

Employment in the times of COVID – 19 Pandemic

The COVID -19 pandemic has caused disruption of business and life in the entire world and India is not immune to it either. The governments across the globe have taken several measures, some of which are unprecedented, in order to minimise the impact of this pandemic. The Government of India has also adopted several unprecedented measures in order to contain the spread of the corona virus. Prime Minister of India, on 24th March 2020 announced a 21 days nation wide lockdown starting from 25th March 2020. Needless to say that such a nation-wide lockdown impacts almost every aspect of life and business. Several measures have been taken to address the woes of industry and employees since then and there are continuous developments in this regard through the actions of the central as well as the state governments. We provide an overall analysis of such measures that impact the employees and the employers:

Temporary shutdown of businesses:

The 21 days national lockdown announced at the directions of the National Disaster Management Authority (under the Disaster Management Act, 2005) seeks to contain the spread of COVID-19. The national lockdown has resulted in mandatory shutdown of all establishments (places of business) except those categorised as providing essential goods

and services e.g. hospitals, shops dealing with food, groceries, fruits and vegetables, banks, media, telecommunication and IT services, delivery of essential goods, pharmacies and medical supplies etc.

It must be noted that respective state governments have further provided their own clarifications regarding what goods and services amount to 'essential'.

Restriction on movement of people:

The national lockdown and state specific measures have also resulted into restriction on movement of people especially beyond local and state boundaries. However, people employed with or otherwise engaged with establishments that carry on the business of goods and services categorised as 'essential' may obtain exemption (in the form of passes, permits etc.) from the designated authorities in order to facilitate the movement of such people within and outside the local and state boundaries. However, the employers must ensure that all the health and safety guidelines prescribed specifically to contain the spread of COVID-19 are strictly adhered to.

Work from Home

The Government of India as well as certain state governments have specially encouraged the employers to allow their employees to work from home in order to encourage social distancing.

Termination of Employees and Reduction in Salary

While there is a provision of temporary lay-off of workmen, with certain prescribed conditions, under the Industrial Dispute Act, 1947 especially on account of natural calamity (please note that COVID-19 has been declared natural calamity by the Ministry of Finance), the government of India has specifically directed, by way of issuance of a circulars dated 20th March 2020 and 29th March 2020, that the employees of any place of employment made non-operational due to COVID-19 will be deemed to be on duty and that the payment of wages shall be made without any deductions.

Moreover, certain state government including State of Telangana, State of Haryana, State of Karnataka and State of Maharashtra have also issued similar directions prohibiting deduction of wages and termination of employment.

Reduction in number of work hours/days

While an employer may reduce the number of hours or days per week for their employees due to the lockdown, if corresponding reduction in salary is made, it is likely to be seen to be in violation of the directions of the government in this regard.

While the government has taken several measures in order to protect the interests of the employees, it remains to be seen how the industry would respond in the event the nationwide lockdown is further extended. It also remains to be seen how the courts in India will interpret the validity of these

advisories and directions issued by the Central and State Governments.

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