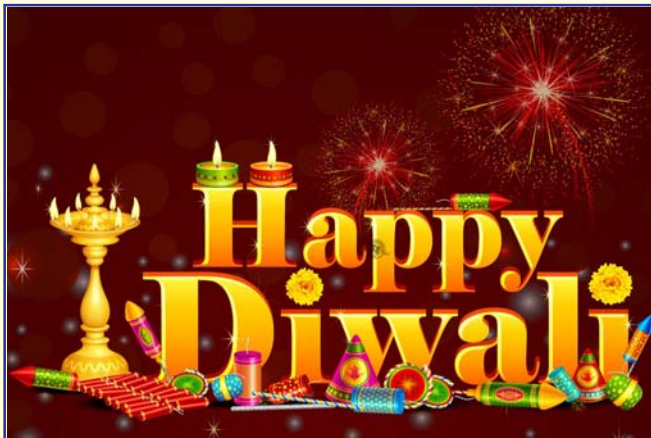


EFI WISHES HAPPY DIWALI TO ALL READERS AND WELL WISHERS



EFI Announces its Flagship Event "EFI National HRM Summit - 2017"

EFI announces its flagship event - "EFI National HRM Summit" scheduled on 6 - 7 December, 2017 at Centrum I, 1st Floor,

World Trade Centre I, Cuffe Parade, Mumbai 400005.

The Theme of the Summit is

"Sustainable Business Competitiveness through Employee Relations".

Sustainability has been a big challenge for businesses all over the world during last few years. Sustainability implies a strong long-term orientation. The notion of sustainability provides a way to assess societal challenges over a much broader time horizon. As a result, it promotes importance of interdisciplinary and trans-disciplinary practices.

Maintaining sustainable competitiveness is utmost important, in which, employee participation is a key factor. Encouraging employees' engagement, recognizing their contribution, encouraging relationship, help to improve productivity, which is helpful to maintain sustainable competitiveness.

Salient features of EFI national HRM Summit 2017 are -

- Distribution of National Awards for Excellence in Employee Relations
- Business School Competition

Centre proposes three-year licence for contractors

The government has proposed a major overhaul in the contract labour law, which includes a three-year licence for contractors to work across the country instead of a separate one for new work orders.

Contractors will no longer require a licence for undertaking each project, as per the proposed changes to the Contract Labour (Regulation and Abolition) Act, 1970.

If the contractor wants to work in a single State for up to three years, the permit needs to be obtained from the State Government, according to the proposal.

However, the contractor will need to inform the government whenever it receives a work order from a company, failing which the licence may be cancelled, the proposed law stated.

The proposed law also seeks to make a distinction between contractors who provide services and those who provide human resources. Contractors who provide human resources to a company will no longer be responsible for providing canteen and restroom facilities to the workers.

If a work order is given to a contractor who has hired employees on payroll, then the workers will not be treated as contract workers under the Contract Labour (Regulation and Abolition) Act, according to a proposed clarification in the law.

As per the current law, a worker is "deemed to be employed as contract labour in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor."

The government has also proposed to make wage payment "primarily" through electronic mode instead of cash payment.]

The Hindu Dated : 06-10-2017

Private EPF trusts can't declare interest lower than EPFO

Nearly 1,500 private employee provident fund trusts set up by companies for administration of their employee provident funds (EPFs) will have to ensure that the rate of interest declared by them is at par or higher than that declared by the Employee Provident Fund Office (EPFO).

Further, there will be periodic evaluation and monthly ranking of companies which have set up such trusts to ensure better compliance. Employees will also have to be promptly intimated within two days when their EPF account is credited.

The ministry of labour noticed that a few private EPF trusts were not able to declare the rate of interest at par with EPFO. Hence, a recent circular emphasises that any deficit in interest declared by the board of trustees is to be made good by the employer to bring it up to the statutory limit.

According to an official "About 1,500 companies have been granted exemption (ie: permission) to maintain their own EPF trusts. While declaration of the minimum interest prescribed by the EPFO and meeting of any deficit by the employer company, are conditions prescribed for running a private EPF trust, some were not following it. The recent circular on interest rate and prompt communication to employees aims to ensure parity for employees covered by such private trusts,".

Companies with private EPF trusts will be evaluated periodically on six parameters (100 points for each), such as: full and timely monthly remittances of EPF accumulations to the private trust; transfer of funds -- for example on exit of employees; efficacy of making investments, the rate of return and settlement of claims and audit of the private trust's accounts.

All companies having 20 or more employees have to provide a social security net via provident fund. If a company has not opted for its own private provident fund trust, the employees are covered by the fund administered by the EPFO, which currently oversees nearly 15 crore employee accounts.

EPFO communicates remittances made to an employee's account through UMANG mobile app e-passbook.

TOI Dated : 10-10-2017

EPFO to cover 10 lakh more industries: Minister

The Employees Provident Fund Organisation (EPFO) is looking to cover 10 lakh more industries, according to Union Minister of State for Labour and Employment Santosh Kumar Gangwar.

Laying the foundation for a EPFO regional office building in Salem on 11th October, 2017 the Minister said about 10 lakh units are already covered under EPFO.

Only those industries that have more than 20 workers can be covered under EPFO. Over 80 lakh industries are registered for GST and there is scope to extend the benefit to workers in more industries.

Under the Pradhan Mantri Rojgar Protsahan Yojana, the Government has allocated Rs 1,000 crore. For employers (existing and new) who enrol new workers under EPFO, the government will pay the employer's share of PF for three years under this scheme. So far, about seven lakh employees have been enrolled under this scheme. The EPFO has introduced several online services and will go paperless in one year, the Minister added.

The Hindu Dated : 11-10-2017

EPFO to check provident fund compliance of companies

The government has launched a drive to make sure that businesses running private trusts to manage provident fund (PF) of their employees comply with online PF return filing requirement, or face consequences.

The move comes after a recent review revealed that 700 businesses have defaulted in filing online PF returns for the month of July. These firms have been asked to explain reasons for their default by 5 October.

"Appropriate action should be taken against the defaulting establishments as per law," said the Employees Provident Fund Organisation (EPFO) in a circular on 29 September. The proposed action includes cancellation of the permission to maintain private trusts.

The move is expected to ensure that businesses facing economic hardship do not compromise on their statutory obligations relating to social security of their staff. Online PF return filing will enable the authorities to keep a watch over timely deposit of provident fund contributions into the trust.

Businesses, which do not avail of the government's employees provident fund scheme are allowed to maintain private trusts to manage the retirement savings of their staff as per an exemption scheme under the watch of the EPFO.

Mint Dated : 06-10-2017

Sluggish SME development hurts jobs and the economy, ILO says

With more than 201 million workers unemployed in 2017 - an increase of 3.4 million compared to 2016 - enterprises, particularly small and medium-sized enterprises (SMEs), play a crucial role in creating decent jobs around the globe.

Between 2003 and 2016, the number of full-time employees within SMEs nearly doubled, with the share of total employment attributable to SMEs rising from 31 per cent to 35 per cent, according to the ILO's World Employment and Social Outlook 2017: Sustainable Enterprises and Jobs.

However, in the past year, their contribution to total employment has stagnated. Between 2015 and 2016 the contribution of SMEs to total employment remained virtually unchanged, increasing from 34.6 to 34.8 per cent.

According to the report, private sector enterprises accounted for the bulk of global employment in 2016. These enterprises employed 2.8 billion individuals, which represents 87 per cent of total employment. While permanent full-time employment in SMEs grew more than in larger firms between

2003 and 2008 - on average 4.7 percentage points higher in small and 3.3 percentage points higher in medium-sized enterprises - employment growth premium of SMEs was absent during the period between 2009 and 2014.

In developing economies, SMEs account for 52 per cent of total employment, compared with 34 per cent in emerging economies and 41 per cent in developed economies.

An emerging economy describes a nation's economy that is progressing toward becoming more advanced, usually by means of rapid growth and industrialization. These countries experience an expanding role both in the world economy and on the political frontier.

A developing economy is a nation with a less developed industrial base and a low Human Development Index (HDI) relative to other countries.

Emerging economies are a category in between developed countries and developing countries. While developing countries have a long way to go before they achieve developed status, emerging economies have to an extent achieved developed status in some sectors of their economies while still lagging behind in other sectors. Hence they are not fully developed.

Job dynamics among young firms in terms of full-time permanent employment have also weakened since the global financial crisis, the report says.

The full-time permanent employment growth rate among young firms was on average 6.9 percentage points higher than for established firms during the pre-crisis period, but the difference declined to 5.5 percentage points in the post-crisis period. This change reflects developments in the overall business environment, whereby new and younger firms have been shedding jobs at a much faster pace than before.

The report also finds that providing formal training for permanent employees is associated with higher wages, higher productivity and lower unit labour costs, while increasing the use of temporary employment is associated with lower wages and lower productivity, without any implications for unit labour costs.

Evidence indicates that, on average, enterprises that provide formal training to their full-time permanent employees pay 14 per cent higher wages, are 19.6 per cent more productive and have 5.3 per cent lower unit labour costs, compared with those that do not offer training. Alternatively, on average, having a higher share of temporary employment by 10 percentage point is associated with lower average wages by 2.6 per cent and lower productivity by 1.9 per cent, which thus does not give competitive advantage in terms of their unit labour costs.

The report finds innovation is an important source of competitiveness and job creation for enterprises. Innovative firms, overall, tend to be more productive, create more jobs, employ more educated workers and offer more training. They also hire more female workers.

In some cases, however, innovation has led to more intensive use of temporary workers (particularly, in firms with product and process innovation) and to higher concentration of women in temporary employment. For example, firms implementing product and process innovation tend to employ more temporary workers than non-innovators by over 75 per cent.

Trade and engagement in global supply chains are also important stimuli for job creation and productivity growth. As trade has stagnated in recent years, so too has trade-related employment. In 2016, 37.3 per cent of workers were employed in private formal exporting firms. This share is lower than the pre-crisis share of 38.6 per cent. The report notes that trading firms have higher productivity and pay higher wages than those firms not engaged in trade.

However, the productivity premiums for exporting and importing outweigh the wage premium by 13 and 5 percentage points. This indicates that there is scope to share

gains from trade in a more inclusive manner.

The ILO research shows that full-time female permanent employees in the formal sector are more likely to be found in SMEs than in large firms. On average, and across all regions, around 30 per cent of full-time permanent employees in SMEs are women, compared with 27 per cent in large enterprises. Moreover, the share of women's employment, particularly in SMEs, is strongly correlated with the per capita income of a country. Greater numbers of women in enterprises may therefore have a positive impact on growth and development, because micro-enterprises and SMEs often offer women an entry point into the formal labour market.

Finally, the ILO's flagship report insists on the key role of social dialogue between governments, employers and workers for enterprise sustainability.

ILO Dated : 09-10-2017

Hiring intent bleak across 7 sectors, small biz over next 6 months: TeamLease

Corporate hiring plans that had slumped have begun to pick up albeit at a weak pace, the results of a survey showed.

Overall hiring outlook for the October 2017-March 2018 period is up two percentage points to 91% from 89% in April-September, the TeamLease Employment Outlook Report 2017-18 showed. The last outlook - for the April-September period - had shown a sharp six percentage point drop from the previous October 2016-March 2017 period.

However, the positivity is largely concentrated in metro and Tier-1 cities, while tier-2 and tier-3 regions reported a significant drop in sentiment when compared to the April-September period, showed the bi-annual report on the mechanics of hiring, job growth, salaries and their drivers.

Net employment outlook is the difference between the number of respondents inclined to hire and the number of respondents disinclined to hire, over the next six months expressed in percentage.

Information technology firms don't see any change in the volume of hiring from the previous half year. However, seven industry sectors have reported a negative hiring outlook with sharp drops in percentage points - construction and real estate (7%), agriculture and agrochemicals (4%), travel and hospitality (4%), BPO / ITES (3%), manufacturing, engineering and infrastructure (2%), fast moving consumer goods and durables (1%), and educational services (1%).

The hiring outlook registered a three and two percentage point rise in financial services and knowledge process outsourcing sectors respectively, followed by one percentage points each in health and pharmaceuticals, e-commerce and technology startups, power and energy, and media and entertainment.

Companies surveyed have expressed heightened intent for senior management level hiring. Entry and junior level hiring has registered a considerable drop of three percentage points in October-March 2018 period. Hiring activities for marketing and human resources roles will see a sharp drop.

The study covers 16 key industries across 8 cities. Companies in Mumbai, Hyderabad, Delhi and Ahmedabad plan to hire candidates. Those in Kolkata, Bangalore, Chennai, and Pune reported decrease in hiring intent.

Mint Dated : 06-10-2017

IT hiring to worsen in October-March period: Report

A survey of 500 IT companies show that only half of them plan to hire in the October 2017-March 2018 period

The survey of 500 companies, conducted by Experis IT, a 100% subsidiary of staffing company ManpowerGroup, revealed that hiring intentions have dropped in almost all categories. At least 57% of respondents said they plan, instead, to train existing staff on niche, sought-after technology skills.

"The Indian IT employers expect layoffs and a shrinking job

market in the next 2 quarters. Majority of the IT employers would want to hire trained IT graduates. Upskilling employees are the new plan of action for employers," the report said.

Hiring will be concentrated in captive centres in India, "ruled by on-demand hiring". Hiring intentions have drastically gone down in IT services companies too, from 22% in the previous half-year period to 9% in the October-March period.

Mint Dated : 10-10-2017

Shri Santosh Kumar Gangwar chairs the Review Meeting with State Labour Ministers & Senior Officers Department of Labour of North Eastern States in Imphal

Mainstreaming the North Eastern Region into developmental process is a priority for Centre: Labour & Employment Minister Shri Santosh Kumar Gangwar, the Minister of State (Independent Charge) Labour & Employment said that mainstreaming the North Eastern Region into the developmental process is a priority for Government of India. He was addressing the Review Meeting with Labour Ministers of North Eastern Region at Imphal today, his first Regional Meeting since taken charges. Shri Gangwar also recalled his visits to the North Eastern States as Minister of Textile, to boost the Textile Industries of the Region. Shri Gangwar also expressed his happiness over the detailed and constructive discussion on issues of significant importance.

The Review Meeting was attended by Labour Ministers and Labour Secretaries for North Eastern States of Arunachal Pradesh, Assam, Meghalaya, Manipur, Mizoram, Nagaland and Tripura and Shri N Biren Singh, Chief Minister of Manipur, inaugurated the meeting. The review meeting discussed issues like implementation of the Schemes on Child Labour, Plantation Workers, ESIC Works, Social Security Schemes, BOC Workers Cess Fund, Mines Safety, etc, and for further betterment.

Shri Gangwar requested the North Eastern States to utilize the BOCW Cess funds of Rs.27,000 Crore, which is available for the safety, health and welfare of Construction Labourers. He suggested that instead of building infrastructures such as Hostel, Technical Centers and Schools, the States may focus on the Social Security & Welfare Schemes for the Construction Workers. He also requested that the Central Government's Social Security Schemes like Pradhan Mantri Suraksha Bima Yojana (PMSBY) and Pradhan Mantri Jeevan Jyoti Bima Yojana (PMJJBY) could be used effectively for the welfare of the workers.

The government of India has recently ratified ILO conventions on Child Labour. Eradication of Child Labour has been taken very seriously. On the 26th September 2017 Ministry of Labour & Employment has launched an exclusive Portal called PENCIL Portal to ensure a better mechanism to eradicate Child Labour. Minister requested the State Governments of North East States to give a broader publicity of the Portal and work on NCLP implementation.

Ministry of Labour Dated : 05-10-2017

Future of work G7 Meeting of Ministers of Labour and Employment focuses on the future of work

Ministers of Labour and Employment of G7 countries met in Turin on 29-30 September to discuss the Future of Work. Their concluding statement "For a Better Future of Work: Pathways for Action" was "a strong statement of Ministers' intent to boost the quality and quantity of jobs and foster inclusive labour markets and societies", according to ILO Director-General Guy Ryder.

The ILO leader participated in one and a half days of discussions with Ministers including a session on the ILO Global Commission on the Future of Work . The programme also included an exchange of views with representatives of G7 trade unions and business.

"Ensuring that the great transformations underway in the

world of work are shaped to create the decent jobs people want and need is hugely important all around the world" said Ryder. He added that "G7 countries are amongst those on the frontier of technological changes that have great promise for better lives but which equally could lead to many working women and men being left behind."

"Good policies and the active engagement of the social partners can and must shape change to meet societies' expectations of a fair and just transition to patterns of inclusive and sustainable growth and development."

The Ministerial Declaration builds on the "G7 People-Centred Action Plan on Innovation, Skills and Labour" and the "G7 Roadmap for a Gender-Responsive Economic Environment" adopted at the Taormina G7 Summit in May. The Declaration highlights three main areas:

- Promoting skills and fostering labour rights
- Labour, employment policies and social protection policies
- Fostering a multi-stakeholder approach

G7 Heads of the National Employment Agencies and representatives of the social partners met during the Meeting to discuss the role of activation policies in supporting women and men in their integration in the labour market, in reducing inequality and in protecting workers in vulnerable situations, including those engaged in new forms of work. They agreed on the need to improve the efficiency and equity of active labour market policies, employment services and social protection policies. They will continue to collaborate share knowledge and exchange practice amongst themselves and with the social partners.

ILO Dated : 30-09-2017

Select Case Laws

2017 III CLR 200

In The High Court of Judicature at Bombay

April 11, 2017

CIVIL APPELLATE JURISDICTION WRIT PETITION NO.

2749 OF 2004

PRESENT

The Honourable Mr. Justice S. C. Gupta

Nanubhai Nichhabhai Desai Petitioner

v.

Deputy General Manager, UCO Bank and Ors. Respondents

Payment of Gratuity Act, 1972 - Ss.7(7), 4 (6) - Gratuity A challenge is from petitioner -ex-employee to the order passed by the Appellate Authority, allowing the Bank's appeal and reversing the order passed by the Controlling Authority, in his favour. The Court held that (i) in the order passed by the disciplinary authority in the inquiry against the petitioner-employee, there is nothing to suggest that the misconduct of petition, constituted an offence involving moral turpitude. (ii) There is no finding that the petitioner did anything with an intention to cause any wrongful gain or loss to anyone or with intent to defraud, so as to constitute any offence involving moral turpitude, as contemplated in S.4(6)(b)(ii) of the Payment of Gratuity Act or in sub rule (b) of Rule 10 of the Bank's Gratuity Fund Rules. (iii) There is nothing to suggest that due to said misconduct of petitioner, the Bank suffered any loss or could not recover its dues from the debtors. As such there is no such finding given by disciplinary authority against the petitioner. (iv) This the conclusion is that either (a) the action taken by the Bank is in breach of S.4 of the Act and Rule 10 of the Gratuity Rules of the Bank, or (b) it is a clear breach of principles of natural Justice. (v) The Appellate Authority has erred in coming to the conclusion that Bank had proved its loan to the extent of Rs. 8,64,668/ due to petitioner's misconduct, which is not , in fact, based in any evidence. **(Paras 1 to 14), Writ Petition allowed.**

2017 III CLR 225
In The High Court of Calcutta
July 27, 2017

ORDINARY ORIGINAL CIVIL JURISDICTION ORIGINAL
SIDE W.P. NO. 429 OF 2017
PRESENT

The Honourable Mr. Justice Arijit Banerjee

Sila Bose Petitioner

v.

State of West Bengal & Ors. Respondents

Payment of Gratuity Act, 1972 Interest, on delayed payment of gratuity In the factual background that the petitioner, an Assistant Teacher in a Primary School retired from service on 31.7.2012 and was paid her gratuity on 1.7.2014, in view of provisions of the Act and even otherwise, the petitioner is entitled to interest. The Director of Pension, Provident Fund and Group Insurance, Government of West Bengal and concerned Treasury Officer, to pay interest at rate of 9% per annum, on the amount of gratuity from August 1, 2012 till actual date of payment, made to the petitioner. **(Paras 1 to 5), Writ Petition disposed of.**

2017 III CLR 235

In The High Court of Judicature at Bombay

(AURANGABAD BENCH)

November 22, 2016

WRIT PETITION NO. 7211 OF 2016

PRESENT

The Honourable Mr. Justice Ravindra V. Ghuge

Ravindra Bhimrao Patil, Dhule Petitioner

v.

Executive Director, Jawahar Sahakari Sootgirni Ltd., Dhule Respondent

Maharashtra Recognition of Trade Unions and Prevention of Unfair Labour Practices Act, 1971 S.28 Disciplinary Inquiry, held to be proper and valid - A challenge is from the petitioner - workman to allowing of the Revision Petition (ULP) filed by respondent-management and setting aside the Part I Judgment of Labour Court, by which it had vitiated the enquiry, which was quashed and set aside. The Court held that (i) the Labour Court has not concluded as to how the principles of natural justice have been violated in conduct of disciplinary inquiry. (ii) At the same time it is to be noted that the enquiry officer's findings are unsustainable and perverse, (a) in the absence of any specific details for the acts alleged to have been committed by the delinquent workman, and (b) absence of specific acts of misconduct, as per specific clauses of the standing orders, applicable in the respondent - establishment, and (c) even the charge sheet dt. 17.4.2012 given to petitioner workman was vague and ambiguous, (except paragraph 1), in which not a single instance has been specifically stated, which would indicate the specific act committed by the petitioner, which amount to a misconduct, if proved. (iii) Impugned Judgment of the Industrial Court is quashed and set aside. (iv) As the respondent/ management has reserved its right in its Written Statement (in case the enquiry is vitiated), the management has right of de novo enquiry before the Labour Court. Respondent - management is at liberty to issue fresh chargesheet to the petitioner workman, specifically mentioning the acts of misconduct alleged to have been committed by petitioner - workman. **(Paras 1 to 8, 11 to 15), Writ Petition allowed.**

The date for participating in the EFI National Excellence Awards in Employee Relations, 2017 has been extended till 31st October, 2017. Interested corporates are requested to submit their nominations before this date.