

# seasons greetings



*~Merry Christmas~*

# 2012



*Best Wishes*  **karmä**  
Management Consultants Pvt. Ltd.

*~Happy & Prosperous New Year~*



## DECEMBER 2011

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### Study says Indian Companies to raise hiring

Despite a bleak global economic outlook, India Inc is upbeat on the economic growth prospects and majority of the companies surveyed plan to increase their headcount in next two years, says Regus, a global hiring firm. According to the Regus report, in spite of an apparent staff in the pace of growth, businesses reveal positive prospects for employment. Overall, 70 per cent of Indian firms surveyed plan to raise headcount in next two years against a global average of 64 per cent. "Indian firms are optimistic about economic growth in the second half of this fiscal and plan to recruit people because of its robust performance during the April-September 2011 with more than half of the Indian companies having reported a growth in revenue and profit in this period", it said. There are various types of private placement agencies operating in the country. On the basis of their regulation/coverage, these agencies can be broadly classified into four categories: (i) Manpower Export and Placement Agencies- covered under Immigration Act, 1983 ;(ii) Labour Contractors covered under Contract (Abolition & Regulation) Act, 1970 and the Inter-State Migrant Workmen(Regulation of Employment and Conditions of Service) Act, 1979; (iii) Private Security Agencies – governed by Private Security Agencies(Regulation)Act,2005; and (iv) Private Placement Agencies catering to specific needs of the employers/labour market or temporary workers and not covered under first three categories. The first three categories of private placement agencies have to obtain licence and register themselves with respective authorities as per the provisions of relevant Act/Rules. However, the fourth category of private placement agencies is not covered by any specific Act. Some States/UTs have issued guidelines to register them under their Shop & Establishment Act by the Labour

### Strikes, rate hikes to cost 2 lakh jobs

Labour unrests such as the one at Maruti Suzuki India's manesar plant and the RBI's high interest rate regime to tame inflation would result in a deficit of over two lakh jobs this year, says a study. The industry in India would fall short of two lakh jobs due to various reasons compared to what was projected, MD and CEO of HR consultant Ma Foi and Randstad, E Balaji said.

### Govt wants at least one women director on every company board

The Government has proposed a minimum of one women director on the board of companies. This will be part of the proposed Companies Bill. The Union Cabinet is likely to consider the new Bill shortly.

The Prime Minister's Office (PMO) had asked the Corporate Affairs Ministry to ensure the representation of women of company boards in the proposed Companies Bill, 2011. On Friday, the Ministry of Corporate Affairs discussed the proposed Bill internally.

### Urban women's income doubles in 10 years

Reinforcing the growing financial independence of women in India, a survey says the income level of urban Indian women has doubled in the average urban household income doubling, according to a study by market research firm IMRB.

The urban Indian woman who earned Rs. 4,492 per month in 2011 was taking home as much as Rs.9,457 according to 2010 figures. The rise in her income is directly reflected in the average monthly household income of urban India going up from Rs. 8,242 to Rs. 16,509 in 2010, says the IMRB survey.



## **Office Humor**



### EPF rate may be slashed to 8.25% single largest rate cut in a decade

About 6 crore employees could get lower returns on their retirement savings this year, with the government considering a 1.25 percentage point reduction in the Employees' Provident Fund (EPF) rate, the single largest rate cut in a decade.

An official with direct knowledge of the development said the board of the Employees' Provident Fund Organisation (EPFO), which manages the PF accounts of most employees, would meet on December 23 to consider a proposal to reduce the EPF rate from 9.5% for 2010-11 to 8.25% for 2011-12.

The official said this largesse had now come to bite the government as these reserves proved to be insufficient to support the 1 percentage point rate hike, forcing it to dip into this year's EPFO income to honour its commitment of a 9.5% rate for 2010-11. "This leaves us with little choice but to provide less returns this year," he said.

Over the last decade, all reserves have been emptied in pursuit of a politically palatable EPF rate, the official added.

The proposed rate cut could prove to be unpopular for an already besieged government as it comes amid rising prices and high interest rates. The government has from December 1 hiked interest rates on instruments like the Public Provident Fund (PPF) and National Savings Certificates to 8.6% and 8.7%, respectively, in a bid to shore up small savings. Risk-free bank fixed deposits are paying close to 9%.

Initially, the government had sought to manage expectations by announcing that last year's higher-than-normal rate was a 'one-off' phenomenon, but Labour minister Mallikarjun Kharge earlier this year promised that the Centre would try to raise the EPF rate for 2011-12 even beyond the 9.5% paid last year.

### INSIGHT CHRONICLES

While modifying the punishment of dismissal of a workman, the Labour Court must consider his past conduct.

In the absence of original, its zerox copy will not be admissible as provided by section 65 of the Indian Evidence Act

Amount paid towards incentive or production bonus will constitute wages for ESI purposes.

An employee can be proceeded ex-parte if he fails to participate in the enquiry

A worker will be entitled to payment for over time only when he works more than the prescribed hours of work

Burden of proof lies upon the employees and not the employer when they allege that their resignations were not voluntary but obtained under coercion and duress

Acquittal in criminal case not binding on Labour Court while adjudicating a dispute.

The Labour Court should interfere with the punishment only when it is shockingly disproportionate to misconduct

## CHRONICLES



### Office Humor



• IMPORTANT GLANCE ON CASE LAWS



**Contractual employees are not entitled to regularization and full relief through an interim order is illegal.**

**Reference: Mukhiya Karyapalak Adhikari, U.P. Khadi Tatha Gramodyog Board Karmit Anubhag, Lucknow Vs Santosh Kumar 2011 LLR 1235**

**A daily wager is also entitled to protection under I.D. Act.**

**Reference: State of Haryana and Others Vs Sanjay Kumar 2011 LLR 1240**

**Levy of damages by ESIC, without show cause notice to employer, is illegal.**

**Reference: PUNJAB AND HARYANA HIGH COURT 2011 LLR 1248**

**Delay beyond 120 days for filing appeal against Controlling Authority under Gratuity Act can't be condoned.**

**Reference: Bhavnagar Municipal Corporation Vs Sunderben Chhanabhai Baraiya Legal heirs of late Chhanabhai & 2 Ors. 2011 LLR 1250**

**No reinstatement for daily wager even if he has worked for one year. and Abandonment can be presumed when daily wager fails to respond repeated offer.**

**Reference: Municipal Corporation of Delhi Vs R.L. Chugh and Others 2011 LLR 1256**

**Resignation, when ambiguous, can't be acted upon. and Reinstatement justified when resignation not unconditional.**

**Reference: Gujarat Water Supply & Sewage Board and Anr. Vs Mahavirsinh Balapbha Gohil 2011 LLR 1259**

**Workman to refund 50% of the wages received on false affidavit and Unemployment affidavit is must for claiming the last drawn wages during pendency of proceedings in the higher Court.**

**Reference: Satya Prakash and Sons Vs Presiding Officer, Labour Court, Kanpur and Another 2011 LLR 1275**

# AMENDMENTS & NOTIFICATIONS

## REVISED MINIMUM RATES OF WAGES

Delhi w.e.f. 1.10.2011

F.12(142)/11/MW/Lab/3650

ORDER

Dated : 31.10.2011

- WHEREAS the Government of National Territory of Delhi, had last revised the minimum rates of wages in Scheduled Employments under the Minimum Wages Act, 1948 in the National Capital Territory of Delhi vide notifications No. 12(142)/11/MW/LAB/2023-47 dated 26.07.2011.
- AND WHEREAS, in the abovementioned notification it was stipulated that the Dearness Allowance will be payable on the basis of six monthly average index numbers of January to June and July to December, on 1<sup>st</sup> April and 1<sup>st</sup> October respectively.
- AND WHEREAS, now, the Government of National Capital Territory of Delhi after adjustment of the average Consumer Price index Number for the period from January 2011 to June 2011 which is 186.67 points, hereby declares the following Dearness Allowance which shall be payable for all categories w.e.f. 1.10.2011.
- The following rates are applicable in respect of unskilled, semi-skilled and skilled categories in all scheduled employments except employment in 'Shops and Establishments' and employment in 'Clubs'.

Category	Rates as on 1.4.2011	Dearness Allowances w.e.f. 1.10.2011	Rates from 1.10.2011 (Rupees)	
	(Rupees)		(Rupees)	Per Month
Un-skilled	6422.00	234.00	6656.00	256.00
Semi Skilled	7098.00	260.00	7358.00	283.00
Skilled	7826.00	286.00	8112.00	312.00

- The following rates are applicable in respect of unskilled, semi-skilled and skilled categories in (i) Employment in Shops and Establishment (ii) Employment in Clubs, which are as follow :

Category	Rates as on 1.4.2011	Dearness Allowances w.e.f. 1.10.2011	Rates from 1.10.2011 (Rupees)	
	(Rupees)		(Rupees)	Per Month
Un-Skilled	(i) 6422.00	234.00	(i) 6656.00	(i) 256.00
	(ii) 6297.00		(ii) 6531.00	(ii) 251.00
	(iii) 5628.00		(iii) 5862.00	(iii) 225.00
	(iv) 5521.00		(iv) 5755.00	(iv) 221.00
Semi Skilled	(i) 7098.00	260.00	(i) 7358.00	(i) 283.00
	(ii) 6973.00		(ii) 7233.00	(ii) 278.00
	(iii) 6304.00		(iii) 6564.00	(iii) 252.00
	(iv) 6197.00		(iv) 6457.00	(iv) 248.00
Skilled	(i) 7826.00	286.00	(i) 8112.00	(i) 312.00
	(ii) 7701.00		(ii) 7987.00	(ii) 307.00
	(iii) 7032.00		(iii) 7318.00	(iii) 281.00
	(iv) 6925.00		(iv) 7211.00	(iv) 277.00

- (i) Where neither meals nor lodging is provided (ii) Where only lodging is provided. (iii) Where only meals twice a day is provided (iv) Where both meals and lodging are provided.

6. The following rates are applicable in respect of Clerical and Non-Technical Supervisory Staff in all Scheduled employments:

category	Rates as on 1.4.2011	Dearness Allowances w.e.f. 1.10.2011	Rates from 1.10.2011 (Rupees)	
	(Rupees)	(Rupees)	Per Month	Per Day
Non-matriculantes	7098.00	260.00	7358.00	283.00
Matriculates but not gradutes	7826.00	286.00	8112.00	312.00
Graduates and above	8502.00	312.00	8814.00	339.00

NB: Cases of tampering with the order have come to out notice. Employer/Workers may confirm from Website of Labour Department – labour.delhigovt.nic.in

## State of Uttrakhand

w.e.f. 1-10-2011 to 31-03-2012

Unskilled	Semi Skilled	Skilled	Highly Skilled
Rs. 3837	Rs. 4067	Rs. 4297	Rs. 4682

## State of Punjab

w.e.f 1-9.2011

Unskilled	Semi Skilled	Skilled	Highly Skilled
Rs.4016	4002 (A) 4361 (B)	4458 (A) 4745 (B)	5001 (Lower) 5191 (Upper)

## The Employees' Pension (Amendment) Scheme, 2011

*Vide the Gazette of India, Extraordinary, Pt.II, Sec.3(ii), issue No. 1515, dated the 5<sup>th</sup> August, 2011, at p.1*

Dated: 5<sup>th</sup> August, 2011

S.O. 1809 (E).- In exercise of the powers conferred by section 5 read with sub-section (1) of section 7 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby makes the following Scheme, further to amend the Employees' Pension Scheme, 1995, namely :-

1. This Scheme may be called the Employees' Pension (Amendment) Scheme, 2011.

2. It shall come into force on the date of its publication in the Official Gazette.

3. In the Employees' Pension Scheme, 1995,-

- (i) in paragraph 20, after sub-paragraph (4), the following sub-paragraph shall be inserted, namely:-

(5) Every employer shall send to the commissioner, an electronic format of the returns referred to in sub-paragraphs (1) and (2), in such form and manner as may be specified by the Commissioner.”;

- (ii) in paragraph 39-A, after the words and figure “Commissioner in Form I”, the following words shall be inserted, namely :-

“and such return shall also be submitted in electronic format in such form and manner as may be specified by the Commissioner.”

# The Employees' Deposit Linked Insurance (Amendment) Scheme, 2011

Vide the Gazette of India, Extraordinary, Pt. II, Sec.3(ii), issue No. 1515, dated the 5<sup>th</sup> August, 2011, at p.2

Dated: 5<sup>th</sup> August, 2011

S.O. 1810 (E).- In exercise of the powers conferred by section 5 read with sub-section (1) of section 7 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby makes the following Scheme, further to amend the Employees' Deposit Linked Insurance Scheme, 1976, namely:-

1. This Scheme may be called the Employees' Deposit Linked Insurance (Second Amendment) Scheme, 2011.
2. It shall come into force on the date of its publication in the Official Gazette.
3. In the Employees' Deposit Linked Insurance Scheme, 1976,-

(i) in paragraph 10, after sub-paragraph (2), the following sub-paragraph shall be inserted, namely:-

“(3) Every employer shall send to the Commissioner, an electronic format of the returns referred to in sub-paragraphs

(1), (1A), and (1B), in such form and manner as may be specified by the Commissioner.”;

(ii) in paragraph 28, after sub-paragraph (7), the following sub-paragraph shall be inserted, namely:-

“(8) Every employer shall send to the commissioner, an electronic format of the returns to in clause (ii) of sub-paragraph (1) and clause (ii) of sub paragraph (4), in such form and manner as may be specified by the Commissioner.”



## Office humor





## COMPLIANCE Checkup

### Statutory Compliance January 2012

- ✓ *Submit half yearly Return under the Contract Labour Act 1970 before 30.01.2012(Form No. XXIV)*
- ✓ *Submit Quarterly Return under the Employment Exchange CNV Act, 1959 before 30.01.2012 (ER-1)*
- ✓ *Submit Bi Annual Return under the Employment Exchange CNV Act, 1959 before 31.01.2012 (ER-II)*
- ✓ *Submit Annual Return under the Maternity Benefit Act, 1961 before 15.01.2012(II/K,L,M)*
- ✓ *Submit Annual Return under the Factories Act,1948 before 31.01.2012*
- ✓ *Pay PF on or before 15.01.2012*
- ✓ *Pay ESIC on or before 21.01.2012*
- ✓ *Pay Professional Tax before 31.01.2012*
- ✓ *Pay Labour Welfare Fund on or before 15.01.2012*
- ✓ *Submit Form No.5 & 10 under PF Act before 15.01.2012*
- ✓ *Submit Form No.12 A under PF Act before 25.01.2012*

\* [Employers employing International Labour to submit the information to the EPFO]



### Office Humor



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# KARMA'S COMPLIANCE CALENDER - 2012

Month & Last Date	Name Of The Statutes	FORM	Nature of Return	A.P.	Delhi (U.T)	Gujarat	Haryana	Karnataka	Kerala	Maharashtra	Tamilnadu	W.B
<b>JANUARY</b>												
30	The Contract Labour Act 1970	XXIV	Half Yearly Return by Contractor	A	A	A	Form 20	A	A	NA	A	A
30	The Employment Exchange CNV Act	ER-I	Quarterly Return	A	A	A	A	A	A	A	A	A
31	The Employment Exchange CNV Act	ER-II	Bi Annual Return	A	A	A	A	A	A	A	A	A
15	The Maternity Benefit Act 1961	II / K,L,M	Annual Return	A	A	A	A	A	A	A	A	A
31	The Factories Act 1948	As Prescribed	Annual Return	AR	21 (15/1)	24	21 (15/1)	20	21	27	22	22
<b>FEBRUARY</b>												
1	The Minimum Wages Act 1948	III	Annual Return Under Cent. Rules	A	A	A	A	A	A	A	A	A
15	The Contract Labour Act 1970	XXV	Annual Return by Employer	A	A	A	Form 21	A	A	Form 21	A	A
15	The Payment of Wages Act 1936	IV	Annual Return	A	A	A	A	A	A	A	A	A
<b>APRIL</b>												
30	The Employment Exchange CNV Act	ER-I	Quarterly Return	A	A	A	A	A	A	A	A	A
30	The Apprenticeship Act 1961	APP-2	Half Yearly Return	A	A	A	A	A	A	A	A	A
30	The Employees PF & MP Act 1952	3A & 6A	Annual Individual Return	A	A	A	A	A	A	A	A	A
<b>MAY</b>												
11	The Employees State Insurance Act 1948	5	Return of Contribution	A	A	A	A	A	A	A	A	A
<b>JULY</b>												
30	The Contract Labour Act 1970	XXIV	Half Yearly Return by Contractor	A	A	A	Form 20	A	A	NA	A	A
31	The Employment Exchange CNV Act	ER-I	Quarterly Return	A	A	A	A	A	A	A	A	A
<b>OCTOBER</b>												
30	The Employment Exchange CNV Act	ER-I	Quarterly Return	A	A	A	A	A	A	A	A	A
31	The Apprenticeship Act 1961	APP-2	Half Yearly Return	A	A	A	A	A	A	A	A	A
<b>NOVEMBER</b>												
11	The Employees State Insurance Act 1948	5	Return of Contribution	A	A	A	A	A	A	A	A	A
<b>DECEMBER</b>												
29	The Payment of Bonus Act 1965	D	Annual Return	A	A	A	A	A	A	A	A	A
	The Professional Tax Act	As Prescribed	Quarterly / Half Yearly / Annual Return	NA	NA	June	NA	April	NA	June	NA	Quarterly
	The State Labour Welfare Fund Act	As Prescribed	Monthly / Half-Yearly / Annual Remittance of Contribution	31/1	15/1 & 15/7	15/1 & 15/7	15 of next month of resp qrt	15/1	15/1 & 15/7	15/1 & 15/7	7/1	15/1 & 15/7

\*A -Applicable \*NA - Not Applicable

