Labour & Employment Update

September 2025; Issue No. 26

The *'Labour & Employment Update – 'September 2025'* comprises latest judicial decisions of the Supreme Court of India and various High Courts and circulars/notification issued under Indian Labour Law.

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1. Legal Updates

The Industrial Disputes Act, 1947 (in short ***"ID Act"***)

1. If the appropriate government does not communicate within 60 days of the date of application seeking closure there shall be a deemed closure held SC.

Harinagar Sugar Mills Ltd. (Biscuit Division) & Anr. V. State of Maharashtra & Ors. [Slp (c) No. 4268 of 2023; dt. June 4, 2025]

The subject matter of the present appeal is the judgement of Bombay HC. Brief facts this case are the appellant, Harinagar sugar mills limited (Biscuit Division) ***(in short "HSML")*** had been engaged in biscuit manufacturing exclusively for Britannia Industries Limited (BIL) for the past 32 years under job work agreements. BIL had terminated the job work agreement with the appellant. Consequently, the appellant has made an application to the competent authority seeking permission for closure of business in accordance with rule 82-B (1) of the Industrial Dispute (Maharashtra) Rules, 1957 read with Section 25-O (1) of the ID Act. In response to the application made by the appellant, the Deputy Secretary, Maharashtra Government had informed the appellant that they failed to disclose their efforts to prevent closure, nor had they given cogent reasons for closure. In response, the appellant furnished the particulars as asked for and the 60-day period provided for under Section 25-O (3) of the ID Act ran out in October 2019. The authorities not satisfied with the response asked to resubmit the application.

Meanwhile, the Deputy Commissioner, Labour sent two letters to HSML asking them to be present for a meeting and conveyed that the state government was yet to grant permission for closure and they should not be closing down the business as contemplated on November 27, 2019. In an application made by the workers' unions the Industrial Tribunal passed an interim order restraining the appellant to close down the manufacturing facility. Aggrieved appellant invoked the writ jurisdiction of Bombay HC, wherein it dismissed the petitions. Finally, the HSML approached SC. The contention of the appellant is that in case of no communication from the appropriate government in respect of granting or denial of permission, by virtue of sec 25-O (3) of the ID Act, approval is deemed to be granted. Further, deputy secretary shall not be the appropriate authority as per the notification issued by the Maharashtra Government wherein it notified the Minister for Labour as appropriate authority.

The SC allowing the appeals held, the application made by the appellant seeking approval for closure was complete in all respects, and the 60-day period for the deemed closure to take effect from the date of first application. Further, the Deputy Secretary was not the appropriate government who had asked the appellant to revise and resubmit the application for closure.

Service matters

2. Voluntary retirement and resignation are distinct, employee cannot claim benefits of one while opting for the other held SC.

United Bank of India (now Punjab National Bank) V. Swapan Kumar Mullick & Ors. [SLP (Civil) No. 13592 of 2020; dt. July 22, 2025]

The subject of these appeals is common judgement passed by the division bench of Calcutta HC. Brief facts of this case are the respondent had rendered 35 years of service to the petitioner bank before tendering his resignation in 2006 citing mental depression. Four years later, when the petitioner issued a circular dt.16 August 2010 offering a second option for pension under the '1995 Pension Regulations', respondent submitted his application. The petitioner Bank rejected the application citing regulation 22 of the bank expressly disqualifies resigned employees from opting pensionary benefits.
Aggrieved respondent invoked the writ jurisdiction of the Calcutta HC. The single Judge bench had directed the petitioner to allow respondent's claim, treating his resignation as a form of voluntary retirement. On appeal, the division bench partly reversed the order and directed the petitioner to consider amending regulation 22. Aggrieved petitioner appealed to SC.
The SC held, "resignation and voluntary retirement constitute two distinct classes with differing legal consequences, substituting one for the other based solely on the duration of service would run counter to the intendment of statutory regulations." It further held; courts cannot direct amendments in policy matters. SC granted article 142 relief to prevent injustice in exceptional circumstances considering 35 years of unblemished service record of the respondent. SC allowed fresh pension option or ₹5 lakh ex-gratia.

3. Classifying employees based on past teaching experience from universities within or outside West Bengal, particularly at the verge of retirement, after having served for decade lacks nexus and discernible object held SC

Subha Prasad Nandi Majumdar V. the State of West Bengal Service & Ors. [SLP(c) No. 11923 of 2024; dt. July 30, 2025]

The subject matter of the present appeal is the judgement of division bench wherein it upheld the stand of the university in extending the retirement age from 60 years to 65 years only to those who had ten years of continuous teaching experience in a university situated in the state of West Bengal.

The factual background of this case is that appellant had worked for 16 years as a member of teaching staff in a college situated in the state of Assam. Later, in response to an advertisement issued by the Burdawan University, West Bengal he was selected to the post of secretary, faculty council for post-graduate studies in science, subsequently, promoted to the post of senior secretary.

In the year 2021, the state of West Bengal has issued a memorandum increasing the age of retirement from 60 to 65 years extending the benefit only to those who had acquired a minimum of ten years of continuous teaching experience in any state aided university or college. The appellant has made a representation to the vice-chancellor claiming the benefit of the memorandum which was declined by the university on the ground of not having teaching experience in a university or college aided by the state of West Bengal. Aggrieved appellant invoked the writ jurisdiction of the Calcutta HC, the single judge bench allowed the petition and held that the word 'any' used before the phrase "state aided university" was wide enough to include the teaching experience of appellant in an aided university outside West Bengal. The decision of the single judge bench was set aside by the division bench.

The SC on perusal of the notification held, *"continuous teaching experience of 10 years in any university"* as a condition in the notification is not at all to exclude such experience from universities or colleges outside the State of West Bengal.

The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995

4. Employer is duty bound to reasonably accommodate an employee who acquires a disability during service held SC.

Ch. Joseph V. the Telangana State Road Transport Corporation & Ors. (Spl. No: 36278 of 2017; dt. August 1,2025)

Brief facts of this case are the appellant was discharging the duties as a driver with the respondent Andhra Pradesh State Road Transport Corporation (presently Telangana State Road Transport Corporation). In a regular routine medical check-up, he was found to be colour blind and consequently declared unfit for driving. His request for alternate employment was rejected by the respondent corporation, relying on internal circulars. He was retired pre-maturely. Aggrieved appellant challenged the decision before the TG HC, relying on Sec 47[1] of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 which prohibits dismissal or demotion of employees who acquire a disability during service and mandates reassignment or retention. While the single judge ruled in his favour, the division bench reversed the decision, holding that colour blindness was not a recognised disability under the Act. The appellant then approached the SC.

The SC on perusal of the 1979 settlement between the parties wherein it provided that drivers found to be colour blind during service would be offered alternate employment with protection of pay and continuity in service. Further, SC relying on ***Kunal Singh v. Union of India***[2] and ***Mohamed Ibrahim v. CMD, TANGEDCO***[3] and Arts. 14 and 21 held, constitutionally and statutorily it is duty of the employer to offer reasonable accommodation to employees acquiring disabilities during service.

The Employees' State Insurance Act, 1948 (in short ***"ESI Act"***)

5. Labour, engaged through a contractor, undertaking maintenance and repair work in a factory falls under the definition of 'employee' as given under the ESI Act held KA HC.

Assistant Director, ESI Corporation V. Sansera Engineering Private Limited. [Misc.Appeal No 3687 of 2016; dt. July 30, 2025]

The subject matter of the present miscellaneous appeal is legality and correctness of order passed by the ESI Court in allowing the application filed u/s 75 of the ESI Act in reducing the statutory contribution assessed by the ESI Corporation u/s 45A of the ESI Act.

Brief facts of this case are the respondent is a private limited company engaged in the manufacturing of automobile components. During the course of inspection for the period April 1999 to March 2005 it was found that respondent had engaged contractors to carry out construction, maintenance and repair work within the factory premises with the help of contract workers. However, neither contribution has paid in respect of such workers nor wage records are produced for the relevant period in spite of multiple opportunities provided by the petitioner. Petitioner invoking its power u/s 45A passed an order determining the contribution payable

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[1] *Sec 47 of the Act provides for non-discrimination in government employment. According Sec 47, no establishment shall dispense with, or reduce in rank, of an employee who acquires a disability during his service. In case of an employee not suitable for the post he was holding, after acquiring disability, could be shifted to some other post with the same pay scale and service benefits.*

[2] *(2003) 4 SCC 524*

[3] *(C.A No. 6785 of 2023)*

for an amount of Rs. 13,52,825/. Aggrieved respondent challenged the order in ESI court contending that workers engaged are not under their direct control and supervision and amount paid to contractors is inclusive of material costs from which labour component is inseparable. ESI court held that demand include non-wage element and reduced the liability to Rs. 3,50,000/ without any precise calculation.

On appeal the KA HC held, construction of additional sheds, installation of new units, renovation of existing structures and replacements to support utility systems are activities intimately connected with the efficient running of the factory. Persons employed in such works though contractors fall in the ambit of definition of 'employee' provided u/s 2(9) of the ESI Act. Respondent was directed to remit the demanded amount within eight weeks from the date of receipt of the judgement.

2. Circulars/Notifications

The Employees' Provident Fund and Miscellaneous Provisions Act, 1952 (in short ***"EPF Act"*****)**

1. Simplification of death claims:

EPFO in a circular dt. August 13, 2025 (*WSU/Death Claims/E-1115891/2025-26/25*) directed its field offices not to insist on 'Guardian Certificate', in case of settlement of death claims, from the surviving minor children of the deceased, if the proceeds are being credited to bank account of such minor children,
In order to simplify and expedite the claim process, EPFO has directed its field offices to guide the claimants to open individual bank accounts in the name of minor children for crediting the proceeds from settlement of death claims and pension.

2. Correction of demographic details in UAN:

EPFO vide circular (WSU/MemberProfile/E-710137/2025-26/26) dt. August 13, 2025 notified the changes made to online joint declaration functionality and notified the format to submit physical joint declaration for benefit of members of closed establishments.

According to the circular, in case of mismatch of demographics such as name, gender, date of birth between Aadhar data and UAN, employer can make an application electronically through joint declaration functionality provided in the Unified Portal. In case of erroneous seeding of Aadhar with UAN, employer can make a correction using joint declaration functionality.

In certain instances, like closure of establishment or non-availability of employer, member can submit physical joint declaration to the Public Relation Officer in the jurisdictional EPFO office, who will take it forward.

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