" Labour Laws in India "

"भारत में श्रम कानून"

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What's Labour Law ???

- **Labour Law** is the "**Body of Laws, Administrative Rulings, & Precedents**" which address the Relationship between & among "**Employers, Employees & Labour Organizations**", often dealing with issues of Public Law. The terms Labour Laws & Employment Laws, are often interchanged in the usage. This has led to a big confusion as to their meanings. Labour Laws are different from Employment laws which deal only with employment contracts and issues regarding employment and workplace discrimination & other Private Law issues.

- **"Labour Laws"** harmonize many angles of the **Relationship** between **"Trade Unions, Employers & Employees".** In some countries (like Canada), Employment Laws Related to Unionised workplaces are different from those relating to particular Individuals. In most countries however, no such distinction is made.

- The **"Final Goal"** of Labour Laws is to bring both "**Employer & Employee**" on the same Level, thereby mitigating the differences between the two ever-warring groups.

Origins of Labour Laws

- **"Labour Laws"** emerged when the **Employers** tried to Restrict the Powers of **Worker's Organisations** & keep Labour Costs Low. The Workers began Demanding better Conditions & the Right to Organise so as, to improve their Standard of Living. Employer's costs increased due to workers demand. This led to a chaotic situation which required the Intervention of Government. In order to put an end, the **"Government"** enacted many Labour Laws in the Country.

- The **History** of Labour Legislation in **India** can be traced back to the History of British Colonialism. In the beginning it was difficult to get enough Regular Indian workers to run "**British Establishments"** & hence Laws for chartering workers became necessary. This was obviously Labour Legislation in order to protect the interests of British employers.

- The **"Factories Act"** was first introduced in **1883** because of the pressure brought on the **British Parliament** by the textile moguls of **Manchester and Lancashire.** Thus we Received the First Stipulation of **Eight (08) Hours** of work, the abolition of Child Labour, & the Restriction of Women in Night employment, and the introduction of "**Overtime Wages"** for work beyond Eight Hours.

- **"India"** has Various Labour Laws, such as Resolution of Industrial Disputes, Working Conditions, Labour Compensation, Insurance, Child Labour, Equal Remuneration etc.

Individual Labour Law

"Contract of Employment & At-will Employement"

- The Basic Feature of **"Labour Law"** in almost Every Country is that the **"Rights & Obligations"** of the "Employee & Employer" between One-another are mediated through the **"Contract of Employment"** between them. This has been the case since the collapse of feudalism & is the core reality of Modern Economic Relations. Many terms & conditions of the contract are however implied by Legislation or Common Law, in such a way as to restrict the freedom of people to agree to certain things to protect employees, and facilitate a fluid Labour Market.

- In the **"United State of America"** for example, Majority of State Laws allow for Employment to be **"At Will"** meaning the Employer can Terminate an Employee from a Position for any Reason, so long as the Reason is not an "**Illegal Reason**", including a Termination in **Violation of Public Policy**.

- In Many Countries it's Employer's Duty to Provide Written Particulars **(Contract)** of Employment to an Employee. This aims to allow the Employee to know concretely what to expect and is expected; in terms of "**Wages, Holiday Rights, Notice in the event of Dismissal, Job Description"** and so on. An Employee may not for instance agree to a contract which allows an Employer to dismiss them unfairly.

Labour Policy in India

"**Labour Policy in India"** has been evolving in response to specific needs of the situation to suit requirements of planned **"Economic Development & Social Justice"** has two-fold Objectives, viz., Labour Policies are devised to maintain Economic Development, Social Justice, Industrial Harmony & Welfare of Labour in the country.

Highlights of Labour Policy:-

- Creative Measures to attract Public & Private Investment.
- Creating New Jobs with New Social Security Schemes for workers.
- Unified and Beneficial Management of funds of Welfare Boards.
- Model Employee – Employer Relationships with Long Term Settlements.
- Vital Industries & Establishments declared as **"Public Utilities"**.
- Special conciliation mechanism for projects with investments of **Rs. 150 cr** or more.
- Industrial Relations committees in more sectors.
- Labour Law Reforms with Times. Empowered body of experts to suggest required changes.
- Statutory amendments for expediting & streamlining the mechanism of Labour Judiciary.
- Efficient functioning of Labour Department. More labour sectors under Min. Wages Act.
- Modern Medical Facilities for workers. Rehabilitation packages for displaced workers.
- Restructuring in functioning of **Employment Exchanges** with morden Technology.
- Revamping of Curriculum & Course content in Industrial Training.
- Joint Cell of Labour & Industries Department to study changes in Laws & Rules.

Important Acts of Indian Labour Laws

- The Apprentices Act - 1961
- The Payment of Wages Act -1936
- The Workmens' Compensation Act -1923
- The Factories Act -1948
- The Industrial Disputes Act - 1947
- The Employees PF & MP Act - 1952
- The Employees State Insurance Act - 1948
- The Maternity Benefit Act - 1961
- The Payment of Bonus Act - 1965
- The Payment of Gratuity Act - 1972

The Apprentices Act - 1961

Object of the Act :- The Main Objectives of **Apprentices Act, 1961** is **"Promotion of New Manpower at skills"**. Improvement / Refinement of Old Skills through Theoretical & Practical Training in number of **"Trades & Occupation"**. The Scheme is also extended to Engineers & Diploma Holders.

In India the "**Apprentices Act"** came into force in **1961** and was amended by the Act 41 of 1986. It's also a **"Statutory Obligation"** on the part of every Employer covered under the Act.

Applicability of the Act :- The "**Apprentices Act"** applies to all Areas & Industries as notified by Central Government. [Sec-1(4)]. The Act extends to "**Across all over the India"**. It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different States. The Act shall also **"Not Apply"** to any Area or Industry as per the notification by the Govt.

Guidelines @ Apprentice Act

"Apprentice" means a Person who is undergoing "**Apprenticeship Training"** in pursuance of a Contract of Apprenticeship. **"Apprenticeship Training"** means a **Course of Training** in any Industry or Establishment undergone in pursuance of a Contract of Apprenticeship & under prescribed Terms & Conditions which may be different for different categories of Apprentices.

Eligibility & Duities of Apprentice:

- **Qualifications:** A Person shall not be Qualified for being engaged as an Apprentice to undergo Apprenticeship Training in any designated trade, unless he or she,
- The **"Candidate"** is not Less than **Fourteen (14) Yrs** of age, & has to Satisfies such Standards of **"Education & Physical Fitness"** as may be prescribed.
- **Duration of Training:-** Duration of Apprenticeship may be from **"06 Mths to 04 Yrs"** depending on the Trade, as prescribed in Rules.
- The **"Apprentice"** has to Learn his Trade Concientiously & Diligently. Also attend Practical & Theoretical clasess Regularly. Has to carry out all Lawful Orders of Employer with Contractual Obligations.
- The Apprentice has to work **42 to 48** Hours in a week, but not allowed to work between **10 pm to 06 am** unless approved by **"Apprenticeship Advisor"**.

Guidelines @ Apprentice Act

Duties of Employer under the Act:

- **Contract with Apprentice :-** The Apprentice appointed has to execute a Contract of Apprenticeship with the Employer. The Contract has to be Registered with Apprenticeship Adviser. If Apprentice is Minor, Agreement should be signed by his Guardian. [Sec 4(1)] .

- **Leaves for Apprentice :-** An Apprentice is entitled to Casual Leave of **12** days, Medical Leave of **15** days & Extraordinary Leave of **10** days in a year.

- The **"Employer"** has to provide Apprentice the Training in his Trade, & ensure that the Person duly Qualified is placeed as In-charge . To Carry out all Legal Contractual Obligations.

- **Payment to Apprentice :-** The Minimum Rates of Stipend prescribed under the Rules as follows. **(Revised Rate w.e.f. 23rd Mar 2011).**

  # Graduate Apprentices @ **Rs:- 3560/-** p.m. , # Sandwich Course (Students from Degree Inst.) @ **Rs:- 2530/-** p.m., # Technician Apprentices @ **Rs:- 2530/-** p.m., # Sandwich course (Students from Diploma Inst.) @ **Rs:- 2070/-** p.m., # Technician (Vocational) Apprentices @ **Rs:- 1970/-** p.m.

Payment of Wages Act – 1936

Objective of the Act:- The **"Payment of Wages Act 1936"** regulates payment of wages to Employees (Direct & Indirect). The Act is intended to be a remedy against unauthorized deductions made by the **"Employer"** or unjustified delay in payment of wages. All Employees are covered under the Act, those are drawing Average wages Rs:- 10000/- per month.

Applicability of the Act: - The **"Payment of Wages Act 1936"** is Applicable to All Factories, Industrial Establishment, Tramway Service, or Motor Transport Service engaged in carrying Passengers or Goods both by road for hire or reward. Air Transport Service, Dock, Wharf or Jettly, Inland Vessel, Machinically propelled, Mines, Quarry or Oil-Field, Plantation, Workshop or other Establishement, etc..

Meaning of Wages:- "Wages" means all Remuneration expressed in terms of Money and include Remuneration payable under any Award or Settlement, Overtime Wages, Wages for Holiday & any sum payable on Termination of Employment. However, it does not include "**Bonus**" which does not form part of Remuneration payable, value of House Accommodation, Contribution to PF & ESI, Traveling Allowance, or Payment of Gratuity. [section 2(vi)]

Guidelines @ Wages Act

Time of Wages Payment :

- If the Employee strength is Less then "**1000**" in any Organization, then Wages shall be paid before the expiry of the **07th** Day of the following month.
- If the Employee strength is More then "**1000**" in any Organization, then Wages shall be paid before the expiry of the **10th** Day of the following month.
- In case of **"Termination"** of Employee by the Employer the wages shall be paid before the expiry of the Second working day from the Date of Termination **"DOT"**.

Deduction from Wages: - The Maximum Deduction can be **50%** of Monthly wages, However, maximum deduction upto **75%** is permissible if deduction is partly made for payment to Co-operative Society. [section 7]. Deduction on Account of Absence of Duty, Fines, House Accommodation if provided by Organization, Recovery of Advance, Loans given, Income Tax, PF, ESI contribution, LIC premium, amenities provided, deduction by order of Court etc. is permitted.

Deducation of Fines: - The Maximaum deducation as Fines from Wages should not exceed **03%** during the same wage period. It should be recovered within **90 days** from the date it was imposed. Roecord of Fines should be maintain in Fine Register (Form-II).

Guidelines @ Wages Act

Mode of Wages Payment:

- All wages shall be paid in Current Coins or Currency Notes or in both.
- Employer Can also pay the Wages either by cheque or by crediting the Wages in Employee's Bank Account with Employee's Authorization in written.
- Wages can be paid on Daily, Weekly, Fortnightly or Monthly basis, but wage period cannot be more than a month. Most Organization preffred Monthly Payment basis.

Records Maintainance: The Employer has to maintain Various Register under the Act i.e. Register of Fines (Form-II), Register of Deducation (Form-III), Register of Advance (IX), Register of Wages (Form- IV & V), Muster Roll-cum-Register of Wages (Form –VI) & Annual Return (for Air Transport Services). All the above mentioned Register & Records shall be maintained up-to-date. The attendance of the employee shall be marked not later than one hour after employee starts work for the day.

Penalty to Employer:

On Conviction for any Offence & Again Guilty of Contravention of same provision

→ Imprisonment not less than one month Extendable upto six months and fine not less than Rs.2000, Extendable upto Rs.15000.

Workmens' Compensation Act -1923

Object of the Act: - This is an Act to provide for the payment by certain classes of Employers to their workmen (Employee) of compensation for injury by accident during the course of Employment. The Act is applicable all over the India & came into force **w.e.f. 01st July 1924.**

Coverage of Employees:- All Employees of Any Categories / Capacity Irrespective of their Status or Salaries either Directly or hired through Contractor or a person recruited to work abroad for the Orgazition.

Employer's Liability @ Compensation:

In case of Death or Personal injury resulting into Total or Partial Disablment or Occupational Disease caused to a workman / Employee by accident arising out of and during the course of his employment, his Employer shall be liable to pay compensation under the Act.

Guidelines @ Compensation Act

Employer Shall not be so Liable:

- In Respect of Any Injury which does not Result in the Total or Partial Disablement of the Workman for a Period Exceeding Three **(03)** days.
- In Respect of Any injury, not resulting in Death or Permanent Total Disablement (PTD), caused by an Accident which is directly attributable to;

  (i) The Workman having been at the time thereof under the Influence of Drink or Drugs.

  (ii) The Wilful Disobedience of Workman to an order expressly given, or avoiding safty guidilines.

  (iii) The Wilful Removal or Disregard by the workman of any safety guard during On-Duty.

Payment of Compensation Amount:

- In Case of Death of a Workman Results from the Injury during the Employment. Minimum Compensation for Death under the Act is **Rs:- 120000/-** or an amount equal to **50%** (Fifty per cent) of the Monthly wages of the Workman's multiplied by the relevant factor, whichever is higher. (Subject to Max. **Rs:- 8000/-** per month w.e.f. 31st May 2010 or as per the Minimum Rates of wages of the State.).
- In Case of Permanent Total Disablement (PTD) of a Workman Results from the Injury. Minimum Compensation for PTD under the Act is **Rs:- 140000/-** or an amount equal to **60%** (Sixty per cent) of the Monthly wages of the Injured workman's multiplied by the relevant factor, whichever is higher.

Guidelines @ Compensation Act

Calculation @ Compensation Amount:- Completely Depends on the Age:- Higher the Age – Lower the Compensation Amount. Find out the Relevant factor specified in Schedule IV giving slabs depending upon the age of the concerned workman.

Example : In case of Death.

Monthly Wages @ Rs:- 7700/-, Age of Workman:- 35 Yrs., Relevant Factor is:- 197.06,

Then Compensation Amt Rs:- (50% of Rs:- 7700/- * 197.06) = **Rs:- 758681/-**

As its higher then Min. Compensation **Rs:- 120000/-**, so Compensation Amt. **Rs:- 758681/-.**

In case of Total Disablement (PTD) = (60% of Rs:- 7700/- * 197.06) = **Rs:- 910417/-**

Permanent Partial Disablement = (% as per Schedule II of 7700/- * Relevant Factor)

Temporary Disablement = A Half Monthly Payment, equal to 25% of Monthly wages.

Funeral Expenses :- Employer shall Deposit **Rs:- 2500/-** to the Commissioner for the payment to Eldest Dependant of the Workman.

Report of Accident under Rule 11 **Form EE** - Report of Fatal Accident and Serious Injury within 7 days to the Commissioner (not application when ESI Act applies). {Sec-10B}

Penalty to Employer:- In case of Employer found defaulter then Employer has to pay 50% of the Compensation Amount + Interest to the Workman or his Dependents as the case may be. {Sec-4A}

The Factories Act -1948

Applicability of the Act :

Any premises whereon **Ten (10)** or more persons with the Aid of Power or **Twenty (20)** or more Workers were working without Aid of Power on any day preceding 12 months, wherein Manufacturing process is being carried on. It extends to whole of **India** and Covers all Manufacturing processes & Establishments falling within the definition of **"Factory"** Sec.2 (ii).

Objective of the Act:

This Act has been come into force to Consolidate and Amend the Law Regulating the Workers working in the factories. To ensure the Safeguard the interest of workers and Protect them from exploitation, the Act prescribes certain standards with regard to Safety, Welfare and Working Hours of workers, apart from other provisions.

History of Factory Act:

The Factories Act 1948 was an **"Act of Parliament"** passed in the **"United Kingdom"** by the Labour Government of Clement Attlee. It was passed with the intention of safeguarding the health of workers. It extended the age limits for the medical examination of persons entering factory employment, while also including male workers in the regulations for providing seats and issuing extensive new building regulations.

Duties of Employer under the Act:

Necessary Facilities Required	Safety Measures for Employee
The Factory should be kept Clean always. [Section 11].	All Machinery should be properly Fenced to protect Workers when Machinery is in Motion. [Sec- 21 to 27].
There should be arrangement to Dispose of Wastes and effluents. [Section 12].	Hoists and Lifts should be in good condition & tested Periodically. [Sec- 28 & 29].
Reasonable Temperature for Comfort of employees should be Maintained. [Section 13].	Pressure of plants should be check as per rules. [Sec-31].
Dust & Fumes should be controlled below permissible limits. [Section 14].	Floor, Stairs & Means of access should be of sound construction & free form obstructions. [Sec - 32].
Artificial Humidification should be at prescribed standard level. [Section 15].	Safety appliances for Eyes, Dangerous Dusts, Gas, Fumes should be provided. [Sec - 35 & 36].
Overcrowding should be avoided. [Section 16].	Worker should not Misuse any appliance, Convenience or Other things provided. [Sec - 111].
Adequate Lighting, Drinking Water, Latrines, Urinals & Spittoons should be provided. [Sections 17 to 19].	In Case of Hazardous substances, Additional Safety Measures have been prescribed. [Sec - 41A to 41H].
Adequate Spittoons should be provided. [Section 20].	Adequate Fire Fighting Equipment should be available. [Section 38].
Proper Vantilation for Air & Light inside the Factory Building	Safety Officer should be appointed if number of workers in factory are 1,000 or more. [Sec - 40B].

Duties of Employer under the Act

Welfare of Employee:

- Adequate Facilities for Washing, Sitting, Storing of cloths during Off Working hours. [Sec - 42].
- If a worker has to work in Standing Position, Sitting Arrangement to take Short Rests. [Sec - 44].
- Adequate First Aid Boxes shall be provided & Maintained with all required medicines. [Sec - 45].

Facilities for Large Factories:

- Ambulance Room if **500 or More** Workers are Employed in the Factory.
- Canteen if **250 or More** workers are employed. [Sec - 46].
- Rest Rooms / Shelters with Drinking Water when **150 or More** workmen are Employed. [Sec - 47]
- Crèches if **30 or More** Women workers are employed. [Sec - 48]
- Full time "Welfare Officer" if factory Employs **500 or More** workers [Sec - 49]

Working Hours under the Act:

- The Maximum Working hours can't be more then **48 Hours** in a week. [Sec - 51].
- The Maximum Daily Working Hours can't be more then **09 Hours**. [Sec - 54].
- One Weekly Holiday is Compulsory which is **Sunday**. If Employee works on **Sunday**, then he should Compenste with any **Other day** of the Week. [Sec - 52(1)].
- At least Half an hour Rest should be provided **after 5 hours** of work. [Sec - 55].
- Total period of work inclusive of rest interval cannot be more than **10.5 hours.** [Sec - 56].
- A Worker should be given a **Weekly Holiday**. Overlapping of Shifts is not Permitted. [Sec - 58].
- Notice of Period of Work should be displayed. [Sec - 61].

Guidelines @ Factories Act

Overtime Wages under the Act:-

- If a Worker works beyond **09 hours a day or 48 hours a week**, Overtime Wages are **Double** the Rate of Wages are payable. [Sec - 59(1)].
- A Workman cannot work in two factories. There is Restriction on Double Employment. [Sec - 60]. However, Overtime Wages are not Payable when the Worker is on Tour.
- Total Working Hours including Overtime should not exceed **60 Hours** in a week and Total Overtime Hours in a quarter should not exceed **50 Hours**. Register of overtime should be maintained.

Employment of Young Persons: - Any Child below age of 14 Yrs can't be employed. [Section 67]. Child above 14 but below 15 years of age can be employed only for 4.5 hours per day. [Section 71]. He should be certified fit by a certifying surgeon. [Section 68]. He cannot be employed during night between 10 pm to 6 am. [Sec-71].

Annual Leave :- A Worker having worked for **240 days** @ One Day Leave for every **20 days** & for a Child One Day Leave for working of **15 days**. Accumulation of leave for 30 days. [Section – 79]

Display on Notice Board:- A Notice Containing **Abstract** of the Factories Act & the Rules made thereunder, with Name & Address of **Factories Inspector & Certifying Surgeon** in English & Regional Language should be displayed on Notice Board. [Sec - 108(1)].

Guidelines @ Factories Act

Notice of Accidents, Diseases Etc.,:-

Notice of Any Accident causing Disablement of more than **48 hours**, Dangerous Occurrences & any worker contacting Occupational Disease should be informed to Factories Inspector. [Sec - 88]. Notice of Dangerous Occurrences & Specified Diseases should be given. [Sec - 88A & 89].

Obligation Regarding Hazardous Processes:-

Information about hazardous substances / processes should be given. Workers and General Public in vicinity should be informed about Dangers & Health Hazards. Safety Measures & Emergency plan should be ready. Safety Committee should be appointed.

Penalties to the Employer:-

If there is Any Contravention of any of the Provisions of this Act or any Rules, **"Employer & Manager"** will be Punishable with Imprisonment upto 2 years or fine upto Rs:- 1,00,000 or both. (Section – 92). Please check the Penalties Chart for various contravention under the Act.

The Industrial Disputes Act - 1947

Objective of the Act:- The Main Objective of the Act to make Provision for the Investigation & Settlement of **"Industrial Disputes"** between Employer & Employee, and for certain other purposes. This Act extends to the whole of India, w.e.f. **01st April, 1947**.

Defination of the Following:

Industry :- Has attained wider Meaning than Defined except for Domestic Employment, covers from Barber shops to Big Steel companies. [Sec - 02 (I)].

Works Committee:- Joint Committee with equal number of Employers & Employees' Representatives for discussion of certain common problems. [Sec - 03]

Conciliation :- Is an attempt by a Third Party in helping to settle the disputes. [Sec - 04]

Adjudication:- Labour Court, Industrial or National Tribunal to Hear & Decide Dispute. [Sec 7,7A & 7B].

Power of Labour Court to give Appropriate Relief :- Labour Court / Industrial Tribunal can Modify the Punishment of Dismissal or Discharge of Workmen & give Appropriate Relief including Reinstatement. [Sec. -11A]

Right of a Workman during Pendency of Proceedings in High Court:- Employer has to Pay last drawn Wages to Reinstated workman when proceedings challenging the award of his Reinstatement are pending in the Higher Courts. [Sec -17B]

Guidelines @ Industrail Disputes Act

Persons Bound by Settlement:- When in the Course of Conciliation proceedings etc., all Persons Working or Joining subsequently. Otherwise than in Course of Settlement upon the parties to the Settlement. [Sec -18]

Period of Operation of Settlements & Awards:- A Settlement for a period as Agreed by the Parties, or Period of Six Months on signing of Settlement. An award for one year after its enforcement. [Sec -19]

Lay off & Payment of Compensation:- Failure, Refusal or Inability of an Employer to Provide work Due to:- Shortage of Coal, Power or Raw Material, Accumulation of Stocks, Breakdown of Machinery & Natural Calamity. [Sec.25-C].

Notice of Change:- In case of any change about the Conditions of Service the Employer has to give **21 days** prior Notice to the Employee, as provided in IV Schedule. [Sec.9A].

Prior Permission for Lay off :- When there are more than 100 workmen during proceeding 12 months. [Sec.25-M]

Guidelines @ Industrail Disputes Act

Prohibition of Strikes & Lock Outs:

- Without Giving to the Employer Notice of Strike, within Six weeks before Striking.
- Within Fourteen days of giving such notice.
- Before the Expiry of the Date of Strike specified in any such Notice as aforesaid.
- During the Pendency of any Conciliation Proceedings before a Conciliation Officer & Seven days after the conclusion of such proceedings.
- During the Pendency of Conciliation Proceedings before a Board & Seven days after the Conclusion of such Proceedings.
- During the Pendency of Proceedings before a Labour Court, Industrail or National Tribunal.
- During the Pendency of Arbitration Proceedings before an Arbitrator and Two Months after the Conclusion of such Proceedings, where a Notification has been issued under Sub-Section(3A) of section 10A.
- During any period in which a Settlement or Award is in Operation, in Respect of any of the Matters covered by the Settlement or Award. [Sec – 22 & 23]

Retrenchment of Workmen Compensation & Conditions:

- Workman must have worked for 240 days.
- Retrenchment Compensation @ 15 days' wages for every year.
- One Month's Notice or Wages in lieu thereof.
- Reasons for Retrenchment.
- Complying with Principle of **"Last come First go".**
- Sending **Form P** to Labour Authorities.

Employees PF & MP Act, 1952 ???

Obejectives & Mission Statement:- The Mission of EPFO, is to Extend the Reach and quality of publicly managed Old-age Income Security programs through consistent and ever-improving standards of compliance and benefit delivery in a manner that wins the approval and confidence of Indians. The EPF & MP Act, 1952 was enacted by Parliament and came into force w.e.f. **04th March, 1952**. Presently, the following three schemes are in operation under the Act:

- **Employees' Provident Fund Scheme, 1952.,**
- **Employees' Deposit Linked Insurance Scheme, 1976.**
- **Employees' Pension Scheme, 1995. (replacing the Family Pension Scheme, 1971).**

**The Employees' Provident Fund Organization, India, is one of the largest provident fund institutions in the world in terms of members and volume of financial transactions that it has been carrying on.

Applicability of the Act:- Under Section-1(3), Every Factories or Establishments Employing **20 (Twenty)** or More Persons from the Date of its Setup are covered under the Act. Cinema Theatres employing **05 (Five)** or more Persons are covered under the Act.

"Government of India" after giving two-months notice may apply the provisions of this Act to Establishments where less than 20 (Twenty) persons are employed. This Act applies to the whole India, (except Jammu & Kashmir). Any establishment employing even less than 20 persons can be covered voluntarily u/s 1(4) of the Act.

** The Current **Wages Ceiling Limit** for coverage under the Act is **₹: 15,000/-** (Basic + DA) p/m month w.e.f: **Sep' 2014,** (Earlier it was **₹ : 6,500/-** w. e. f.: June, 2001, & before that it was **₹ : 5000/-** p/m).

Guidelines @ EPF & MP Act

"Employee's Deposit Linked Insurance" is basically an **"Life Insurance"** for all covered employees under EPF & MP Act, 1952, **Since Aug 01, 1976**. Here deposit means Average Deposit in EPF A/c. When an employee dies while in service, his or her family will get some Compensation based on deposit in EPF Account. Since May 24, 2016, the Maximum benefit of life insurance set under EDLI is **₹: 6.0 Lacs** (**₹: 4.5+1.5 Lacs**). It is based on Employee's last 12 months average (Max **₹:** 15000/-) Salary Multiplied by 30 times. Along with that **₹:1.5 Lacs** is also payable as a bonus. Earlier it was **₹: 3.6 Lacs** since Sep 2014 and before that it was **₹: 1.3 Lacs**, since May 2010).

Claim Amount Calculation: Average Salary **₹:** 15000 * 30 times = **₹:** 4,50,000/- + **₹:** 1,50,000/- = **₹: 6,00,000/-** (Max Claim Amount).

PF Contribution Submission: PF Total Amount of **Monthly Contribution** of (Employee's & Employer's share) is to be deposited through **Online** Generated Combined Challan in respective Ac.: 01, 2, 10, 21 & 22 from EPFO website, **w.e.f. April 01, 2012.** Payment of total Contribution will only via Online Payment (Retail / Corporate Banking) with **56** Banks of India **w.e.f. May 01, 2015.** Online payment of PF contribution make the process so simple to pay the dues to the EPFO in few minutes. Web-link: https://www.onlinesbi.com/prelogin/epfoinputdisplay.htm

Benefits of EPF Scheme 1952:- Retirement, Medical Care, Housing, Family Obligations, Education of Children & Financing of Insurance Policy

Benefits of Pension Scheme 1995:- Monthly Member's Pension Scheme, Widow & Children Pension, Orphan Pension, Reduced Pension & Disablement Pension.

Penalties under the Act:

- Less then 2 months :- @ 17% p.a. on total due Contribution.
- 02 months & above, but less then upto 04 months:- @ 22% p.a.
- 04 months & above, but less then upto 06 months:- @ 27% p.a.
- 06 months & above :- @ 37 % p.a. on total due contribution.

Employee's & Employer's Contribution

PF Contribution Account-wise w.e.f "April 01, 2017"

Employee's Share
(to EPF Fund) AC: 01

Employer's Share
(to EPF & Pen. fund) Ac : 01 & 10

@ 12 % of Basic + DA
(Ac: 01)

@ 3.67% of Basic + DA
or (12% ₹ 1250) (Ac: 01)

@ 8.33% of Basic + DA
or Max ₹ 1250/- (Ac: 10)

EPF Total in Ac. 01: @ 15.67% or
(@ 12% + (12% - ₹ : 1250/-)

EPS Total in Ac. 10: @ 8.33% or
Max ₹ : 1250/-

Total Contribution to EPF & Pension Fund , Ac: 01 & 10 (@ 15.67 + 8.33) = 24 %

PF Administrative Charges in Ac: 02 (@ 0.65 % of Basic + DA)
(Minimum ₹ : 500/- functional & ₹ : 75/- for non functional Org.)

Contribution to EDLI, Ac: 21 @ 0.5 % of Basic & DA or Max upto on ₹ : 15000/-
(Minimum ₹ : 200/- functional & ₹ : 25/- for non functional Org.)

Total Monthly Contribution in { Ac 01, 10, 02, 21 & 22 }

W.e.f: April 01, 2017: (12%+12%+0.65%+0.50%+0.00%) = @ 25.15 %

For EDLI Exempted Org. (EDLI Inspection Charge @ 0.005% of Basic & DA or Max upto on ₹ : 15000/-)

Note: EPFO has Removed the EDLI Admin Charges @ 0.01% w.e.f "April 2017"

Various forms of EPF:

Forms & DSC for Employer

- **Establishment Registration:** On the EPFO website web-link is available for New Registration of the Establishment. {https://unifiedportal-emp.epfindia.gov.in/epfo/}
- **Digital Signature of Employer:** DSC is must for Employer to Approve all Required action via Online Process on EPFO Login.
- **Form - 5A** : Online Updation is Required for details of **"Directors / Proprietors"** of the Organization.
- **Form - 9 :** Details of all Covered Employees under the EPF & EPS should be maintain.
- **New Form No - 11 {Declaration Form}** Declaration Form to be filled by New Joinee with their UAN Details (if Any), which helps to find the PF Eligibility & & Mapping proper UAN of New Joinee.
- **Form - 2,** Nomination Form with details of Employees, Nominee & PF A/c No.
- **"Combined Online Generated Challan"** for Submission of PF Contributiuon. PF Dues payment via Online Banking. **No Need** to file Monthly & Annual Return to EPFO, as the process is Completely Online w.e.f March 2012.

Forms for Employee

- **Composite Claim Form: (AADHAR & NON - AADHAR)**: New PF Claim Form has been introduced by EPFO as Combined PF Claim {Form 19 (Pf Final Settlement) / 10c (Pension Withdrawal Benefits) / 31 (Pf Part Withdrawal). **Note:** If KYC Approved on EPFO Portal by Employer & UAN Activate, **"No Need for Employer's Signature"** on the PF Claim Form Note: Employer need to Attest the Non-Aadhar PF Claim Forms. {In case of KYC not Approved on the EPFO Portal, then Employer's Signature Required on Non-Aadhar Combined PF Claim Forms}. {http://www.epfindia.com/site_en/WhichClaimForm.php}
- **Old PF Claim Forms:** 19, 10C & 13 are Out of Order as Aadhar Based Combined Claim Forms introduced by EPFO from April 2017.
- **Form - 20** :- Application Form for Provident Fund (**In case of Employee's Death).**
- **Form - 10 D**:- Application Form for Pension to Nominee. **(In case of Employee's Death).**
- **Form - 5 (IF)** :- EDIL Claim Amount Form. (**In case of Employee's Death).**
- **Form - ASR** :- To Receive the Claim cheques again of Settle Account. (In case of first Cheque Rejected by Bank to EPFO)

Employees State Insurance Act - 1948

Mission Statement :- To Provide for Certain Benefits to Employees in case of Sickness, Maternity and Employment Injury & to make the Provisions for Related Matters.

Objective of the Act:- The ESI Scheme is an Integrated Measure of **"Social Insurance"** come to the **Life** through the "**Employees' State Insurance Act – 1948"**, and is Designed to complete the task of Protecting 'Employees' as defined in the ESI Act – 1948, against the Hazards of Sickness, Maternity, Disablement or Death due to Employment Injury & to provide full Medical Care to Insured Persons (IP) & their Families. The ESI Act is applicable across the length and breadth of the India.

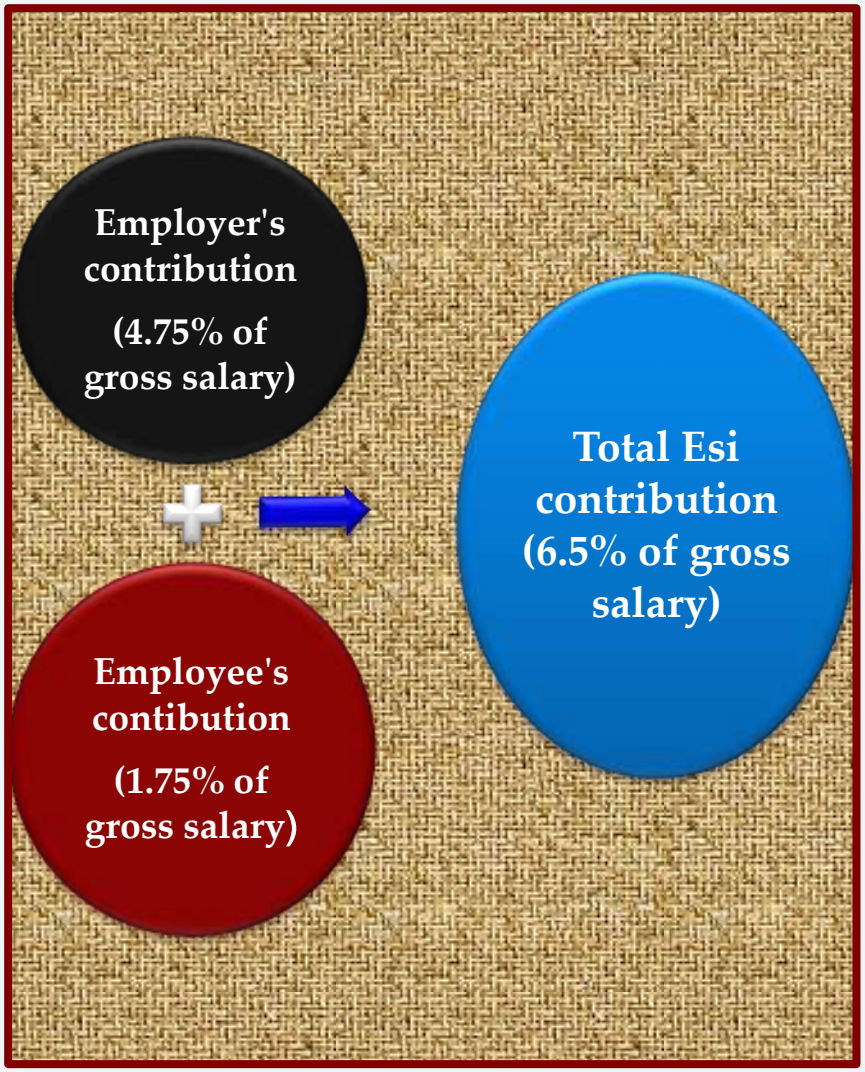
Applicability of the Act :

- Under Section - 2(12) of The Act, ESI is applicable to the all Factories employing **10 (Ten)** or More Persons irrespective of whether **Power** is used in process of Manufacturing or not.
- Under Section - 1(5) of The Act, the Scheme has been Extended to Shops, Hotels, Restaurants, Cinemas including Preview Theatre, Road Motor Transport undertakings & Newspaper Establishment employing **20 (Twenty)** or More persons.
- Further, Under Section - 1(5) of the Act, the Scheme has been Extended to Private Medical & Educational Institutions employing **20 (Twenty)** or More persons in certain States .
- The Existing **Wage-Limit** for Coverage under the Act, is **Rs. 15,000/-** per month. (Excluding Remuneration for Overtime) **w. e. f:- May 01, 2010.**

"At an Average the ESI Corporation makes **40 Lacs** Individual Payments each year Amounting to about **Rs. 300 crores** through its wide spread network of branch Offices in the implemented areas".

Guidelines @ ESI Act

ESI Contribution



Due Date, Contribution & Benefit Period

The Contribution's Amount **(Employee's & Employer's Share)** is to be Deposited at State Bank of India through **Online Generated Challan** from ESIC Website via **Employer's ID**, on or before **21st day** of following month.

"Employers" covered under the ESI Act, are required to Pay Contribution towards the scheme on a Monthly basis. There are Two Contribution Periods each of Six Months and Two Corresponding Benefit Periods also of Six Months duration linked with each other.

Contribution Period	Benefit Period
1st April to 30th Sep.	1st Jan to 30th June (of the following year)
1st Oct to 31st Mar.	1st July to 31st Dec.

IP & his family will receive the Medical & Others Benefits of ESI as per his Contribution during the Contribution Period with total contribution days required for Specific Benefits.

Guidelines @ ESI Act

Benefits of ESI :- Medical Benefit, Sickness Benefit, Maternity Benefit, Disablement Benefit, Dependents Benefit, Funeral Expenses & Others Benefits.

Obligation of the Employers :

- Deducate & Deposit the ESI Contribution with Own Share Monthly.
- Generated the TIC & Handover to Employee for Smart Card.
- Submit the **Accident Report** in Form – 16 within **24 hours** of the Accident.
- Grant Leave to Insured Employees on the basis of Sickness Certificates.

Records Maintenance :

- Maintain the Register of Employees in Form -6 (under Reg.:- 32).
- Maintain the Accident Book in Form - 11 (under Reg.:- 66).
- Maintain the Inspection Book (under Reg.:- 102A).
- Maintain the Form – 32 of Contribution Details of Employees.
- File all the copies of Return of Contribution, Challans, etc.
- File all the General Correspondence & Copies of Accident Reports.

Delay in Contribution Payment	Rate of Damages on Due Amount
i). Up to less than 2 months	05 %
ii). 2 months and above but less than 4 months	10%
iii). 4 months and above but less than 6 months	15%
iv). 6 months and above	25%

The Maternity Benefit Act - 1961

"An act to Regulate the Employment of Women in certain Establishment for certain period before and after Child-Birth & to provide for Maternity Benefit & Certain other benefits".

Objective of the Act:-

The Maternity Leave & Benefit Act is to Protect the Dignity of Motherhood by providing the Complete & Healthy Care to the Women & Her Child, when she is not able to perform her duty due to her health condition. In the morden world, as the participation of Women Employees is growing in Every Industry, so the need of the Maternity Leave & other Benefits are becoming increasingly common.

Applicability of the Act:- The Act extends to whole of India. In the first instance, to every establishment being a Factory, Mine or Plantation in which **10 or More** persons are or were employed on any day of the preceding (12) Twelve months. (including any such establishment belonging to Government & to every establishment wherein persons are employed for the exhibition of equestrian, acrobatic and other performances. except employees covered under the **"ESI Act 1948"**.

Right of Maternity Benefit:- Every Pregnant working women in any Establishment are Eligible for Maternity Benefit, provided they have Served in the Establishment for at least **80 days in (12) Twelve months** before the expected date of delivery. However, if a woman is earning less than Rs:- 15,000/- she may be offered ESI scheme by her employer & she will receive the Maternity Bebefit under ESI Scheme.

Guidelines @ Maternity Act

Notice to the Employer:- Ten (10) weeks before the date of her expected delivery, she may ask the Employer to give her light work for a Month. She should give written Notice to the Employer about **Seven (07)** weeks before the date of her delivery that she will be on Maternity Leave for Six weeks before & after her delivery.

Benefits under the Act:-

- Leave with Average Pay for **Twenty Six (26) Weeks,** up-to 02 Children's. In Case of more than 02 Children's ML Benefit will be **(12)** Weeks Only. Employee Can avail ML 08 weeks Before the Delivery or She can avail 26 weeks together immediate proceeding for delivery.
- Female employee shall be eligible for 12 of weeks of leave with wages in case she adopts a child who is below the age of **[03]** Three Months. {From the Date of Adoption}.
- A "Commissioning Mother" shall be eligible for leave with wages of 12 weeks immediately from the date the child is handed over to the commissioning mother. {Refer the Notification for Details}
- She can take the Pay for the first Eight (08) weeks before start of Maternity leave.
- In case of Miscarriage, Six (06) weeks leave with average pay w.e.f :- **Date of Miscarriage.**
- For **Tubectomy Operation** : Leave with wages @ of maternity benefit for a period of **2 weeks**.
- **No deduction** from Normal & Usual Daily wages of a woman entitled to maternity benefit.
- Light work for **Ten (10) weeks** before the date of her expected delivery, if she asks for it.
- Two Nursing breaks until the child will became **(15) fifteen months** old.
- No Discharge or Dismissal while she is on Maternity Leave. (Section 5)
- No charge to her Disadvantage in any conditions of her employment.

Guidelines @ Maternity Act

- Under this Act, **"No Employer"** can knowingly employ a woman in his establishment during the Six weeks following the day of her delivery or her miscarriage.
- **Dismissal during Absence of Pregnancy:-** When a woman absents herself from work in accordance with the provisions of this Act, it shall be **unlawful** for her Employer to **"Discharge or Dismiss"** her during or on account of such absence.
- **Forfeiture of Maternity Benefit:-** In case of Gross Misconduct the Employer in written can communicate about depriving such benefit. Within **60 days** from date of deprivation of maternity benefit, Women can appeal to the authority prescribed by law.
- **Abstract of Act & Rules:-** An Abstract of the Provisions of this Act & Rules made thereunder in the language or languages of the locality shall be exhibited in a conspicuous place by the Employer in Establishment in which women are employed.
- **Records Managment:-** Every employer shall prepare and maintain such registers, records and muster-rolls and in such manner as may be prescribed under the Maternity Act.

- **Penalty for Contravention of Act:-** If any Employer fails to pay any amount of maternity benefit to a woman entitled under this Act or discharges or dismisses such woman during or on account of her absence from work in accordance with the provisions of this Act, the employer shall be punishable with imprisonment which shall not be less than (03) three months but which may extend to (01) one year and with fine which shall not be less than **Rs:- 2000/-**, which may extend to **Rs:- 5000/-.**

Payment of Bonus Act – 1965

Objective of the Act:- An Act to Provide for the **"Payment of Bonus"** to Persons employed in certain Establishments on the basis of Profits or on the basis of Production or Productivity & for matters connected therewith.

History of Bonus:- "Bonus" is really a Reward for Good work or Share of Profit of the unit where the Employee is working. The practice of Paying Bonus in India appears to have Originated during **1st World War** when certain textile mills granted 10% of wages as War Bonus to their workers in **1917**. In certain cases of Industrial Disputes Demand for Payment of Bonus was also included. In 1950, the Full Bench of the Labour Appellate evolved a formula for determination of bonus.

Applicability of the Act: - The Act is applicable to any Factory employing **10 or More** persons where any processing is carried out with Aid of Power & also to Other Establishments (established for purpose of profit) employing **20 or More** persons. This Act extends to the whole of India, **w.e.f – 1965.**

Eligibility for Bonus:- Every Employees drawing wages upto **Rs:-10000/-**, shall be entitled for Bonus with minimum **30 (Thirty) Days** worked performed by Employee during the Accounting period. {Sec – 08}.

Guidelines @ Bonus Act

Disqualification for Bonus:- An Employee shall be Disqualified from Receiving the Bonus under this Act, if he is Dismissed from service for **"Fraud, Riotous or Violent Behaviour"** while on the Premises of the Establishment; or **Theft, Misappropriation or Sabotage** of any Property of the Establishment.

Payment Rate & Calculation of Bonus:

Payment Rate @ Bonus : Minimum 8.33% & Maximum upto 20% of the salary or Rs.100 (on completion of 5 years after 1st Accounting year even if there is No profit). {Sec. 10.}

For Calculation purposes Rs:- 3500/- per month maximum will be taken even if an Employee is drawing upto Rs:- 3500/- per month. (Sec. 12)

Time Limit for Payment of Bonus: Within 08 Months from the Close of Accounting year. Mostly Organization paid the Bonus before the **Diwali** (Sec. 19)

Computation of gross profits : For banking company, as per Schedule - I. Others, as per Second - II

Set-off and Set-on : As per Schedule IV. Sec. 15

Submission of Return : In Form D to the inspector within 30 days of the expiry of time limit under Section 19. Rule 5

Guidelines @ Bonus Act

Maintenance of Registers:

- Maintain a Register showing the computation of the allocable Surplus referred to in clause (4) of section 2, in **Form A**.
- Maintain a Register showing the Set-on & Set-off of the allocable Surplus, under section 15, in **Form B.**
- Maintain a Register showing the Details of the Amount of Bonus due to each of the Employees, the deductions under section 17 & 18 and the amount actually disbursed, in **Form C.** Sec.26, Rule 4

Rights of Employee:

- Right to Claim Bonus Payable under the Act & to make an Application to the Government, for the recovery of Bonus due & unpaid by Employer, within one year.
- Employee has the Right to refer any Dispute to the Labour Court / Tribunal.
- Right to Seek Clarification & Obtain information from accounts of the Establishment.

The Bonus Act is "**Not Applicable"** to certain Employees of LIC, General Insurance, Dock Yards, Red Cross, Universities & Educational Institutions, Chambers of Commerce, Social Welfare Institutions & Building Contractors, etc. {Sec.32}.

Penalty under the Act:- For Contravention of the provisions of the Act or Rules the Penalty is Imprisonment upto 6 months, or fine up to Rs:- 1000, or both.

For Failure to Comply with the directions or requisitions made the penalty is Imprisonment upto 6 months, or fine up to Rs:- 1000, or both.

Payment of Gratuity Act - 1972

Objective of the Act:- An act to Provide for a Scheme for the Payment of Gratuity to Employees engaged in "Factories, Mines, Oilfields, Plantations, Ports, Railway Companies, Shops or Other Establishments" and for matters connected therewith or incidental thereto, so far as it Relates to "Ports & Plantations" it does not apply to the State of Jammu and Kashmir. This Act Extends to the whole of India.

Applicability of the Act:- The Act shall apply to Every "Factory, Mine, Oilfield, Plantation, Port, Railway Companies, Every Shop or Establishment within the Meaning of any Law for the time being in force in Relation to Shops & Establishments in a State, in which **Ten (10) or More** persons are employed, or were employed, on any day of the preceding 01 year. The Act is applicable to **"All Employees"**, irrespective of the salary.

Meaning of Gratuity:- The **"Payment of Gratuity Act 1972"** is a Social Security enactment. It is derived from the word **"Gratuitous"** which means **'Gift' or 'Present'**. "The Gratuity" is a Lump Sum Payment to Employee when he / she Retires or Leaves the Service. It is Basically a "**Retirement Benefit"** to an Employee so, that he / she can Live Life Comfortably after Retirement. However, under the **"Gratuity Act"**, gratuity is payable even to an employee who Resigns after completing at least **"5 years"** of service. In case uninterrupted continuous service of '**04 years & 240 days**' also be consider for Gratuity Payment.

Guidelines @ Gratuity Act

Employees Eligible for Gratuity:- "Employee" means any Person (other than Apprentice) employed on wages in any Establishment, Factory, Mine, Oilfield, Plantation, Port, Railway Company or Shop, to do any Skilled, Semi-skilled or Unskilled, Manual, Supervisory, Technical or Clerical work, whether terms of such Employment are express or implied, and whether such Person is Employed in a Managerial or Administrative capacity.

Time of Gratuity Payment:- Gratuity is Payable to a Person on (a) Resignation (b) Termination on account of Death or Disablement due to Accident or Disease (c) Retirement (d) Death. Normally, Gratuity is payable only after an Employee completes Five Years of **Continuous service**. "In case of Death and Disablement, the condition of minimum 5 years' service is not applicable". [Section 4(1)].

Amount of Gratuity Payable:- Gratuity is Payable **@ 15 days** wages for Every year of Completed service. In the last year of service, if the employee has completed more than 6 months, it will be treated as full year for purpose of gratuity. "In case of seasonal Establishment, Gratuity is Payable **@ 7 days** wages for each season." [Section 4(2)].

"Wages" shall consist of Basic plus D.A, as per Last drawn salary. However, allowances like Bonus, Commission, HRA, Overtime etc. are not to be considered for calculations of Gratuity Payable Amount. [Section 2(s)].

Guidelines @ Gratuity Act

Maximum Gratuity:- The Maximum Gratuity Limit as per Section 4(3) has been raised from **"3.5 lakhs to 10 lakhs"**. This will give advantage to both Private & Public sector employees.

Compulsory Insurance for Gratuity Liability:- Every Employer has to Obtain an Insurance in the manner prescribed, for his Liability for payment towards the Gratuity under this Act, from the Life Insurance Corporation of India established under the LIC of India Act, 1956 (31 of 1956) or any Other prescribed Insurer of the Country.

Nomination under the Act:- Each Employee who has completed one year of service is required to make a nomination for the purposes of gratuity in case of his death. There can be more than one nominee in – **"Form F"**. Nominees may be changed at any time by the employee, by giving a written notice to the employer. **(Form H)**.

Payment @ Gratuity:- $\frac{\text{Last Drawn Basic Salary + DA}}{\text{26 Days}} * 15 * \text{Total Service Period}$

Forfeiture of Gratuity:- Gratuity can be forfeited {Sec 4(6)} where an employee has been terminated:

(A) For any act, willful omission or negligence causing any damage or loss to or destruction of any property belonging to the employer.

(B) For riotous or disorderly conduct or any act of violence on his part.

(C) For any act which constitutes an offence involving moral turpitude, provided the offence has been committed by him in the course of his employment.

Have a Nice Day....☺☺☺

Kindly give Ur Feedback n Suggestion on :- hope.mata10@gmail.com