

# Labour & Employment Update

January, 2026; Issue No. 30

The 'Labour & Employment Update – 'January 2026' comprises latest judicial decisions of the Supreme Court of India, various High Courts, Labour Tribunals and Circulars/Notification issued under Indian Labour Law.

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## Update on new Labour Codes:

Governement of India on December 31, 2025 has notified the draft rules under four new Labour Codes viz;

- The Code on Wages, 2019;
- The Code on Industrial Relations, 2020;
- The Code on Social Security, 2020; and
- The Occupational Safety, Health and Working Conditions Code, 2020.

Stake holders are given 45 days of time, from the date of notification, to give suggestions on draft rules framed under the above four codes.

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## 1. Legal Updates

### The Employees' State Insurance Act, 1948 ("ESI Act")

**1. Proceedings u/s 45A can be invoked when there is non-production of records held SC.**

*M/s. Carborandum Universal Ltd. V. ESI Corporation [C.A No. 14858 of 2025; dt. December 18, 2025]*

The subject matter of the present appeal is the order passed by the Madras High Court whereby the high court upheld the order of the ESI Court in directing the appellant to pay arrears of ESI contribution amounting to Rs. 5,42,575.53 for the period August 1988 to March 1992 u/s 45A of the ESI Act.

SC set aside the order of the respondent with the following reasoning:

- a) The respondent was neither obstructed from inspection nor there was non-production of records. The appellant furnished ledgers, cash books, vouchers and returns, and had attended personal hearings.
- b) The respondent's allegation was not non-production of the record but inadequacy of the record. In such a case, the proper statutory course for the respondent, once records had been produced, was to examine the correctness thereof under Section 75 and if any dispute persisted, to initiate proceedings within the period of limitation prescribed by the proviso to Section 77(1A) (b). Invocation of Section 45A in such circumstances was misconceived.

It further held Section 45A can be invoked if:

- i. *The employer fails to produce or maintain records in accordance with Section 44; Or*
- ii. *The employer obstructs the inspector from discharging his duties u/s 45.*

### The Payment of Gratuity At, 1972 ("Gratuity Act")

**2. Employee who resigned or retired after rendering service of more than five years is entitled to gratuity: SC**

*Ashok Kumar Dabas (dead through legal heirs) V. Delhi transport corporation [S.L.P.(C)No.4818 of 2023; December 9, 2025]*

The present appeal is filed challenging the order passed by the high court whereby the claim of pensionary benefits was declined to the predecessor of the deceased employee.

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Brief facts of this case are the appellant (deceased) was appointed as a conductor with the respondent corporation in the year 1985. He opted for the pension scheme of 1992. He resigned from the job in 2014 on account of family circumstances and claimed for retiral benefits such as gratuity, leave encashment, provident fund and pension. The respondent informed the appellant that he was entitled to provident fund only.

Aggrieved by the order of the respondent an application was filed before the Tribunal which was dismissed. Appellant invoked the writ jurisdiction of the high court which got dismissed. The contention of the appellant is that he had put about 30 years of service and entitled to pension as per service rules, it will be too harsh to forfeit the entire service benefits because of minor error in the resignation letter. The respondent contended that as per service rules past service stood forfeited on resignation.

SC held, appellant had rendered service more than five years as stipulated by sec 4 of the Gratuity Act and entitled to gratuity.

## Service Matter

**3. General provident fund nomination made by the employee in favour of parent cannot take away the right of legal heirs: SC**

*Smt. Bolla Malathi V. B. Suguna and Ors. [C.A No. 14604 of 2025; December 5, 2025]*

The subject matter of the present appeal is the order passed by the Bombay High Court.

Brief facts of this case are when the deceased joined the employment, he nominated the first respondent, mother of the deceased as a nominee. Subsequently he married and nominated his spouse as nominee as recipient of GPF and other retiral benefits. The deceased died in service in July 2021. The appellant, wife of the deceased, received all benefits arising out of employment of the deceased except GPF. When applied for GPF the respondent 2 to 4 refused on account of first respondent, mother of the deceased, being nominee on the record.

On appeal, the Central Administrative Tribunal (“CAT”) held that GPF accumulation should be distributed equally among the members of the family. The order of CAT was challenged in the Bombay High Court which held that the first respondent being the nominee as per the records entitled to GPF accumulations of the deceased.

It was argued before the SC that according to the service rules first nomination become invalid on acquiring the family by the subscriber. SC relying its decision in *Sarbati Devi V. Usha Devi<sup>1</sup> and Shakti Yezdani V. Jayanand Jayant Salgaonkar<sup>2</sup>* wherein it

<sup>1</sup> (1984) 1 SCC 424

<sup>2</sup> (2024) 4 SCC 642

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*held*, the nomination made by the member would not lead the nominee attaining absolute title over the subject property for which such nomination was made. The usual mode of succession is not to be impacted by such nomination. The legal heirs cannot be excluded by virtue of nomination.

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

**4. Delhi HC upheld the notifications issued by the Central Government in 2008 and 2010 with respect to EPF coverage to the ‘international workers’.**

*Spice Jet V. Union of India [W.P.(C) 2941/2012; dt, November 4, 2025]*

*LG Electronic India Private Limited V. Union of India and Other [W.P.(C) 6330/2021 & CM APPL. 19949/2021; dt. November 4, 2025]*

Petitioner/s invoked the writ jurisdiction of the Delhi HC challenging the notifications issued by the respondent in the year 2008 & 2010 and summons issued u/s 7A of the EPF Act in respect of international workers by the EPFO.

Paragraph 83 of the Employees' Provident Fund Scheme, 1952 (“*EPF Scheme*”) provides every international worker other than an excluded employee, employed in an establishment shall be entitled and required to become a member of the Fund with effect from October 01, 2008.

Petitioner establishment which is engaged in air transport services in India challenged the letter dt. March 14, 2011 and summons dt. March 15, 2012 issued by the EPFO u/s 7A of the EPF Act whereby the petitioner was directed to deposit the provident fund dues in respect of international workers.

Delhi High Court took a view contrary to the decision of single-judge of the Karnataka High Court in *Stone Hill Education Foundation V. the Union of India [W.P No. 18486/2012; dt. April 25, 2024]*. While upholding the notification it held international worker will be required to contribute to the fund as per the mandate of Section 6 of the EPF Act if such foreign employee belongs to a country which has not entered into a Social Security Agreement on reciprocal basis and with whom India has not entered into a bilateral comprehensive economic agreement. Further it held, classification provided under para 83 of the EPF Scheme is not violative of Article 14.

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## 2. Circulars/Notifications

### 1. EPFO circular on rectification of erroneous EPS contributions:

EPFO vide circular (#WSU/2025/E-961539/Refud or erroneous contribution/42) dt. December 19, 2025 issued directions to field offices in transfer of contributions in case of erroneous contributions.

In case of unexempted/exempted establishments EPS contributions that are erroneously remitted in the account no 10 (Pension Account) shall be physically transferred to account no 1 (Provident fund Account). Corresponding pension service shall be deleted from the member service record. Likewise, erroneously deposited pension amount in the provident fund account will be transferred to account no 10 from account no 1.

### 2. EPFO circular on continuous service to avail EDLI benefits;

EPFO vide circular #791942/EDLI/Continous/Service/Clarification/2024/1412640/41) dt. December 17, 2025 issued certain guidelines to field office in settling the EDLI claims with respect to continuous service.

Minimum EDLI benefit provided to the legal heirs and dependants of the member who have not rendered continuous service of 12 months before member's death and average PF balance is less than Rs. 50,000 has been raised to Rs. 50,000.

Member who dies within six months of receiving his last contribution, EDLI benefit shall be paid as per the scheme.

In case of members who rendered service in multiple establishment that are covered under PF gap up to 60 days between two spells shall be ignored and such multiple services shall be treated as continuous service.

Break in service between successive employments due to Saturdays, Sundays or national or state holidays gazette holidays shall be ignored and service treated as continuous.

### 3. ESIC circular on assessment and determination of dues from employer under the Code on Social Security, 2020 ("SS Code")

ESIC vide its circular (#No. P-11/12/CorrespondenceonCoSS2020/2025-Rev1) dt. December 5, 2025 issued directions to the regional offices in assessment and determination of dues. According to the circular an officer not below the rank of Group

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A is authorised to do the assessment and determination of dues from the employer as per the section 125<sup>3</sup> of the Code on Social Security, 2020.

Subsequent to the notification of the Code on Social Security, 2020 all the assessment and determination of dues, including pending if any, is to be done by officer in the cadre of Deputy Director and above.

## 4. ESIC extended SPREE date till January 31, 2026.

ESIC has extended the due date to enrol under SPREE till January 31, 2026. The scheme has been in force since July 1, 2025. Scheme is intended to bring to all eligible persons under ambit of ESIC who had been remained outside coverage.

### **Disclaimer:**

*Current update has been intended for informational purposes only. The information provided in the current issue of the 'Labour & Employment Update' neither constitute a legal advice/opinion nor it intend to solicit any work. In case of any queries in relation to any of the issues reported herein please feel free to contact at [nahari@nharico.com](mailto:narahari@nharico.com).*

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<sup>3</sup> Equivalent to Section 45A under the ESI Act, 1948.