

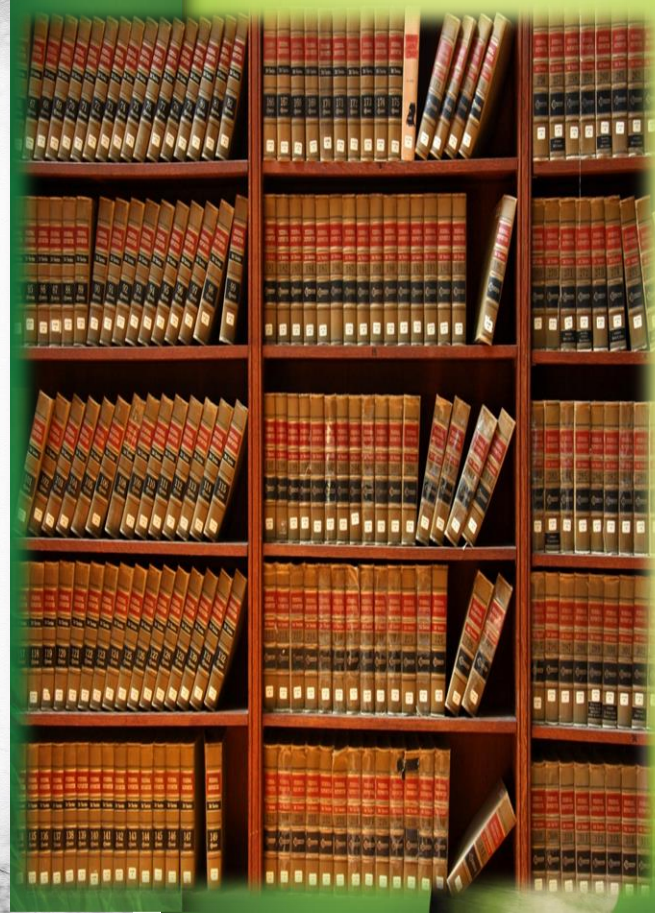
# Important Supreme Court Judgment on Labour Laws for the year 2019



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### **Currency Note Press & Another Vs, N.N. Sardesai & Others – C.A. No.5152/2017 Dt.20.07.2018.**

*Application claiming overtime is maintainable under Section 33 C (2) of the Industrial Disputes Act, 1947 if the overtime work is admitted by the management on the basis of records.*

### **Ajayapal Singh (D) by LRs. Vs. Associated Cement Companies Ltd., - C.A. No.6225/2018, Dt.12.07.2018**

*Termination of services of an employee only on account of his involvement in a criminal case would be bad if the employee is later on acquitted in criminal case since he would be entitled to reinstatement and back wages.*

### **M.L. Sinha Vs. Punjab National Bank and Another – CAJCA NO.1841/2010 DT.20.09.2018.**

*Charges of consuming liquor while on duty and misappropriation of Rs.35,000 are grave and serious misconduct in nature justifying the punishment of dismissal from service of the bank employee.*

### **Arun Kumar Jha Vs. Ranvir Singh & Another – C.A.No.10880/2018, Dt.1.11.2018.**

*An injured driver not able to work as a driver is entitled to compensation on the basis of 100% functional disability as per provisions of the Employees Compensation Act, 1923.*



**Tebha Bai (Smt.) & Others Vs. Raj Kumar Keshwani & Others – CAJCA No.6214/2018 (Arising out of SLP (c) No.23559 / 2017, Dt.9.7.2018.**

*When relationship of employer- employee stands proved, accident has not denied, vehicle was injured at the time of accident, granting a lumpsum compensation is just and proper.*

**North East Karnataka Road Transport Corporation Vs. Smt. Sujatha – C.A.No.7470/2009, Dt.02.11.2018.**

*As per the settled law, the interest is payable at the rate of 12% per annum from the date of accident and not from the date of decision of the case.*

**Manju Saxena Vs. Union of India & Another – C.A. Nos. 11766 – 11767 / 2018 arising out of SLPC ( C ) Nos. 30205 – 30206 / 2017 , Dt. 03.12.2018.**

*Refusal to accept alternate position by the employee – workman after his / her earlier post became redundant, on the same scale offered to him/her amounts to ‘abandonment’ of his / her job.*

**M.L.Singla Vs. Punjab National Bank and Another – C.A.No.1841/2010, Dt.20.09.2018.**

*Charges of consuming liquor while on duty and misappropriation of money of the Bank are of grave and serious in nature justifying the punishment of dismissal.*

**Sanjay Jain Vs. National Aviation Co of India Limited – C.A.No.7822/2011, Dt.01.11.2018**

*When an employee mentions the date of effective resignation coming in future within a period as per stipulated in his employment contract, effective acceptance of resignation without his wishes before that date coming in future, amounts to really to forcing a date of termination i.e., a forced resignation.*

**Employees’ State Insurance Corporation Vs. Venus Alloy Pvt. Ltd.,- C.A.No.1464 / 2019 (Arising out of SLP ( C ) No.12812 / 2015, Dt. 05.02.2019**

*The Director of a company receiving remuneration for performing duty of the company is an “Employee” and could carry such dual capacity of a director as well as an ‘employee’. Any remuneration paid to an employee or even to a Director of the company for discharging duty of the company, is “wages” if it is not proved contrary by leading cogent evidence. If employer fails to prove that such a payment is not wages that director would be covered under the provisions of the Act as an employee of the company under Section 2 (9) of the Act.*

**Leela Bai and Another Vs. Seema Chauhan and Another – C.A.No.931/2019 (arising out of SLP ( C ) No.5576 / 2017, Dt.22.01.2019.**

*Employer is not liable only to pay compensation under Section 4 but with default penalty under Section 4A and costs under Section 26 of the Employees Compensation Act, 1923.*

**Deputy Executive Engineer Vs. Kuberbai Kanjibhai - C.A.J. C.A. No.5810 / 2009, Dt.07.01.2019.**

*A daily wager is not entitled to regularization or to continue as daily wager even if termination of his services is illegal. Awarding reinstatement without back wages to illegally terminated daily wagers/temporary workers from service (s) who has raised industrial dispute after 15 years, is not justified.*

**The RPF Vs. Vivekananda Vidyamandhir and Others Vs. Surya Roshini Ltd., Vs. The Management of Saint- Gobain Glass India Ltd - C.A. No.6221 / 2011 dt.28.02.2019.**

*Special Allowance will form part of basic wages for EPF contributions since the employers cannot segregate from basic wages being paid universally to all employees hence it must include it for calculation of PF deductions from employees and the matching contribution by the employers.*

**Dilip Mani Dubey Vs. SIEL Limited & Another – C.A.J.C.A. No.7545 – 7546 / 2009 , Dt.12.03.2019.**

*Payment of last drawn wages not to be recovered even if workman loses in proceedings.*

**State of Uttarakhand & Another Vs. Raj Kumar – C.A. No.124 -125 / 2019 ( Arising out of SLP ( c) Nos. 10815 – 10816 / 2017, Dt. 10.01.2019.**

*Daily wager does not have any right for regular services in lieu of his illegal termination. Lumpsum Compensation in lieu of reinstatement with back wages is justified in view of his service tenure about one years and raising of dispute after 25 years.*

**Ajaypal Singh Vs. Associated Cement Companies Ltd., - C.A. J.C.A. No.6625 /2018 in SLP ( C ) No.20804 / 2018 Dt.12.07.2018.**

*Termination of Services of an employee only due to his involvement in a criminal case will not be appropriate since if he would be acquitted in criminal trial, he would be entitled to reinstatement with or without back wages.*

**Raj Narain Vs. Union of India & Anothers - C.A. No.3339 / 2019 (Arising out of SLP (Civil) No.100 / 2016 Dt. 01.04.2019.**

*No back wages on reinstatement on acquittal of an embezzler.*

**Bharat Heavy Electricals Ltd., Vs. Mahendra Prasad Jakhmola and others - Dt.20.02.2019 – C.A. NOs.1799 – 1800 of 2019 (Arising out of SLP (c ) No.33747 – 33748 of 2014)**

*Factors deciding existence or Non-existence of relationship of employer-employee between principal employer and employees engaged through contractor amongst others are 1. Who appoints the workers 2. Who pays the salary / Remuneration 3. Who has the authority to dismiss 4. Who can take disciplinary action 5. Continuity of service 6. Extent of control and supervision*

**Modern Transportation Consultation Services Pvt Ltd., Vs. Central Provident Fund Commissioner, EPFO & Others – C.A. No.7698 / 2009, Dt. 26.03.2019**

*Only after withdrawal of PF dues on retirement a member becomes an excluded employee. An Employee to be covered under the term “ Excluded Employee” must be who was a member of the Act and Scheme of 1952 and who had withdrawn full Provident Fund after age of 55 years and not otherwise covered under any other Act including GPF. There is no limit of upper age for coverage under the operation and effect of the EPF Act and Scheme of 1952*

**Hindustan Sanitaryware and Industries Ltd Vs. The State of Haryana – C.A No.2539 / 2010 and 4454 / 2019 Arising out of SLP (c ) No.5832 / 2018, Dt.29.04.2019**

*Minimum Wages can be segregated in Allowances. Automatic promotion of an unskilled to Semi –skilled worker is to be rejected. Trainees cannot be included in fixation of minimum wages*

**Regional Manager, Life Insurance Corporation of India Vs. Dinesh Singh – C.A.J. C.A. No.3197/ 2019 (arising out of S.L.P. ( c ) No.22909 / 2017, Dt.26.03.2019**

*Keeping in view length of service, nature of service, passage of long period of 19 years of litigation - Compensation in lieu of reinstatement is appropriate.*

**The Superintending Engineer TWAD Board & Another Vs. M.Natesan etc., - C.A.J.C.A. No.4875 – 4884 / 2019 (arising out of SLP (c) No. 21962 – 21971 / 2018, Dt.10.05.2019**

*Workman to prove to have worked for 240 days in 12 months, Adverse presumptions drawn if employer fails to produce attendance and salary registers to controvert 240 days working days by a workman.*

**The Director, Steel Authority of India Ltd., Vs. Ispat Khadan Janta Mazdoor Union – C.A.No. 8081- 8-82/2011, Dt.05.07.2019**

*If the contract between principal employer and contractor is proved to be ruse / camouflage or sham only to evade compliance of various beneficial legislations so as to deprive the workmen of statutory benefits then the so called labours will be treated as direct employee of principal employer. Engaging contract labour despite prohibition will amount to criminal offence. Absorption of contract labour only when the system is held to be sham or camouflage*

**Bundi Zila Petrol Pump Dealers Association, Bundi Vs. Sanjoyak Bundi Zila Petrol Pump Mazdoor Sangh (B.M.S.) – Civil Appeal No.2784 – 2785 of 2009, Dt.12.02.2019**

*An ex-parte award can be set aside on sufficient cause for absence.*

**Rajasthan State Roadways Corporation Vs. Paramjeet Singh – C.A.J.C.A. No.4593 / 2019 (arising out of SLP ( c ) No.10907 Dt.03.05.2019**

*Termination of services of a contractual employee appointed for a short fixed period without notice as per terms of contractual employment is not illegal*

**Secretary, Lucy Sequeira Trust and Another Vs. Kailash Ramesh Tandel and Others – C.A. No.3456/2019, Dt. 08.04.2019**

*Termination proper on the recommendations of inquiry held under POSH Act.*

**Senior Superintendent of Post Offices Vs. Gurusewak Singh & Others – CAJCA Nos.3150 and 3151/2019 (Arising out of SLP ( c ) No.7627 and 7628 / 2018 Dt.15.03.2019**

*No Gratuity is payable to Gramin Dak Sewaks / Extra Department Agent - are part time employee – They cannot be at par with Central Government employees – Not Entitled to Gratuity*

**The Office in-charge, Sub-Regional Provident Fund Office & Another Vs. Godavari Garments Limited – C.A.J.C.A. No.5821 / 2019 (Arising out of SLP (Civil) No.22243 / 2015, Dt.24.07.2019**

*Women doing stitching work at their own homes with their own machines and receiving wages on piece rate basis would be employees coverable under section 2 (f) of the EPF Act, irrespective of the fact that raw materials such as fabric, thread, buttons etc., were supplied by the Company since the garments were stitched as per specification provided by the company and the company had absolute right to reject the finished garments / goods in case of any defect*

*Direct Control or Supervision over the worker is of no weightage because it is nowhere mentioned in the definition of the employee under Section 2 (f) of the Act. Women workers merely do work off site, would not take away their status as Employee.*

**Air India Express Limited and Others Vs. Capt. Gurdarshan Kaur Sandhu – CAJCA No.6567/ 2019 (Arising out of SLP ( c ) No.28182 / 2018, Dt.23.08.2019**

*A resignation can be withdrawn till it becomes effective. Unrestrained choice of an employee to withdraw a resignation may yet be constrained if the employer had made arrangements acting on the resignation or letter to make another employee available for the job.*

**Assistant Provident Fund Commissioner, EPFO, Bareilly, Vs. Uttar Pradesh State Warehousing Corporation & Another, C.A. No.6295 / 2019 (Arising out of SLP ( c ) No.3458/2015, Dt.14.08.2019**

*Definition of Employee under Industrial Disputes Act, 1947 is not identical to the definition of employee defined under section 2 (f) of the EPF Act, 1952.*

**Karnataka Power Transmission Corporation Ltd., Vs Sri C. Nagaraju & Another – C.A. No.7279 / 2019 ( Arising out of SLP ( c ) No.25909 / 2013, Dt. 16.09.2019**

*Acquittal in Criminal Court does not preclude departmental inquiry against delinquent. Disciplinary Authority is not bound by a Criminal Court Judgement. Departmental Proceedings and Criminal trial can proceed simultaneously*

**Jessore Industries (India) Limited and Another Vs. Regional Provident Fund Commissioner & Others – CAJ C.A. No.3947 / 2017 , Dt. 29.05.2019**

*Merely because of the purchase of a new product, the establishment cannot be said to be a new one.*

**Dharamraj Nivrutti Kasture Vs. Chief Executive Officer and Others – C.A. No.5978 / 2019 SLP ( c ) No.11267 / 2016, Dt.31.07.2019**

*Termination of services of a workman without compliance of provisions of Section 25 – F of the ID Act, 1947 is illegal attracting reinstatement with continuity of services and back-wages. Considering lengthy litigation more than 3 decades awarding lumpsum compensation in lieu of reinstatement is appropriate relief.*

**State Bank of India & Others Vs. Atindra Nath Bhattacharya and Another – CAJCA No.5843 / 2019, (Arising out of SLP ( c ) No.16640 / 2017, Dt. 25.07.2019**

*Punishment of removal from service to the Chief Manager of the Bank, held guilty of the charges of financial irregularities which are grave and serious charges, cannot be said to be unjust. A delinquent employee is not entitled to delay the enquiry by extending availing of opportunities granted to him to submit his defence if any.*

**State of Gujarat & Another Vs. Munta Aalamkhan Nurbeg – CAJCA No.7974/ 2009, Dt. 2.5.2019**

*Ex-parte award justified on failing to participate in the proceedings. Appeal untenable when award is supported with reasons . Reinstatement with back wages is appropriate on illegal termination.*

**Shree Vishal Printers Ltd., Vs. Regional Provident Fund Commissioner, Jaipur and Another – C.A. No.4474 / 2010 with C.A. No. 4476, 4475/2010, Dt.12.09.2019**

*Exercising control and functional integrality in more than one establishment will justify their clubbing. Similar nature of work in 3 establishments with functional integrity would justify its clubbing. Two units of a proprietor can be clubbed for coverage. EPF authority is empowered to impose damages and interest for delayed payments of EPF dues.*



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