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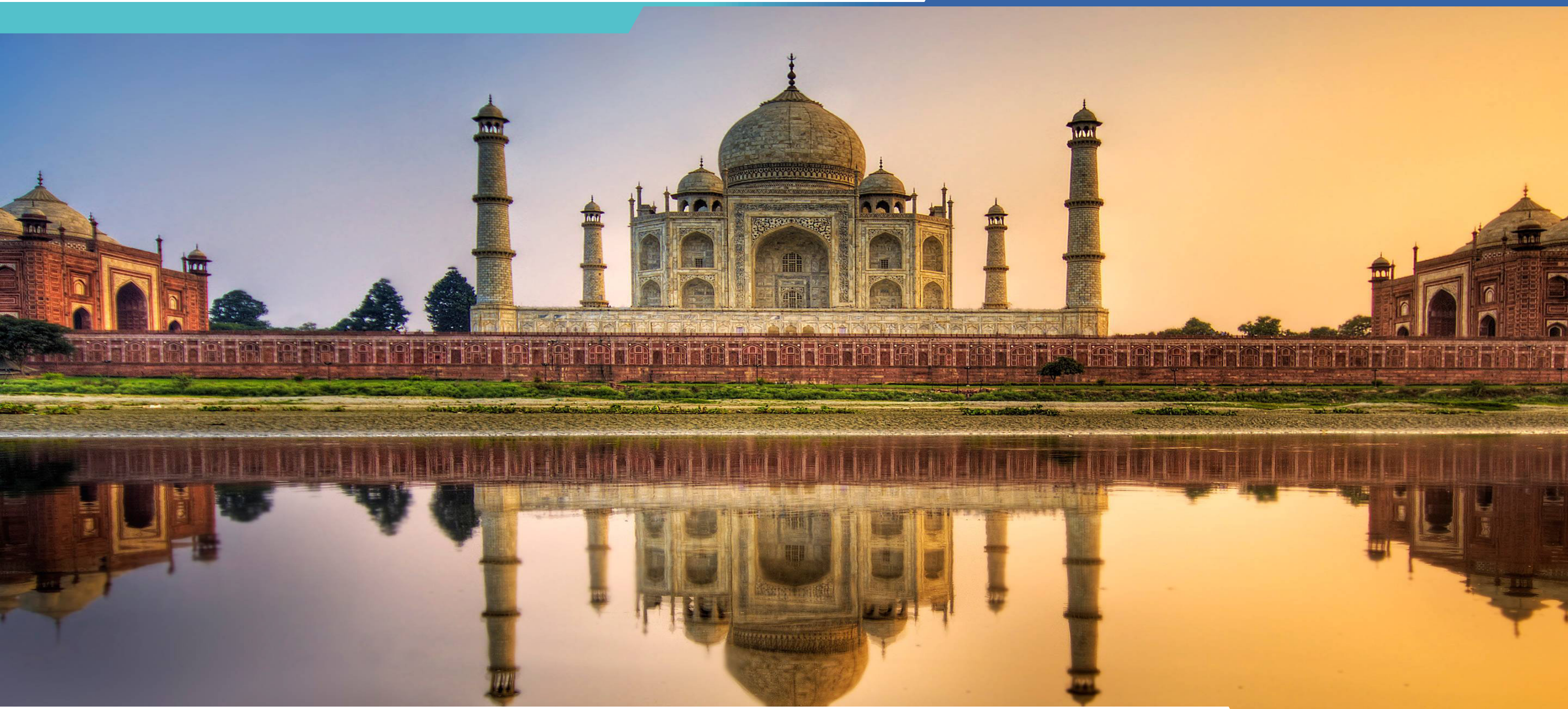

INDIA

An Overview of India's Employment and Labour Laws

Slated to be the most populated country in the world by 2022 with a total workforce of 460 million, India's labour law system is considered quite complex with a total of 44 federal labour acts and more than 200 ministerial- and state-level labour laws. Enforcement of labour laws by the state and local governments are important in regulating the market, protecting employment and ensuring social security of workers. Here's an overview to better understand the basic aspects of India's labour policies.

Salary and Working Hours

In India, there is no regulation which clearly defines the standard minimum salary. The Minimum Wages Act 1948 gives each local state government the authority to set the minimum wage. Minimum wages vary state-wise and are dependent on factors such as nature of employment, skill level, industry which the employee is working in, geographical location of employment and employee's age. As at 1 July 2017, the national minimum wage is INR 176 per day (US$2.76 per day), and this regulation must be complied by all states.

As per the Factories Act 1948, an employee can work a maximum of 9 hours daily. The working hours per week is 48-50 hours, although they may vary depending on the state. Indian law prohibits working of female employees beyond permissible hours after 8.00pm to 6.00am of the next day. Some states also have a maximum number of overtime hours that can be worked in a week.

Overtime wage is typically calculated using twice the rate of the regular wages. Currently, only a few states in India have overtime pay laws. Generally, when an employee works beyond normal working hours, he or she will be acquiescently considered as having agreed that the overtime pay does not need to be paid. Nonetheless, organisations should not be exempted from paying overtime wages when their workers are eligible for overtime. In prosecution of overtime wage violations, company owners and officers may be fined for failing to pay overtime.

The state laws generally provide a leave entitlement of 15 days in a year. Employees can take up to 10 days of sick leave and a possible 10 additional days of 'casual leave', where employees can choose not to come to work that day without applying for leave in advance. In addition, most state governments declare 10 days of public holidays, wherein 3 days are regarded as national holidays and 4 to 6 days are festive holidays set by the country and relevant state governments. Employees can select the remaining holidays from the list observed by each state, as the festive holidays vary from state to state.

When an employer terminates the contract, the company is required to pay the final salary to the employee within 2 working days from the date of termination. If the employee resigns and serves the required notice period, the final salary pay-out will be paid as part of the company's normal payment cycle.

Under special circumstances, for recovery of advances, loans or overpaid salary as well as damage or loss of goods which are entrusted to the employee, deductions are permitted from the employee's salary, but capped at up to 50% of his/her total payable salary.

Under the state and federal laws, employers must maintain proper records of payroll and payments made such as payroll register, register of fines and deductions. Furthermore, organisations must issue itemised pay slips to its employees. Annual declaration forms which contain payment related declarations must be filed and submitted to the regulatory authorities.

Contract Termination

The following procedural requirements must be met during contract termination:

1. The employee must be given one-month notice period and informed of the dismissal reasons, and the notification term has expired, or salary has been prepaid to the work man to replace the notice;

2. 15 days of pay is paid to the work man for every completed continuous year of service (or every part of a completed year of service which is amounted to over 6 months);

3. For industrial establishments, for example factories or farms with at least 100 work men during the preceding 12 months, work men who are laid off must be given three months' notice or three months' salary in lieu of notice as compensation. Prior approval by the appropriate government must be obtained before the dismissal.

Certain employee rights increase with continuous employment service. If employment is terminated after an employee has worked continuously for at least five years, the employer is required to pay the employee a gratuity at the rate of 15 days' pay, as mentioned in the above item (2).

Employee compensation can be exempted under the following circumstances:

1. Employee is negligent of his/her duty and has caused losses, damage or destruction to his/her employer's properties.

2. Employee's conduct is violent or has committed an immoral act when performing his/her duties.

Under the above circumstances, the compensation can be fully or partially exempted accordingly.

Employers are liable to pay employee compensation under the following circumstances:

1. Severance payment: Employee is compensated with 15 days of salary for each completed year of service or part of a year of service which is longer than 6 months. Employee is only entitled to receive the compensation if he/she has been employed in the company for at least one year.

2. Gratuity: According to the Payment of Gratuity Act 1972, an employee who has worked continuously for at least five years is entitled to receive gratuity upon dismissal.The gratuity is paid at the rate of 15 days of salary for each completed year or part of year of service, subject to a limit of INR 1 million.

3. Conversion of unused annual leave into cash

Usually, employers are required to give 30 days' notice for termination or make a payment in lieu of the notice period.