



JSA Newsletter Employment Law

September 2024

This edition of the JSA Employment Newsletter provides a brief roundup of latest key regulatory developments in the Indian employment space for the month of September 2024, released through amendments, notifications and orders. We also discuss some recent judicial precedents across several employment legislations.

Regulatory Updates

Government of Haryana issues notification regarding submission of ER-II returns

The employment department of Haryana, *vide* letter¹ dated September 2, 2024, issued a directive requiring all employers in the State to submit biannual returns in Form ER-II, based on details from the quarterly return (ER-1) as of September 30, 2023, in compliance with the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959. This bi-annual return must be filed by employers with 25 (twenty-five) or more employees every 2 (two) years and is crucial for maintaining accurate employment records and compliance. The directive includes a template for form ER-II, which can be submitted via email, post, or in person to the local employment exchange by September 30, 2024. Employers are instructed to fill out the proforma accurately, ensuring all data aligns with the ER-I return, which includes employment figures and wage details. After submission, employers should confirm receipt with the employment department to avoid compliance issues.

Government of Maharashtra revised the minimum wages for certain industries

The labour department of Maharashtra, *vide* notification² dated September 2, 2024, made significant revision to the minimum wage rates under the Minimum Wages Act, 1948, in the scheduled employment for 'employment in rice mill, flour mill or dal mill', for 'employment in industries manufacturing flattened parched rice (poha), Murmura, Churmura, Kurmura from paddy or rice including micromica (Bharda) narda from maize' and for 'employment in any industry in which any process of transforming plastics into various solid shapes, through moulding, forming, extrusion or casting by application singly or together with heat and/or pressure or both or other similar work or work incidental to such process is carried on', marking the first adjustments since July 2010. The primary aim is to ensure fair compensation reflecting current economic conditions and inflation rates. The new rates are categorised into 2 (two) zones based on geographic and economic conditions. These rates include basic pay and allowances such as the cost-of-living allowance, which is adjusted biannually based on the consumer price index. The primary aim is to ensure fair compensation reflecting current economic conditions and inflation rates. By adjusting the wages, the government seeks to protect labour rights and promote worker welfare.

¹ Letter no. EMI/ER-II/2024/979.

² Notification no.MWA-1015/259/CR-97/Lab-7.

Government of Puducherry revised minimum wages rates

The Government of Puducherry, *vide* notification³ dated September 2, 2024, revised the minimum wage rates for employees across various sectors, aiming to ensure fair compensation. The new rates cover a wide range of occupations, including shops and establishments, automobile workshops, bakeries, food processing, hotels, carpentry, chemical industry, oil mills, petroleum gas cylinder, plastic industry, and security services, reflecting the government's commitment to economic inclusivity. Key provisions include the introduction of a dearness allowance tied to the Puducherry consumer price index, which will be recalculated annually to keep pace with the living costs. The notification also emphasises gender equality in wages, mandating equal pay for equal work regardless of gender. Monthly wages will be calculated by multiplying the daily rate by 30 (thirty), and importantly, employees currently earning above the new minimum rates will continue to receive their higher wages, ensuring that no one is adversely affected by the revision.

Government of Gujarat introduces procedure for fixation and revision of minimum wages under the Minimum Wages Act, 1948 and the Gujarat Minimum Wages Rules, 1961

The labour department of Gujarat *vide* circular⁴ dated September 4, 2024, unveiled a procedure for fixing and revising minimum wages, emphasising transparency and stakeholder participation. Central to this process is the establishment of an advisory board comprising of the representatives from the employers, employees, and an independent expert chairman, facilitating balanced decision-making. The procedure begins with publishing of a draft notification outlining proposed wage changes, followed by a public consultation phase where stakeholders can submit objections and suggestions. The advisory board then reviews this feedback before the government makes a final decision, which is published as the revised minimum wage rates.

This structured approach reflects the government's commitment to creating a fair wage system that protects workers' rights while considering employers' realities, ultimately fostering social equity and economic growth in Gujarat.

Government of Maharashtra notifies certain administrative revisions under the Maharashtra Shops and Establishment (Regulation of Employment and Conditions of Service) Act, 2017

The Government of Maharashtra, *vide* notification⁵ dated September 4, 2024, notified significant amendments to the schedule of the Maharashtra Shops and Establishment (Regulation of Employment and Conditions of Service) Act, 2017, which governs employment conditions in shops and establishments statewide. Key changes include a shift in administrative authority from the 'Deputy Municipal Commissioner (Special)' to the 'Assistant Commissioner' of the Municipal Corporation of Greater Mumbai, enhancing oversight. Additionally, the government clarified that the geographic scope of the 'Assistant Commissioner's' jurisdiction is changed from 'Mumbai City and Greater Mumbai Suburban Districts' to 'their respective jurisdiction,' ensuring more precise administrative functions. These updates aim to streamline processes, improve compliance, and provide better guidance for businesses, while empowering employees through targeted enforcement of their rights.

Employees Provident fund Organization issues an order to enhance security protocols for employers with mobile verification

The Employees Provident Fund Organization ("EPFO"), *vide* order⁶ dated September 4, 2024, implemented a significant update to its security protocols, mandating mobile one-time password verification for employer logins

³ Notification no. G.O.Ms. No. 09/AIL/Lab/G/2024.

⁴ Circular no. LED/MWA/e-file/11/2024/1058/M2.

⁵ Notification no. MSA-07/2022/CR-134/Labour-10.

⁶ Order no. temporary arrangement/Adm-I/370.

alongside traditional passwords. This change aims to bolster the security of account access, safeguarding sensitive information. However, the transition has resulted in a surge of password reset requests from employers unprepared for the new system. To address this backlog, EPFO has directed clerks and branch supervisors to prioritise processing password reset letters promptly, forwarding them to the electronic data processing branch within the same or next working day.

This timely action is crucial to ensure that employers can continue submitting their electronic challan cum return on time, as delays could lead to compliance issues and financial penalties. Employers are urged to update their login details to comply with the new requirements and act quickly on any reset requests to maintain smooth operations.

Government of Haryana announces poll day and provides exemption to workers under Factories Act, 1948

The labour department of Haryana, *vide* notification⁷ dated September 6, 2024, revised the poll day for the general election to the legislative assembly, now scheduled for October 5, 2024. In light of this change, all adult workers in factories who are voters are exempted from the provisions of Section 52(1)(a) of the Factories Act, 1948 for the week starting from October 6, 2024, to October 12, 2024. This exemption ensures that workers have the opportunity to exercise their right to vote, reinforcing the government's commitment to facilitating public participation in the electoral process.

Government of Tripura enhances ease of doing business under the Factories Act, 1948

The Government of Tripura, *vide* notification⁸ dated September 9, 2024, aims at enhancing the ease of doing business in the state by providing a comprehensive framework for obtaining statutory clearances. The guidelines outline a detailed list of required documents under the Factories Act, 1948, breaking down procedures into clear stages with associated costs and time estimates. Key features include searchable criteria based on risk category, firm size, business location, and investor type (foreign *versus* domestic). This initiative is designed to simplify processes such as factory plan approvals, revised plan drawings and factory registration, ultimately reducing compliance burdens, speeding up processing times, and fostering a more transparent, investment-friendly environment that encourages both domestic and foreign investment in Tripura.

Government of Kerala issues a notification on the minimum rate of wages for the brick manufacturing and wire cut bricks industry sector

The labour department of Kerala, *vide* notification⁹ dated September 13, 2024, announced a significant revision of minimum wage rates for employees in the brick manufacturing and wire cut bricks industry. The updated wage structure encompasses various categories, including unskilled, semi-skilled and skilled workers, with specific rates for time-rated and piece-rated work. Notably, the notification introduces a dearness allowance based on the consumer price index, ensuring workers are compensated fairly according to living costs. Existing employees earning above the newly established rates will maintain their higher wages, and those in unlisted job categories will receive equivalent compensation. This initiative reflects the government's commitment to enhancing labour welfare and fostering a just work environment.

⁷ Notification no. FW/Election/2024/3392.

⁸ Notification no. F 2(365)-FB/EoDB/BRAP/2024/878-84.

⁹ Notification no. G.O.(P)No.67/2024/LBR.

Ministry direction on registration of platform aggregators and platform workers on e-shram portal

The Ministry of Labour and Employment, *vide* notification¹⁰ dated September 16, 2024, announced the registration of platform aggregators and platform workers on e-Shram portal. The ministry refers to the portal as a 'one stop solution' for the platform workers, to help them access various social security schemes in one place.

For a detailed analysis, of the aforementioned notification please refer to the [JSA Prism of October 16, 2024](#).

Government of Goa announced Goa Rights of Persons with Disabilities (Second Amendment) Rules, 2024, strengthening the disability rights

The department of empowerment of persons with disabilities *vide* notification¹¹ dated September 19, 2024, announced the Goa Rights of Persons with Disabilities (Second Amendment) Rules, 2024, amending the Rights of Persons with Disabilities Rules 2018 ("**2018 Rules**") to enhance clarity and streamline responsibilities across various departments. Key changes include renaming the relevant authority from 'Directorate of Social Welfare' to 'Department for Empowerment of Persons with Disabilities' and updating titles for officials involved in disability empowerment to reflect this new focus. Amendments to Rules 3, 4, 14, and 25 clarify the roles of officials, reinforcing the governance structure dedicated to disability affairs. These revisions signify the government's commitment to prioritising the rights and empowerment of persons with disabilities, aiming for a more efficient and supportive approach to address their needs.

Delhi urges compliance on bonus payments for outsourced workers engaged by various government departments through contractors

The Government of the National Capital Territory of Delhi, *vide* notification¹² dated September 23, 2024, issued an advisory addressing complaints from outsourced workers regarding non-payment of bonuses by contractors. The labour commissioner emphasised that all contractor establishments employing 20 (twenty) or more workers are legally required to adhere to the Payment of Bonus Act, 1965, which mandates a minimum bonus of 8.33% of basic wages and dearness allowance, payable within 8 (eight) months of the accounting year's end, ideally before Diwali. The advisory warns that contractors failing to comply may face prosecution and any unpaid bonuses can be recovered as arrears of land revenue. It also highlights that principal employers must ensure their contractors follow all labor laws, urging them to guarantee bonus payments to outsourced workers in time for the upcoming festival season.

Central Government increases minimum wage rates to support workers

In a significant effort to assist workers in the unorganised sector amid rising living costs, the Central Government has announced an increase in minimum wage rates through a revision of the variable dearness allowance, effective from October 1, 2024. This adjustment benefits workers across various sectors, including construction, loading and unloading, housekeeping, mining, and agriculture. The new rates are categorised by skill level and geographical area and variable dearness allowance is revised biannually, with the latest adjustment reflecting changes in the consumer price index. For detailed wage information, visit clc.gov.in.

¹⁰ Notification no. W-11015/15/2024-RW (GPW).

¹¹ Notification no. 1/15/2024-25-DEPwD/Admn/Rules/359.

¹² F. No. 15 (46)/Lab/2020/3401-3405.

Case law ratios

Resignation can be withdrawn before its acceptance by the competent authority

In *S.D. Manohara vs. Konkan Railway Corporation Limited and Ors*,¹³ the Supreme Court of India (“**Supreme Court**”) reinstated an Indian railways employee, ruling that his resignation was effectively withdrawn before acceptance. The court noted that even if the employee's withdrawal of his resignation from December 5, 2013, was made on May 26, 2014, it occurred only 5 (five) months into his 24 (twenty-four) years of service. The case involved contested claims regarding whether the resignation was withdrawn before acceptance, with the employer relying on a letter dated April 15, 2014, to claim acceptance. The Supreme Court found this letter to be an internal communication with no clear evidence of delivery to employee. The Supreme Court highlighted that the employer's request to report for duty after his alleged unauthorized absence indicated no finality to the resignation. The single judge of Karnataka High Court (“**Karnataka HC**”) had correctly concluded that the resignation was withdrawn before it was accepted. The Supreme Court set aside the division bench's contrary ruling, ordering that employee be reinstated. While reinstating him, the Supreme Court limited his back salary to 50% for the period he was absent (i.e. from July 1, 2014, up to reinstatement), emphasizing the importance of proper procedures in employment matters.

Contract labourers must be heard before contract finalization

In *Hindustan Aeronautics Limited and Ors vs. Hindustan Aeronautics Contract Workers Association*,¹⁴ a division bench of Karnataka HC ruled that Hindustan Aeronautics Limited is required to revise its ‘comprehensive contract’ to comply with legal standards, ensuring that representatives of contract labourers are given an opportunity to voice their concerns before finalizing the contract. The Karnataka HC upheld the principles of natural justice, recognizing the workers' rights to be heard regarding contractual decisions that impact their employment. This decision followed a dispute where workers contended that the contract violated Articles 14, 21, 23, 39, 42, and 43 of the Constitution of India and the Contract Labour (Regulation & Abolition) Act of 1970. The Karnataka HC emphasised that, while the Contract Labour (Regulation & Abolition) Act, 1970 did not mandate consultation with contract labourers, allowing their input before significant changes is both reasonable and necessary.

¹³ 2024 INSC 693 (decided on September 13, 2024)

¹⁴ Writ appeal no.1122 of 2021 (decided on September 17, 2024)

Employment Practice

JSA has a team of experienced employment law specialists who work with clients from a wide range of sectors, to tackle local and cross-border, contentious and non-contentious employment law issues. Our key areas of advice include (a) advising on boardroom disputes including issues with directors, both executive and non-executive; (b) providing support for business restructuring and turnaround transactions, addressing employment and labour aspects of a deal, to minimize associated risks and ensure legal compliance; (c) providing transaction support with reference to employment law aspects of all corporate finance transactions, including the transfer of undertakings, transfer of accumulated employee benefits of outgoing employees to a new employer, redundancies, and dismissals; (d) advising on compliance and investigations, including creating compliance programs and policy, compliance evaluation assessment, procedure development and providing support for conducting internal investigations into alleged wrongful conduct; (e) designing, documenting, reviewing, and operating all types of employee benefit plans and arrangements, including incentive, bonus and severance programs; and (f) advising on international employment issues, including immigration, residency, social security benefits, taxation issues, Indian laws applicable to spouses and children of expatriates, and other legal requirements that arise when sending employees to India and recruiting from India, including body shopping situations.

JSA also has significant experience in assisting employers to ensure that they provide focused and proactive counselling to comply with the obligations placed on employees under the prevention of sexual harassment regime in India. We advise and assist clients in cases involving sexual harassment at the workplace, intra-office consensual relationships, including drafting of prevention of sexual harassment (POSH) policies, participating in POSH proceedings, conducting training for employees as well as Internal Complaints Committee members, and acting as external members of POSH Committees.

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18 Practices and
25 Ranked Lawyers

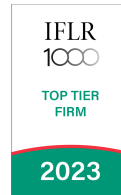


7 Ranked Practices,
16 Ranked Lawyers

Elite – Band 1 -
Corporate/ M&A Practice

3 Band 1 Practices

4 Band 1 Lawyers, 1 Eminent
Practitioner



12 Practices and
42 Ranked Partners
**IFLR1000 APAC
Rankings 2023**

Banking & Finance Team
of the Year

Fintech Team of the Year

Restructuring & Insolvency
Team of the Year



14 Practices and
38 Ranked Lawyers



20 Practices and
22 Ranked Lawyers



Ranked Among Top 5 Law Firms in
India for ESG Practice



Recognised in World's 100 best
competition practices of 2024



Among Top 7 Best Overall
Law Firms in India and
11 Ranked Practices

11 winning Deals in
IBLJ Deals of the Year

12 A List Lawyers in
IBLJ Top 100 Lawyer List

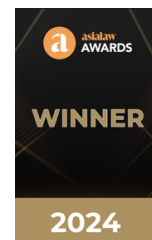


Asia M&A Ranking 2024 – Tier 1

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Energy - Law Firm of
the Year (APAC)



7 Practices and
3 Ranked Lawyers

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