



JSA Newsletter Employment Law

March 2026

This edition of the JSA Employment Newsletter briefly covers latest key regulatory and legislative developments in the Indian employment law space for the first quarter of 2026 (i.e., January, February and March 2026), released through amendments, notifications and orders. The newsletter also provides latest legislative and judicial updates across the Code on Wages, 2019 (“**Wage Code**”), Code on Social Security, 2020 (“**Security Code**”), Industrial Relations Code, 2020 (“**IR Code**”) and the Occupational Safety, Health and Working Conditions Code, 2020 (“**OSH Code**”) (together, the “**Labour Codes**”), and discusses some recent judicial precedents across several employment legislations.

Labour Codes updates

Wage ceiling for exclusion of supervisors under the Wage Code

On January 30, 2026, the Ministry of Labour and Employment (“**MoLE**”), pursuant to powers under Section 2(z)(d) of the Wage Code¹, issued a gazette notification prescribing wage ceiling for persons employed in a supervisory capacity for determining coverage under the definition of ‘worker’ under the Wage Code. MoLE has amended the Wage Code and fixed the wage ceiling at INR 18,000 (Indian Rupees eighteen thousand)² per month, thereby excluding individuals employed in a supervisory capacity and drawing wages above this threshold from the scope of ‘worker’ under the Wage Code. By virtue of this notification, the definition of ‘worker’ has now been aligned across the Labour Codes.

Ministry of Labour and Employment releases Frequently Asked Questions on the Security Code

On January 9, 2026, MoLE released a compilation of Frequently Asked Questions (“**FAQs**”) on the Security Code, providing clarifications on key provisions relating to registration processes for grant of social security benefits, maternity benefits, record maintenance, provisions on gig and platform workers and compliance safeguards. The FAQs clarify the following:

1. the Security Code largely favours electronic submission of documents and records, but further clarified that those certain documents under the Security Code, such as claims relating to maternity benefits and gratuity, may be submitted physically as well. Further, securing registration under the Security Code does not entitle an individual to automatic social security benefits; the same is contingent on fulfilling eligibility thresholds;

¹ Section 2(z)(d) of the Wage Code empowers the Central Government to notify a wage limit for persons employed in supervisory roles, exceeding which individuals would stand excluded from the definition of ‘worker’ under the Wage Code.

² The wage ceiling for supervisory roles under the Wage Code was previously fixed at INR 15,000 (Indian Rupees fifteen thousand) per month.

2. the Central rules under the Security Code may be revised, modified or updated through Government notifications without requiring Parliament approval;
3. claims for maternity benefits cannot be rejected for non-use of prescribed formats under the Security Code and the applicable rules thereunder. Further, medical proof mandated under the Security Code for provision of maternity benefit may be provided by any of the following individuals: ASHAs, Auxiliary Nurse Midwives (ANMs), local authorities, and other prescribed village or municipal officials, in addition to registered medical practitioners. Additionally, nursing breaks are also not restricted to 2 (two) fixed intervals going forward and will take into account travel time as well;
4. payment of building and other construction workers cess may be done in advance based on self-assessment, with final adjustment upon completion and assessment. The Central rules also provide a refund mechanism for excess cess deposited along with inter-state portability of registration and benefits;
5. the Central rules under the Security Code cover gig and platform workers engaged through subsidiaries, associate companies, holding companies, limited liability partnerships, and third-party arrangements; and
6. companies are allowed to avail electronic maintenance of records or physical storage at a notified nearby location, provided they are accessible during inspection. Inspections conducted by Inspector-cum-Facilitators will emphasise on issuance of corrective directions, and compliance notices with defined timelines prior to initiation of penal action.

Amendments introduced to the IR Code

The Ministry of Law and Justice, *vide* a gazette notification on February 16, 2026, enacted the Industrial Relations Code (Amendment) Act, 2026 (“**IR Amendment Act**”), which is deemed to have come into force from November 21, 2025. The IR Amendment Act, read together with the notification issued by the MoLE on February 2, 2026, clarify that while the erstwhile labour laws governing industrial relations stand repealed, adjudicatory and administrative processes set out under those erstwhile laws will continue to operate until the corresponding adjudicatory and administrative processes are notified and fully functional under the Labour Codes.

The IR Amendment Act amends Section 104 of the IR Code (*pertaining to repeal and savings*), and provides that the erstwhile legislations, namely: (a) the Trade Unions Act, 1926, (b) the Industrial Employment (Standing Orders) Act, 1946 and (c) the Industrial Disputes Act, 1947 (“**ID Act**”), stand repealed from November 21, 2025 (i.e., enforcement date of Labour Codes). The IR Amendment Act, however, clarifies that, notwithstanding the repeal of the erstwhile legislations, tribunals and statutory authorities constituted thereunder, will continue to discharge their functions until statutory authorities have been formally appointed and adjudicatory framework is operational under the Labour Codes.

Compliance handbook under the Labour Codes to simplify compliance

MoLE published a ‘Compliance Handbook for Employers under the four Labour Codes’ (“**Compliance Handbook**”) on February 18, 2026. The Compliance Handbook is intended to serve as a practical guide for establishments, simplifying and decoding compliances to be undertaken under the Labour Codes, and aimed at facilitating a smoother transition into the Labour Codes. Key takeaways from the Compliance Handbook are as follows:

1. the transition to the Labour Codes marks a significant shift in simplification of compliance structures and reduction in procedural complexities by consolidating various rules, statutory registers, and multiple returns, streamlined into the Labour Codes;
2. the Wage Code prescribes applicability of universal minimum wages across employments, ending occupation-based coverage; standardised definition of ‘wages’, combined with the 50% cap on exclusions curbing the practice of splitting salary into multiple allowances to avoid statutory liabilities and if excluded components exceed 50% of total pay, the excess will be treated as wages, significantly impacting payroll structuring; specific

timelines for wage payments and final settlements, and bonus obligations; overtime at the rate of at least twice the normal wages; limited set of registers and display requirements to ease compliance burden on employers; that no deductions may be made unless expressly permitted under the Wage Code, where total deductions in any wage period cannot exceed 50% of an employee's wages, and bonus range remains between 8.33% and 20% of wages, depending on allocable surplus, however the computation is required to be made as per the 'wages' definition;

3. the Security Code prescribes eligibility of all establishments employing 20 (twenty) or more employees for provident fund, removing the earlier concept of 'scheduled employment', formal recognition of gig and platform workers, stipulating welfare conditions to be fulfilled; eligibility of fixed-term employees for gratuity on completion of one year of service, and harmonised definitions, records, and filing mechanisms for maternity benefits, gratuity, employee insurance and employee compensation;
4. the IR Code prescribes conditions for constitution of works committee (for establishments employing 100 (one hundred) or more workers) and grievance redressal committee (for establishments employing 20 (twenty) or more workers); provisions relating to standing orders to be adopted by industrial establishments employing 300 (three hundred) or more workers; hierarchy-based mechanism for recognition of collective bargaining representatives; classification based on workforce engaged (i.e., between establishments engaging 50 (fifty) - 299 (two hundred and ninety-nine) workers and those engaging 300 (three hundred) or more workers) to serve prior notice to the appropriate government before effecting lay-offs, retrenchment, or closure; and obligation to issue a 21 (twenty-one) days' prior notice before altering any listed service condition;
5. the OSH Code prescribes a unified registration for establishments, factories, contract labour engagement, etc.; mandatory appointment letters, free annual health check-ups for workers within prescribed age limits, and comprehensive employer duties to ensure hazard-free workplaces; constitution of safety committee and appointment of safety officers for eligible establishments; standardised thresholds for welfare facilities, such as canteen (100 (hundred) or more workers), creche (50 (fifty) or more workers), adequate restrooms, drinking water, washing, and bathing facilities, including gender-neutral arrangements, etc.; conditions for engaging women workers during night shift; specific obligations for engagement of contract labour and inter-state migrant workers; and unified registrations, records, notices, and welfare obligations; and
6. the Compliance Handbook also provides a quick snapshot of employer obligations, including monthly, annual and event-based compliances, as prescribed under the Labour Codes.

FAQs on the OSH Code

On March 13, 2026, MoLE released a set of FAQs on the OSH Code, providing clarifications on key provisions relating to applicability of safety standards, health examinations, inspection mechanisms, enforcement, penalties, and welfare provisions for contract labour. The FAQs clarifies the following:

1. safety standards for factories and dock workers will be prescribed by the Central Government, while State Governments may frame rules, and may amend Central occupational safety, health and working standards with the prior approval of the Central Government, where they are the appropriate authority, such as for minor ports;
2. while the draft Central rules under OSH Code prescribe annual health check-ups only for employees who have completed 40 (forty) years of age, workers employed in factories carrying out hazardous processes and dangerous operations are entitled to free pre-employment and periodic health examinations irrespective of age, and States may prescribe the frequency of such medical checks, generally within intervals not exceeding 12 (twelve) months;
3. addressing concerns that replacing traditional inspectors with 'Inspector-cum-Facilitators' may weaken enforcement, MoLE clarified that the new framework is designed to improve compliance by creating awareness among employers and workers about their rights and obligations. Inspections under the new randomised web-based system are intended to ensure better and more objective compliance. Complaint-based inspections remain available with approval of competent authorities;

4. penalties under the OSH Code have been both rationalised and increased, and the OSH Code does not favour employers. Only minor offences are compoundable, while serious safety violations continue to attract severe penalties including imprisonment; and
5. On the coverage of contract workers, MoLE confirmed that contract labour is entitled to welfare facilities under the OSH Code. The principal employer bears the responsibility under Section 53 of the OSH Code to ensure that welfare facilities prescribed under Sections 23 and 24 of the OSH Code are extended to contract workers. Additionally, under Section 56 of the OSH Code, contractors are mandatorily required to issue experience certificates to contract labourers on demand.

Additional FAQs on Labour Codes

On March 16, 2026, MoLE released a set of additional FAQs in relation to the Labour Codes, providing clarifications on key provisions spanning all 4 (four) Labour Codes. The FAQs clarify the following:

Wage Code

1. overtime allowance forms part of the 50% calculation under the Wage Code for adding back to wages, when the total of exclusions is in excess of 50%. Statutory components such as the employer's share of provident fund and pension contributions and statutory bonus are included for the purpose of arriving at 50% of total remuneration when adding back to wages/remuneration. MoLE clarified that gratuity, employees' state insurance, and other retirement benefits are excluded from this calculation;
2. provision on timely payment of wages under the Wage Code apply to all employees, including white-collar employees;
3. minimum wages and wages are distinct concepts. Minimum wages are statutory floors fixed by the appropriate government, below which no employer may pay. Wages, on the other hand, is defined under Section 2(y) of the Wage Code and is determined by the terms of employment between an employer and employee;
4. annual performance-based incentives do not form part of "wages" under the Labour Codes;
5. all employees, including supervisory and managerial staff, whose minimum rate of wages is fixed under the Wage Code are eligible for overtime wages; and
6. the revised definition of 'wages' under the Labour Codes has come into effect from November 21, 2025, and gratuity calculations based on the revised definition of wages are applicable from this date.

Security Code

1. fixed-term employment covers only employees directly engaged by the employer and does not extend to contract labour engaged through contractors. A fixed term employee becomes eligible for gratuity upon rendering 1 (one) year of service from start of the contract. An employee engaged for 11 (eleven) months would not be eligible for gratuity upon contract expiry;
2. gratuity calculations as per the Security Code will apply prospectively from November 21, 2025 for eligible employees whose employment concludes on or after such date;
3. any payment made to an employee which is not part of components mentioned under section 2(88) of the Security Code will not be considered for calculation of gratuity;
4. in the case of contract labour, gratuity liability rests with the contractor as the employer, and gratuity is payable upon rendering 5 (five) years of continuous service;
5. with respect to employees' state insurance coverage, the wage threshold of INR 21,000 (Indian Rupees twenty-one thousand) per month continues to apply from November 21, 2025, pending finalisation of rules under the Security Code;

6. benefits such as food coupons, ration items, and mobile recharge provided under the terms of employment would constitute 'remuneration in kind' for the purposes of the definition of wages; and
7. the contribution payable by aggregators towards schemes for the welfare of gig and platform workers is to be notified by the Central Government under Security Code, and the contributions will be credited to the social security fund established by the Central Government for this purpose.

OSH Code

1. leave encashment provisions under the OSH Code apply only to "workers", and to supervisors drawing wages not exceeding INR 18,000 (Indian Rupees eighteen thousand) per month. Sales promotion employees and working journalists are included within the definition of "worker";
2. a worker may carry forward up to 30 (thirty) days of leave to the succeeding calendar year. However, where leave has been applied for and refused by the employer, such refused leave may be carried forward without any limit. There is no prescribed maximum limit on the number of days that may be encashed, and at the time of separation, a worker is entitled to encash all leave standing to their credit;
3. where provisions of a State law on leave accumulation are more favourable to an employee than those under the OSH Code, the employee is entitled to the benefit of the more favourable State law provision. However, where provisions of any State law are inconsistent with the OSH Code, the OSH Code will prevail;
4. overtime under the OSH Code becomes payable when a worker works beyond 8 (eight) hours in a day or 48 (forty-eight) hours in a week, whichever is applicable, at twice the normal rate of wages, payable at the end of each wage period; and
5. crèche facilities are available to all employees irrespective of gender.

Other regulatory and legislative updates

Government of Uttar Pradesh amends the Uttar Pradesh Dookan Aur Vanijya (Adhishthan) Adhiniyam, 1962; enhances coverage, employee protections, overtime limits

The Government of Uttar Pradesh, *vide* notification dated December 30, 2025, enacted the Uttar Pradesh *Dookan Aur Vanijya Adhishthan (Sanshodhan) Adhiniyam, 2025* ("**UP S&E Amendment Act**"), thereby amending the Uttar Pradesh *Dookan Aur Vanijya (Adhishthan) Adhiniyam, 1962* ("**UP S&E Act**"). The UP S&E Amendment Act, which came into effect from November 19, 2025, has repealed the Uttar Pradesh *Dookan Aur Vanijya Adhishthan (Sanshodhan) Ordinance, 2025*. The UP S&E Amendment Act amends certain key provisions of the UP S&E Act, starting with the definition of 'commercial establishment' thereunder, which has been expanded to include establishments of any medical practitioner, architect, service providers including delivery services, among others. Further, the UP S&E Amendment Act expands the definition of 'employee' to include persons engaged through outsourcing agencies for manual, unskilled, skilled, technical, operational or clerical work.

The UP S&E Amendment Act has also introduced an 'improvement' option prior to prosecution for offences under the UP S&E Act (*except for those offences under Section 20(1) of the UP S&E Act, which relate to termination of employment by employee without following proper processes*). As per the UP S&E Amendment Act, the inspector appointed under the UP S&E Act will provide an opportunity to the defaulting employer to comply with the provisions of the UP S&E Act, by issuing a 15 (fifteen) day written improvement notice. If employer complies with the direction, then prosecution will not be initiated. Having said that, no such opportunity for improvement will be provided if a repetition of such non-compliance is committed within a period of 5 (five) years from the date of the first non-compliance. The UP S&E Amendment Act does not, however, clarify the processes that existing establishments may be required to undertake while in possession of a subsisting registration.

Other notable changes

Key amendments	UP S&E Act	UP S&E Amendment Act
Applicability	All establishments	Establishments employing 20 or more employees
Registration of establishment details	All establishments	Establishments employing 20 or more employees
Daily working hours limit	Maximum 8 hours per day	Maximum 9 hours per day
Overtime limit	Up to 10 hours in a day and 50 hours in a quarter	Up to 11 hours in a day and 144 hours in a quarter
Women during night shift	Amenities such as shelter, rest room, night creche, ladies' toilet, safety and transportation facilities provided for women between the hours of 9 PM and 6 AM	Amenities such as shelter, food canteen facility, rest room, night creche, ladies' toilets, safety and transportation facilities provided for women between the hours of 7 PM and 6 AM
General penalties	Penalty for first offence is extendable up to INR 100 and penalty for subsequent offences is extendable up to INR 500	Penalty for first offence is extendable up to INR 2000 and penalty for subsequent offences is extendable up to INR 10,000

Amendments to the Karnataka Labour Welfare Fund Act, 1965

The Government of Karnataka, *vide* notification dated January 7, 2026, enacted the Karnataka Labour Welfare Fund (Amendment) Act, 2025 ("**LWF Amendment Act**"), thereby amending the Karnataka Labour Welfare Fund Act, 1965 ("**LWF Act**"). The LWF Amendment Act has revised applicability of the LWF Act from 'more than 50 (fifty) persons' to '10 (ten) or more persons', thereby bringing a greater number of establishments within its ambit. The LWF Amendment Act has also introduced online channels for payment of contributions, such as net banking or through national electronic funds transfer/real time gross settlement/unified payments interface.

Haryana Shops and Commercial Establishments (Amendment) Act, 2025

The State of Haryana, *vide* a gazette notification on February 5, 2026, enacted the Haryana Shops and Commercial Establishments (Amendment) Act, 2025 ("**Haryana S&E Amendment Act**"), to amend the Haryana Shops and Commercial Establishments Act, 1958 ("**Haryana S&E Act**"), which is deemed to have come into force from November 12, 2025. The Haryana S&E Amendment Act has repealed the Haryana Shops and Commercial Establishments (Amendment) Ordinance, 2025 and introduced a tiered regulatory framework while significantly liberalising operational limits to enhance ease of doing business in the State.

Below are the key takeaways of the Haryana S&E Amendment Act:

Key amendments	Haryana S&E Act	Haryana S&E Amendment Act
Applicability	Establishments employing up to 20 employees	Establishments employing 20 or more employees
Registration	All establishments	Establishment employing 20 or more employees
Intimation of establishment details	Establishments employing less than 10 employees	Establishments employing less than 20 employees
Daily working hours limit	Maximum 9 hours per day	Maximum 10 hours per day

Key amendments	Haryana S&E Act	Haryana S&E Amendment Act
Intervals of rest	30 minutes after maximum 5 hours of continuous work	30 minutes after maximum 6 hours of continuous work
Overtime limit	Up to 50 hours in a quarter	Up to 156 hours in a quarter
Appointment letter and identity card	Not mandatory	Mandatory for all employees
Penalties	Penalty for first offence is extendable up to INR 100; penalty for subsequent offences is extendable up to INR 300 and maximum penalty for every subsequent offence within the same year is INR 100.	Penalty for first offence ranges between INR 3000 and INR 10,000, penalty for subsequent offences ranges between INR 5,000 and INR 25,000 and penalty in case of continuous violations is at the rate of INR 500 for every day.

Gujarat Shops and Establishments (Regulation of Employment and Conditions of Service) (Amendment) Act, 2026

The Government of Gujarat, *vide* gazette notification dated February 27, 2026, notified the Gujarat Shops and Establishments (Regulation of Employment and Conditions of Service) (Amendment) Act, 2026 (“**Gujarat S&E Amendment Act**”) amending certain provisions of the Gujarat Shops and Establishments (Regulation of Employment and Conditions of Service) Act, 2019 (“**Gujarat S&E Act**”), to operate retrospectively from December 16, 2025. The Gujarat S&E Amendment Act has repealed the Gujarat Shops and Establishments (Regulation of Employment and Conditions of Service) (Amendment) Ordinance, 2025. The Gujarat S&E Amendment Act reflects the State of Gujarat’s objective of simplifying compliance obligations and introducing greater flexibility in working time arrangements, to positioning itself as a business-friendly jurisdiction.

Below are the key amendments introduced by the Gujarat S&E Amendment Act with respect to the existing Gujarat S&E Act:

Key amendments	Gujarat S&E Act	Gujarat S&E Amendment Act
Applicability	Establishments employing up to 20 employees (managerial and non-managerial employees)	Establishments employing 20 or more employees (managerial and non-managerial employees)
Intimation of establishment details	Establishments employing less than 10 employees	Establishments employing less than 20 employees
Daily working hours limit	Maximum 9 hours	Maximum 10 hours
Weekly working hours limit	Maximum 48 hours	Maximum 48 hours
Intervals of rest	30 minutes after maximum 5 hours of continuous work	30 minutes after maximum 6 hours of continuous work
Overtime limit	Up to 9 hours in a day and 125 hours in a quarter	Up to 10 hours in a day and 144 hours in a quarter
Engagement of women during night shift	NA	Women employees can be engaged during night shift (i.e., between 9 PM to 6 AM) with their consent and subject to fulfilling prescribed conditions

While the Gujarat S&E Amendment Act introduces greater flexibility in structuring daily working hours, employers will need to carefully assess its interplay with overtime requirements. For instance, a model involving 10 (ten) hour workdays across a 5 (five) day workweek would result in 50 (fifty) working hours per week, exceeding the recognised 48 (forty-eight) hours. Moreover, interplay between the Gujarat S&E Amendment Act and the OSH Code must also be assessed, since the OSH Code prescribes 8 (eight) hours daily working hour limit for non-managerial employees. Employers operating in the State of Gujarat should approach the amended framework with caution and undertake a holistic review of working hour, overtime exposure in alignment with the Labour Codes.

Government of Delhi introduces the Delhi Shops and Establishments (Amendment) Act, 2026

The Government of the National Capital Territory of Delhi, *vide* its notification dated March 11, 2026, has introduced the Delhi Shops and Establishments (Amendment) Act, 2026 ("**Delhi S&E Amendment Act**"), introducing significant changes to key provisions of the Delhi Shops and Establishments Act, 1954 ("**Delhi S&E Act**") with specific focus on enhancing operational flexibility for employers while reinforcing the necessary safeguards for employees. Key changes under the Delhi S&E Amendment Act include:

Key amendments	Delhi S&E Act	Delhi S&E Amendment Act
Applicability	All shops and establishments	Shops and establishments employing 20 or more employees
Definition of 'child'	Person who has not completed 12 years	Person who has not completed 14 years
Daily working hours limit	Maximum 9 hours per day	Maximum 10 hours per day, inclusive of rest interval and lunch break
Overtime limit	Up to 54 hours in a week and 150 hours in a year	Up to 60 hours in a week and 144 hours in a quarter
Continuous working hours without a break	5 hours	6 hours
Spread over	10.5 hours in commercial establishments and 12 hours in shops	12 hours, uniform for shops as well as commercial establishments

Unlike the Delhi S&E Act which prohibited women employees from working during night time, the Delhi S&E Amendment Act entitles women employees to work in all establishments between night timings of 9:00 PM to 7:00 AM in summer and 8:00 PM to 8:00 AM in winter, subject to mandatory conditions which *inter alia* include the following:

1. obtaining prior written consent from the woman employee;
2. employers must provide adequate CCTV surveillance, security arrangements, and safe transport facilities, including for contract workers;
3. no woman may be employed within 6 (six) weeks of childbirth or miscarriage;
4. minimum 2 (two) women employees must be present during any night shift;
5. employers are required to comply with the Prevention of Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 ("**POSH Act**"); and
6. any other conditions as may be notified in this regard by the Government of National Capital Territory of Delhi from time to time.

Case law ratios

The Supreme Court of India rules that allowances fall within the ambit of 'ordinary rate of wages' for computation of overtime wages under Factories Act, 1948

In *Union of India vs. Heavy Vehicles Factory Employees' Union*³, the Supreme Court of India ("Supreme Court") opined on whether compensatory allowances such as house rent allowance, transport allowance, small family allowance and clothing/washing allowance form part of an employee's 'ordinary rate of wages', for the purpose of computing overtime under Section 59(2) of the Factories Act, 1948 ("Factories Act")⁴. The dispute arose after various Central Government ministries issued office memoranda excluding the above discussed allowances from overtime calculations, which employee unions subsequently challenged. The Central Administrative Tribunal initially upheld the Central Government's view, but the Madras High Court reversed this decision, holding that the statutory definition of 'ordinary rate of wages' clearly includes all allowances that a worker is entitled to, except bonus and overtime wages.

On appeal, Central Government contended that compensatory allowances vary among different categories of employees and therefore should not be uniformly included in overtime computations. The Central Government also asserted that such inclusion would lead to financial and operational inconsistencies owing to the contingent nature and flexibility of allowances provided to employees. Employee unions, however, countered that the Factories Act is a beneficial labour legislation intended to protect workers, and that Central Government ministries lack the statutory authority to unilaterally redefine wage components as the Factories Act does not empower them to do so.

The Supreme Court upheld the Madras High Court's judgment, holding that administrative circulars cannot override the clear language of Section 59(2) of the Factories Act, which expressly includes allowances within the 'ordinary rate of wages'. The Supreme Court emphasised that the Factories Act vests rule-making power with State Governments, and not Central ministries. Such executive instructions cannot create exclusions not contemplated by the legislature, especially when the Factories Act specifically provides 2 (two) express exclusions i.e. bonus and overtime wages. The Supreme Court also elaborated that the Factories Act is a beneficial legislation intended to ensure the occupational health, safety and physical well-being of the workers. It further held that carving out exclusions that may deleteriously affect the rights of these workers, is not envisaged under the Factories Act. Finding that compensatory allowances must be included for overtime computation, the Supreme Court dismissed the appeals and clarified that contrary interpretations given by the Central Government ministries do not represent correct law.

Supreme Court disposes petition on uniform national menstrual leave policy

In *Shailendra Mani Tripathi vs. Secretary, Ministry of Women and Child Development, Union of India and Ors.*⁵, the Supreme Court disposed of the Public Interest Litigation ("PIL") brought by Advocate Shailendra Mani Tripathi for a nationwide uniform menstrual leave policy stating that there was no need for the petitioner to repeatedly approach the Supreme Court in the matter.

This was the third PIL filed by the petitioner who had previously filed writ petitions on the same subject matter in the years 2023 and 2024. The Supreme Court observed that the petitioner had already brought this matter to the notice of appropriate authorities previously and has fulfilled his endeavours to promote the welfare of young working women. The Supreme Court opined that the competent authorities will earnestly consider the observations made by the Supreme Court in orders dated February 24, 2023⁶ and July 8, 2024⁷, for the purpose of formulating a model policy. In the aforementioned orders, the Supreme Court directed the Secretary in the Union Ministry of Women and Child

³ Civil Appeal Numbers 5185 - 5192 of 2016 (January 20, 2026)

⁴ As per Section 59(2) of the Factories Act, 'ordinary rate of wages' is defined as "the basic wages plus such allowances, including the cash equivalent of the advantage accruing through the concessional sale to workers of food grains and other articles, as the worker is for the time being entitled to, but does not include a bonus and wages for overtime work".

⁵ Writ Petition (Civil) Number 317 of 2026 (March 13, 2026)

⁶ Writ Petition (Civil) Number 172 of 2023

⁷ Writ Petition (Civil) Number 327 of 2024

Development to look into the matter at a policy level after due consultation with all stakeholders, both at the union and the State levels.

The Supreme Court left it open to State Governments to independently take appropriate policy decisions in this matter.

Supreme Court strikes down age limit for adoptive maternity benefit

In *Hamsaanandini Nanduri vs. Union of India*⁸, the Supreme Court held that the restriction of maternity benefit to adoptive mothers only where the adopted child is below 3 (three) months of age is unconstitutional, being violative of Articles 14 and 21 of the Constitution of India (“**Constitution**”). In the present case, the petitioner, an adoptive mother of 2 (two) existing children, filed a writ petition under Article 32 of the Constitution challenging Section 5(4) of the Maternity Benefit Act, 1961 (“**MB Act**”), as amended in 2017, and its successor provision Section 60(4) of the Security Code. The impugned provision entitled only those adoptive mothers who legally adopted a child below the age of 3 (three) months to maternity benefit for 12 (twelve) weeks from the date of handover of the child. The petitioner argued that this age-based classification was arbitrary and unreasonable, violated the right to equality under Article 14 of the Constitution, infringed upon the right to reproductive autonomy and dignified life under Article 21 of the Constitution, and was practically unworkable given the timelines prescribed under the adoption framework. The respondent, Union of India, contended that the 3 (three) month threshold was reasonable since older children have lesser dependency on the caregiver in terms of intensive infant care, that the adoption process could be expedited through district magistrates, and that adoptive mothers of older children could avail crèche facilities under the Security Code.

The Supreme Court, after surveying international conventions, the legislative history of maternity benefit in India, and a wide range of precedents from Indian and foreign courts, framed 2 (two) issues:

1. whether the 3 (three) month age limit violated Article 14 of the Constitution by discriminating against mothers adopting children aged 3 (three) months or above; and
2. whether it violated the right to reproductive autonomy of adoptive mothers and the right of the adopted child to holistic care under Article 21 of the Constitution?

On the first issue, the Supreme Court held that maternity benefit serves 3 (three) components, physical recovery after childbirth, emotional bonding between mother and child, and integration of the child into the family. While the first component is absent in cases of adoption, the second and third remain equally significant regardless of the child's age at adoption. Applying the test of permissible classification, the Supreme Court found that women adopting children aged 3 (three) months or above are similarly situated to those adopting children below that age, insofar as their caregiving roles and responsibilities are concerned. The suggestion that crèche facilities could substitute for maternity leave was also rejected, as such facilities are available only in establishments with 50 (fifty) or more employees and cannot replace the irreplaceable presence of a mother during the period of family integration.

On the second issue, the Supreme Court held that reproductive autonomy extends beyond biological reproduction and encompasses the conscious choice to build a family through adoption. Denying maternity benefit on account of the child's age at adoption deprives adoptive mothers of their right to decisional autonomy, dignity, and the meaningful exercise of parenthood. The Supreme Court further held that the best interests of the child, a paramount principle under the Juvenile Justice (Care and Protection of Children) Act, 2015 and the Adoption Regulations, 2022, require that the period immediately following adoption, which is the most critical for bonding and integration, be supported by institutional protection such as maternity leave.

The Supreme Court additionally examined the provision's workability and found it to be practically illusory. Under the prescribed adoption procedure, the minimum time required for a child to be declared legally free for adoption and referred to prospective adoptive parents is approximately 2 (two) to 4 (four) months, meaning that in most cases the 3 (three) month threshold would already be exhausted before the child is legally placed with the adoptive mother. The

⁸Writ Petition (Civil) Number 960 of 2021 (March 17, 2026)

Supreme Court emphasised that the safeguards built into the adoption timeline cannot be compressed in the name of expediting the process, and that a beneficial provision must be capable of meaningful implementation to serve its social purpose.

The Supreme Court accordingly held that Section 60(4) of the Security Code, to the extent it prescribes a 3 (three) month age limit, is violative of Articles 14 and 21 of the Constitution. The provision was read down to extend maternity benefit of 12 (twelve) weeks to all adoptive mothers, regardless of the age of the child, from the date of handover. The Supreme Court also urged the Union Government to legislate a dedicated paternity leave provision as a social security benefit, observing that the absence of paternity leave reinforces gendered caregiving roles and deprives both fathers and children of meaningful early bonding.

For further details, please refer to the [JSA Prism of March 31, 2026](#).

Bombay High Court rules that internal committee cannot recommend disciplinary action where sexual harassment has not been proved

In *Dr. Mohinder Kumar vs. Chairman, NABARD and Anr.*⁹, the Bombay High Court (“**Bombay HC**”) held that internal committees cannot overreach their powers and recommend disciplinary action in the absence of proven conduct of sexual harassment. In the present case, the dispute arose after the petitioner recorded videos of women colleagues allegedly disturbing the work environment by engaging in loud conversation and frivolity and forwarded them to his superior officers as evidence of disruption at work. Upon learning of this, the women colleagues in question filed complaints of sexual harassment against the petitioner, alleging discomfort and apprehension regarding potential misuse of the videos. The Central Complaints Committee (“**CCC**”), constituted under the POSH Act, held that the conduct did not amount to sexual harassment, as the recordings were not of a sexual nature, did not involve any sexual demands, and were also not misused in any manner. Having said that, the CCC proceeded to recommend disciplinary action against the petitioner for engaging in objectionable conduct and for creating a hostile environment at work. Based on this recommendation, the employer issued an order of ‘reprimand’ against the petitioner, in the manner detailed under service rules of the establishment.

The petitioner argued that the CCC had exceeded its jurisdiction by recommending disciplinary action despite explicitly finding no case of sexual harassment, and that penalty was imposed mechanically without independent inquiry. The respondent contended that the act of recording videos of women colleagues without their consent, irrespective of the intention, created an unhealthy work environment which justified the imposition of a penalty.

The Bombay HC held that the CCC had acted beyond its mandate under Section 13(2) of the POSH Act, which requires internal committees constituted under the POSH Act to recommend no action if allegations of sexual harassment are not proved. Since the CCC found no element of sexual harassment, it should have closed the matter without recommending any disciplinary action. Consequently, actions of the employer reprimanding the petitioner, based solely on the *ultra vires* recommendation of the CCC, were also held to be unsustainable. Bombay HC therefore quashed both the CCC recommendation and the employer’s reprimand order.

Kerala High Court rules that maternity leave cannot be bundled with medical leave

In *Susan K. John vs. National Board of Examinations in Medical Sciences and Ors.*¹⁰, the Kerala High Court (“**Kerala HC**”) held that, for the purposes of computation of total leave availed by an individual, their maternity leave is required to be considered distinct from other types of leave, including medical leave and earned leave. The matter involved the question of whether a DrNB (super specialty) trainee could be denied continuation of her course on the ground that her total leave – arising from confinement owing to pregnancy and childbirth and unrelated medical illness – exceeded the one-year cap specified under the National Board of Examinations in Medical Sciences (“**NBEMS**”) Comprehensive

⁹ Writ Petition Number 1635 of 2021 (January 12, 2026)

¹⁰ Writ Petition (Civil) Number, 48652 of 2025 (January 20, 2026)

Leave Rules, 2024 (“**2024 Leave Rules**”). The petitioner, admitted to the training program in December 2022, had availed 184 (one hundred and eighty-four) days of maternity leave and later required prolonged medical leave when she was diagnosed with stage IV cancer during training. NBEMS rejected her applications for additional leave, citing clause 7(c) of the 2024 Leave Rules, which mandates cancellation of candidature if the cumulative leave availed by a trainee exceeds 1 (one) year.

The petitioner argued that when she joined the programme, the governing leave rules existing at the time expressly permitted condonation of extended leave in exceptional circumstances such as prolonged illness, subject to NBEMS approval. She contended that applying the later 2024 Leave Rules – which removed such exceptions – to her situation was arbitrary and caused undue hardship, as her extended leave of absence was due to unavoidable circumstances. She further asserted that maternity leave, being a recognised facet of reproductive rights, cannot be clubbed with discretionary leave limits. However, NBEMS maintained that the 2024 Leave Rules (*which were revised since the time the petitioner had joined the program*) applied uniformly and that the petitioner’s total leave of 402 (four hundred and two) days barred her from continuing with the course.

The Kerala HC, while granting relief to the petitioner, held that the maternity leave she had availed – being a constitutional and reproductive right – cannot be clubbed with other leave days for purposes of applying the one-year cap. Kerala HC also observed that the rules in force at the time of admission permitted relaxation in exceptional medical circumstances, and transitioning the petitioner midway to a stricter regime caused serious prejudice. Distinguishing the judgment of *Dr. Neha Parashar vs. National Board of Examination and Anr.*¹¹ wherein such a leave cap was found to be justified and the individual in question was not allowed to continue her course, the Kerala HC found the rigid application of the leave cap to a trainee battling both maternity-related absence and cancer treatment to be unjust and against the ethos of the beneficial legislation that is the MB Act. The Kerala HC permitted the petitioner to submit a fresh leave application, directed NBEMS to consider it sympathetically without applying the 1 (one) year cap, and restrained NBEMS from terminating her candidature in the interim.

Bombay HC rules that completion of apprenticeship training does not guarantee permanent employment

In *Prajwalit Tularam Gaikwad and Ors. vs. Hindustan Petroleum Corporation Limited and Ors.*¹², the Bombay HC held that completion of apprenticeship training under the Apprentices Act, 1961 (“**Apprentices Act**”) does not confer any legal right of absorption or permanent employment upon the apprentice, and that an employer is under no mandatory statutory obligation to absorb apprentices upon completion of their training.

In the present case, the petitioners were engineering graduates who were selected as graduate apprentice trainees by Hindustan Petroleum Corporation Ltd. (“**HPCL**”) pursuant to an advertisement issued in 2016. The selection process involved an ‘All India Computer Based Test’ followed by an interview and medical examination, out of which 204 (two hundred and four) candidates were ultimately selected from a pool of approximately 15,000 (fifteen thousand) applicants. The petitioners, 71 (seventy-one) in number, formed part of this select group. The advertisement and the contract of apprenticeship entered into by each petitioner expressly stated that the engagement was purely for training for 1 (one) year and that HPCL did not give any commitment of providing permanent or temporary employment upon successful completion of the apprenticeship period.

Upon completion of their 1 (one) year training, the petitioners contended that HPCL was under a mandatory obligation under Section 22(1)¹³ of the Apprentices Act to frame a policy for recruiting them and to absorb them as Grade ‘A’ Officers. They further alleged that their appointments had been camouflaged as apprenticeships when in fact they had been made to discharge the duties of regular permanent officers, and that there were approximately 250 (two hundred and fifty) vacant entry-level posts which HPCL was filling through the GATE examination while denying the petitioners

¹¹ Writ Petition (Civil) Number 12392 of 2021

¹² Writ Petition No. 3767 of 2018 (March 9, 2026)

¹³ Section 22(1) of the Apprentices Act states that “Every employer shall formulate its own policy for recruiting any apprentice who has completed the period of apprenticeship training in his establishment”.

their rightful consideration. They also challenged a policy dated June 1, 2018 framed by HPCL as being inapplicable and retrospectively prejudicial to their interests.

HPCL contended that the terms of the apprenticeship contract explicitly dismissed any obligation to offer employment upon completion of training, and that it had duly complied with its obligations under Section 22(1) of the Apprentices Act by framing a policy on May 4, 2018 providing age relaxation and a 5% grace mark on GATE scores to ex-apprentice trainees who appeared in subsequent recruitment processes. HPCL further argued that granting direct absorption would amount to backdoor entry into public sector employment, in violation of Articles 14 and 16 of the Constitution.

The Bombay HC, after a detailed analysis of the Apprentices Act, the terms of the contract of apprenticeship, and relevant precedents, held that neither Section 22(1) nor Section 22(2) of the Apprentices Act creates any legal right of absorption or permanent employment in favour of an apprentice. The Bombay HC observed that the object and purpose of the legislation is to regulate and facilitate training of apprentices in industry, and not to create any right to regular employment in public sector undertakings. Section 22(1) of the Apprentices Act merely obliges the employer to formulate its own policy for recruiting apprentices who have completed training, and does not mandate that such policy must result in guaranteed absorption. Section 22(2) of the Apprentices Act operates only where the contract of apprenticeship itself contains a condition that the apprentice must serve the employer after completion of training, a condition conspicuously absent in the present case.

The Bombay HC also rejected the challenge to HPCL's policy dated June 1, 2018, finding it to be a valid exercise of the employer's discretion under Section 22(1) of the Apprentices Act. Bombay HC observed that recognising a legal right of absorption in favour of apprentices without subjecting them to the regular selection process would amount to sanctioning backdoor entry into public employment, contrary to the constitutional mandate under Articles 14 and 16 of the Constitution. Accordingly, the Bombay HC found no merit in the writ petition and dismissed it, while clarifying that the dismissal would not preclude the petitioners from participating in any selection process initiated by HPCL or any other public sector enterprise.

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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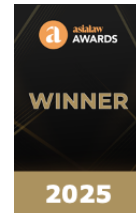
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