



REFORMING LABOUR LAW: PROVIDENT FUND CONTRIBUTIONS FOR INTERNATIONAL WORKERS AND ITS IMPACT ON THEIR WELFARE.

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ABSTRACT

The integration of international workers into India's Employees' Provident Fund Scheme, 1952 (EPF Scheme), and the Employees' Pension Scheme, 1995, as mandated by the Employee Provident Fund and Miscellaneous Provisions Act, 1952 (EPF Act), following the 2008 amendments, presented significant legal and policy challenges. These regulations required international workers to contribute to these schemes based on their full salaries, unlike domestic workers, whose contributions were capped. This disparity raised concerns regarding fairness, constitutional compliance, and broader implications for social security.

On April 25, 2024, the Karnataka High Court ruled these amendments unconstitutional under Article 14 of the Indian Constitution, which guarantees equality before the law. This ruling not only highlights the need for equitable treatment of all workers, regardless of nationality, but also has far-reaching consequences for India's evolving labor policies.

Beyond legal considerations, the judgment emphasizes the importance of a comprehensive and inclusive social security framework. The lack of parity in contribution requirements placed undue financial strain on international workers, potentially affecting their financial well-being and long-term economic security. Furthermore, such disparities and delayed payouts contribute to workplace stress, uncertainty, and mental health concerns, particularly for expatriates who already face cultural and occupational adjustments. By reinforcing principles of equality and fairness, the ruling sets a precedent for reforms that could enhance the social security system's inclusivity and address the psychological well-being of a globally diverse workforce.

As India strengthens its integration into the global economy, this case serves as a pivotal moment for labor law reform, ensuring that policies not only align with constitutional mandates but also promote holistic worker welfare. The decision could inspire similar legal challenges in other regions, further advancing social security protections and mental health considerations in labor legislation. Ultimately, this case marks a crucial step toward a more just and comprehensive approach to worker rights in India.

INTRODUCTION

Social security, including provident fund (PF) contributions, is a crucial component of overall well-being. It serves as a financial safety net, providing security during retirement, unemployment, or



other economic hardships. A well-structured social security system supports not only economic stability but also mental and emotional health by reducing financial stress and uncertainty. Ensuring that international workers have access to social security is essential in an increasingly globalized world, where expatriates face unique challenges that can impact their psychological well-being.

Pension and provident fund schemes are key elements of social security, designed to provide long-term financial stability. In India, the Employees' Provident Fund (EPF) and Employees' Pension Scheme (EPS) ensure that workers, both domestic and international, have savings and retirement benefits. Contributions to these schemes are typically made by both employees and employers, with the funds being managed to provide financial security post-retirement or in case of unforeseen circumstances such as disability or job loss. For international workers, access to these benefits can mitigate financial risks and contribute to overall mental well-being by reducing uncertainty about their future financial security.

The incorporation of international workers into national social security systems has become essential. Countries across the globe are working to ensure that expatriates receive adequate social security, aligning their policies with international labor mobility standards. India has recognized this necessity and, in 2008, revised its Employees' Provident Fund (EPF) Scheme and Employees' Pension Scheme to include provisions for international workers. These amendments aimed to extend social security benefits to foreign nationals employed in India, as well as to Indian workers in countries with which India has established Social Security Agreements (SSAs).

However, the implementation of these amendments has sparked considerable debate. Concerns have been raised regarding the financial implications for international workers and their employers, the unequal treatment compared to domestic workers, and the practical difficulties associated with these provisions. This article delves into the Karnataka High Court's 2024 ruling that addressed these contentious issues, examining its wider implications for India's social security framework.



BACKGROUND TO THE INCLUSION OF INTERNATIONAL WORKERS INTO THE EMPLOYEE PROVIDENT FUND AND MISCELLANEOUS PROVISIONS ACT 1952

The 2008 amendments marked a significant shift in India's social security policies, introducing Paragraph 83 to the EPF Scheme, 1952, and Paragraph 43A to the Employees' Pension Scheme, 1995. These changes were introduced to regulate contributions from international workers. The term "international worker" was defined to include two categories:

1. Indian employees working abroad: Individuals employed in or intending to work in a foreign country with which India has SSA.
2. Foreign nationals working in India: Employees hired by Indian establishments covered under the EPF and MP Act, 1952.

These workers were required to contribute 12% of their entire salary (including basic wages, dearness allowance, and other allowances) to the provident fund. Employers were mandated to match these contributions. Unlike domestic workers, whose contributions were capped based on a salary ceiling of ₹15,000 per month, international workers faced no such cap, effectively resulting in higher contributions.

Moreover, the amendments imposed stringent restrictions on withdrawals of accumulated provident fund balances for international workers. Unlike domestic workers, who could withdraw their contributions under specific conditions like retirement, resignation, or migration, international workers often faced limited access to their funds, especially if they did not meet the eligibility criteria under Indian laws or the terms of SSAs. For example; if a foreign employee was from a non-SSA country, they could withdraw their PF contribution only on attending the age of 58 years.

The amendments, while well-intentioned, created a dual set of rules, leading to criticism for being inequitable. Many argued that the lack of a salary ceiling for international workers violated principles of proportionality and fairness, while others highlighted the lack of adequate benefits for short-term expatriates, who might never fully realize the advantages of their contributions.



These issues ultimately culminated in legal challenges, culminating in the Karnataka High Court's intervention.

HISTORICAL CONTEXT OF SOCIAL SECURITY AGREEMENTS (SSAS)

Social Security Agreements (SSAs) are bilateral treaties established to protect the rights and interests of workers employed in foreign countries. By October 2008, India had entered into SSAs with several nations, including Belgium, Germany, Switzerland, and South Korea. These agreements aim to address the challenges faced by workers who move across borders for employment, ensuring they do not suffer disadvantages regarding social security benefits.

A key feature of these agreements is the concept of detachment, which allows workers to avoid making social security contributions in the host country if they are already contributing to their home country's system. This provision is especially advantageous for Indian workers on short-term assignments abroad, as it reduces the financial burden associated with dual contributions. For example, an Indian employee working in Germany can continue their contributions to the Employees' Provident Fund (EPF) in India without needing to contribute to Germany's social security system.

Another important aspect of SSAs is exportability, which enables the transfer of social security benefits back to a worker's home country upon retirement or relocation. This means that if an Indian worker has contributed to a foreign social security system while employed abroad, they can transfer those accumulated benefits upon returning to India or moving to another nation. This provision ensures that workers retain their entitlements despite geographical mobility.

The principle of totalization is also central to these agreements. It allows for the aggregation of service periods across different countries, enabling workers to qualify for pension benefits that might otherwise be inaccessible if their contributions were considered separately. For instance, an Indian worker who has spent time working in both India and Switzerland can combine their contribution periods from both nations when applying for retirement benefits.



Despite these advantages, many foreign workers in India and Indian workers in non-SSA countries remain outside the protective scope of these agreements. This situation leads to unequal treatment and highlights significant gaps in coverage that can leave numerous individuals without adequate social security protections. For instance, Indian professionals working in countries lacking SSAs may face requirements to contribute to both Indian and local social security systems, resulting in financial strain and confusion regarding their rights.

Since India signed its first SSA with Belgium in 2006, which became operational in 2009, the landscape of SSAs has evolved significantly. Currently, India has entered into SSAs with a total of 19 countries. However, many foreign workers still encounter challenges due to the limited reach of these agreements. The Indian government is actively negotiating new SSAs with additional countries such as China, Brazil, and South Africa, aiming to broaden the network of protections available for its workforce abroad.

In conclusion, while Social Security Agreements provide crucial benefits such as exemption from dual contributions, portability of benefits, and totalization of service periods, there remains a pressing need for broader coverage. Many workers continue to navigate complex social security landscapes without sufficient protection. Addressing these gaps through further negotiations and expanding the scope of SSAs will be essential for ensuring equitable treatment for all individuals engaged in cross-border employment.

ANALYSIS OF THE 2024 KARNATAKA HIGH COURT JUDGMENT

On April 25, 2024, the Karnataka High Court issued a landmark ruling in the case of *Stone Hill Education Foundation v. Union of India and Others*, which addressed contentious provisions related to international workers under the Employees' Provident Funds Scheme, 1952 and the Employees' Pension Scheme, 1995. The case examined the constitutionality of Paragraph 83 of the EPF Scheme and Paragraph 43A of the EPS, which mandated that international workers contribute based on their entire salaries with no salary ceiling. This analysis delves into the background, legal reasoning, implications for stakeholders, and potential effects of this judgment on India's labor law framework.



The provisions in question were introduced via a notification from the Central Government on October 1, 2008. These amendments defined an international worker under the EPF Act as:

1. An Indian employee working in or planning to work in a foreign country with which India has signed a Social Security Agreement (SSA).
2. A foreign national employed by an Indian establishment covered under the EPF Act, excluding those exempted by bilateral agreements.

This definition brought both Indian expatriates abroad and foreign nationals working in India under mandatory contributions to the EPF and EPS. The rules required international workers to contribute to the EPF based on their total wages, including basic pay, dearness allowance, and all other allowances, without any upper limit. In contrast, domestic workers earning above ₹15,000 per month were exempt from such contributions due to this salary cap.

The petitioners contended that this disparity constituted discriminatory treatment and violated the principle of equality enshrined in Article 14 of the Indian Constitution. They argued that many international workers employed temporarily in India faced disproportionate financial burdens due to the absence of a salary cap. This was particularly concerning for expatriates whose higher earnings resulted in significantly larger contributions while receiving little benefit from the social security intended by these schemes.

The case raised critical constitutional and statutory issues. Article 14 guarantees equality before the law and prohibits arbitrary discrimination. The petitioners asserted that requiring international workers to contribute on their entire salary while capping contributions for domestic workers was discriminatory and unjustifiable. They also argued that the EPF Act primarily aimed to provide social security for lower-income employees, a purpose undermined by extending its provisions to high-salaried international workers without a salary ceiling.

Another significant argument focused on the arbitrary nature of these provisions. The petitioners emphasized that many international workers were expatriates employed in India for short durations, making it impractical for them to derive meaningful benefits from the EPF and EPS.



The mandatory contributions imposed financial obligations that were disproportionate to available benefits, creating inequities and rendering these provisions arbitrary. Furthermore, they invoked the ultra vires doctrine, claiming that subordinate legislation introducing these provisions exceeded its parent statute's scope since the EPF Act explicitly capped contributions for Indian employees. The Karnataka High Court's judgment hinged on several key considerations. The court reaffirmed the constitutional principle of equality, emphasizing that all employees working in India—whether domestic or international—are entitled to equal treatment under Indian law. It ruled that the differential treatment of international workers violated Article 14 by creating arbitrary distinctions lacking reasonable justification concerning the objectives of the EPF Act. The court noted that since the EPF Act primarily aimed at protecting lower-income employees through social security provisions, extending its applicability to high-salaried international workers without a salary ceiling contradicted this objective.

In its reasoning, the court also addressed how Paragraphs 83 and 43A were incompatible with the objectives of the EPF Act. It observed that these provisions failed to establish a logical connection between their means (mandatory uncapped contributions for international workers) and ends (social security for employees). This misalignment with the Act's purpose rendered these provisions arbitrary and unconstitutional.

The judgment carries significant implications for various stakeholders. For international workers, it provides immediate relief by exempting them from contributing based on their total salaries. However, this raises concerns regarding their long-term financial security and retirement benefits while working in India. Employers hiring expatriates must reassess compliance strategies, including adjusting payroll systems and revising compensation packages. This ruling may influence hiring practices as companies may now have more flexibility in structuring benefits for international employees.

Additionally, this decision establishes a crucial legal precedent for labor rights in India concerning foreign worker treatment. It underscores fairness and proportionality's importance in labor laws and may inspire further legal challenges against provisions viewed as discriminatory or



unconstitutional. In a broader context, this judgment could catalyze reevaluation of how India's social security framework applies to an increasingly mobile global workforce.

Looking ahead, there is potential for appeal in higher courts, including the Supreme Court of India. Legal experts suggest that this case could spark broader discussions about how international workers are treated under Indian labor laws. Legislative efforts may also emerge to amend the EPF Act and related provisions to provide clearer guidelines for expatriate social security contributions equitably. Ultimately, this judgment represents a significant step toward ensuring that India's labor laws uphold constitutional principles while addressing global workforce realities effectively.

IMPACT OF THE JUDGMENT ON MENTAL HEALTH

The recent Karnataka High Court judgment regarding international workers, addressing aspects such as provident fund contributions, taxation, or employment rights—has significant implications not only for their financial and legal standing but also for their mental health. Legal and policy changes often induce stress and anxiety, especially for expatriates who are already navigating cultural, professional, and bureaucratic challenges in a foreign country. The psychological impact of such judgments can be profound, affecting financial stability, job security, emotional well-being, and social integration. Below is a detailed exploration of how the ruling may affect the mental health of international workers.

1. Financial Stress and Job Security

Financial concerns are among the leading causes of mental distress. If the Karnataka High Court judgment results in increased financial burdens—such as mandatory higher provident fund (PF) contributions, increased tax liabilities, or reduced take-home salary—international workers may experience heightened anxiety. The uncertainty regarding their disposable income and savings could lead to stress, especially for those supporting families back home or managing loans and financial commitments.



Additionally, if employers re-evaluate their hiring strategies due to increased costs associated with international workers, it could create concerns about job security. The fear of losing employment or facing difficulties in securing new jobs due to regulatory changes can trigger chronic stress, depression, and feelings of helplessness. Job insecurity is linked to various mental health issues, including sleep disturbances, mood disorders, and cognitive impairment, all of which could severely impact professional performance and personal well-being.

2. Legal and Bureaucratic Anxiety

For international workers, dealing with complex legal and bureaucratic systems in a foreign country is already challenging. The judgment could introduce additional legal complexities, requiring expatriates to navigate new compliance measures, file additional paperwork, or seek legal consultation to understand their rights and obligations.

This added administrative burden can be overwhelming, especially for those unfamiliar with the local legal system. The fear of non-compliance, potential penalties, or unintentional legal violations can result in persistent anxiety and mental fatigue. When individuals constantly worry about regulatory hurdles, it can impact their ability to focus on work and personal life, increasing the risk of burnout and emotional distress.

3. Work-Life Balance and Emotional Well-being

Changes in legal and financial regulations often demand additional time and effort to understand and implement. If the judgment requires international workers to engage in frequent discussions with employers, legal experts, or government officials, it could intrude on their work-life balance. The stress of managing professional responsibilities while simultaneously handling legal and financial uncertainties can lead to emotional exhaustion.

The disruption in work-life balance can further contribute to mental health challenges such as anxiety, irritability, and decreased job satisfaction. Workers who spend excessive time dealing with



bureaucratic processes may find themselves with little energy for personal relationships, hobbies, or self-care, leading to feelings of isolation and reduced overall well-being.

4. Impact on Expatriate Communities

For international workers, a sense of stability is crucial for successful professional and personal integration into a foreign country. A sudden legal or financial change may create uncertainty and distress within expatriate communities.

If the ruling disproportionately affects specific nationalities or categories of workers, it may lead to feelings of discrimination or exclusion. This can intensify stress and anxiety, as workers may feel powerless in a system that appears to disadvantage them. Social support plays a crucial role in mitigating stress, but if expatriates perceive an increased sense of instability or lack of support from employers and policymakers, their mental well-being may deteriorate further.

Additionally, for workers who are far from home and depend on stable employment to maintain their residency status, such changes can lead to heightened fears of deportation, loss of livelihood, and forced displacement. These uncertainties can cause severe emotional distress, including depression and feelings of hopelessness.

CONCLUSION

The recent judgment by the Karnataka High Court regarding the treatment of international workers under India's provident fund and pension schemes represents a pivotal moment in the evolution of labor laws and social security frameworks in India. The Court deemed the provisions mandating unlimited contributions from international workers unconstitutional, reinforcing the principles of equality, non-discrimination, and fairness enshrined in the Indian Constitution. This landmark ruling addresses significant issues of inequality that have persisted since the introduction of these provisions in 2008. By striking down Paragraph 83 of the Employees' Provident Funds Scheme, 1952, and Paragraph 43A of the Employees' Pension Scheme, 1995, the Court highlighted the arbitrary nature of treating international workers differently from their domestic counterparts. While domestic employees are subject to a statutory wage ceiling of INR 15,000 per month for



contributions, international workers were required to contribute based on their entire salary without such a limit. This disparity was found to violate Article 14 of the Constitution, which guarantees equality before the law.

The ruling is particularly significant as India positions itself as a global employment hub amid rising foreign direct investment and an increasingly interconnected economy. As the country attracts a diverse range of international talent—from highly skilled professionals to experts in niche fields—the need for equitable labor policies that balance the rights and obligations of all employees becomes paramount. The Court's decision underscores the necessity for labor laws that not only align with constitutional values but also adapt to the realities of a globalized workforce. Furthermore, this judgment is expected to have far-reaching implications for both policy and practice. Employers engaging international workers will need to reassess their compliance strategies, particularly concerning payroll systems and contribution practices, to align with this new legal framework. The ruling also opens avenues for international workers who have previously contributed under the now-invalid provisions to claim refunds for excess amounts paid. In essence, this judgment not only upholds the ideals of justice and fairness but also enhances India's reputation as a pro-worker jurisdiction on the global stage. It signals a commitment to ensuring that all employees—regardless of nationality—are treated equitably under Indian law. As India continues to evolve its labor laws in response to changing economic dynamics, this ruling serves as a critical step towards fostering an inclusive environment for both domestic and international workers alike.

Legal and policy changes made in 2008 seemed to have been made with not much application of mind causing unnecessary and unwanted stress and anxiety having both financial and administrative implications. It deeply affected the mental health of international workers and resulted in demeaning the value of India as being an employee friendly country for expatriates. The stress associated with financial instability, job insecurity, legal complexities, and disrupted work-life balance can lead to anxiety, burnout, and long-term psychological distress. To mitigate these effects, it is crucial for employers, policymakers, and support organizations to provide clear communication, mental health resources, and financial advisory services. While it is hoped the Karnataka Judgement has addressed the many concerns of expat workers working in India, it came



more than a decade after the change in law in 2008. It is hoped in the times to come, addressing these concerns proactively and in a timely manner will help international workers navigate the changes with reduced stress and improved mental well-being.

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