were unlikely due to wealthy countries' reliance on cheap labor and resources. As climate change worsened, these workers faced increased risks of exploitation and health issues.....[Scan QR to read more.](#)

## PUBLICATIONS: REPORTS AND BOOKS

### Research Methods in Labour Law: A Handbook- Alysia Blackham and Sean Cooney

This Handbook provides an accessible overview of the different methods, approaches and theories which can be used to enrich labour law research. Drawing on cutting-edge research projects, leading scholars present insights and reflections on the past, present and future of labour law scholarship.....[Scan QR to read more.](#)



### On the Artistic Representation of Industrial Disputes in the Shadow of Repression in European Art From 1870 to 1914 and Beyond

This book, the first volume since the 1992 exhibition *Streik, Realität und Mythos*, examined the artistic representation of industrial disputes in European art from 1870 to 1914. Written by scholars with expertise in social history, art history, and industrial relations, it offered a broad perspective beyond Western Europe, including Poland, Hungary, the United States, and Mexico. The book analyzed media like painting, sculpture, graphic arts, and photography, focusing on renowned artists such as Carlo Carrà, Käthe Kollwitz, and Constantin Meunier, as well as lesser-known figures. It explored artistic styles from realism to socialist realism and examined strikes' causes and suppression through iconographical analysis, with a focus on various types of workers. The book attracted interest from historians, labour law scholars, and industrial relations specialists.....[Scan QR to read more.](#)



### The Oxford Handbook of the Law of Work- Guy Davidov, Brian Langille, and Gillian Lester

This comprehensive work examined the laws regulating work in both theory and practice. It explored key areas such as individual employment law, collective labour law, workplace discrimination, and international labour law. The book also addressed discussions on extending labour protections beyond traditional boundaries. Featuring sixty chapters, The book is authored by leading labour law scholars from around the world, providing a global perspective on the subject. The book offered an in-depth analysis of the legal frameworks governing work, making it a valuable resource for understanding the complexities of labour law in various contexts.....[Scan QR to read more.](#)



### Labour Law and the Person - Dr. Lisa Rodger

In her book, she argues that understanding how personhood is conceptualized and integrated into labor law is crucial for evaluating the law's effectiveness in advancing social justice. She employs the concept of personhood to analyze the protections provided to workers, both as individuals and within collective frameworks, and examines how labor law responds to challenges in the labor market, particularly those posed by the pandemic and the rise of AI. The book also considers the potential for incorporating a more 'relational' understanding of self into the core of labor law as a way to enhance social justice for workers.....[Scan QR to read more.](#)



# OPPORTUNITIES

## Applications Invited for Government of India Fellowship Programme

The Bureau of Police Research and Development (BPR&D) initiated the Government of India Fellowship Programme in 1986 to promote advanced studies in Criminology and Police Sciences at the national level. Over time, the programme has expanded to cover new and contemporary fields related to police and correctional services. In its revised format, the GoI Fellowships are awarded through Central Universities and other institutes of excellence. Currently, there are 10 fellowships available.

- **Duration:** 5 years
  - Junior Research Fellow: 2 years
  - Senior Research Fellow: Remaining period

## Applications Open for Young Professionals Programme (YPP)

The UN Young Professionals Programme (YPP) offers a platform for talented and qualified professionals to begin a career as international civil servants with the UN Secretariat. The programme involves an entrance examination and professional development opportunities. The YPP examination takes place annually in various subject areas, depending on the needs of the UN. YPP is available to nationals of participating countries, which vary each year. The application period typically begins in June.

## Visiting PhD Fellowship Programme

The Visiting PhD Fellowship Programme provides registered doctoral students with the chance to utilize the resources and facilities at UNU-WIDER for their PhD research on developing economies. Fellows spend three consecutive months in Helsinki, working alongside UNU-WIDER researchers in areas of mutual interest. During their fellowship, participants prepare research papers and present seminars on their findings, with the opportunity to publish in the WIDER Working Paper Series.

## Call for Papers | NLUD Journal on LABOUR

The NLUD Journal on LABOUR, published by the Centre for Labour Law Research and Advocacy at National Law University, Delhi, is now accepting submissions for its inaugural issue. The theme for this edition is "Sociology of Labour," inviting interdisciplinary contributions from scholars, researchers, practitioners, and activists. Submissions must be original and adhere to the specified guidelines.

- **Deadline:** November 30, 2024

For more details, visit the journal's submission portal or contact [jol@nludelhi.ac.in](mailto:jol@nludelhi.ac.in).

## One-day orientation Workshop on Biodiversity and Wildlife Conservation

This workshop series aims to cultivate a community who act as guardians of wildlife and promote biodiversity conservation. The program aims to inspire participants to commit to wildlife conservation efforts, each contributing according to their abilities.

## 2nd Victim Support Asia International Conference on "Mapping Victim Support Strategies in the Asian Region"

This prestigious event will bring together leading experts, academics, and practitioners from across Asia and beyond to discuss, debate, and enhance victim support strategies. With a focus on strengthening victim rights and services in the Asian region, this conference is an unmissable opportunity for those dedicated to making a tangible impact on the lives of victims of crime.



NLUD Journal on 'LABOUR'



# CALL FOR PAPERS

Call for Papers:

Inaugural edition of NLUD Journal on LABOUR, themed 'Sociology of Labour'.

## SUB-THEMES

- ✓ Nature of work, work relationship and occupational style
- ✓ Various sectors within informal/formal sector and its political economy
- ✓ Labour and Development discourse on work
- ✓ Feminist analysis of Labour, Migration and Development
- ✓ Intersectional analysis of Labour confluence
- ✓ Marginalised labour categories and historical injustices
- ✓ Structure of Labour Law and its influence on Labouring Lives
- ✓ Just transition debates on labour
- ✓ New industries, new cities and new labour
- ✓ Urban development and labour

## SUBMISSION PROCESS

All the submissions must be made online at submission portal [cllra.com] or at [jol@nludelhi.ac.in](mailto:jol@nludelhi.ac.in)

## TYPES OF SUBMISSIONS

- Special Articles [8000-10000 words]
- Short Articles [5000-8000 words]
- Insights/Perspectives [3500-4500 words]
- Book Reviews/ Case Notes [2500-3000 words]
- Field Notes/Pictorial Commentaries [1-2 Pages]

## SUBMISSION GUIDELINES

- All submissions (except Book Reviews) should be accompanied by an abstract of not more than 300 words and 5 important keywords.
- All word limits are inclusive of footnotes.
- Referencing and citations must conform to the APA Citation style

## IMPORTANT DATE

20TH JULY 2024

Paper submission begins

30TH NOV 2024

Paper submission deadlines

15TH FEB 2025

Acceptance and Review Process

30TH APRIL 2025

Final Acceptance and Confirmation

15TH JULY 2025

Publication Date



# EDITORIAL TEAM



## Managing Editor

Dr. Sophy K. J. is Associate Professor of Law at the National Law University Delhi. She is currently the Director of Centre for Labour Law Research and Advocacy (CLLRA). Her areas of research interest are Law relating to Labour and Development, Gender and the Law, Legal History and Anthropology.



## Editor in Chief

Dev Dhar Dubey, our editor-in-chief is a PhD scholar at National Law University Delhi. He post-graduated from Gujarat National Law University, Gandhinagar. He is currently working at the Centre for Labour Law Research and Advocacy (CLLRA). He has published several articles in national and international journals and is also the author of two books titled, "Rohingya's: Journey without an end." & "Media and Telecommunication Law".



## Editor

Akanksha Yadav has post-graduated from National Academy of Legal Studies and Research, Hyderabad [NALSAR]. She did her graduation from RMLNLU, Lucknow. She is currently working at the Centre for Labour Law Research and Advocacy (CLLRA). She has published several articles and research papers in National Journals.



## Editor

Tejas Misra is a Law Student at National Law University, Delhi. Areas of interest include socio-legal research, activism and advocacy. Passionate about history, philosophy and society's intersection with the law. Currently working on research topics relating to labour rights and legal news.



## Editor

Kapil Kumar Verma is a PhD Candidate at RMLNLU, Lucknow and has completed his LL.M. from National Law University Delhi; he graduated from National Law Institute University, Bhopal. He is currently working for the Centre for Labour Law Research and Advocacy (CLLRA). His areas of interest include labour law, affirmative action, and women's rights, among others.

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The newsletter titled "Labour Law Insights: Unlocking India's Labor Legal Labyrinth: Insights, Updates, and Analysis" is a comprehensive resource focusing on the intricate landscape of labor law in India. It provides timely updates on legal developments, in-depth analysis of key cases, expert commentary, and answers to common questions, all rooted in Indian legal provisions and case laws. This publication stands as an invaluable resource for scholars, practitioners, and stakeholders seeking profound insights into India's labor legal framework.



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