

India COVID-19 Employment Law Update - No More Compulsory Payment of Wages and Salaries

written by Vartika | May 17, 2020



Payment of Wages and Salaries Amidst COVID 19 Not Mandatory

The Government of India, through the National Disaster Management Authority ("NDMA"), has issued an order dated May 17, 2020, relating to certain relaxations with regard to the extension of the national lockdown till May 31, 2020.

The NDMA has, through this order, canceled all its previous orders, including the one dated March 29, 2020 ("Order").

The Order is produced verbatim herein below for your ready reference:

"All the employers, be it in the Industry or in the shops and commercial establishments, shall make payment of wages of their workers, at their workplaces, on the due date, without any deduction, for the period their establishments are under closure during the lockdown;"

The Order led to a lot of confusion leading to the definition and interpretation of the terms 'wages', 'workers', 'at their workplace', 'closure', etc. This led to a series of litigations before the Hon'ble Supreme Court of India as well as the High Court of various states. There were a number of FIRs registered by the police against employers for not complying with the Order.

The order dated May 17, 2020, is produced verbatim herein below for your ready reference:

"Whereas save as otherwise provided in the guidelines annexed to this Order, all Orders issued by the NEC under Section 10(2)(1) of the Disaster Management Act, 2005, shall cease to have effect from 18.05.2020"

It's important to note that through the current MHA order dated May 17, 2020, the government has called off all its previous orders, including the Order dated March 29, 2020, that made it mandatory for the employers to pay wages to employees, irrespective of whether the workplace was functional or not.

The order of May 17, 2020, does not mandate payment of wages to employees or workers. This means that employers are now back in the situation that existed before the lockdown and the imposition of the Disaster Management Act, especially with respect to the treatment of employees.

This will be treated as a normal situation (no lockdown restrictions) in the relationship between the employer and employee, irrespective of the continued lockdown.

The employers may now be able to deal with employees as per the existing employment agreements, Shops and Establishment Acts and Industrial Employment Standing orders, and other related laws and enactments with respect to

reduction of wages, loss of pay, reduction of Holidays, leave adjustment, layoffs, retrenchment or termination. Kindly note that this relaxation is only with respect to the employer and employee relationship. The employer will have to follow the MHA directions with respect to safe working conditions to start and continue operations.

Disclaimer: This update is only for information purposes and is not legal advice. You are requested to seek legal advice before you take any legal and/or business decisions.

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