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## **Labour & Employment Law News Bulletin**

**January 2026**

# Regulatory and Statutory Updates

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## **Draft Central Rules released; consultation initiated under all four Labour Codes**

On December 30, 2025, the Ministry of Labour and Employment pre-published the draft Central rules under all four (4) Labour Codes, namely, the Code on Wages, 2019, the Code on Social Security, 2020, the Occupational Health, Safety and Working Conditions Code, 2020 and the Industrial Relations Code, 2020. These draft rules have been released for public consultation and are open to objections and suggestions for a period of forty-five (45) days from the date of publication. For the draft rules under the Industrial Relations Code, 2020, however, the consultation period is thirty (30) days.

The draft rules introduce several granular prescriptions that directly affect day-to-day workforce management. These include newly defined exclusions for gratuity calculations, formats of appointment letters and wage slips to be issued to employees, a separate grievance redressal mechanism for contract labour, detailed standards for crèche facilities across establishments, expanded recognition of flexible work arrangements, and timelines and related obligations for employer contributions to the worker re-skilling fund.

## **Ministry of Labour and Employment issues notification providing clarity on adjudication mechanisms under the Industrial Relations Code, 2020; Labour Courts and Tribunals under the Industrial Disputes Act, 1947 shall continue to operate until Tribunals under the Code are set up**

The Ministry of Labour and Employment issued a notification dated December 08, 2025 (Industrial

Relations Code (Removal of Difficulties) Order, 2025) confirming that the existing Labour Courts, Industrial Tribunals and National Industrial Tribunals constituted under the Industrial Disputes Act, 1947 (“ID Act, 1947”) shall continue to adjudicate the existing as well as new cases, for the purpose of ensuring continuity of adjudication and avoiding any legal or administrative vacuum until the constitution of Industrial Tribunals and National Industrial Tribunals under the Industrial Relations Code, 2020 (“IR Code, 2020”).

Upon being successfully constituted, the matters shall be transferred from the authorities under the ID Act, 1947 to those under the IR Code, 2020, and they shall decide whether the cases are to be dealt with de novo (afresh) or from the stage at which they were pending before such transfer, as it may deem fit.

## **Punjab published draft rules under the Labour Codes; draft rules relating to industrial relations, social security and wages released for public consultation**

The Department of Labour, Government of Punjab on December 29, 2025, published draft rules under the three (3) Labour Codes, namely, the Code on Wages, 2019, the Code on Social Security, 2020 and the Industrial Relations Code, 2020. These draft rules have been released for public consultation and are open to objections and suggestions for a period of thirty (30) days from December 29, 2025. The draft rules provide much needed clarity on key aspects under the Labour Codes, including contributions to the worker re-skilling fund, manner of lay-offs, retrenchment and closure, manner of intimation of deductions from wages, appeal mechanisms, annual reporting obligations,



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and statutory forms, registers, and records to be maintained.

**Maharashtra amends its shops and establishments act by way of ordinance; increases threshold for registration, increases daily working hours, spread-over and quarterly overtime limits**

By way of the Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) (Amendment) Act, 2025 (“Amendment Act”), the Maharashtra Government has amended the Maharashtra Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2017 (“S&E Act”) with effect from October 01, 2025.

The following are the salient features of the Amendment Act:

- (i) increase in threshold limit of ten (10) or more employees to twenty (20) or more employees in any establishment for registration and other regulatory provisions of the S&E Act in order to reduce compliance burden for smaller businesses, encourage job creation and eliminate the fear of non-compliance;
- (ii) increase in the daily hours of work from the existing nine (9) hours upto ten (10) hours, inclusive of rest intervals, subject to a maximum of forty eight (48) hours in any week;
- (iii) extended the spread-over of working hours from the erstwhile ten and a half hours (10 hours, 30 minutes) to twelve (12) hours in a day;
- (iv) increase in the maximum continuous working hours without a rest interval from five (5) to six (6) hours;
- (v) increase in overtime period within a quarter from one hundred and twenty five (125) hours to one hundred and forty four (144) hours.

**Karnataka Government issues Press Note to invite contributions to the labour welfare fund on the revised contribution rates; employer and employee contributions to be made as per the revised rates by January 15, 2026 and delays will invite a penalty and inspections**

The By way of a Press Note issued on December 05, 2025, the Government of Karnataka directed all establishments in the State of Karnataka, including all commercial establishments, IT/BT establishments, factories, plantations, workshops, rental service establishments, and establishments covered under the Karnataka Shops and Commercial Establishments Act, 1961 to deposit employer and employee contributions under the Karnataka Labour Welfare Fund Act, 1965 by January 15, 2026.

Previously, the Government of Karnataka by way of the Karnataka Labour Welfare Fund (Amendment) Act, 2024, had amended the employer, employee, and state government’s contributions to the labour welfare fund. The revised contributions are as follows: (i) from INR 20 (approx. USD 0.22) to INR 50 (approx. USD 0.56) by the employee, INR 40 (approx. USD 0.45) by the employer, to INR 100 (approx. USD 1), and INR 20 (approx. USD 0.22) to INR 50 (approx. USD 0.56) by the government.

Delay in payment of contributions will attract penal interest at the rate of twelve percent (12%) for the first three (3) months and afterwards, it shall be eighteen percent (18%) on the due amount. This may also be accompanied by inspections by the Welfare Commissioner/Labour Department Officers and the initiation of legal proceedings for non-payment of contributions.

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**A private member's bill titled the Right to Disconnect Bill, 2025 is tabled in the Lok Sabha; aims to confer employees across sectors with the right to disconnect from work-related communications after office hours**

A private member's bill titled the Right to Disconnect Bill, 2025 ("Bill") has been introduced in the Lok Sabha on December 5, 2025, conferring employees across the country with the right to disconnect from work-related telephone calls and e-mails beyond work hours and on holidays. The Bill also prohibits an employer from taking any disciplinary action against an employee who exercises the right to disconnect and refuses to answer calls or messages out of work hours. A key feature of the Bill is the introduction of an Employees' Welfare Authority that shall ensure and promote employee welfare by adopting a nationwide framework for out-of-work arrangements.

Every company or society with more than ten (10) employees shall draft their individual charters/policies after consultations and negotiations with employees, unions and their representatives, at regular intervals, to decide and specify detailed out-of-work hours, consider diverse work cultures and requirements of different entities and individual employees, their competitive needs and industry practices, when and how to contact them during out-of-work hours and holidays and other permissible exemptions.

Interestingly, if employees volunteer to respond and work beyond working hours, then he/she must be paid overtime at the normal wage rate and not be deprived of this entitlement in any case. Other interesting features of the Bill include the

establishment of Employee Welfare Committees, Digital Detox Centres and other welfare measures, including that of providing counselling services, conducting sensitization and awareness sessions, and filing annual reports providing a summary of all the activities and measures undertaken by the organisation.

Readers may read our detailed analysis of the Bill [here](#).

**Karnataka amends its Labour Welfare Fund Act, 1965; reduces the applicability threshold and expands the scope of methods of payment**

The Karnataka State Legislature introduced the Labour Welfare Fund (Amendment) Act, 2025 (Amendment) on December 10, 2025, to amend the Karnataka Labour Welfare Fund Act, 1965 ("LWF Act") by revising the applicability thresholds and payment mechanisms for better administration.

The Amendment revises the applicability threshold from fifty (50) or more to ten (10) or more, thereby bringing in more establishments within its coverage. The Amendment also expands the scope of payment methods by replacing cheques and demand drafts with digital options like net banking, RTGS, and UPI.

The Bill further enables the State Government to issue orders, within two (2) years of commencement, to resolve any implementation challenges, subject to such orders being consistent with the LWF Act. Each such order must be placed before the Houses of the State Legislature.



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## ESIC notified the SPREE 2025 under ESIC and implementation of the Code on Social Security, 2020

The Employees' State Insurance Corporation ("ESIC") issued a compliance advisory on December 10, 2025, following the nationwide rollout of the Code on Social Security, 2020 from November 21, 2025, which consolidates social security laws for broader workforce protection.

ESIC has emphasized the mandatory registration of all establishments and eligible employees, including contractual and temporary workers, through the Shram Suvidha Portal or the ESIC Employer Portal, along with timely payment of contributions to ensure uninterrupted benefits. The advisory highlights the expanded definition of 'wages', which now includes basic pay, dearness allowance, and retaining allowance (subject to specified exclusions), potentially bringing more employees within Employees State Insurance (ESI) coverage. From November 21, 2025, the ESI Scheme applies to all establishments, including educational and medical institutions, employing ten (10) or more persons in notified areas.

To facilitate compliance, ESIC also notified the Scheme to Promote Registration of Employers/Employees ("SPREE 2025") on December 1, 2025, alongside the pan-India implementation of the Code on Social Security, 2020, effective from November 21, 2025. The scheme, valid from July 1 to December 31, 2025, allows unregistered employers to voluntarily register under ESI without retrospective dues, penalties, or inspections, with coverage effective from the date of registration. SPREE 2025 aims to encourage timely compliance and extend social security protection, particularly to contractual and temporary workers.

## Labour Department of Delhi introduces Draft Industrial Relation (Delhi) Rules, 2025 and Draft Delhi Occupational Safety, Health and Working Conditions Rules, 2025

The Labour Department, Government of NCT of Delhi, released two (2) sets of draft rules in December 2025 to operationalise key provisions of the Labour Codes. On December 12, 2025, the Draft Industrial Relations (Delhi) Rules, 2025 were issued, applicable to industrial establishments where the Delhi Government is the appropriate authority under the Industrial Relations Code, 2020.

These draft rules set out procedures for the constitution of Works Committees and Grievance Redressal Committees, grievance conciliation mechanisms, trade union subscription and audit requirements, declarations of assets and liabilities, and forms for trade union registration and certification. Earlier, on December 3, 2025, the Draft Delhi Occupational Safety, Health and Working Conditions Rules, 2025 were released to implement the Occupational Safety, Health and Working Conditions Code, 2020.

These rules prescribe comprehensive standards on workplace safety, health, welfare and working conditions, including registration and licensing of establishments, digital record-keeping, working hours and overtime, welfare facilities, safety and health surveillance, accident reporting, and special protections for women workers and contract labour. Stakeholders may submit comments on both draft rules within thirty (30) days of their publication in the Official Gazette.

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### **Delhi amends rules under its shops and establishments act; omits provision relating to renewal of registration certificate and grants registration in perpetuity**

On December 9, 2025, the Governor of Delhi issued the Delhi Shops & Establishments (Amendment) Rules, 2025 (“Amendment”), omitting Rule 5 of the Delhi Shops & Establishments Rules, 1954 that mandated renewal of registration certificates of all shops and commercial establishments every twenty-one (21) years.

With the Amendment, shops and commercial establishments covered under the Delhi Shops and Establishment Act, 1954 (“Delhi S&E Act”) shall be granted registration under the Delhi S&E Act in perpetuity. This eliminates the requirement to periodically renew registration and simplifies compliance for businesses.

### **Ministry of Labour and Employment issued a corrigendum to the provisions enforced under the Code on Social Security, 2020 clarifying enforcement dates**

On December 19, 2025, the Ministry of Labour and Employment issued a corrigendum to its earlier notifications under the Code on Social Security, 2020, clarifying the enforcement dates of certain provisions to remove ambiguity and ensure regulatory certainty. The corrigendum aligns the phased implementation of the Code with earlier notifications issued on May 3, 2023, and November 21, 2025.

The clarification confirms that provisions relating to the Employees’ Pension Scheme, 1995, including Section 15(3) (prospective and retrospective effect

of Schemes), Section 16(1)(a) and (b) (Contributions to Provident Fund and Pension Scheme), Section 16(2) (Management of Provident, Pension and Insurance Funds), and related saving and repeal provisions under Section 164, were enforced earlier with effect from May 3, 2023. Other substantive provisions of the Code, including Sections 1 to 14, Sections 17 to 141, and the remaining repeal and saving clauses, were implemented from November 21, 2025. By clearly distinguishing between provisions already in force and those effective from November 21, 2025, the corrigendum avoids duplication, resolves interpretational uncertainty, and strengthens transparency in implementation.

### **EPFO issued an urgent clarification on processing death claims under the Employees’ Deposit Linked Insurance (EDLI) Scheme, 1976**

On December 17, 2025, the Employees’ Provident Fund Organisation (“EPFO”) issued an urgent clarification on processing death claims under the Employees’ Deposit Linked Insurance (“EDLI”) Scheme, 1976, following earlier amendments aimed at removing anomalies in determining continuous service. EPFO observed that claims were being incorrectly denied or reduced due to minor gaps between employments being treated as breaks in service.

The clarification confirms that the minimum EDLI benefit is INR 50,000 (approx. USD 555) for members with less than twelve (12) months’ service and low PF balances, benefits are payable if death occurs within six (6) months of the last contribution, and gaps of up to sixty (60) days between EPF-covered employments are to be ignored. It is expressly clarified that Saturdays, Sundays, weekly offs, national holidays, gazette holidays, and restricted holidays falling between

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the date of exit from one (1) establishment and joining another EPF-covered establishment shall not be treated as break in service, provided the separation is only due to such holidays. EPFO has directed all field offices to follow this clarification uniformly while processing EDLI claims.

**Gujarat amends its shops and establishments act; revises working hours, quarterly limits of overtime, and removes the requirement to obtain approval from the inspector before engaging women in night shifts**

The Gujarat Labour, Skill Development and Employment Department issued the Shops and Establishments (Regulation of Employment and Conditions of Service) (Amendment) Ordinance, 2025 (“Ordinance”) on December 16, 2025, amending the Gujarat Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2019 (“Gujarat S&E Act”) to streamline employment conditions across commercial establishments statewide.

The Ordinance revises the daily working hours to ten (10) hours from the earlier limit of nine (9) hours. It also extends the maximum period of continuous work after which a break is to be provided, from five (5) hours to six (6) hours. The quarterly overtime limit has also been increased from one hundred and twenty-five (125) hours to one hundred and forty-four (144) hours.

Further, the need for a separate order from the inspector or any authorised person before engaging women in night shift (between 9:00 p.m. and 6:00 a.m.) is no longer a requirement. The employer must, however, ensure the provision of essential welfare and safety measures as prescribed under the Gujarat S&E Act, such as rest

rooms, night crèche facilities, toilets, protection against sexual harassment, and transportation to and fro, and obtain their consent.

**Government of Uttar Pradesh promulgates ordinance amending its shops and establishments act; revising definitions, registration process, working hours provisions, night shifts for women employees and mandates issuance of appointment letter**

The Uttar Pradesh government promulgated the Dookan Aur Vanijya Adhishthan (Sanshodhan) Ordinance, 2025 (“Ordinance”) on November 19, 2025, amending the Uttar Pradesh Dookan Aur Vanijya Adhishthan Adhiniyam, 1962 (“UP S&E Act”) to broaden definitions and streamline regulations for shops and commercial establishments across the state. The Ordinance extends to the entire state and comes into force from the date of its publication in the official gazette.

The Ordinance widens and clarifies key definitions, particularly that of “commercial establishment,” to expressly include professional establishments such as hospitals, clinics, consultants, service providers, and platform-based delivery services, and also recognizes persons employed through outsourcing agencies as employees. It further amends the applicability provisions by excluding shops or commercial establishments employing less than twenty (20) employees from certain requirements under the UP S&E Act.

The Ordinance mandates online registration within six (6) months for shops and commercial establishments employing twenty (20) or more employees via an automatic, portal-based registration system subject to eligibility and

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disclosure requirements. It also updates working hour provisions, prescribing limits of six (6) hours for young persons and nine (9) hours for other employees, with strict overtime cap of not exceeding one hundred and forty-four (144) hours in any quarter, to balance business ease and worker welfare. The Ordinance also mentions that basis compliance with the provisions of adequate shelter, food, canteen facility, rest room, night creche, ladies toilets, adequate protection of safety of women, and their transportation from the shop or commercial establishment to their respective residences, an employer may after obtaining the consent of the women, allow them to work between seven (7) pm and six (6) am. The Ordinance further mandates the issuance of appointment letters to every employee.

**Government of Gujarat promulgates ordinance amending its shops and establishments act and easing compliances by way of increasing threshold limit, easing working hours and overtime limits, and strengthening existing safeguards for women to work at night.**

The Governor of Gujarat, vide notification dated December 16, 2025, promulgated the Gujarat Shops and Establishments (Regulation of Employment and Conditions of Service) (Amendment) Ordinance, 2025 (“2025 Ordinance”) with an intent to ease compliances under the Gujarat Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2019 (“Gujarat S&E Act”) and the same has been made effective from December 16, 2025.

As per the 2025 Ordinance, the employee headcount threshold for application of the Gujarat S&E Act has increased from zero (0) to twenty (20) employees (such threshold is inclusive of both managerial and non-managerial employees).

Pursuant to this change, now establishments having less than twenty (20) employees will be required to provide details of the opening and the closing of business of the establishment to the Inspector, without having to comply with the remainder of the Gujarat S&E Act.

Further, the total number of hours of work without an interval has increased from five (5) hours to six (6) hours, with a break of at least half an hour given after every six (6) hours of continuous work. The maximum daily working hours have been increased from nine (9) hours to ten (10) hours per day. As per the 2025 Ordinance, the overtime hours limit has been increased from nine (9) hours to ten (10) hours in a day and from one hundred and twenty-five (125) hours to one hundred and forty-four (144) hours in a quarter.

Further, a woman employee can now work from nine (9) pm to six (6) am, with her consent, provided that certain conditions such as rest rooms, ladies’ toilet, night crèche and adequate measures for their safety and protection from sexual harassment are adhered to. Additionally, an employer is required to provide transportation services for women working in night shifts. Further, such shifts may be regulated by the State Government, by way of a notification in the Official Gazette.

**Government of Rajasthan passes ordinance amending its shops and establishments act; enhances working hours, overtime limits, and age-related employment provisions.**

The Governor of Rajasthan, vide notification dated December 17, 2025, promulgated the Rajasthan Shops and Commercial Establishments (Amendment) Ordinance, 2025 (“Rajasthan Ordinance”) to amend the Rajasthan Shops and

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Commercial Establishments Act, 1958 introducing significant reforms affecting working hours, overtime limits, and age-related employment provisions. Through the Rajasthan Ordinance, the minimum age of apprentices has been increased from twelve (12) years to fourteen (14) years.

Correspondingly, the definition of “Young Person” has been revised to include individuals between fourteen (14) and eighteen (18) years of age, replacing the earlier age bracket of twelve (12) to fifteen (15) years. The minimum age for employment in any shop or commercial establishment has also been raised to fourteen (14) years. Further, adolescents between fourteen (14) and eighteen (18) years are now prohibited from working during night hours, whereas earlier such restrictions applied only to children between twelve (12) and fifteen (15) years.

The Rajasthan Ordinance increased the daily working hour limits from nine (9) hours to ten (10) hours, and the maximum period of continuous work after which a break has to be provided has been increased to 6 hours from the previous five (5) hours. The quarterly overtime limits have been raised to one hundred and forty-four (144) hours from the previous limit of fifty (50) hours, thereby causing a major shift in allowing for extended overtime work in case of business exigencies. The Rajasthan Ordinance shall come into force with immediate effect.

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# Judicial Updates

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## **Supreme Court: Internal Committees (IC) are empowered to inquire into inter-departmental complaints of sexual harassment.**

On December 10, 2025, a Division Bench of the Hon'ble Supreme Court of India in *Dr. Sohail Malik vs. Union of India* (Civil Appeal No. 404 of 2024) delivered a critical ruling on the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, affirming that an aggrieved woman can approach the Internal Committee ("IC") of her own workplace to file a complaint of sexual harassment, even if the respondent works in a different department of the organization. The case stemmed from an incident where the aggrieved woman, a senior Indian Administrative Service (IAS) officer, posted in the Department of Food and Public Distribution, accused an Indian Revenue Service (IRS) officer from a different department of sexual harassment at her workplace. The aggrieved woman promptly filed a complaint with her department's IC, which issued a summons to the respondent. The respondent then challenged the IC's jurisdiction at the Central Administrative Tribunal and Delhi High Court, both of which rejected his pleas, leading to an appeal before the Supreme Court.

The Court interpreted Section 11 (relating to the manner of conducting inquiries under the POSH Act), rejecting the respondent's argument that the phrase "where the respondent is an employee" limits the inquiry to the IC of his own employer. Instead, it interpreted "where" as a conditional conjunction akin to "if" serving as a procedural directive to apply the respondent's service rules during inquiry and was not a jurisdictional bar. Further, the expansive definition of "workplace" under Section 2(o) was upheld to include any location visited in the course of employment, empowering the complainant's IC to conduct an inquiry. While dismissing the appeal, the Court

clarified that the respondent's employer would implement disciplinary action based on the IC's report.

## **Delhi HC: Classifies airline pilots as 'workmen' under the Industrial Disputes Act, 1947 (ID Act)**

On December 11, 2025, a Division Bench of the Hon'ble Delhi High Court ("DHC") delivered a common judgment in *King Airways v. Captain Pritam Singh* [Letter Patent Appeal (LPA) No. 142 of 2013 and connected matters], upholding the classification of airline pilots as "workmen" defined under Section 2(s) of the Industrial Disputes Act, 1947 ("ID Act").

The appeals arose from disputes involving King Airways (appellant) and pilots Captain Pritam Singh, Manjit Singh, and N.D. Kathuria (respondents). The pilots filed claims under Section 33C (2) (which deals with the recovery of money due from an employer) of the ID Act before the Ld. Industrial Tribunal-cum-Labour Court, Karkardooma ("Tribunal"), seeking unpaid salary, incentives for extra flying hours, and withheld pay. The Tribunal allowed the claims after determining the pilots qualified as workmen, as their primary duties involved skilled technical work of flying aircraft, and not predominant supervisory or managerial functions. A Single Judge bench of DHC upheld these orders.

The appellant filed an appeal, and contended that pilots, as Pilot-in-Command ("PIC"), performed supervisory duties per operational manual read with Rule 141 of the Aircraft Rules, 1937 (which deals with reporting accidents or incidents involving aircrafts) and drew salaries exceeding statutory limits i.e INR 1,00,000 a month, invoking Section 2(s)(iv) (excludes individuals from the definition of "workman" if they are employed in a supervisory capacity) of the ID Act.

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The respondents, on the other hand, argued that their predominant role was technical flying, with supervision being an incidental function, citing the operations manual and organizational chart showing reporting to the operations Manager.

The Division Bench affirmed the Single Judge's ruling, dismissing the LPA No. 141 of 2013 and connected matters. It held that a pilot's primary function is highly skilled technical flying, aligning with Section 2(s)'s inclusion of technical work, irrespective of salary. Any supervision (e.g., crew direction under Rule 141 of the Aircraft Rules, 1937) was held ancillary and operational, and not supervisory under the ID Act, prioritizing primary technical flying duties of pilots over incidental supervision.

### **Delhi HC: No Employer-employee relationship between contract labour engaged through the contractor and the employee**

The Delhi High Court in the judgement of *Indraprastha Gas Limited vs. Ambrish Kumar* (W.P. (C) 3743/2013) clarified that a workman engaged through a contractor will not qualify as an employee of the principal employer if the claimant fails to prove a direct employer-employee relationship.

The Delhi High Court examined whether a Driveway Salesman working at CNG stations of Indraprastha Gas Limited ("IGL") could be treated as its employee despite being engaged through a contractor. The Court reiterated that a workman claiming such status must establish a clear employer-employee relationship through credible evidence. The workman claimed that he had been working with IGL since 2001 and that his termination in 2005 amounted to illegal

retrenchment under the Industrial Disputes Act, 1947 ("ID Act"). The Labour Court accepted his plea, holding that IGL exercised effective control over his work and declaring the contractual arrangement to be a sham, directed reinstatement with full back wages.

Subsequently, IGL challenged this award before the Delhi High Court, contending that the workman was employed by a contractor and not by IGL. It was argued that the workman failed to produce any appointment letter, salary slips, or proof of having completed two hundred and forty (240) days of service, and that as a government undertaking, IGL could not have employed him without following a prescribed recruitment process.

Upon examining the record, the High Court held that the documents relied upon by the workman, including an identity card and internal payment records, lacked authentication and could not establish direct employment. In contrast, the contractor's wage registers, attendance records, and statutory filings produced by IGL showed the workman as an employee of the contractor. Relying on earlier precedents, the Court emphasized that public sector employment cannot be inferred in the absence of formal appointment and due process.

The Court concluded that while the ID Act is a beneficial legislation, relief cannot be granted where foundational facts are not proved. The Labour Court's award was therefore set aside. The wages paid to the workman during the pendency of proceedings were directed to be treated as compensation and not recovered.

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## Calcutta HC: Gratuity Act does not override service rules on recovery of losses

The Division Bench of the Hon'ble Calcutta High Court in *MSTC Limited v. Malay Sengupta* (FMA 959 of 2025) on December 10, 2025 ruled that the Payment of Gratuity Act, 1972 ("Gratuity Act") does not supersede disciplinary rules permitting withholding or forfeiture of gratuity for pecuniary loss due to negligence by the employee.

The respondent, Malay Sengupta, was a Presidential appointee and Chairman and Managing Director (CMD) of MSTC Limited (appellant company) who faced disciplinary proceedings before retirement. The disciplinary authority found the respondent guilty of misconduct, leading to a penalty of INR 10,00,000 (approx. USD 11,118) recovery from his gratuity. The claim of the respondent for gratuity was initially rejected by the Controlling Authority but later reversed by the Appellate Authority, which ordered gratuity payment with interest. It was then further upheld by a Single Judge Bench of Calcutta High Court.

The appellant company appealed before the Calcutta High Court, arguing that the respondent, a managerial employee did not fall within the definition of "employee" under the Gratuity Act and was bound by Conduct, Discipline and Appeals Rules ("CDA Rules") allowing independent recovery for the losses caused by negligence. The respondent countered that gratuity accrued on superannuation, proceedings were belated and biased, as Chief Vigilance Officer was a sole witness. Further, the forfeiture lacked specific loss calculation under Section 4(6) (deals with forfeiture of gratuity) of the Gratuity Act and was disproportionately given collective committee decisions and released gratuities for others.

The Division Bench set aside the Single Judge Bench ruling, upholding the decision of the Controlling Authority. The High Court held that the CDA Rules grant standalone rights to withhold or recover gratuity for misconduct under Section 4(6) or broader negligence or losses and such disciplinary proceedings with quantified recovery bars gratuity claim.

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# anhad law

Solicitors & Advocates

## KEY CONTACTS



**Manishi Pathak**  
Founding Partner,  
Anhad Law



**Ranjan Jha**  
Partner,  
Anhad Law

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