



# RAMA UNIVERSITY

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## **FACULTY OF COMMERCE & MANAGEMENT**

**COURSE: MBA 3<sup>rd</sup> SEMESTER**

**SUBJECT: LABOUR LEGISLATIONS**

**SUBJECT CODE: MBAHR01**

**LECTURE: 27**

**NAME OF FACULTY: DR. H. L. BHASKAR**

# Lecture-27



**Social Security Legislations: Payment of Wages Act, 1936; Minimum Wages Act, 1948; Payment of Bonus Act, 1965; The Workmen's Compensation Act, 1923; The Employee State Insurance Act, 1948; Employees' Provident Fund and Miscellaneous Provisions Act, 1952; Maternity Benefit Act, 1961**

## **THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952**

The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 provides for the institution of provident funds, pension fund and deposit-linked insurance fund for employees in factories and other establishments. It extends to the whole of India except the State of Jammu and Kashmir

The Constitution of India under "Directive Principles of State Policy" provides that the State shall within the limits of its economic capacity make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old-age, sickness & disablement and undeserved want.

The Employees' Provident Fund Organization (EPFO) is a statutory body of the Government of India under the Ministry of Labour and Employment. It administers a compulsory contributory Provident Fund Scheme, Pension Scheme and an Insurance Scheme. It 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.

*The Employees' Provident Fund and Miscellaneous Provisions Act 1952 applies to the whole India except Jammu & Kashmir.*

Employees' Provident Fund and Miscellaneous Provisions Act 1952 is applicable to:

- Every establishment which is engaged in any one or more of the industries specified in Schedule I of the Act or any activity notified by Central Government in the Official Gazette. ([List of Industries/Establishments](#))
- Employing 20 or more persons .
- Cinema Theatres employing 5 or more persons.

### **CHANGE OF WAGE LIMIT {Sec 2(f) OF EPF SCHEME 1952}**

<b>Period</b>	<b>Wage limit per month</b>
01.11.1952 to 31.05.1957	Rs. 300/-
01.06.1957 to 30.12.1962	Rs. 500/-
31.12.1962 to 10.12.1976	Rs. 1,000/-
11.12.1976 to 31.08.1985	Rs. 1,600/-
01.09.1985 to 31.10.1990	Rs. 2,500/-
01.11.1990 to 30.09.1994	Rs. 3,500/-
01.10.1994 to 31.05.2001	Rs. 5,000/-
01.06.2001 to 31.08.2014	Rs. 6,500/-
01.09.2014 onwards	Rs. 15,000/-

### **THE EMPLOYEES' PROVIDENT FUNDS AND MISCELLANEOUS PROVISIONS ACT, 1952**

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20. Power of Central Government to give directions

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23. Repeal of Ordinance VIII of 1951.

## SCHEDULE I

### Schedule II

### Schedule III

### Schedule IV

An Act to provide for the institution of provident funds, pension fund and deposit-linked insurance fund for employees in factories and other establishments.

Be it enacted by Parliament as follows:-

**1. Short title, extent and application.-** (1) This Act may be called the Employees' Provident Funds and Miscellaneous Provisions Act, 1952.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) Subject to the provisions contained in section 16, it applies -

(a) to every establishment which is a factory engaged in any industry specified in Schedule I and in which twenty or more persons are employed and

(b) to any other establishment employing twenty or more persons or class of such establishments



which the Central Government may, by notification in the Official Gazette, specify, in this behalf:

Provided that the Central Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment employing such number of persons less than twenty as may be specified in the notification.

(4) Notwithstanding anything contained in sub-section 3 of this section or sub-section 1 of section 16, where it appears to the Central Provident Fund Commissioner, whether on an application made to him in this behalf or otherwise, that the employer and the majority of employees in relation to any establishment have agreed that the provisions of this Act should be made applicable to the establishment, he may, by notification in the Official Gazette, apply the provisions of this Act to that establishment on and from the date of such agreement or from any subsequent date specified in such agreement.

(5) An establishment to which this Act applies shall continue to be governed by this Act notwithstanding that the number of persons employed therein at any time falls below twenty.

**2. Definitions.** - In this Act, unless the context otherwise requires, -

(a) "Appropriate Government" means -

(i) in relation to an establishment belonging to, or under the control of, the Central Government or in relation to, an establishment connected with a railway company, a major port, a mine or an oil-field or a controlled industry or in relation to an establishment having departments or branches in more than one State, the Central Government: and

(ii) in relation to any other establishment, the State Government:

(aa) "authorised officer" means the Central Provident Fund Commissioner, Additional Central Provident Fund Commissioner, Deputy Provident Fund Commissioner, Regional Provident Fund

Commissioner or such other officer as may be authorised by the Central Government, by notification in the Official Gazette;

(b) “basic wages” means all emoluments which are earned by an employee while on duty or on leave or on holidays with wages in either case in accordance with the terms of the contract of employment and which are paid or payable in cash to him, but does not include-

(i) the cash value of any food concession;

(ii) any dearness allowance that is to say, all cash payments by whatever name called paid to an employee on account of a rise in the cost of living, house-rent allowance, overtime allowance, bonus, commission or any other similar allowance payable to the employee in respect of his employment or of work done in such employment;

(iii) any presents made by the employer;

(c) “Contribution” means a contribution payable in respect of a member under a scheme or the contribution payable in respect of an employee to whom the Insurance Scheme applies;

(d) “controlled industry” means any industry the control of which by the Union has been declared by a Central Act to be expedient in the public interest;

(e) “employer” means-

(i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause f of subsection 1 of section 7 of the Factories Act, 1948 (63 of 1948), the person so named; and

(ii) in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing

agent;

(f) “employee” means any person who is employed for wages in any kind of work, manual or otherwise, in or in connection with the work of an establishment and who gets his wages directly or indirectly from the employer, and includes any person,-

(i) employed by or through a contractor in or in connection with the work of the establishment;

(ii) engaged as an apprentice, not being an apprentice engaged under the Apprentices Act, 1961 (52 of 1961) or under the standing orders of the establishment;

Merely Because Workers Were Permitted To Do Work Off Site, It Would Not Take Away Their Status As 'Employees': SC [\[Read Judgment\]](#)

The Supreme Court has observed that merely because workers were permitted to do the work off site, it would not take away their status as employees for the purpose of Employees' Provident Fund and Miscellaneous Provisions Act, 1952.

In this case [**The Officer In Charge, Sub Regional Provident Fund Office, vs. M/s Godavari Garments Limited**], the Company, engaged women workers who were provided with cut fabric, thread, buttons, etc. to be made into garments at their own homes. The sewing machines used by the women workers were owned by them, and not provided by the Company. The Provident Fund Officer held that the women workers engaged for stitching garments were covered by the definition of "employee" under Section 2(f) of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952. The High court set aside this order observing that the Company had no direct or indirect control over the women workers.

The issue before the bench comprising Justice Abhay Manohar Sapre and Justice Indu Malhotra was whether the women workers employed by the Company are covered by the definition of "employee" under Section 2(f) of the EPF Act or not. The bench noted that the definition of "employee" under Section 2(f) of the EPF Act is an inclusive definition, and is widely worded to include any person engaged either directly or indirectly in connection with the work of an

establishment. The court also reiterated that Employees' Provident Fund and Miscellaneous Provisions Act, 1952 is a beneficial social welfare legislation which was enacted by the Legislature for the benefit of the workmen. Merely because the women workers were permitted to do the work off site, would not take away their status as employees, the bench said. It further observed:

*"The mere fact that the women workers stitched the garments at home, would make no difference. It is the admitted position that the women workers were paid wages directly by the Respondent Company on a per piece basis for every garment stitched"*

(ff) "exempted employee" means an employee to whom a Scheme or the Insurance Scheme, as the case may be, would, but for the exemption granted under section 17, have applied;

(fff) "exempted establishment" means an establishment in respect of which an exemption has been granted under section 17 from the operation of all or any of the provisions of any Scheme or the Insurance Scheme, as the case may be, whether such exemption has been granted to the establishment as such or to any person or class of persons employed therein;

(g) "factory" means any premises, including the precincts thereof, in any part of which a manufacturing process is being carried on or is ordinarily so carried on, whether with the aid of power or without the aid of power;

(gg) \*\*\* (ggg) \*\*\*

(h) "Fund" means the Provident Fund established under a Scheme;

(i) "industry" means any industry specified in Schedule I, and includes any other industry added to the Schedule by notification under section 4;

(ia) "Insurance Fund" means the Deposit-linked Insurance Scheme framed under sub-section 2 of section 6C;

(ib) “Insurance Scheme” means the Employees’ Deposit-linked Insurance Scheme framed under sub-section 1 of section 6C;

(ic) “manufacture” or “manufacturing process” means any process for making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal;

(j) “member” means a member of the Fund;

(k) “occupier of a factory” means the person, who has ultimate control over the affairs of the factory, and, where the said affairs are entrusted to a managing agent, such agent shall be deemed to be the occupier of the factory;

(kA) “Pension Fund” means the Employees’ Pension Fund established under sub-section 2 of section 6A;

(kB) “Pension Scheme” means the Employees’ Pension Scheme framed under sub-section 1 of section 6A;

(ka) “prescribed” means prescribed by rules made under this Act;

(kb) “Recovery Officer” means any officer of the Central Government, State

Government or the Board of Trustees constituted under section 5A, who may be authorised by the Central Government, by notification in the Official Gazette, to exercise the powers of a Recovery Officer under this Act;

(l) “Scheme” means the Employees’ Provident Funds scheme framed under section 5;

(ll) “superannuation”, in relation to an employee, who is the member of the Pension Scheme,

means the attainment, by the said employee, of the age of fifty-eight years.

(m) "Tribunal" means the Employees' Provident Funds Appellate Tribunal constituted under section 7D.

**2A. Establishments to include all departments and branches.** - For the removal of doubts, it is hereby declared that where an establishment consists of different departments or has branches, whether situate in the same place or in different places, all such departments or branches shall be treated as parts of the same establishment.