TeamLease HRtech

Digitalizing Employee Experience

TL E-BULLETIN

- **LABOUR REGULATORY UPDATES**
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Welcome to the 1st Edition of Volume 1 of the TL E-Bulletin, brought to you by TeamLease Services. This E-Bulletin comprises of Labour Regulatory Updates, recent significant Judgments and Orders & insights into the Labour Code Updates.

1. LABOUR REGULATORY UPDATES

In this section, we aim to provide insights and recent updates on various Acts of Labour Laws, in the form of Official Notifications, Circulars, Amendments, etc., that have been published and notified in the past one month, governing on the impact and regulation of labour and employment laws.

ESIC ISSUES CIRCULAR ON TIMELY SETTLEMENT OF MEDICAL RE-IMBURSEMENT CLAIM BILLS OF INSURED PERSONS

In its Circular dated 25th April, 2022, the ESIC has addressed its concerns of having noticed and brought to their kind attention that settlement of insured persons medical reimbursement claim bills is getting delayed due to various reasons. Vide the said Circular, ESIC has directed to settle the Medical Reimbursement Claim Bills of Insured Persons within 30 days from receipt of the bill.

Further, to expedite the process, financial power has been delegated to SRO I/c of Sub-Regional Offices, up to an amount of ₹50,000/-, so that bill can be scrutinized by Medical Referee and sanctioned by SRO I/c and paid at SRO level itself with timely electronic transfer of the reimbursement amount in the Insured Person's bank account. With reference to, ,monitoring of Settlement of Medical Reimbursement Claim, the same will be done by Regional Director / SRO (I/c) on fortnightly basis.

EPFO ISSUES CIRCULAR CLARIFYING ON THE FINAL WITHDRAWAL OF PROVIDENT FUND FOR INTERNATIONAL WORKERS

The EPFO has issued a Circular dated 27th April, 2022, clarifying on the process of Final Withdrawal of Provident Fund for International Workers. As per the said Circular, pursuant to an audit observation, certain grievance on the subject regarding settlement of claims for final withdrawal of Provident Fund in respect of International Workers who are from countries not having a Social Security Agreement with India (Non-SSA Countries) was noticed.

Therefore, to effectuate more clarity, Para 69 (1) (a) under Para 83 of the EPF Scheme, which provides for “Circumstances in which Accumulations in the Fund are Payable to an International Worker”, has been reiterated, whereby it permits final withdrawal by an International Workers from a Non-SSA country only after attaining 58 years of age. Thus, International Workers from Non-SSA Countries are eligible for full withdrawal of their PF accumulations as per the said provision, i.e., after they attain the age of 58 years.

MINISTRY OF LABOUR & EMPLOYMENT (MOLE) ISSUES NOTIFICATION DECLARING CERTAIN SERVICES UNDER THE FIRST SCHEDULE OF THE INDUSTRIAL DISPUTES ACT, AS PUBLIC UTILITY SERVICE.

The MOLE has issued multiple Notifications, declaring certain services engaged in specified industries under the First Schedule of the Industrial Disputes Act, 1947 as Public Utility Services. This includes, the services engaged in the industry of Iron Ore Mining (Item 16 of the First Schedule), Copper Mining Industry (Item 13 of the First Schedule), Industrial Establishments manufacturing or producing Nuclear Fuel and Components, Heavy Water & Allied Chemicals & Atomic Energy (Item 28 of the First Schedule) & Manufacturing of Alumina and Aluminium (Item 30 of the First Schedule) & Mining of Bauxite (Item 31 of the First Schedule). Therefore, the services of these mentioned industries under the Industrial Disputes Act, 1947 is hereby, declared as a Public Utility Services, with its effect for a period of 6 months.

DEPARTMENT OF FACTORIES, BOILERS, INDUSTRIAL SAFETY AND HEALTH ISSUES CIRCULAR ON RESUMING THE CHILDCARE / CRECHE FACILITY IN FACTORIES IN KARNATAKA

In its Official Circular dated 13th April 2022, it was highlighted and clarified that due to COVID - 19, the said department had imposed certain guidelines to be operated in Factories earlier. However, currently, the rate of COVID-19 spread has been significantly reduced and thereby, COVID-19 appropriate behaviour guidelines have been relaxed further it is advised to extend the benefit of the Childcare / Creche facilities in Factories in Karnataka adhering to the COVID-19 appropriate behaviour.

EPFO ISSUES CIRCULAR ON THE EMPLOYEE’S PENSION SCHEME 1995 CONTRIBUTION REMITTANCES

In its Circular dated 22nd April 2022, the EPFO has expressed its observation that many Employers are remitting pension contributions for Employees who have attained 58 years. Referring to The Employee's Pension Scheme, 1995, an Employee shall cease to be a member of Pension Fund from the date of attaining 58 years of age or from the date of vesting admissible benefits under the scheme, whichever is earlier. But it has been observed that many Employers are still remitting Pension Contribution for Employees who have attained 58 years also. This results in a problem and thereby, causes hardship to the member when he applies for final settlement as such claims are rejected for want of clarification from the Employer.

Therefore, the EPFO has expressed its strong observation by directing and advising the Employers to be more vigilant while uploading ECR and to verify the ECR statement before the submission in the portal.

ESIC ISSUES CIRCULAR ON THE STATE–WISE UPDATED LIST OF NOTIFIED DISTRICTS UNDER THE ESI SCHEME

In its Circular dated 11th April 2022, the ESIC has furnished a State-Wise Updated List of Notified Districts under the said scheme. The Circular elaborates on a consolidated status of district wise notification in respect of all such States / UT’s, wherein as of the 1st April 2022, 13 States / UT's whose entire area is notified under the ESIC Scheme, 22 States / UT's where the ESIC Scheme is partially notified and only 1 State / UT (Lakshadweep) where the ESIC Scheme is not implemented. Thus, fully notified districts amount to 442 and partially notified districts amounts to 153.

ESIC ISSUES CIRCULAR ON THE PHASED PROGRAMME OF IMPLEMENTATION UNDER THE ESIC SCHEME

In its Circular dated 27th April, 2022, the ESIC has addressed the concerns over the Targets during the 2021-22, having not met / achieved due to non-receipt of Proposal from the State Government. In consequence now, a new consolidated target is proposed to be achieved by the end of the year 2022, which also includes the pending districts not notified during the year 2021-22. The present status includes 442 districts which are fully notified and the targets for entire district notification for 300 Districts by the end of the year 2022, is proposed and highlighted in the said Circular.

Therefore, the State Government is now requested to take steps to complete the medical arrangement in the districts for delivery of medical care to the Insured Persons and their family members so as to enable ESIC, to take further action for issue of notification for implementing the ESIC Scheme.

GUJARAT REVISES PROFESSIONAL TAX RATES FOR CERTAIN CLASSES OF EMPLOYEES

Vide the Gujarat Professional Tax Notification dated 8th April, 2022, the Government of Gujarat has revised the rate of professional tax leviable per month to certain classes of employees. For employees who are –

(a) Salary and Wage earners of the State Government, Central Government, Panchayats, Public Sector Undertakings of the State & Central Governments and Grant -in-aids Institutions, whose monthly salaries or wages are -
Upto- ₹12,000/- Rate of Tax per month is zero.
More than ₹12,000/- Rate of Tax per month is ₹200.

(b) Salary and Wage earners of persons other than those mentioned above, whose monthly salaries or wages are-
Upto- ₹12,000/- Rate of Tax per month is zero.
More than ₹12,000/- Rate of Tax per month is ₹200.

ESIC ISSUES NOTIFICATION ON RELAXING THE TIME LIMIT FOR DEPOSITING AND FILING ESI CONTRIBUTIONS

In its Notification dated 13th April, 2022, the Employers are now, granted with a one-time opportunity, allowing them to deposit the contribution for the Month of March 2022, up to 30th April, 2022 instead of 15th April, 2022. Employers also allowed to file the Return of Contribution up to 26th April, 2022 instead of 11th April, 2022, for the contribution period from October 2021 to March 2022. This has been granted in lieu of the problems being faced by the Employers in depositing ESI Contribution for the contribution period March 2022.

GOVERNMENT OF GUJARAT REVISES THE WAGES OF WORKERS WORKING IN THE SHIP BREAKING INDUSTRIES

The Labour, Skill Development and Employment Department of Gujarat has issued a Draft Notification revising the wages of workers working in Ship Breaking Activities, as covered under Entry 61 in Part-I of the Schedule to the Minimum Wages Act, 1948. As per the said Notification, the Minimum Rates of Wages Payable Per Day in Zone-I for the below Classes of Employees are as follows:

(a) Skilled (Manager, Mukadam, Supervisor Crane and vij(Electric) Operator – Rs. 430 + Special Allowance.
(b) Semi-Skilled - Battiwala (Gas cutter) – Rs.417 + Special Allowance
(c) Un-skilled – (Malpani, Begari, Helper.) – Rs. 404 + Special Allowance

GOVERNMENT OF WEST BENGAL EXTENDS FILING OF PROFESSIONAL TAX RETURN FOR THE PERIOD OF YEAR ENDING ON 31ST MARCH, 2022.

The Commissioner of Profession Tax, West Bengal vide the Order dated 29th April, 2022 has extended the last date of filing the Return in Form III, under Section 6 of the West Bengal State Tax on Professions, Trades, Callings and Employments Act, 1976. As per the said Order, for the period of Y.E. on 31.03.2022, the last date of transmission of data electronically of that return was 30.04.2022.

However, for the same period, the extended time limit / last date of transmission of data electronically of that return as specified now is 31.05.2022. And for the same period, the extended time limit / last date of furnishing paper form of that return as specified now is 07.06.2022.

GOVERNMENT OF MAHARASHTRA EXTENDS FILING OF PROFESSIONAL TAX RETURN FOR PERIOD UPTO THE MONTH OF MARCH, 2022.

IThe Finance Department, Government of Maharashtra has issued a Notification dated 27th April, 2o22 extending the date of filing the Professional Tax Return under Maharashtra State Tax on Professions, Trades, Callings and Employments Act, 1975, for such classes of employers who could not pay taxes or upload returns due to technical difficulties of the automation system of the Maharashtra Goods and Services Tax Department. Therefore, returns for any period up to the month of March 2022, shall be
filed on or before the 31st May 2022 on the website of the Maharashtra Goods and Services Tax Department. Tax payable as per the return for any period up to the month of March 2022, shall be paid before filing of return and further, interest on tax payable as per return for any period up to the month of March 2022, shall be paid before filing of return.

2. LABOUR CODE UPDATES

In this section, we attempt to provide a brief understanding on the Labour Code Updates for an easy ready reference. This section mainly highlights on each of the 4 proposed Labour Codes and its recent updates and changes.

LABOUR CODE PRESS RELEASE

With a view to implement the New Labour Codes in the current fiscal year, a Press Release on the same was published on the 29th March, 2022 where it has been confirmed and affirmed that the 4 Labour Codes may not be implemented before June end, as that all states have not framed rules on them. Therefore, the long-awaited introduction of 4 Labour Codes, originally scheduled to come into force at the beginning of the current fiscal year, may take at least 3 months more.

However, a significant progress has been shown and discerned by various states towards drafting and having notified their respective state draft rules on each of the 4 Labour Codes. Few of the states which have recently notified and published the Draft Labour Code Rules includes: Karnataka, Tripura, Sikkim, Tamil Nadu, etc.

3. JUDGMENTS

In this section, we aim to highlight all relevant imperative judicial decisions rendered in the recent months in the area of Labour and Employment Law.

1. HARVINDER KAUR VISHAKHA SINGH AND ORS. V. TARVINDER SINGH K. SINGH AND ORS (FIRST APPEAL NO. 1476 OF 2007) DATED - 17TH JANUARY, 2022

EMPLOYER DIRECTED TO PAY COMPENSATION FOR THE DEATH OF AN EMPLOYEE CAUSED BY STRESS –

It was determined that the stress and strain placed on an employee during his job contributed to his death, and that the employee's death due to cardiac arrest was an accident originating from and in the course of employment. Under the Employee Compensation Act of 1923, the Court ordered the employer to compensate the widow of the dead employee.

2. *ASIA PACIFIC INSTITUTE OF MANAGEMENT V. JOINT LABOUR COMMISSIONER* (W.P. (C) 13923 / 2021) DATED - 7TH DECEMBER, 2021

EMPLOYEES SHOULD NOT BE DENIED BENEFITS UNDER THE MATERNITY BENEFIT ACT, 1961 ON TECHNICAL GROUNDS

The High Court of Judicature at Madras issued the impugned decision and order on March 30, 2021 in C.M.A.No.643/2020, in which the High Court granted the respondent-ESI Corporation's appeal. It was noted that the Maternity Benefit Act of 1961 ("MB Act") is beneficial legislation, and that the terms of the MB Act should be carried out in letter and spirit, with technical concerns not getting in the way of ensuring that pregnant women receive the benefits offered by the MB Act.

3. *SUSHMA ALAGUVADIVAL V. UNION OF INDIA AND ORS.* (W.P. NO. 6995 OF 2014) DATED - 6TH DECEMBER, 2021

RIGHT TO WORK IN A PEACEFUL ATMOSPHERE IS A BASIC RIGHT AND ADMINISTRATIVE LAPSES IN HANDLING SEXUAL HARASSMENT COMPLAINTS CANNOT BE ENTERTAINED

It was decided that an employee's right to work is a fundamental right, and that it is the employer's responsibility to guarantee that his or her employees feel safe at work. The Court went on to say that an employer's failure to implement an effective system of redressing sexual harassment complaints at work, such as forming a sexual harassment committee, asking about and progressing with such complaints, is a failure to comply with the POSH Act's provisions.

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