

Labour & Employment Update

August 2025; Issue No. 25

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1. Legal Updates

The Indian Contract Act, 1872 (in short “Contract Act”)

1. Restrictive covenants in an appointment letter are not against the public policy and violate section 27 of the Contract Act held the SC.

Vijaya bank & Anr. V. Prashant B Narnaware [C.A No.11708 & 11499 of 2016; dt.May 14, 2025]

The subject matter of the present appeal is the judgement of Karnataka High Court wherein it quashes the clause 11(k) of the appointment letter that directs the employee to pay liquid damages of rupees two lakhs in the event of leaving the employment before lock in period of three years.

The respondent joined with the appellant as an assistant manager in the year 1999, later he was promoted to middle management of grade scale II. In the year 2006, the appellant bank issued a notification for recruitment of officers in different grades. The respondent had applied to a post in II grade and got selected. As per the clause 11(k) of the appointment letter, employee is required to execute an indemnity bond for rupees two lakhs and said amount shall be payable by the employee in case of resignation before the stipulated period of three years. Accepting the aforesaid condition the respondent resigned his erstwhile post and accepted the new position in MMG – II grade. Thereafter, respondent got an offer from IDBI bank and resigned from the appellants bank by paying the amount of rupees two lakhs in protest.

Subsequently, the respondent filed a writ petition before the high court contending that clause 11(k) of the appointment letter is violative of Articles 14, and 19(1)(g) of the Constitution of India and sections 23 and 27 of the Contract Act. The single judge bench relying on ***Venkatesh Kumar V. BEML Ltd***¹ allowed the writ petition which was upheld by the division bench. Aggrieved appellant approached the SC.

The SC relying on ***Niranjan Shankar Golikari V. Century Spinning & Manufacturing Co***². and ***Superintendence Co. V. Krishan Murga***³ held that negative covenants are operative during the tenure of employment and not covered under sec 27 of the Contract Act,

¹ Karnataka HC DB in W.A. No. 2736/2009

² 1967 SCC Online SC 72

³ (1981) 2 SCC 246

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It further held, incorporating a minimum service tenure for employees is to reduce attrition and improve efficiency. Viewed from this perspective, the restrictive covenant prescribing a minimum term cannot be said to be unconscionable, unfair or unreasonable and thereby not in contravention of public policy.

The Payment of Bonus Act, 1965 (in short “*Bonus Act*”)

2. Establishment engaged in manufacturing activity is entitled to pay bonus, under Bonus Act, to its employees held SC.

The Management of Worth Trust V. The Secretary, Worth Trust Workers Union [dt. April 02, 2025]

The appellants is a trust ‘Workshop for Rehabilitation and Training of the Handicapped Trust’ or ‘WORTH’ which was initially established by the ‘Swedish Red Cross Rehabilitation Trust’. The appellant trust has been doing charitable activities including rehabilitation of leprosy cured patients and differently abled persons.

Since 1985, the trust has been engaged in manufacturing of parts for automobile and industrial machineries, said manufacturing activity is covered under the Factories Act, 1948 (“*Factories Act*”). The workers union, WORTH Trust workers union (“*Union*”) raised an industrial dispute in the year 1998 seeking bonus and ex-gratia for the year 1996-1997, government has referred the dispute to the Industrial Tribunal, Chennai (“*Tribunal*”). The contention of the Union is that, factory is governed by the Factories Act, hence, Bonus Act is applicable to them and they are entitled to statutory bonus and ex-gratia. The Tribunal in its award held, workers are entitled to bonus at 8.33% of their annual earnings, and ex-gratia. Aggrieved petitioner challenged the Tribunal order in the Madras HC. The single judge bench of the Madras HC upheld the order of the Tribunal by modifying the relief to the extent bonus shall be awarded after deducting the amount paid as ex-gratia. Division bench while upholding the order of the single judge bench held, petitioner had severed all its links with the Swedish Redcross society and engaging in the commercial activities, hence, Bonus Act is applicable to the appellant. Finally, the petitioner approached the SC. The contention of the appellant is that Bonus Act is not applicable to them by virtue of sec 32(v)(a) and (c)⁴ of the Bonus Act.

⁴ According to the sec 32 (v)(a) and (c), the Bonus Act is not applicable to employees employed by:

(a) the Indian Red Cross Society or any other institution of similar nature; and
(b) institutions such as hospitals, chambers of commerce and social welfare institutions established not for purposes of profit.

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The SC held that the appellant is not exempted under sec 32(v)(a) or (c) of the Bonus Act, and the workmen of the respondent Union engaged by the appellant in its factories, are entitled to bonus in accordance with Bonus Act.

The Employee Compensation Act, 1923 (“EC Act”)

3. Accident occurring while commuting from residence of the employee to place of employment and vice versa is arising out of employment held SC.

Daivshala & Ors. V. Oriental Insurance Company Ltd. & Anr. [C.A No. 6986 of 2015;dt July 28, 2025]

The factual back ground of this case is deceased employee was employed as a watchman in the respondent sugar factory. He met with a fatal accident while attending his duty. In a claim filed under the EC Act, the employer and the insurance company contended that accident had not arisen out of or in the course of his employment, since the accident occurred outside the factory premises. The Commissioner for workmen’s compensation awarded Rs. 3,26,140/- along with interest @ 12% per annum to the family members. The insurance company was directed to deposit the amount since there was a valid insurance policy and the employer was asked to pay 50% of the awarded amount as penalty.

On appeal the Bombay HC (Aurangabad bench) held that since the deceased was on his way to his employment, the accident cannot be said to have its origin in the employment. Aggrieved appellants approached the SC.

The SC while restoring the award of the commissioner observed that the deceased was a night watchman and was proceeding to place of work when the fatal accident happened, there was a clear nexus between time, place in which the accident occurred and his employment as a watchman. Hence, the accident having clearly arisen out of and in the course of employment,

The Contract Labour (Regulation & Abolition) Act, 1970, (“CLRA Act”)

4. Contract employee does not entitle to automatic absorption in the event of abolition of contract labour by the government held AP HC.

Kandula Venu V. the State of Andhra Pradesh [W.P No: 26786 of 2007; dt. July 4, 2025]

The subject matter of the present writ petition is the award passed by the Industrial tribunal cum labour court (“*Tribunal*”) at Guntur directing the APGENCO to employ the petitioner, as and when they make regular recruitment, by relaxing age and academic qualifications.

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The factual back ground of this case is that petitioner workman worked as an unskilled contract labour in a coal handling plant under the AP Power Generation Corporation (“**APGENCO**”) through a contractor. The Government of Andhra Pradesh vide notification dt. September 23, 1996 prohibited employment of contract labour in 33 categories in the erstwhile Andhra Pradesh State Electricity Board (APSEB) which is a parent organisation of APGENCO. Subsequent to the notification certain contract labour who are in the abolished categories was absorbed by the APSEB. The appellant contended that in spite of having prerequisites he was not absorbed by the APGENCO along with similarly placed workman.

The appellant workman invoked the writ jurisdiction of high court which was dismissed giving liberty to approach the Tribunal for his absorption. Before the Tribunal, APGENCO contended that the petitioner was employed through a contractor not on its rolls and there was no master servant relationship between the two. Tribunal relying on the documentary evidence directed the APGENCO to employ the petitioner as and when they make regular appointments by relaxing his age and academic qualifications.

On appeal, the AP HC considered whether the workman was entitled to automatic absorption by APGENCO. By relying on the decision of SC in ***Steel Authority of India Ltd Vs National Union of Waterfront Workers***⁵ it held that mere issuance of prohibition notification by the appropriate Government under Sub-Section (1) of Section 10 of CLRA Act, prohibiting the employment of contract labour in any establishment, does not entitle the contract labour to automatic absorption. However, in the event of APGENCO desires to employ regular workmen, it shall give preference to the erstwhile contract labour/workmen.

The Industrial Disputes Act, 1947 (“ID Act”)

5. Non-renewal of contract does not amount to retrenchment, held Gujarat HC.

Sanjaybhai Mohanbhai Dodiya V. Range Forest Officer [dt. July 9, 2025]

The subject matter of the present petition is the order passed by the Tribunal wherein a lumpsum compensation was awarded instead of reinstatement of the petitioner into services. Brief facts of this case are the petitioner was appointed as a sweeper on contractual basis and alleged that his services were terminated without following the due procedure prescribed under the ID Act. Petitioner was terminated on allegations of recording a video of lion cubs in a cage, which is prohibited under the Wild Life Protection Act, 1972. On reference, the labour court awarded lump sum

⁵ 2001 SCC (L&S) 1121

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compensation. The respondent forest department contended that since 2005 when the petitioner joined the service, he never rendered continuous service of 240 days in any year except in one year, more over the employment of the petitioner is on contractual basis. His services were terminated due to non-renewal of the contract which is excluded from the definition of retrenchment and he is not entitled to any compensation with reinstatement.

The GJ HC relying on the decision of SC in *Bhavnagar Municipal Corporation V. Salimbhai Umarbhai Mansuri*⁶ held, since the termination of the petitioner's service was due to non- renewal of the contract, it cannot be treated as retrenchment within the meaning of Section 2(oo) of the ID Act.

Narahari & Co.

⁶ 2013 (14) SCC 456

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2. Circulars/Notifications

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

1. Union Cabinet approves Employee Linked Incentive Scheme ("ELI Scheme"):

Union cabinet approves the ELI Scheme with an objective to generate employment and to provide social security across all sectors with an emphasis on manufacturing sector. The ELI Scheme was announced in 2024-2025 budget with an outlay of Rs. 99,446 crores and with an aim to incentivise the creation of more than 3.5 crore jobs.

Time period: The benefits of the scheme would be applicable to jobs created between 1st August 2025 and 31st July, 2027.

The ELI Scheme comprises of two parts; Part A focused on first time employees and Part B incentivise the employers.

Part A: Incentive to first time employees:

First time employees drawing salaries up to rupees one lakh (Rs. 1,00,000) will be offered EPF wage up to a maximum of Rs. 15,000 in two instalments. First instalment will be payable after completion of six months of service and second instalment after completion of twelve months of service. Certain portion of the incentive shall be kept in a financial instrument for a fixed period and can be withdrawn by the employee after maturity at a later date.

Part B: Support to the employers:

Part B incentivise the employers. Employers, in respect of employees drawing salaries up to rupees one lakh (Rs. 1,00,000), will get incentive up to Rs 3000 per month for each additional employee subjected to completion of at least six months with the employer. Employer will get incentive for two years, in the case manufacturing sector, incentives will be extended to the 3 and 4 years as well.

Number of new hires:

Establishments employing less than fifty (50) employees are required to hire at least two additional employees, and five additional employees in case of establishments employing more than fifty (50) employees on a sustained basis for at least six months.

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The incentive structure is as under:

EPF wage slabs of additional employee	Incentive to the employer (per additional employment per month)
Up to Rs 10,000	Up to Rs 1,000
More than Rs 10,000 and up to Rs 20,000	Rs 2,000
More than Rs 20,000 (up to salary of Rs 1 Lakh/month)	Rs 3,000

Mode of payment of incentives:

- Incentives to the employees shall be payable through direct benefit transfer (DBT) to the Aadhar linked bank account.
- Payments to the Employers will be made directly into their PAN-linked bank accounts.

2. EPFO circular on ELI

EPFO in a circular dt. July 22, 2025 (No: ELI/GrossWagesinECR/2025/E-1132964) instructed the employers to submit correct gross wages while filing ECR from the wage month August 2025. The ELI Scheme provides incentive to employers and employees where gross wages of the employee does not exceed rupees one lakh.

3. Allotment and activation of UAN through UMANG app.

EPFO in a circular dt. July 30, 2025 (#WSU/MemberProfilePt1/E-965649/2025-26/22) made allotment and activation of UAN through UMANG app as mandatory. As per the circular w.e.f August 1, 2025 UAN can be generated only through the Aadhar based face authentication technology provided in UMANG app. However, UAN generation for international workers and citizens of Nepal and Bhutan is through the existing process provided in the Unified Portal only.

4. Amendment to the KA BOCW Rules:

The Government of Karnataka vide its notification dt. July 16, 2025 made the following amendments to KA BOCW Rules.

Amendment to the Rule 44:

As per the amendment, the assistance to meet funeral expenses of a registered construction worker has enhanced from Rs. 71,000 to Rs. 1,46,000

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Amendment to Rule 47(2):

Proviso is added to the sub-rule 2 of the rule 47. As per the proviso the registered construction worker who meet with an accident at workplace resulting in his or death, the nominee of such registered construction worker shall be entitled for a compensation of Rs.8.00 lakhs (Rupees Eight Lakhs only) from the Board.

4. Employing women in factories between 7PM – 6AM

Government of Haryana vide notification dt. July 4, 2025, prescribed certain conditions in respect of women employed between 7 PM to 6 AM concerning their safety and security. Factories can apply for exemption (*from the operation of sec 66 (b) of the Factories Act*) which is valid for one year subjected to compliance of the conditions such as consent from the women employee, compliance with POSH Act, 2013, installation of CCTV cameras inside the factory, employing not less than four women in a batch, providing transportation facility, deploying female security guards, providing medical facilities, complying with equal remuneration for equal work, providing canteen, rest rooms etc.

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