

Labour & Liberty

CENTRE FOR ADVANCED STUDIES IN LABOUR WELFARE (CASLW)

RAJIV GANDHI NATIONAL UNIVERSITY OF LAW, PUNJAB

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LEGISLATIVE ACTIONS

Labour Codes:

The Union government has recently codified 29 central enactments into four labour codes namely the Industrial Relations Code, 2020, the Occupational Safety, Health and Working Conditions Code, 2020, the Code on Social Security, 2020 and the Code on Wages, 2019 for giving due assurance to workers in terms of wages, benefits and job security. The 2nd National Commission on Labour (NCL) recommended consolidation of central labour laws. For the first time since Independence a change in labour law is taking place, the need for change was felt especially after the 1990s with the transformation in manufacturing activity and meteoric growth of service industry, etc.

Essential Commodities (Amendment) Bill, 2020:

The Essential Commodities (Amendment) Bill 2020 with provisions to remove commodities like cereals, pulses, oilseeds, edible oils, onion and potatoes from the list of essential commodities was passed by Rajya Sabha today. Earlier, the bill was introduced by the Minister of State for Consumer Affairs, Food & Public Distribution, in the Lok Sabha on 14th September, 2020 to replace ordinances promulgated on 5th June 2020. The bill was passed by Lok Sabha on 15th September, 2020. The EC (Amendment) Bill 2020 aims to remove fears of private investors of excessive regulatory interference in their business operations. The freedom to produce, hold, move, distribute and supply will lead to harnessing of economies of scale and attract private sector/foreign direct investment into agriculture sector. It will help drive up investment in cold storages and modernization of food supply chain.

The Farmers' Produce Trade & Commerce Bill, 2020:

The Farmers' Produce Trade and Commerce (Promotion and Facilitation) Bill, 2020 and The Farmers (Empowerment and Protection) Agreement of Price Assurance and Farm Services Bill, 2020 which were passed by Lok Sabha on 17th September 2020, were passed by the Rajya Sabha as well. The Bills were introduced in Lok Sabha on 14th September 2020 by Union Minister of Agriculture & Farmers' Welfare, Rural Development & Panchayati Raj, to replace ordinances promulgated on 5th June 2020. Speaking about the Bills, Shri Narendra Singh Tomar said that the Government under Prime Minister Shri Narendra Modi has taken several landmark decisions in last six years to ensure that farmers get remunerative prices for their produce, and for raising farmers' incomes and livelihood status.

RECENT JUDGEMENTS

FIGUS PAX PRIVATE LIMITED & ORS. v. UNION OF INDIA (2020)

Heard by a three judge bench of the Supreme Court, numerous writ petitions filed by different employers as well employer association were clubbed together. In conjunction with each other, the Association of Employers made a plea before the Hon'ble Supreme Court to absolve them from their liability to pay the labourers wages for the period of lockdown during which they were not actively employed. Supreme Court through its order passed, showed a lenient approach toward the employing class wherein the government order regarding compulsory payment of wages as well as the advisory for the same were temporarily set aside and instead directions were issued to private entities to initiate negotiation proceedings through a local statutory labour authority to resolve the dispute.

KIRTI & ANR. v. ORIENTAL INSURANCE COMPANY LTD. (2021)

A three-judge bench of Supreme Court stated that homemakers contribute in a very real manner to the economic condition of a family and fixing the notional income for homemakers is a step towards the constitutional vision of social equality, further stating that fixing the notional income for homemakers is in furtherance with India's International Law obligations & the constitutional vision for ensuring dignity and social equality to all. The court also observed the importance of value of the labour, services and sacrifices of homemakers.

WORKMEN THROUGH THE CONVENOR FCI LABOUR FEDERATION v. DAWOOD NASEEM (2020)

In the present case, no specific direction has been given to the Corporation to regularize the concerned workmen in the Departmental Labour System. Furthermore, the policy of the Corporation at the relevant time entailed regularization of such workmen only under the Direct Payment System (DPS). Thus understood, it was held that no contempt action can be initiated on the basis of general direction to the respondents to regularize and departmentalize the concerned workmen. For, it is not possible to hold that intrinsic in the general direction was to ordain the respondents to regularize and departmentalize the concerned workmen under the Departmental Labour System in the teeth of the extant policy of the Corporation in force since 1991 regarding regularization against Direct Payment System (DPS).

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DR. SANJEEV MISHRA v. DISCIPLINARY AUTHORITY & GENERAL MANAGER (2021)

The Jaipur Bench of the Rajasthan High Court has made it clear that in the digital age, posting of the Complainant in a different state from the accused would not be a barrier in prosecuting the latter for sexual harassment at workplace. A petition was filed by the Chief Manager of the Bank of Baroda, accused of sexual harassment by a subordinate employee, seeking to quash a charge sheet issued to him by the Bank's Disciplinary Authority. The petitioner had prayed for quashing and setting aside a complaint filed by the Disciplinary Authority & General Manager of Bank of Baroda as it does not lie within its jurisdiction. The petitioner is working in a different state while the complaint was lodged in another. The petitioner argued that the complaint about sexual harassment at the workplace could have been initiated only when the petitioner commits any sexual harassment at the workplace. Justice Sanjeev Prakash Sharma rejected the petitioner's contention and asserted that if a person posted in Jaipur acts on a digital platform harassing another lady who may be posted in a different state, will come within the ambit of being harassed at a common workplace. It was also held that sending inappropriate messages to a subordinate co-worker beyond office hours would constitute sexual harassment in the workplace. The petition was dismissed accordingly.

B.S. RAJESHWARI v. STATE OF KARNATAKA (2020)

The Karnataka High Court recently quashed a notice issued by the Directorate of Municipal Administration by which it terminated the services of a woman employed on contract basis, after rejecting her application seeking maternity leave. The Court held that even contractual staffs are entitled to maternity leave. The Court noted that after the 2017 amendment to the Maternity Benefit Act, a pregnant woman is entitled to maternity leave for a period 26 weeks which would come to 6 months and 15 days. The Court recorded in its findings that the United Nations recognized rights of both women and children. The foundation of those rights is contained in Article 1 of Universal Declaration of Human Rights is 'all human beings are born free and have equal dignity and rights' these are inalienable. Article 42 of the Constitution of India depicts that the State shall make provision for securing just human conditions for work and maternity relief. Therefore, the right of seeking maternity relief by way of leave springs from Article 42 of the Constitution of India. Besides, Article 45 of the Constitution of India directs that the State shall endeavour to provide early child care and education for all children until they complete six years.

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