May and June 2025

Ratio Decidendi Series – Edition III

As part of the JSA employment *ratio decidendi* series, we will explore ratios established by Indian courts under key labour statutes and provide an insight into the evolving landscape of Indian employment laws.

In this third edition, we discuss key principles laid down by various courts under the Factories Act, 1948 ("**Factories Act**") and the Maternity Benefit Act, 1961 ("**Maternity Benefit Act**"). This edition also offers a brief overview of regulatory developments in the Indian employment space for the months of May and June 2025, released through amendments, notifications and orders.

PART A: Factories Act, 1948

Laundry services held to be 'manufacturing process' under Factories Act; held, welfare statutes must be liberally interpreted to protect workers

In ***State of Goa vs. Namita Tripathi***[1], the Supreme Court of India ("**Supreme Court**") clarified the scope and interpretation of 'manufacturing process' and 'factory' under the Factories Act and held that an establishment carrying out laundry services will qualify as a factory. This case arose out of proceedings initiated against a professional set up laundry operating under the name and style of '*White Cloud*', alleging violations of the Factories Act on grounds that they were operating a laundry service (involving cleaning and washing of clothes using power-driven machinery and equipment) employing more than 9 (nine) workers, without obtaining the necessary factory approval and license, as required under the Factories Act read with the Goa Factories Rules, 1985.

The High Court of Bombay at Goa quashed the proceedings relying on certain precedents where courts earlier held that 'dry cleaning' and 'laundry service' do not amount to a 'manufacturing process' under Section 2(k) of the Factories Act if they do not transform the article into a new marketable commodity for commercial use. The Supreme Court reversed this decision on the grounds that: (a) the statutory definition of 'manufacturing process' under Section 2(k) of the Factories Act clearly includes 'washing' and 'cleaning' of articles with a view to their use, delivery, or disposal, and hence, laundry services employing requisite number of workers using power would clearly fall within the purview of '*manufacturing process*'; and (b) the Factories Act is a welfare statute intended to ensure safety, health, and welfare of workers, and if it contains its own comprehensive definition, that should be interpreted liberally to advance these objectives.

The Supreme Court also relied on previous precedents which discussed that where a statute under consideration itself defines for the purposes of the said Act a certain phrase, a court of law is bound to apply the term as defined except in exceptional cases where the opening part of a definition, "*anything repugnant in*

[1] 2025 SCC OnLine SC 480 (decided on March 3, 2025)

the subject or context" applies. Accordingly, the Supreme Court held that the proceedings against the laundry services were maintainable and directed the trial court to proceed in accordance with law.

Economic hardship from pandemic not 'public emergency' under Factories Act; Supreme Court strikes down Gujarat notifications relaxing labour protections during COVID-19 lockdown

In ***Gujarat Mazdoor Sabha vs. State of Gujarat***[2], the Supreme Court examined the scope of 'public emergency' under Section 5 of the Factories Act in the context of 2 (two) notifications issued by the State of Gujarat exempting all factories from certain statutory provisions on working hours and overtime wages in response to the COVID-19 pandemic, and held that economic hardships would not amount to a public emergency. The notifications, issued on April 17, 2020 and July 20, 2020, respectively, purported to relax statutory limits on daily and weekly working hours; rest intervals available to workers; as well as total spread over period; and limit obligations relating to overtime compensation, with a view to reduce economic hardships caused by the lockdown.

These notifications were challenged on grounds that: (a) economic downturn caused by the pandemic does not amount to a '*public emergency*' within the meaning of Section 5 of the Factories Act; (b) Section 5 of the Factories Act requires *inter alia* an 'internal disturbance' that threatens the security of India or any part of the territory thereof; (c) the notifications violated workers' rights to humane working conditions under Articles 21 and 23 of the Constitution of India ("**Constitution**"); and (d) such action amounted to forced labour as workers were denied lawful overtime wages.

The Supreme Court held that the COVID-19 pandemic, though resulting in grave economic hardship, did not constitute an 'internal disturbance' threatening the security of India to justify invocation of Section 5 of the Factories Act, emphasising on the fact that such provision is meant to be used sparingly and not in economic slowdowns. The Supreme Court reaffirmed that the Factories Act is a welfare statute securing just and humane conditions of work and that any curtailment of these protections must meet the stringent threshold prescribed by law. Accordingly, the Supreme Court quashed the impugned notifications and held that the concerned workers were entitled to be paid overtime wages under Section 59 of the Factories Act who have been working since the issuance of the notifications and directed payment of such dues in accordance with law.

Diagnostic centres not covered under ESI Act; held, medical testing and diagnosis does not constitute 'manufacturing process' under the Factories Act

In ***Vijaya Diagnostic Centre and Anr. vs. Employees State Insurance Corporation***[3], the Andhra Pradesh High Court ("**Andhra Pradesh HC**") clarified that diagnostic laboratories engaged solely in medical testing and reporting do not carry on a 'manufacturing process' under Section 2(k) of the Factories Act, and hence, cannot be treated as 'factories' for the purpose of coverage under the Employees' State Insurance Act, 1948 ("**ESI Act**"). The case involved diagnostic centres that performed pathology, radiology, and scanning services (such as X-rays, urine and blood tests), and were sought to be brought under the ESI Act based on administrative instructions issued by the Employees State Insurance Corporation ("**ESIC**"), without any formal notification.

The diagnostic centres contended that their operations involved no manufacturing activity or sale of any processed substance, and that they merely collected biological samples for diagnostic purposes. The ESIC argued that activities such as scanning, MRI, and blood processing fell within the meaning of 'manufacturing process' under the Factories Act.

The Andhra Pradesh HC held that: (a) 'manufacturing process' under Section 2(k) of Factories Act must involve making, altering, repairing, treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal; (b) the mere conducting of diagnostic procedures, such as analysing blood or urine samples and issuing reports, does not involve any such treatment or transformation of a substance for commercial use or sale; and (c) coverage under the ESI Act cannot be extended to such establishments in the absence of a specific notification under Section 1(5) of the ESI Act. Accordingly, the

[2] AIRONLINE 2020 SC 749 (decided on October 1, 2020)

[3] (2006) IILLJ443AP (decided on September 26, 2005)

Andhra Pradesh HC allowed the appeal and held that the diagnostic centres were not liable for coverage under the ESI Act.

Settlement cannot override statutory right to overtime wages; held, Section 59 of Factories Act will prevail over contrary agreements

In ***Hindustan Machine Tools Ltd. vs. Labour Court and Anr***.[4], the Rajasthan High Court ("**Rajasthan HC**") held that any settlement between employer and workers that contravenes the mandatory provisions of Section 59 of the Factories Act regarding overtime wages is not binding on the workers. The case arose when 71 (seventy-one) employees of Hindustan Machine Tools Limited ("**Hindustan Machine**") filed applications under Section 33C (2) of the Industrial Disputes Act, 1947 seeking computation and payment of overtime wages under Section 59 of the Factories Act. Hindustan Machine opposed the application on the ground that overtime payment was governed by a 1977 tripartite settlement with unions, under which the workers had been receiving benefits for a sufficiently long period without any objection.

The labour court of Rajasthan ("**Labour Court**") upheld that Section 59 of the Factories Act is mandatory and cannot be overridden by a settlement that provides lesser benefits to workers. The Labour Court directed Hindustan Machine to pay overtime wages prescribed at twice the ordinary rate, and as mandated under law, but did not set off benefits already received under the settlement.

On appeal, the Rajasthan HC upheld the Labour Court's finding that the settlement was contrary to the Factories Act and could not deprive workers of statutory benefits, and reiterated that Factories Act is a welfare legislation, and any interpretation curtailing worker rights must be avoided. However, the Rajasthan HC held that workers could not claim double benefits and directed the Labour Court to recompute the dues after deducting benefits already availed under the settlement.

Strict liability of managers under Factories Act reaffirmed; held, duty to ensure safety guards on dangerous machinery is absolute and continuous

In ***State of Gujarat vs. Jethalal Chelabhai Patel***[5], the Supreme Court clarified the strict liability of occupiers and managers under Factories Act in ensuring compliance with statutory safety provisions, particularly concerning dangerous machinery. The case involved a manager of an oil mill whose worker suffered an accident resulting in the amputation of his hand while greasing an exposed spur gear wheel. At the time of the accident, the machine's protective cover was missing. The prosecution under Section 92 read with Section 21(1)(iv)(c) of the Factories Act alleged that the manager failed in his statutory duty to keep the dangerous part securely fenced while in operation.

While the trial court and the High Court of Gujarat acquitted the manager, reasoning that the removal of the cover by someone without his knowledge absolved him of liability, the Supreme Court reversed this finding on the rationale that the manager's duty to ensure dangerous parts being securely fenced is absolute and continuous while machinery is in motion or use. The mere fact that someone else removed the safeguard without the manager's consent or knowledge does not constitute a defense. The occupier or manager bears the burden to prove they exercised due diligence to ensure continuous compliance, including preventing removal of safeguards.

The Supreme Court underscored that the Factories Act is a welfare statute aimed at protecting workers, and its provisions must be interpreted strictly to impose liability on those responsible for safety. On account of failure to provide evidence of due diligence or measures taken to prevent the guard's removal, the Supreme Court found the manager guilty under Section 92 of the Factories Act.

[4] (1993) IILLJ1219RAJ (decided on March 11, 1993)

[5] 1964 AIR 779 (decided on December 6, 1963)

Part B: Maternity Benefit Act, 1961

Denial of maternity leave for third child unconstitutional; held, reproductive rights form part of Article 21 of the Constitution of India

In ***K. Umadevi vs. Government of Tamil Nadu and Ors***.[6], the Supreme Court clarified that a woman's right to make reproductive choices is an essential part of the right to life and personal liberty under Article 21 of the Constitution. The case involved a government school teacher who had 2 (two) children from her first marriage, both of whom remained in the custody of her former husband after their divorce. After remarrying in 2018, she conceived a child in the second marriage and applied for maternity leave in 2021. This maternity leave request was rejected by the Government of Tamil Nadu on the ground that Rule 101(a) of the Fundamental Rules of the Tamil Nadu Government ("**Fundamental Rules**") as applicable to State Government employees in Tamil Nadu permitted maternity leave only for women with fewer than 2 (two) surviving children, and that there is no provision for grant of maternity leave for the third child. Challenging this decision, the employee filed a writ petition before the Madras High Court ("**Madras HC**"). While a Single Judge of the Madras HC upheld her right, the Division Bench of the Madras HC reversed this on appeal holding that the Fundamental Rules must be strictly applied and that maternity leave was not a fundamental right.

On further appeal, the Supreme Court placing reliance on: (a) its earlier ruling in ***Deepika Singh vs. Central Administrative Tribunal and Ors***.[7], where maternity leave was granted despite a woman having 2 (two) children from a previous marriage, and (b) international conventions such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the ILO Maternity Protection Convention, rejected a strict numerical interpretation of the 2 (two) children limit under the Fundamental Rules, and held that the Fundamental Rules must be interpreted purposively and in a rationale manner to advance the objectives of maternal health. Observing that the child in question was the employee's first biological child from the subsisting marriage and born during her period of service, the Supreme Court held that the employee was entitled to maternity leave and directed the Government of Tamil Nadu to release all admissible benefits to the employee within 2 (two) months.

Maternity leave cannot be denied to commissioning mothers; held, surrogacy-based motherhood is entitled to equal recognition and benefits

In ***Smt. Chanda Keswani vs. State of Rajasthan and Anr***.[8], the Rajasthan HC held that a mother who becomes a parent through surrogacy is entitled to maternity leave at par with biological and adoptive mothers. The case involved a government employee, who gave birth to twins through a recognised surrogacy process and applied for 180 (one hundred and eighty) days of maternity leave under Rule 103 of the Rajasthan Service Rules, 1951. However, the said leave request was rejected by the employer on the ground that the Rule did not provide for maternity leave in cases where the child was begotten through surrogacy.

Contrary to the employer's stance, the Rajasthan HC observed that: (a) motherhood is not limited to biological delivery and includes commissioning mothers who raise a child born through surrogacy; (b) newborns born through surrogacy require the care, presence, and affection of the mother during the crucial early stages of life, and cannot be left to the care of others; and (c) maternity leave is a protective measure grounded in constitutional values of dignity and social justice, intended to safeguard the mother–child bond. On this basis, the Rajasthan HC held that denying maternity leave solely because the child was born through surrogacy violates Article 21 of the Constitution, which guarantees both the right to motherhood and the child's right to care and development, and accordingly directed the employer to grant the employee 180 (one hundred and eighty) days of maternity leave along with all consequential benefits.

[6] Civil Appeal No. 2526/2025 (decided on May 23, 2025)
[7] Civil Appeal No. 5308/2022 (decided on August 16, 2022)
[8] Civil Writ Petition No. 7853/2020 (decided on November 8, 2023)

Maternity benefits not co-terminus with contract; held, entitlement under the Maternity Benefit Act continues beyond contractual tenure if eligibility conditions are satisfied

In ***Dr. Kavita Yadav vs. Secretary, Ministry of Health and Family Welfare Department and Ors.***[9], the Supreme Court clarified that maternity benefits under the Maternity Benefit Act are not limited by the tenure of contractual employment and can extend beyond the expiry of such contracts. The case involved a senior resident doctor appointed under a yearly contractual residency scheme, extendable on yearly basis upto a maximum of 3 (three) years, in a government hospital in Delhi. During the period of third extension of her services, the appellant applied for maternity leave from June 1, 2017. However, the employer granted only 11 (eleven) days of leave, stating that her contract was scheduled to end on June 11, 2017, and no further contractual extension was permissible under the residency scheme. Challenging this, the appellant approached the Central Administrative Tribunal and later the Hight Court of Delhi ("**Delhi HC**"), both of which dismissed her claim, holding that maternity benefit could not extend beyond the contractual period.

On further appeal, the Supreme Court held that: (a) once a woman has completed 80 (eighty) days of service in the 12 (twelve) months preceding her expected delivery, as prescribed under Section 5(2) of the Maternity Benefit Act, her entitlement to maternity benefits becomes a statutory right and cannot be denied merely because her fixed-term contract has ended; (b) denying such benefits on the ground of contract expiry would amount to a 'discharge' under Section 12(2)(a) of the Maternity Benefit Act, which states that if a woman is discharged or dismissed during pregnancy, she cannot be deprived of maternity benefits or medical bonus that she would otherwise be entitled to, unless the discharge is due to prescribed gross misconduct, and in such cases, the law creates a legal fiction by treating the woman as being in employment for the limited purpose of receiving maternity benefits; and (c) by invoking Section 27 of the Maternity Benefit Act, the Supreme Court reaffirmed that the Maternity Benefit Act overrides any contractual terms that are inconsistent with its provisions. Accordingly, the Supreme Court set aside the decision of the Delhi HC and directed the hospital to grant the employee full maternity benefits within 3 (three) months, after deducting any amounts already paid under the same head.

Work-from-home cannot be claimed as a matter of right; held, may be denied where duties involve confidentiality or require on-site presence

In ***Mrs. Prachi Sen vs. Ministry of Defence and Ors.***[10], the High Court of Karnataka ("**Karnataka HC**") clarified the scope of entitlement to work-from-home ("**WFH**") under the Maternity Benefit Act. The case involved a senior executive engineer employed at Semi-Conductor Technology and Applied Research Centre ("**STARC**"), an arm of the Ministry of Defence, Government of India, who availed maternity and personal leave until May 23, 2021, but did not return to work thereafter. After 2 (two) months of absence, STARC issued a notice treating her continued absence as unauthorised and warning of disciplinary action. The employee challenged the communication before the Karnataka HC, contending that she was entitled, *inter alia*, to continue working from home after maternity leave, relying on Section 5(5) of the Maternity Benefit Act and government advisories issued during the pandemic.

While arriving at the decision, the Karnataka HC noted that the employee's responsibilities involved sensitive and technically complex defence-related research, the nature of which was confidential and not intended for public dissemination. Given the classified character of the work and the operational requirements of the organisation, the Karnataka HC held that the assigned duties could not reasonably be performed from home. It also relied on the employer's submission that even during the COVID-19 lockdown, officials of equivalent seniority continued to work on-site due to the critical nature of the operations. Accordingly, the Karnataka HC held that WFH under Section 5(5) of the Maternity Benefit Act is not an automatic entitlement, depends entirely on whether the nature of employee's duties permits remote work, and may be denied where physical presence is essential or confidentiality constraints apply.

[9] Civil Appeal No. 5010/2023 (decided on August 17, 2023)

[10] Writ Petition No. 22979/2021 (S-RES) (decided on March 3, 2022)

Maternity leave cannot be denied to contractual workers; held, principal employer responsible where work is performed under its supervision on its premises

In ***Manorama Singh vs. State of U.P. and Ors.***[11], the Allahabad High Court ("**Allahabad HC**") held that a principal employer is obligated to extend maternity benefits to the female contract worker engaged by or through a contractor. The case involved a female contract worker, engaged through a contractor, working on the premises of the government department ("**Principal Employer**"). Following the birth of her child *via* caesarean section, the contract worker applied for maternity leave, which was denied. The Principal Employer contended that the contract worker is an employee of the contractor, and therefore, she has no right against the Principal Employer.

Rejecting this contention, the Allahabad HC observed that: (a) the contract worker was working under the day-to-day supervision of the Principal Employer and discharging duties within its premises; and (b) her wages were routed through the Principal Employer, which established economic dependence on the Principal Employer. The Allahabad HC also relied on the Supreme Court's judgment in *Municipal Corporation of Delhi vs. Female Workers (Muster Roll) and Anr.*[12] to reaffirm that welfare legislations like the Maternity Benefit Act must be interpreted purposively to safeguard women in all forms of employment, regardless of the contractual arrangement.

Accordingly, the Allahabad HC held that the Principal Employer cannot avoid liability by citing the contractual route of employment and directed it to process and grant the contract worker's maternity benefits in accordance with Maternity Benefit Act.

[11] Writ Appeal No. 4235/2021 (decided on March 23, 2021)
[12] Special Leave Petition (Civil) No. 12797/1998 (decided on March 8, 2000)

Regulatory Updates

Haryana revises working conditions for women

The Government of Haryana, *vide* a notification[13] dated May 8, 2025, in supersession of all prior notifications, issued revised conditions for seeking exemption to employ women during night shifts (i.e. 08:00 PM to 06:00 AM) in certain notified sectors, including IT, ITeS, banking, logistics, warehousing, hundred percent export-oriented units, and three-star or higher-rated hotels.

The exemption is granted subject to adherence to the following conditions: (a) submission of the exemption application at least 1 (one) month in advance to the Labour Commissioner or Chief Inspector of Shops; (b) submission of a declaration confirming that written consent has been obtained from each woman employee proposed to work the night shift; (c) provision of secure transport (with GPS/CCTV and security personnel); (d) adequate lighting at and around the workplace; (e) minimum batch strength of 4 (four) women employees per shift (with limited relaxation in senior IT/ITeS roles); (f) access to medical support through tie-ups with hospitals; (g) compliance with the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 Act ("**POSH Act**"); (h) ensuring exclusive boarding and lodging arrangements for women under the control of women wardens or supervisors (wherever such facilities are provided). The exemption will remain valid for 1 (one) year, subject to continued compliance with the stated conditions, including those under the Employees' State Insurance Act, 1948 and Punjab Labour Welfare Fund Act, 1965 (as applicable to Haryana).

[13] No. 11/26/2025-4 Lab

For a detailed analysis, please refer to the JSA Prism of May 8, 2025.

Government of Tamil Nadu extends permission for 24x7 operations for shops and establishments under the Tamil Nadu Shops and Establishments Act, 1947

The Government of Tamil Nadu, *vide* a notification[14] dated May 8, 2025, extended the general permission granted under Section 7(1) of the Tamil Nadu Shops and Establishments Act, 1947 ("**TN S&E Act**"), which governs the opening and closing hours of shops and prohibits them from operating beyond the hours fixed by the State Government. The permission allows all shops and establishments employing 10 (ten) or more persons to operate on a 24x7 basis across all days of the year, and is extended for a further period of 3 (three) years, effective from June 5, 2025.

The permission is subject to compliance with specific conditions, including (a) maintaining Form S, detailing weekly offs provided to the employees, and displaying the same at a conspicuous place in the establishment; (b) daily display of employee leave status at a conspicuous place in the establishment; (c) crediting wages and overtime payments directly to employee bank accounts; (d) ensuring that working hours do not exceed 8 (eight) hours per day and 48 (forty eight) hours per week, with a maximum limit of 10.5 (ten and a half) hours per day and 57 (fifty seven) hours per week (inclusive of overtime); (e) refraining from engaging employees on holidays or beyond prescribed hours without proper overtime records; (f) women employees may be engaged beyond 8:00 PM only upon obtaining their written consent and subject to adequate protection of their dignity, honour, and safety; (g) transport arrangements must be provided to women employees working in shifts, with a notice regarding such availability prominently displayed at the establishment's main entrance; (h) provision of adequate safeguards, including restrooms, safety lockers, and other essential workplace amenities; and (i) constitution of an Internal Complaints Committee in accordance with the POSH Act. Any violation of these conditions may attract penal action under the TN S&E Act and applicable rules.

For a detailed analysis, please refer to the JSA Prism of June 20, 2025.

Delhi Government issues public notice directing private sector organisations to register on SHe-Box portal in compliance with Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

The Department of Women and Child Development, Government of NCT of Delhi, *vide* a public notice, directed all private sector organisations operating in Delhi to mandatorily register their establishment details on the SHe-Box portal (https://shebox.wcd.gov.in), an online platform developed by the Government of India to provide single-window access for women to file workplace sexual harassment complaints.

The notice reinforces the obligation of private sector employers to ensure effective implementation of the POSH Act, in line with the judgment of the Supreme Court of India in *Aureliano Fernandes vs. State of Goa and Ors.*[15]. The platform enables any woman, regardless of employment status or sector, to lodge a complaint, which is then routed to the appropriate authority (i.e. Internal Committee or District Officer) for redressal.

Government of Karnataka notifies welfare framework for platform-based gig workers under the Karnataka Platform Based Gig Workers (Social Security and Welfare) Ordinance, 2025

The Government of Karnataka, *vide* ordinance[16] promulgated on May 27, 2025, introduced a comprehensive framework aimed at securing the rights and welfare of platform-based gig workers in the state. Notably, the ordinance mandates: (a) registration of all gig workers and platforms with the Karnataka Platform Board Gig Workers Welfare Board; (b) issuance of unique identity cards to workers, applicable across platforms; (c) implementation of

[14] No. II (2) LWSD/441(a)/2025
[15] Civil Appeal No. 2482/2014 (Decided on May 12, 2023)
[16] Karnataka Platform Based Gig Workers (Social Security and Welfare) Ordinance, 2025 (Ordinance No. 04 of 2025)

general and sector-specific social security schemes; (d) constitution of grievance redressal mechanism accessible through the Board and platforms; (e) transparent and fair contractual terms, including prior notice for any modification and reasonable grounds for termination; (f) safe working conditions, weekly payouts without delay, and prevention of discriminatory practices through automated systems; (g) clear disclosure obligations and provision of human points of contact for gig workers in languages such as Kannada, English or any other language; (h) establishment of the *Karnataka Gig Workers Social Security and Welfare Fund* funded through - a welfare fee between 1 %–5% of gig worker payouts per transaction; contributions from gig workers and grants governments; and other sums such as grants, gifts, donations, benefactions, bequests or transfers or other sources as may be prescribed; and (i) integration of *Payment and Welfare Fee Verification System* to track payments and fee deductions of gig workers.

Benefits under this framework are in addition to any protections gig workers may enjoy under existing laws. Aggregators or platforms failing to comply with the provisions of the ordinance may be subjected to fine in the range in of INR 5,000 (Indian Rupees five thousand) to INR 1,00,000 (Indian Rupees one lakh).

Corporate governance enhanced through mandatory workplace harassment disclosures under new company law amendments

On May 30, 2025, the Ministry of Corporate Affairs notified the Companies (Accounts) Second Amendment Rules, 2025, revising Rule 8(5)(x) of the Companies (Accounts) Rules, 2014. Effective July 14, 2025, these amendments expand the scope of mandatory disclosures in the annual board report, requiring companies to report detailed data on sexual harassment complaints under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, including number of complaints received, disposed, and pending (beyond 90 (ninety) days) as well as gender-wise employee demographics. Further, companies must now affirm compliance with the Maternity Benefit Act, 1961.

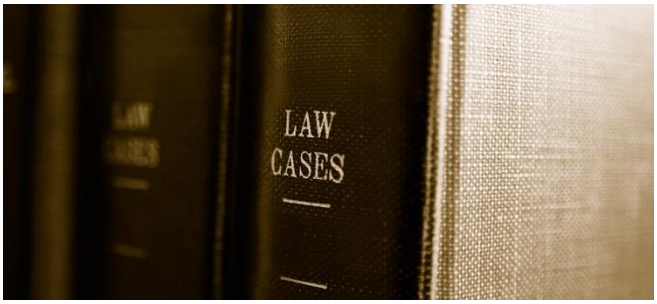
Government of Punjab extends permission for shops and establishments under the Punjab Shops and Commercial Establishments Act, 1958 to remain open on all 365 (three hundred and sixty-five) days of the year

The Government of Punjab, *vide* a notification[17] dated June 17, 2025, exercised its powers under Section 28 of the Punjab Shops and Commercial Establishments Act, 1958 ("**Punjab S&E Act**"), to exempt all establishments registered under the Punjab S&E Act from the application of Sections 9 and 10(1), which govern the opening and closing hours and the weekly closing day of establishments. The permission allows all shops and establishments to remain open on all 365 (three hundred and sixty-five) days of the year and is extended for a further period of 1 (one) year, effective till May 31, 2026.

The permission is subject to compliance with specific conditions, including (a) providing 1 (one) paid holiday per week and displaying in advance the list and timetable of holidays on the notice board; (b) providing a 1 (one)-hour rest period after every 5 (five) hours of continuous work and ensuring that no employee works beyond 10 (ten) hours in a day or 48 (forty-eight) hours in a week, with a maximum spread-over of 12 (twelve) hours in a day; (c) ensuring safety and security of employees and visitors in establishments operating beyond 10:00 PM and engaging additional staff for extended hours; (d) providing separate lockers, security, and restrooms for female employees and constituting an Internal Committee under the POSH Act; (e) not engaging female employees beyond 8:00 PM without their consent on record and providing adequate safety and security arrangements for them during and after work until they reach home safely; (f) implementing the Child and Adolescent Labour (Prohibition and Regulation) Act, 1986, as amended from time to time; (g) ensuring compliance with other provisions of the Punjab S&E Act and relevant labour laws, and providing all statutory facilities under applicable labour laws; and (h) providing national and festival holidays with wages and crediting employee wages along with overtime wages (where appliable) to their savings bank accounts. Any violation of these conditions or other provisions under the Punjab S&E Act may result in cancellation of this exemption, after

[17] No. LabOPSCA/2/2024-5L/495

providing the employer an opportunity of being heard before competent authority.



Case law ratios

Supreme Court upholds enforceability of employment bond requiring minimum service or liquidated damages for premature exit

In ***Vijaya Bank and Anr. vs. Prashant B. Narnaware***[18], the Supreme Court upheld the enforceability of an employment bond requiring the employee to either serve a minimum period of 3 (three) years or pay INR 2,00,000 (India Rupees two lakh) as liquidated damages in the event of premature resignation. The Supreme Court held that such an employment bond related clause does not amount to a restraint of trade under Section 27 of the Indian Contract Act, 1872 ("**Contract Act**"), nor is it opposed to public policy under Section 23 of the Contract Act, as long as it serves a legitimate business purpose, is reasonable in amount, and is not arbitrary or punitive in nature.

For a detailed analysis, please refer to the JSA Prism of May 28, 2025.

Termination on grounds of misconduct, without conducting disciplinary inquiry held unsustainable

In ***Sharvan Choudhary vs. State of Rajasthan and Ors***.[19], the Rajasthan HC held that the termination of a substantively appointed physical training instructor on grounds of misconduct, without initiating a disciplinary inquiry under the Rajasthan Civil Services (Classification, Control and Appeal) Rules, 1958, was legally unsustainable. In this case, the employee was selected through a regular recruitment process and was later terminated on grounds of alleged discrepancies in his qualification documents. Although the employee was issued a show-cause notice and submitted a detailed reply, the employer being dissatisfied with the explanation, proceeded to terminate his services without framing charges or conducting a formal disciplinary inquiry.

The Rajasthan HC held that the employer had bypassed mandatory procedural safeguards by terminating the employee without conducting a formal inquiry to establish misconduct. Emphasising that termination in service law is akin to capital punishment, the Rajasthan HC highlighted that such action must be preceded by a proper disciplinary inquiry to avoid punishing an innocent person. Accordingly, the termination order was quashed, and the employee was directed to be reinstated, without prejudice to the employer's right to initiate disciplinary proceedings in accordance with law, if the appointment was obtained by submitting incorrect, forged, or manipulated documents.

Non-compete clause unenforceable post-employment; held, restraint on joining client violates Section 27 of the Indian Contract Act, 1872

In ***Varun Tyagi vs. Daffodil Software Private Limited***[20], the Delhi HC set aside an injunction restraining an ex-employee from joining a client of his former employer, holding that post-termination non-compete restrictions are void under Section 27 of the Indian Contract Act, 1872 ("**Contract Act**").

The case involved a former employee of Daffodil Software Private Limited who joined another company which was a business associate and client of the former company, shortly after his resignation. The employment agreement contained a non-compete and non-solicitation clause prohibiting employees from working with any business associate of the company for 3 (three) years post-employment. Therefore, former company filed a suit seeking to enforce this clause and obtained an interim injunction from the trial

[18] Civil Appeal No. 11708/2016 (decided on May 14, 2025)
[19] Civil Writ Petition No. 4298/2025 (decided on May 8, 2025)
[20] FAO 167/2025 & CM APPL. 36613/2025 (decided on June 25, 2025)

court restraining the employee from joining the competitor company.

In further appeal to this injunction, the Delhi HC held that under Section 27 of the Contract Act, any restraint on trade, whether partial or complete, is void unless it falls within the statutory exception. The Delhi HC rejected the argument that the restriction was limited and reasonable, noting that Indian laws do not recognise partial restraints on trade. Since the apprehension of disclosure of confidential information was also unfounded, the Delhi HC emphasised that an employee's right to seek better employment cannot be curtailed under the guise of protecting confidential information, citing settled jurisprudence that negative covenants extending beyond the term of employment are unenforceable restraints on trade. Accordingly, the Delhi HC quashed the injunction, allowing the employee to continue his employment with the new company.

Termination due to prolonged absence from employment will not amount to retrenchment

In ***Rashtrasant Tukdoji Maharaj Technical and Education Society vs. Smt. Indira Madhukar Muraskar and Ors***.[21], The Bombay HC held that the act of striking off employees from the muster rolls due to their prolonged unauthorised absence following an illegal strike did not constitute 'retrenchment' under the Industrial Disputes Act, 1947, but rather amounted to abandonment of service, arising from the employees' own voluntary and unilateral conduct. The Bombay HC observed that the employer had issued repeated notices asking the employees to rejoin duty, which went unanswered. It further clarified that abandonment of service results from the voluntary and unilateral act of employees themselves, and thus, no disciplinary inquiry was necessary before removing them from muster rolls. Consequently, the Bombay HC set aside the orders of lower courts which had directed reinstatement and payment of back wages.

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.

[21] 2025 SCC Online Bom 2055 (decided on May 9, 2025)

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