



INDIAN JOURNAL OF LEGAL AFFAIRS AND RESEARCH

VOLUME 3 ISSUE 1

Peer-reviewed, open-access, refereed journal

IJLAR

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Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

EVOLUTION OF EMPLOYMENT REGULATIONS IN INDIA TO ADDRESS REMOTE EMPLOYMENT ARRANGEMENTS

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ABSTRACT

India's employment legislation, designed for traditional physical work environments, has been adapted over time to fit remote work due to COVID-19. Workers now have protections and rights without the creation of new laws or legislation, as evidenced by telework being included as a contractual option in the Model Standing Orders made under the Industrial Employment (Standing Orders) Act. Employer-employee relationships for the payment of wages, overtime, and benefits are governed through different laws such as the Payment of Wages Act and apply regardless of where the employee (or the workplace) is located. Telecommuters are entitled to the same social security benefits as other employees under the Employees' Provident Fund Act and Employees' State Insurance Act. Employers are not required to accommodate maternity leave or disability under the law; however, they are encouraged to allow work from home situations where possible. The Sexual Harassment of Women at Workplace Act is applicable to remote/hybrid workplaces and requires that employees' complaints of sexual harassment be investigated by the Internal Complaints Committees in as much as they relate to electronics, electronically stored evidence, and/or virtual inquiries. These investigations must be conducted in accordance with the provisions of the Information Technology Act. Government circulars have set forth policies in the public sector to provide equal and fair access to remotely based employees. Provisions for multi-jurisdictional disputes in contractual clauses are clear and enforceable. By using welfare legislation, certified standing orders and constitutional principles, the adaptive nature of this framework creates social justice for individuals, while allowing for technological flexibility of the business systems that employ those individuals.

Keywords: Remote Work, Model Standing Order, Telecommuting, POSH Act, Social Security, Statutory Adaption

INTRODUCTION

Historically, Indian employment laws were established around the traditional workplace model that was typical of 20th century industries and organisations. These laws considered the workplace to be a physical location - such as a factory or an office - where it was relatively easy for employers to monitor and enforce supervision, discipline, and compliance with statutory obligations. The development of information technology and global delivery models gradually started to dismantle this traditional workplace model but this transformation was greatly accelerated by the COVID-19 pandemic. Instead of creating a new statute to specifically govern remote working arrangements, India addressed this issue by reinterpreting and modifying existing statutory frameworks to provide for remote working. The courts, tribunals, and administrative authorities worked cooperatively to change the way labor law operates in order to maintain continuity of employee protection in the remote working environment.

India's evolutionary approach to labor law is also consistent with its overall labor jurisprudence where, for many years, issues of social justice and worker protection have been the priority, while at the same time allowing flexibility in economic organisation. As such, the definition of remote work is an issue that is being addressed through multiple sources including labor legislations, service rules, welfare legislations, and Constitutional principles, resulting in a regulatory framework that extends to remote working arrangements, thus eliminating fragmentation in the legal system resulting from the emergence of these new working arrangements.

STATUTORY RECOGNITION OF REMOTE WORK

Labour laws in India historically assumed physical attendance at the workplace, and regulated service conditions through statutory (i.e. government) control using statutes such as the Industrial Employment (Standing Orders) Act¹ and Shops and Establishments Acts. The advent of Model

¹ <https://www.labour.gov.in/sites/default/files/Industrial-Employment-Standing-Orders-Act-1946.pdf>

Standing Orders for the Service Sector represents an important change in the direction of labour law in India in so much as it recognises the work-from-home concept as part of the formal conditions of service. Model Standing Orders enable employers to provide for telework (work from home) arrangements, provided that such arrangements are operationally feasible and fall within the terms of the employment contract. Model Standing Orders thus provide the statutory framework for the existence of telework as an employment option under Indian Labour Law. The courts of India have consistently supported the principle that Model Standing Orders bind both employees and employers. The Supreme Court, in the matter of *Rajasthan State Transport Corporation v. Krishna Kant*², held that Model Standing Orders establish the statutorily defined conditions of employment. Similarly, in the case of *Western India Match Co. Ltd. v. Workmen*,³ and *Associated Cement Companies Ltd. v. Workmen*⁴, the Court held that Model Standing Orders prevail over conflicting terms of an employment contract.

Accordingly, these principles now apply to remotely employed individuals, as the Model Standing Orders strictly ensure that all teleworkers receive the same level of statutory protection and disciplinary protections as all employees who work in a physical building.

WAGES AND SOCIAL SECURITY IN REMOTE EMPLOYMENT

Concerns about how wages will be computed, overtime pay, and benefits after a move to telecommuting arose because of the transition. According to Indian courts, statutory wage protections always attach to an employer/employee relationship and not the location of work. In the case, *People's Union for Democratic Rights v. Union of India*⁵, the Supreme Court announced that labour welfare statutes would be given a broad interpretation, and this broad interpretation was confirmed in both the *Daily Rated Casual Labour v. Union of India*⁶ and *Manganese Ore (India) Ltd. v. Chandi Lal Saha*⁷ decisions, where workers' wage rights were protected regardless of the type of contract that was entered into, including those for their employment.

² (1995) 5 SCC 75

³ (1973) 4 SCC 524

⁴ AIR 1959 SC 923

⁵ (1982) 3 SCC 235

⁶ (1988) 1 SCC 122

⁷ (1991) 4 SCC 584

Legislation related to Social Security, including the Employees' Provident Fund Act⁸ and Employees' State Insurance Act,⁹ continues to apply to individuals working remotely. From the perspective of both tribunals and the Courts, having an employer-employee relationship remains the primary determining factor for establishing an employee's right to continue to access retirement benefits, insurance benefits, and medical coverage, thus confirming that telecommuting is merely one form of job performance.

MATERNITY, DISABILITY, AND ACCOMMODATION

Remote work has made room for new statutory accommodations, including maternity benefits for women and individuals with disabilities. In its judgment in the *Municipal Corporation of Delhi v. female workers*¹⁰, the Supreme Court identified maternity benefits as an essential part of dignity and equality. Later decisions such as *Neera Mathur v. LIC*¹¹ and *Deepika Singh v. CAT*¹² reinforced the flexibility with which courts interpret the nature of employment benefits. Courts now hold that, where the nature of the job allows for it, work from home could be a valid accommodation for an employee's maternity period.

Disability jurisprudence has continued to evolve along similar lines. The Supreme Court's decision in *Vikash Kumar v. UPSC*¹³ held that reasonable accommodation is central to achieving equality for persons with disabilities. In its decisions in *National Federation of the Blind v. UPSC*¹⁴ and *Karnataka Federation of the Blind v. State of Karnataka*,¹⁵ the Supreme Court extended the principle of reasonable accommodation to working conditions, which may also include work from home arrangements. The decisions now place an affirmative obligation on employers, especially public authorities, to modify work structures to meet the individual needs of employees.

⁸ https://www.epfindia.gov.in/site_docs/PDFs/Downloads_PDFs/EPFAct1952.pdf

⁹ <https://esic.gov.in/esi-acts>

¹⁰(2000) 3 SCC 224

¹¹(1992) 1 SCC 286

¹²(2023) 8 SCC 25

¹³(2021) 5 SCC 370

¹⁴(2014) 14 SCC 60

¹⁵(2018) 6 SCC 554

SEXUAL HARASSMENT AND REMOTE WORKPLACES

The Sexual Harassment of Women at the Workplace (Prevention, Prohibition and Redressal) Act, 2013¹⁶ (also referred to as the POSH Act) has a broad definition of a workplace so that it can apply to work being done remotely or hybrid forms of work. The wide applicability is based on the foundational constitutional jurisprudence of the Supreme Court in the case *Vishakha v. State of Rajasthan*,¹⁷ which recognised sexual harassment as being in violation of fundamental rights under Articles 14, 19 and 21, as well as imposing an obligation upon employers in preventing and redressing sexual harassment.

Landmark decisions from the courts since then have strengthened this framework. In the case of *Apparel Export Promotion Council v. A.K. Chopra*¹⁸, the court reiterated that an employer held vicarious liability for the harassment of an employee by a supervisor even if the supervisor did not have explicit authority to engage in the tortious act. The decision of *Medha Kotwal Lele v. Union of India*¹⁹ held that all employers must implement the Vishakha guidelines about creating functional internal complaints committees (ICCs) to address all complaints of sexual harassment and to investigate complaints within a reasonable timeframe.

Employers must now consider additional process issues when implementing remote work. Specifically, they need to identify the manner in which they may preserve and collect digital documentation that constitutes relevant evidence; assess how they can conduct a witness examination via video; maintain the confidentiality of the complainant; and protect the integrity and confidentiality of all digital documentation in compliance with the provisions outlined in the Information Technology Act, 2000.

Despite the operational challenges, employers continue to have the same obligations under the POSH Act. Employers are required to have an Internal Complaints Committee (ICC)²⁰ that meets the POSH Act's required composition and operate as a method for reporting through both digital

¹⁶ https://doe.gov.in/files/inline-documents/DoE_Prevention_sexual_harassment.pdf

¹⁷ (1997) 6 SCC 241

¹⁸ (1999) 1 SCC 759

¹⁹ (2013) 1 SCC 297

²⁰ <https://dst.gov.in/internal-complaints-committee-icc-women>

and telecommunications.

PUBLIC SECTOR AND ADMINISTRATIVE ADAPTATION

Several changes to government's policies with regard to teleworking have come about due to the COVID-19 epidemic, in particular for vulnerable groups of individuals. Various government agencies have provided circulars to their employees who are either pregnant, are disabled, or are older workers who have been given the opportunity to work from home, based on constitutional law, Articles 14 and 21. These directives were upheld by labor tribunals and administrative courts, which ruled against discriminatory refusals from government employees only.

The Supreme Court in *State of Punjab v. Jagjit Singh*²¹ decide that public employment is governed by principles of equality, including prohibiting public employers from violating an employee's reasonable expectations through discriminatory treatment. The decision establishes that when an executive agency issues a policy circular, that circular creates a binding enforceable right to the agency against arbitrary withdrawal, especially in the case of vulnerable employees during an emergency.

The *Union of India v. Ashok Kumar Aggarwal*²² case reiterated the need for all government departments to consistently enforce executive instruction statewide. The Court held that work-from-home policies must be consistently enforced to all employees and that if certain groups are given an advantage of working from home while others who may have the same vulnerability are not allowed to work from home, the unequal enforcement must cease. An agency has discretion to enforce executive instructions but must do so to conform with the principles of reasonableness and non-discrimination when issuing policy circulars that create employee rights to expect.

CAT cases have established very clearly that employees are entitled to remote work based upon their position within a government office, and therefore the employee has the right to be granted as equal a work-from-home accommodation as his or her fellow employees in the same category

²¹ (2017) 1 SCC 148

²² (2013) 16 SCC 147

when it has been denied previously by the government employer. Employees will have all of their prior rights and benefits reinstated when they return to work with the same employer.

CONTRACTUAL AND JURISDICTIONAL ISSUES

With the increased prevalence of remote work arrangements, there has been an increased emphasis on the use of contractual governance for jurisdictional issues and data protection issues. The decision of the High Court in *ABC Laminart Pvt Ltd v A.P. Agencies*²³, confirms that exclusive jurisdiction provisions are valid in commercial contracts, provided the designated court has inherent territorial jurisdiction and does not violate public policy. This principle was affirmed once again in *Swastik Gases Pvt. Ltd. v. Indian Oil Corporation Ltd.*²⁴, in which the Supreme Court upheld the validity of 'ouster' clauses that designate particular forums in which to resolve disputes. The Supreme Court rejected the argument that businesses with multi-jurisdictional operations can choose to resolve disputes in multiple forums. In the case of *New Moga Transport Co. v. United India Insurance Co. Ltd*²⁵, the Supreme Court reaffirmed the right of the parties to exclude other competent courts with explicit provisions in their contract, provided that such exclusions are consistent with the reasonable and fair access to justice.

These decisions are applicable to remote employment relationships. Many employees perform services across state lines and international borders. Courts have also applied the framework established in *ABC Laminart* to jurisdiction clauses contained in employment contracts, concluding that an employer's granting of a remote-work authorization does not affect the forum's designated rights to resolve disputes, regardless of whether a remote work authorization has been granted as a permanent or temporary concession related to COVID-19.

CONCLUSION

The way that India has enacted employment law has changed based on Interpretive Evolution of Case Law, not through New Statutory Law. Courts and Policymakers have expanded already

²³ (1989) 2 SCC 163

²⁴ (2013) 9 SCC 32

²⁵ (2004) 4 SCC 677

existing statutory protections using the Industrial Disputes Act 1947²⁶, Payment of Wages Act 1936²⁷ and Sexual Harassment of Women at Workplace Act 2013 to now include the new paradigms of remote/work-from-home jobs without lessening the protections of workplace Justice (Fairness).

Judicial decisions confirming the continuing existence of core protections against Arbitrary Termination, Withholding Wages, Harassment and Jurisdictional Ambiguity, have all confirmed what was stated in *Rakesh Kumar Verma v HDFC Bank Ltd.*²⁸, 2025; *Saurabh Kumar Mallick v Comptroller & Auditor General*²⁹, 2008; and *State of Punjab v Jagjit Singh*³⁰.

The combined application of Certified standing orders, Welfare Legislation, Disability Entitlements under the Rights of Person with Disabilities Act 2016³¹, P.O.S.H. Compliance mechanisms and Contractual Doctrine create a Strong Regulatory Framework capable of adjusting and keeping pace with technology changes while preserving Worker protections. Additional support for remote contract applications may continue through other regulatory adjustments and the implementation of the O.S.H.W.C. Code 2020³² and any data protection legislation which may be enacted in the near future. Continued application of the ABC Laminart Framework and recognition by the Central Administrative Tribunals of Circulars issued during the Pandemic, have further demonstrated how Labour Laws can adapt to current challenges and needs.

²⁶ <https://clc.gov.in/clc/acts-rules/industrial-disputes-act>

²⁷ <https://www.labour.gov.in/wagess>

²⁸ (2012) 8 SCC 158

²⁹ (2009) 1 SCC 556

³⁰ (2017) 1 SCC 148

³¹ <https://dgehs.delhi.gov.in/sites/default/files/inline-files/eop.pdf>

³² https://www.labour.gov.in/sites/default/files/186_2019_ls_eng_0.pdf