

Employment Law Update

2026 Sep - Oct

Introduction

The September - October 2026 edition of our Labour and Employment Newsletter highlights significant developments in India's social security and minimum wage frameworks, together with important judicial decisions concerning employment relationships, statutory benefits and workplace compliance. A key development is the enhancement of the statutory wage ceiling for provident fund coverage from ₹15,000 to ₹25,000 per month, accompanied by amendments to the Employees' Pension Scheme, 2026. The newsletter also covers revised eligibility conditions for continuation of exemptions granted to provident fund establishments, amendments to the permitted investment pattern for exempted provident fund trusts, and a reduction in the prescribed inspection charge rate.

Other significant developments include the extension of the Employees' State Insurance framework to establishments across 31 districts of Gujarat with effect from October 1, 2026, the revision of Variable Dearness Allowance and minimum wage rates under the Central Sphere, and the introduction of a unified, risk-based licensing framework for trade, shops and establishments in Manipur. The Ministry of Labour and Employment has also permitted voluntary Aadhaar authentication for user verification on the Shram Suvidha Portal, subject to consent and the availability of alternative identification methods.

The judicial developments examined in this edition address several important aspects of employment law. The Supreme Court has clarified the jurisdiction of the Controlling Authority in gratuity disputes involving contract workers and the limits of a principal employer's liability for gratuity under the erstwhile contract labour framework. The Bombay High Court has considered claims for regularisation by long-serving workers engaged through successive contractors. Another decision of the Calcutta High Court highlights the financial consequences of delayed gratuity payments, including the levy of compound interest during recovery proceedings.

Collectively, these developments highlight the importance of reviewing payroll and social security contributions, assessing establishment-level registrations and licensing requirements, maintaining compliant contract-labour arrangements, and ensuring the timely discharge of statutory employment liabilities. Employers should evaluate the applicability of each notification and judgment to their operations and update their internal compliance processes, documentation and payroll systems accordingly.

Notification and Circulars

Ministry of Labour and Employment permits voluntary Aadhaar authentication for verification of user details on the Shram Suvidha Portal

The Ministry of Labour and Employment (“**MoLE**”), through Notification S.O. 4831(E), published in the Gazette of India on September 1, 2026 (“**Notification**”), has notified the use of Aadhaar authentication for verifying user details in modules available on the Shram Suvidha Portal. The Notification has been issued under Rule 5 of the Aadhaar Authentication for Good Governance (Social Welfare, Innovation, Knowledge) Rules, 2020, read with Section 4(4)(b)(ii) of the Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016. It supersedes the Ministry’s earlier Notification S.O. 2523(E) dated May 15, 2026, except in respect of actions already taken or omissions occurring before such supersession.

The Shram Suvidha Portal is an integrated web-based platform intended to streamline labour-law compliance and facilitate interaction between employers and enforcement authorities. The Notification permits MoLE to undertake Aadhaar authentication for verification of user details on the Portal, using the “Yes/No” and/or electronic Know Your Customer (“e-KYC”) authentication facilities. The stated objective is to simplify identity verification, reduce reliance on multiple identity documents and promote transparency and administrative efficiency.

Importantly, Aadhaar authentication under the Notification is voluntary. MoLE is required to obtain the Aadhaar holder’s consent before undertaking authentication and to inform the individual of alternative and viable means of identification. The Notification expressly provides that an individual cannot be denied a service merely because they refuse or are unable to complete Aadhaar authentication. The alternative identity documents specified are a Voter ID card, PAN card, driving licence and passport.

The Notification is relevant to employers and other users accessing the Shram Suvidha Portal for

labour-law compliance and related administrative processes. Employers should review their internal procedures for user registration and identity verification to ensure that any Aadhaar-based authentication is undertaken with the individual’s consent and that alternative identification mechanisms remain available. Employers and compliance teams should also ensure that employees or authorised representatives are not required to furnish Aadhaar authentication as an absolute condition for accessing the relevant services where the Notification expressly permits alternative identification.

The Notification takes effect from the date of its publication in the Official Gazette, i.e., September 1, 2026. Employers and other Portal users should accordingly align their identity-verification processes with the notified framework, particularly the requirements concerning consent, voluntary authentication and the availability of alternative identification documents.

Karnataka amends Shops and Commercial Establishments Act, introducing simplified registration and revised employer obligations

The Government of Karnataka, through Notification No. DPAL 32 SHASANA 2026 dated September 4, 2026, notified the Karnataka Shops and Commercial Establishments (Amendment) Act, 2026 (Karnataka Act No. 38 of 2026), which came into force on September 4, 2026. The amendment introduces significant changes, including exemption for establishments employing ten or more workers already registered under the Occupational Safety, Health and Working Conditions Code, 2020, removal of periodic registration renewal requirements, and digitisation of registration processes.

The amendment also requires employers to issue service certificates within seven days of receiving an employee’s application and prohibits the retention of employees’ original educational, experience and other documents. Further, it revises certain conditions governing women’s employment during

night shifts and enhances penalties for statutory non-compliance. Employers operating in Karnataka should review their registration status, employee documentation practices and internal compliance procedures to align with the amended framework.

Himachal Pradesh permits 24x7 operations for shops and commercial establishments

The Government of Himachal Pradesh, through Notification No. LEP-A003/15/2023-Pt-II dated September 22, 2026, has exempted shops and commercial establishments from the provisions of Sections 9 and 10 of the Himachal Pradesh Shops and Commercial Establishments Act, 1969, and Rule 11 of the Himachal Pradesh Shops and Commercial Establishments Rules, 1972. The exemption permits establishments to operate 24 hours a day, seven days a week, for a period of one year from the date of publication in the Official Gazette.

However, the relaxation does not dispense with statutory requirements relating to employees' daily and weekly working hours, weekly holidays, overtime payments, and workplace safety and welfare. Employers engaging women employees during night shifts must also comply with the applicable safety and security conditions prescribed under the notification.

The development is particularly relevant to employers operating retail outlets, hospitality businesses and other commercial establishments in Himachal Pradesh. Such employers may review their operating schedules and staffing arrangements while ensuring continued compliance with applicable working-hour restrictions and employee protection requirements.

EPFO issues circular prescribing eligibility conditions for continuation of exemption under the Code on Social Security, 2020

On September 7, 2026, the Employees' Provident Fund Organisation ("EPFO") issued Circular No. E-III/10(55)/2026/Misc concerning the continuation of

exemption granted to establishments under the Code on Social Security, 2020 ("Social Security Code"). The circular is addressed to the relevant EPFO regional and district office authorities and sets out the eligibility conditions applicable to exempted establishments seeking continuation of their exemption under the new social security framework.

The circular refers to condition 40 of paragraph 13 of the terms and conditions applicable after exemption under the Employees' Provident Fund Scheme, 2026 ("EPF Scheme, 2026"). Under this condition, establishments that were exempted under the repealed Employees' Provident Funds and Miscellaneous Provisions Act, 1952 are required to apply for continuation of their exemption, subject to satisfying the eligibility conditions specified under the Social Security Code and the Social Security (Central) Rules, 2026.

Establishments seeking continuation of exemption are required to satisfy the following conditions: (i) the establishment must have at least 500 contributory members as on the date of application; and (ii) the cumulative balance in members' accounts must be ₹50 crore or more, and the establishment must have maintained a positive net worth during each of the three financial years immediately preceding the date of application.

Ministry of Labour and Employment amends the investment pattern for exempted provident fund establishments

The Ministry of Labour and Employment, through Notification S.O. 5009(E) dated September 9, 2026 ("Notification"), has amended the investment pattern prescribed under the notification dated May 29, 2015, governing investments by provident fund trusts exempted under Section 17(3)(a) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 ("EPF Act"). The amendment revises the permitted investments under the category of "Debt Instruments and Related Investments", specifically Category (ii), clause (c) of the applicable investment table.

The amendment substitutes the existing provision with a revised clause permitting investment in rupee-

denominated bonds having an outstanding maturity of at least three years, issued by institutions of the International Bank for Reconstruction and Development, the International Finance Corporation, the Asian Development Bank and the New Development Bank. The amendment therefore specifies the eligible multilateral development institutions and the minimum residual maturity applicable to such investments.

The Notification amends the investment framework originally prescribed through S.O. 1433(E) dated May 29, 2015, which has subsequently been amended through notifications issued in 2016, 2021 and 2023. The amendment is relevant to employers maintaining exempted provident fund trusts, as the trustees responsible for managing such funds must ensure that investments are made in accordance with the applicable statutory investment pattern and its amendments.

Employers operating exempted provident fund trusts should accordingly review their existing investment policies, trustee procedures and investment portfolios to assess whether the revised provision affects their permitted investment options. Trustees and fund managers should also ensure that any proposed investments in rupee-denominated bonds issued by the specified institutions satisfy the minimum outstanding maturity requirement and the other applicable investment conditions. The amendment should be read as a revision to the permitted investment category and not as a general exemption from the investment restrictions applicable to exempted provident fund trusts.

Ministry of Labour and Employment revises the statutory wage ceiling for EPFO coverage from ₹15,000 to ₹25,000 per month

The Ministry of Labour and Employment, through Notification S.O. 5109(E) dated September 17, 2026 ("notification"), has enhanced the statutory wage ceiling for the purposes of Chapter III of the Code on Social Security, 2020 ("SS Code"), from ₹15,000 to ₹25,000 per month, with effect from September 17, 2026. The Notification supersedes the earlier notification S.O. 2702(E) dated May 29, 2026, except

in respect of actions taken or omitted before such supersession. The revision follows the earlier wage ceiling of ₹15,000 per month, which had remained unchanged since September 2014, and is intended to extend statutory social security coverage to a wider section of the workforce.

The increase in the wage ceiling may result in higher monthly PF contributions for employees brought within the mandatory coverage framework, subject to the applicable provisions of the Code on Social Security, 2020 and the relevant schemes. The contribution impact will depend on the employee's coverage and membership status, the applicable definition of wages, the contribution base used by the establishment and any permitted higher-wage contribution arrangement. Employers should not assume that every employee's contribution is automatically capped at 12% of ₹25,000, or that the revised Chapter III wage ceiling by itself determines the wage base for every component of PF and pension contributions. The relevant provisions governing EPF and EPS contributions must be considered separately.

In light of these developments, employers should identify employees drawing monthly wages between ₹15,000 and ₹25,000, reassess the coverage of employees previously excluded on account of the erstwhile ceiling, and determine the corresponding changes required to PF and pension contributions. Payroll systems, contribution calculations, salary documentation, PF records and Electronic Challan-cum-Return filings should be reviewed to reflect the revised ceiling and its effective date. Employers should also evaluate the resulting increase in employment costs, administrative and inspection charges, and any consequent impact on employees' take-home pay.

Any proposed changes to compensation structures or the allocation of contributions between PF and pension accounts should be assessed against the applicable statutory requirements, including the relevant notice-of-change obligations and restrictions on reducing wages or employee benefits. Employers should also monitor further guidance from EPFO concerning enrolment, contribution calculations and transitional compliance, particularly for the Septe

-mber 2026 wage period and the interaction between the revised Chapter III wage ceiling and the applicable EPS provisions.

Ministry of Labour and Employment reduces the prescribed inspection charge rate for exempted establishments under the Code on Social Security, 2020

The Ministry of Labour and Employment (“**MoLE**”), through Corrigendum S.O. 5098(E) dated September 10, 2026 (“Corrigendum”), published in the Gazette of India on September 17, 2026, has corrected its earlier notification S.O. 2701(E) dated May 29, 2026, concerning inspection charges payable by establishments exempted under Section 143(6) of the Code on Social Security, 2020 (“SS Code”). The Corrigendum substitutes the figure “0.35” with “0.18” in the earlier notification, thereby revising the specified inspection charge rate.

The original notification prescribed inspection charges in relation to establishments and persons exempted under Section 143 of the SS Code. The correction specifically changes the figure appearing on page 2, line 7, of the earlier notification. The published corrigendum does not introduce a new inspection-charge framework but modifies the specified rate in the existing notification.

The revision is relevant to employers operating exempted provident fund arrangements, including establishments maintaining recognised exempted provident fund trusts. Such employers should review the amended notification and assess its implications for the inspection charges applicable to their establishments. Employers should also verify the applicable calculation methodology and ensure that any charges paid or payable are determined in accordance with the corrected rate and the governing corrigendum.

Ministry of Labour and Employment amends the Employees’ Pension Scheme, 2026 to extend pension scheme eligibility in line with the revised wage ceiling

The Ministry of Labour and Employment (“**MoLE**”), through Notification G.S.R. 847(E) dated September 25, 2026 (“**Notification**”), has amended Paragraph 7(1) of the Employees’ Pension Scheme, 2026 (“**EPS 2026**”), notified under the Code on Social Security, 2020 (“**SS Code**”). The amendment inserts a new clause (iii) to address employees who are members of the Employees’ Provident Funds Scheme, 2026 (“EPF Scheme 2026”), but are not members of EPS 2026, and whose wages, on the date of notification of the revised wage ceiling, are equal to or below the wage ceiling notified by the Central Government. The amendment takes effect retrospectively from September 17, 2026.

The amendment follows the Central Government’s enhancement of the statutory wage ceiling from ₹15,000 to ₹25,000 per month with effect from September 17, 2026. By introducing the additional eligibility provision, the amendment addresses the position of employees who are already members of the EPF Scheme 2026 but were not enrolled under EPS 2026, where their wages fall within the revised ceiling. The amendment is intended to align the pension scheme framework with the revised wage ceiling and the associated expansion of social security coverage.

The amendment is relevant to employers, payroll administrators and provident fund trust administrators, particularly in relation to employees who were previously excluded from EPS membership because their wages exceeded the erstwhile ceiling. Employers should review the membership status and wages of existing EPF members to identify employees who may fall within the newly inserted provision and assess the applicable requirements for EPS enrolment and contributions.

Employers should also review their payroll systems, pension contribution calculations and EPFO records to ensure that the revised eligibility framework is appropriately reflected from September 17, 2026. The amendment should be read alongside the revised wage ceiling notification and the other applicable provisions of EPS 2026. It does not, by itself, establish that every existing EPF member who is not an EPS member automatically becomes

eligible for pension scheme membership; the conditions prescribed under the amended provision and the applicable scheme framework must be satisfied. The subsequent Notification G.S.R. 890(E), dated October 15, 2026, also amended Paragraph 4(2) of EPS 2026 by specifying wages up to ₹15,000 per month for the relevant Central Government contribution, with effect from September 17, 2026. Accordingly, the ₹25,000 wage ceiling notified for Chapter III should not, by itself, be treated as increasing the wage base for that specific Central Government contribution. Employers should read both notifications with the complete scheme provisions before determining contribution obligations.

Manipur enacts the Unified (Trade, Shop and Establishment) Licensing Act, 2026, introducing a single digital licensing framework for businesses

The Government of Manipur vide Notification No. 2/7/2026-Leg/L dated September 24, 2026, brought the Manipur Unified (Trade, Shop and Establishment) Licensing Act, 2026 (“**Act**”) into force. The Act establishes a unified, transparent and digital licensing framework based on self-declaration and risk-based classification, with the stated objective of eliminating duplicate licensing requirements and streamlining administrative processes for businesses operating in Manipur.

The Act requires every person carrying on business in Manipur to obtain a Unified Trade, Shop and Establishment Licence (“**Unified Licence**”). This requirement also extends to home-based or household non-polluting units and industries with an investment of up to ₹1 lakh, which must register on the designated portal and pay a one-time licence fee. Such small units are, however, exempt from annual and renewal fees. Existing licence holders are required to migrate to the unified licensing system within one year of the notification of the Act or at the time of renewal, whichever is earlier. The unified framework provides for a single licence for the same business activity, thereby avoiding duplicate licensing requirements from different authorities, while preserving the statutory powers and functions

of Autonomous District Councils and other local bodies, except to the extent specifically provided under the Act.

Licence fees are determined by reference to the risk category and the investment or business volume for new establishments, while annual or renewal fees are linked to risk classification and annual turnover, as applicable. The Schedule prescribes different fee slabs for micro, mini, small, medium and large businesses. Where an establishment undertakes multiple activities, the fee applicable to the highest risk category applies. A licence may be suspended or cancelled after providing the licensee an opportunity of being heard. Knowingly making a false declaration may attract monetary penalties of up to ₹1 lakh for low-risk businesses, ₹3 lakh for medium-risk businesses and ₹1 crore for high-risk businesses, in addition to possible suspension or cancellation of the licence and blacklisting for up to five years in serious cases.

Employers and businesses operating in Manipur should identify the appropriate risk classification for each establishment, assess whether a new Unified Licence is required, and plan the migration of existing licences within the prescribed period. They should also ensure that investment, turnover, workforce and business-activity information submitted through the portal is accurate and supported by appropriate records. Businesses classified as low or medium risk should diarise the three-year period for obtaining any outstanding statutory approvals and clearances, while high-risk businesses should secure the necessary clearances before commencing operations. The Act primarily reforms trade and establishment licensing; employers should not treat the Unified Licence as a substitute for separate registrations, licences or approvals required under other applicable labour, safety, environmental or sector-specific laws.

Central Government revises Variable Dearness Allowance and minimum wage rates for scheduled employments with effect from October 1, 2026

The Ministry of Labour and Employment,

Government of India, vide File No. 6/1/2026-VDA, revised the rates of Variable Dearness Allowance (“VDA”) and the corresponding minimum wage rates payable to employees engaged in specified scheduled employments, with effect from October 1, 2026. The revision has been issued pursuant to the powers conferred by the Central Government under Notification No. S.O. 2451(E) dated May 12, 2026, and in accordance with Section 69(2) of the Code on Wages, 2019 (“**Code on Wages**”).

The revision is based on the increase in the average Consumer Price Index for Industrial Workers (“CPI-IW”), linked to base year 2016 (2016=100), from 424.80 to 431.42 as on June 30, 2026, representing an increase of 6.62 index points. The revised VDA is payable from October 1, 2026, and has been rounded up to the next higher rupee in accordance with the decision of the Minimum Wages Advisory Board.

The revised orders cover various scheduled employments, including agriculture; employment in mines, including stone mines; construction and maintenance of roads and runways and building operations; employment in sweeping and cleaning, subject to the specified statutory exclusions; loading and unloading in goods sheds, warehouses, docks, ports and airports; and watch and ward duties, both with and without arms. The applicable VDA and minimum wage rates vary according to the nature of employment, skill classification and the area in which the employee is employed. Employers should refer to the relevant order issued under File No. 6/1/2026-VDA for the specific rates applicable to each employment, skill category and area.

Central Government extends implementation of the Employees’ State Insurance Scheme to establishments in 31 districts of Gujarat

The Ministry of Labour and Employment, Government of India, vide Notification No. S.O. 5310(E), dated September 25, 2026, extended the applicability of the Employees’ State Insurance (“ESI”) framework to establishments situated in specified areas of 31 districts in Gujarat, with effect from October 1, 2026. The notification has been issued under the third proviso to the First Schedule of the Code on Social Security, 2020 (“Social Security Code”), and supersedes the earlier notification bearing No. S.O. 5206(E) dated September 22, 2026, except in respect of actions already taken or omissions occurring before such supersession.

The notification identifies 15 districts in Gujarat in which the ESI framework had not previously been implemented and 16 partially implemented districts. With effect from October 1, 2026, employer and employee contributions from establishments situated in the entire areas of these districts are payable under Section 29 of the Social Security Code. Employees of such establishments will also be entitled to benefits administered by the Employees’ State Insurance Corporation (“ESIC”) under Chapter IV of the Social Security Code, subject to the applicable statutory eligibility requirements.

The 15 districts in which the scheme is being implemented across their entire areas are Amreli, Aravalli, Banaskantha, Botad, Chhota Udepur, Dahod, Dang, Devbhoomi Dwarka, Gir Somnath, Kutch, Mahisagar, Narmada, Patan, Tapi and Vav–Tharad. The notification also extends implementation across the entire areas of the following 16 districts that were previously partially covered: Ahmedabad, Anand, Bharuch, Bhavnagar, Jamnagar, Junagadh, Kheda, Mehsana, Morbi, Navsari, Panchmahal, Porbandar, Rajkot, Sabarkantha, Surat and Surendranagar. Accordingly, establishments located in areas of these districts that were not previously covered are also brought within the geographical scope of the notification from October 1, 2026.

Case Laws

Supreme Court holds that the Controlling Authority under the Payment of Gratuity Act, 1972 cannot determine the existence of an employer–employee relationship between a principal employer and contract workers or impose gratuity liability on the principal employer

In *M/s Oil and Natural Gas Corporation Ltd. v. Suryakant D. Lad and Others*, 2026 INSC 1019 dated September 9, 2026, the Supreme Court of India considered whether a Controlling Authority (“CA”) under the Payment of Gratuity Act, 1972 (“PGA 1972”) has jurisdiction to determine the existence of an employer–employee relationship between a principal employer and workers engaged through an independent contractor and, consequently, impose gratuity liability on the principal employer. The Supreme Court held that the CA cannot adjudicate a disputed employer–employee relationship of this nature. It further clarified that the principal employer’s liability under Section 21(4) of the Contract Labour (Regulation and Abolition) Act, 1970 (“CLRA”) is confined to unpaid wages within the meaning of the Payment of Wages Act, 1936 (“PWA 1936”), which expressly excluded gratuity payable upon termination of employment from the definition of wages.

The dispute arose from the engagement of independent contractors by Oil and Natural Gas Corporation Limited (“ONGC”) to execute specific job contracts during the period from 1988 to 1995. Workers engaged by these contractors subsequently filed applications before the jurisdictional CA under the PGA 1972, seeking payment of gratuity from ONGC in its capacity as the principal employer. By an order dated July 17, 2017, the CA directed ONGC to pay gratuity to the applicants. The Appellate Authority subsequently set aside the order, holding that the CA had exceeded its jurisdiction by determining whether ONGC was the principal employer liable to pay gratuity. However, the Bombay High Court, by its judgment dated August 23, 2023 reversed the Appellate Authority’s decision, holding

that the CA could, after conducting an inquiry and providing the parties an opportunity of hearing, determine the admissibility and quantum of gratuity and direct the employer to make payment. ONGC challenged the High Court’s decision before the Supreme Court.

The Supreme Court held that the jurisdiction of the CA under the PGA 1972 does not extend to adjudicating a disputed employer–employee relationship between a principal employer and workers engaged through an independent contractor. The Court observed that the statutory framework governing gratuity contemplates payment to an eligible employee and does not confer jurisdiction on the CA to establish an employment relationship with a principal employer where such relationship is disputed. In examining the contractual arrangement between ONGC and the independent contractors, including Clause 12.4 of the relevant contract, the Court noted that the engagement was structured as an independent, arm’s-length job contract and did not, by itself, establish an employer–employee relationship between ONGC and the contract workers.

The Court further examined the liability of a principal employer under Section 21(4) of the CLRA, which requires the principal employer to pay unpaid wages where the contractor defaults in making such payment, with a corresponding right to recover the amount from the contractor. The Court held that this obligation was confined to wages within the meaning of the PWA 1936. Since Section 2(vi) of the PWA 1936 expressly excluded gratuity payable upon termination of employment from the definition of wages, the Court concluded that gratuity did not fall within the principal employer’s payment obligation under Section 21(4) of the CLRA.

The judgment is significant for employers engaging contract labour through independent contractors, particularly where contract workers seek to recover gratuity directly from the principal employer. The

ruling concerns the Controlling Authority's jurisdiction and the statutory provisions considered in that case; it should not be read as a blanket exemption from gratuity liability for every principal employer. Employers should review their contractor agreements to ensure that they accurately reflect the nature of the engagement and clearly allocate responsibility for statutory employment benefits, including gratuity. Employers should also consider appropriate contractual indemnities, compliance-monitoring mechanisms and record-maintenance obligations. However, contractual terms alone may not be conclusive where the actual working arrangement indicates a different employment relationship.

The PGA 1972 and the PWA 1936 have since been subsumed under the Code on Social Security, 2020 ("SS Code") and the Code on Wages, 2019, respectively. The OSH Code also contains provisions concerning contractor obligations and the principal employer's liability for wages. Accordingly, employers should assess the implications of the judgment alongside the applicable Labour Code provisions, commencement notifications and transitional arrangements. The judgment should not be interpreted as establishing a blanket exemption from gratuity liability for all principal employers engaging contract labour; the applicable statutory framework and the actual nature of the employment relationship remain relevant to determining liability.

Bombay High Court holds that routing workers through successive contractors cannot defeat regularisation where the employment relationship is substantively with the principal employer

In *Film and Television Institute of India v. Javed Rasool Banedar and Others* (Writ Petition Nos. 1644 of 2025 and 14169 of 2025, judgment dated September 29, 2026), the Bombay High Court examined whether seven workmen engaged by the Film and Television Institute of India ("FTII") could claim regularisation after years of continuous service, notwithstanding that their engagement was subsequently routed through successive contractors. The Court upheld the Industrial Tribunal's direction granting the

workmen regularisation-related relief from January 2023, while rejecting their claim for permanency from January 2003.

The workmen claimed that they had been continuously engaged by FTII since 2003 for assignments such as light boy and studio boy. Although they were initially paid directly by FTII, their wages were routed through contractors from January 2007 onwards. The same seven workmen continued working at FTII despite changes in the contractors. Following a reference to the Industrial Tribunal in 2015, FTII terminated their services on July 2, 2018, while the proceedings were pending. The Industrial Tribunal held that FTII's failure to regularise the workmen and its arrangement of engaging them through contractors were illegal and unjustified, and directed the grant of permanency benefits from January 2023. Both FTII and the workmen challenged the award before the High Court.

The High Court considered the substance of the employment arrangement rather than relying solely on the formal contractual structure. It found that the workmen had initially worked directly for FTII and received wages from it. The continuation of the same individuals through successive contractors was considered significant and indicative of an arrangement designed to avoid the consequences of regularising their employment. The Court also noted that FTII had subsequently created 15 Studio Assistant posts and advertised them in 2023. This undermined FTII's contention that the workmen were engaged only on a need-based basis. The Court further drew an adverse inference from FTII's failure to produce service records despite the Industrial Tribunal's direction.

The Court nevertheless reiterated that long service does not, by itself, confer an automatic right to regularisation, particularly in public employment, where appointments must comply with the constitutional requirements of equal opportunity. Referring to the principles governing regularisation of irregular appointments, the Court recognised that regularisation may be permissible as a one-time measure in appropriate cases involving persons who have worked for ten years or more against duly sanctioned

vacant posts, without the protection of interim orders of courts or tribunals. The relief in the present case was grounded in the facts concerning the nature and continuity of the engagement, the contractor arrangement and the availability of regular posts; it should not be read as establishing a general rule that every long-serving contractual worker is entitled to regularisation.

The Court distinguished regularisation from permanency under applicable standing orders and rejected the workmen's claim to permanency from January 2003. It did not accept that completion of 90 or 240 days of service automatically entitled them to permanent status in the circumstances of the case. The Court also rejected FTII's objection based on delay, observing that a claim for regularisation may give rise to a continuing cause of action and may arise after a substantial period of service. In addition, it found that the termination during the pendency of the industrial reference violated Section 33 of the Industrial Disputes Act, 1947, as the applicable statutory requirements had not been followed.

The judgment is relevant for employers, particularly public-sector bodies and organisations engaging workers through contractors over extended periods. It underscores that the actual course of employment including continuity of the same workforce, payment arrangements, supervision and control, and the availability of sanctioned posts may be material in determining the true nature of the relationship. Merely changing contractors may not be sufficient to establish that the workers are genuinely employed by independent contractors where the surrounding circumstances indicate otherwise. Employers should therefore periodically review long-standing contract-labour arrangements and ensure that the contractual structure reflects the actual manner in which work is allocated, supervised and remunerated. The decision does not, however, dispense with the legal requirements governing regular appointments or create an automatic entitlement to regularisation based solely on length of service.

Calcutta High Court upholds levy of 15% compound interest on unpaid gratuity dues, including the simple interest component

In *Kanknarrah Jute Private Limited and Another v. State of West Bengal and Others* (WPA 17299 of 2026) judgement dated September 28, 2026, the Calcutta High Court held that compound interest under Section 8 of the Payment of Gratuity Act, 1972 ("PGA 1972") could be levied on the amount certified for recovery, even where that amount included simple interest imposed for delayed payment of gratuity. The Court rejected the employer's contention that compound interest should be calculated only on the principal gratuity amount and dismissed the writ petition challenging the recovery and attachment proceedings.

The employer had challenged attachment orders issued in connection with unpaid gratuity dues and sought a reduction in the applicable interest. Although it had paid the principal gratuity amount, a portion of the simple interest awarded at 10% per annum remained unpaid within the stipulated period. The employer contended that the subsequent levy of 15% compound interest on the outstanding amount, which included the unpaid simple interest component, was impermissible. It argued that Section 8 of the PGA 1972 authorised compound interest on the outstanding gratuity but did not expressly permit interest to be compounded on the simple interest awarded for delayed payment. The employer also sought a reduction of the simple interest rate from 10% to 8%, relying on an earlier decision of the High Court.

The Court distinguished between the operation of Sections 7(3A) and 8 of the PGA 1972. Section 7(3A) provides for simple interest where the employer fails to pay gratuity within the prescribed period, subject to the statutory exception where the delay is attributable to the employee and the employer has obtained the requisite written permission from the controlling authority. Section 8, on the other hand, provides for recovery of unpaid gratuity through the Collector as arrears of land revenue, together with compound interest at the rate specified by the Central Government. The Court noted that the amount certified for recovery by the controlling authority included the simple interest payable on the principal gratuity amount. Accordingly, the employer could not contend that the recovery proceedings should exclude the simple interest component when calculating compound interest under Section 8.

The Court rejected the employer's argument that the levy amounted to impermissible interest on interest. It held that the statutory recovery mechanism did not permit a different interpretation in the circumstances, since the certificate was issued for the amount determined by the controlling authority, including simple interest. The Court also declined to grant relief on the ground of financial hardship, observing that the employer had repeatedly failed to comply with directions issued by the competent authorities and the Court. It further held that the earlier decision relied upon by the employer was distinguishable, as the reduction of interest in that matter was linked to misconduct by the employee, whereas no such circumstances arose in the present case. The Court accordingly found no reason to interfere with the impugned orders and dismissed the writ petition.

The judgment highlights the financial consequences of failing to discharge gratuity liabilities within the prescribed period and, subsequently, failing to comply with recovery-related directions. Employers should ensure that gratuity is calculated and paid within the statutory timelines and that any interest awarded by the controlling authority is also paid in full. Where recovery proceedings under Section 8 are initiated, employers should not assume that payment of the principal gratuity alone will prevent further interest liability. The decision also indicates that financial hardship, by itself, may not justify relief from statutory interest or recovery consequences, particularly where the employer has repeatedly failed to comply with directions of the authorities or the Court.

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