



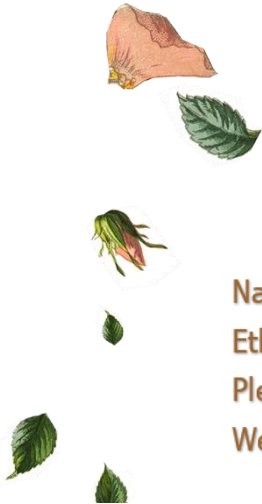
THE INSIGHT

Vol-175 of Weekly Newsletter (02 July 2023)

Silver Jubilee Week



Growing in the Realm of Serving to the Industries



Naturally, you (Organization) will be treated as Guilty if you Violate Regulatory Legislation. Ethically, even if you (Organization) think of Violating it, you will be treated as Guilty. Pleading Ignorance of Knowledge, to Conform under any Legislation, is not an Excuse. We support Industries to become Knowledgeable and being Ethical.



*The Management
And
Staffs of*

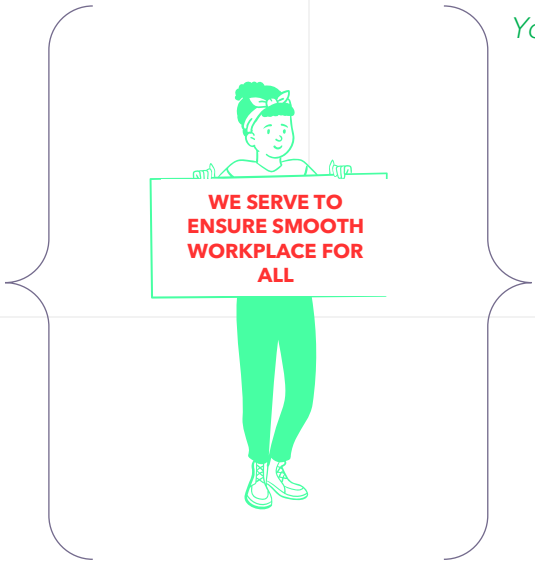
HR Vidyalaya Corporate Services LLP

Takes this Opportunity to

Thank You All

For

Your continuous Patronage



On this Auspicious Occasion, Guest Contribution from
our Mentor

(Thank you, Sir, for your continuous support)

The Concept of Servant Leadership

Servant Leadership style itself is quite paradoxical, as it talks about servant as well a leader. Therefore, many will be confused by the term “Servant Leadership”. But now, this leadership style is being practiced not only in social / spiritual organizations or congregations but also in many of the leading secular Industries and Organizations.

The specific phrase ‘Servant Leadership’ was coined by Robert K. Greenleaf, who has authored many books on this theme. In the essay, “The Servant as a Leader” published in 1970, he first wrote about Servant Leadership.

He observes that the servant leader is a servant first. It begins with a natural feeling that one wants to serve first. Then conscious choices bring one to aspire to be a leader. The leader first and servant first are two extreme types, between them there are shades and blends that are part of the infinite variety of human nature. This style can be practiced adhering to the following Traits:

- 🎵 **Empathy:** A servant leader could recognize, understand the feelings & emotions that are experienced by their team members and thereby their actions are motivated by a genuine desire to help others.
- 🎵 **Listening:** They use active listening to resolve conflicts, counsel others and impart trainings. They listen not to reply but to have an understanding and solution to a problem.
- 🎵 **Awareness:** Many people in position of power are blissfully ignorant of their shortcomings, but not the servant leaders. Self-awareness allows the servant leaders to understand personal biases and set them aside while making small and momentous decisions.
- 🎵 **Healing:** By taking an active role in promoting the mental and emotional strengths of their team members, servant leaders typically inspire and command an exceptional level of trust & faith from others.
- 🎵 **Conceptualization:** An important quality of a servant leader is to conceptualize or imagine the possibilities of future and reconcile it with the current realities.
- 🎵 **Persuasive:** Since the servant leaders are committed to the welfare of others, they use this ability only to influence others positively.
- 🎵 **Stewardship:** They take the complete responsibility of planning and managing all available resources for the betterment and prosperity of the organization, its members and stake holders.
- 🎵 **Foresight:** Servant Leaders have an intuitive ability to predict, what is likely to happen in future, based on the past and the present. Thus everything is connected – the past, the present and the future.

To Celebrate 175th week, we are sharing 175 pieces of information for an Employer to Know / Conform under Specific Legislations – related to Hiring/Appointment, Suspension, Separation, etc.

Hiring – Background Verification (BGV)

1. Background verification is not a statutory requirement, but it is Legal (can be done before or after appointment).
2. It is to protect the interests of the Employer - A specific clause shall be included in the Offer/Appointment letter..... That in case the information provided are not true or the conduct of the employee is not conducive to the Organizational Atmosphere, the offer becomes Null and Void.

Hiring – Medical Check up

3. Pre-Employment Medical is Mandatory under Factories Act (for Dangerous and Hazardous facilities), whereas it is a Industry Practice in Commercial Establishment.
4. In those types of Factories, periodical Medical check up is also mandatory (differ in each Industrial Activity)
5. In Commercial Establishments - It is to ensure that there are no Occupational Disease and prevent Colleagues from Contagious Diseases.
6. In Manufacturing Facilities, the cost is borne by the Employer, but in Commercial Establishments, it depends on Employer's decision (usually borne by the candidate)

Hiring – Issuance of Appointment Letter

7. Issuance of Appointment Order is mandatory under Sales Promotion Employees (Conditions of Services) Act, 1976 and The Shop and Establishment Act of few States (Karnataka, West Bengal, Delhi, Kerala, Maharashtra, Assam, etc.)
8. Nevertheless, issuance of Appointment Order is indirectly mandated in the Maternity Benefit Act Amendment, 2017 with new insertion of Section 11A (2). Here it is mandatory atleast for Woman worker/employee.
9. Issuance of Appointment Order becomes mandatory in the new Occupational Safety, Health and Working Conditions Code
10. Notwithstanding, to safeguard the interest of both parties (Offeror and Acceptor) Issuance of Appointment letter as per Section 3 to 8 of Indian Contract Act, is suggested.

Hiring – Essential HR Data to collect

11. Data to mandatorily collect, when a person joins an Organization:
 - a. Date of Birth Proof
 - b. AADHAR Card copy
 - c. PF and ESI – old details, if available (and if required)
 - d. Passport details / Nationality / OCI status
 - e. Marital Status
 - f. No. of Children (for coverage of Insurance for all and for determining Maternity benefit for Woman employees)
 - g. Academics, Experience, Communication Address, Nomination, PAN and Bank details, etc
 - h. Past Income in the current FY, Gratuity and Earned Leave encashment availed so far
 - i. Disablement details, if any
 - j. Gender
 - k. Complete details – If the candidate is, Persons with HIV & AIDS

Hiring – Conformation under “The Rights of Persons with Disabilities Act, 2016”

12. If your establishment is having a head count of 20 or more, then following are to be ensured
 - a. Preparation and Publication of “Equal Opportunity Policy” for persons with Disabilities (PwD)
 - b. Publish list of positions identified for PwD
 - c. Facilities and Amenities to be provided to enable such persons to effectively discharge their duties
 - d. Appoint Liaison Officer to look into Grievances of such persons
 - e. If any person with disabilities of 40% or more, is appointed, get copy of Medical Certificate

Hiring – Conformation under “The Transgender Persons (Protection of Rights) Act, 2019

13. Provide Equal opportunity in employment
14. Ensure No discrimination against Transgender persons
15. Designation a person as Complaints Officer (to look into grievances of such Transgender)
16. Provide Infrastructure facilities (Unisex Toilets),
17. Measures for Safety and Security (transportation and guards), from and to workplace

Hiring – Conformation under HIV and AIDS (Prevention and Control) Act, 2017

18. Provide Equal opportunity in employment
19. Ensure No discrimination against Persons with HIV or AIDS
20. Keep the records of HIV-related information of protected persons by adopting data protection measures in accordance with the guidelines to ensure that such information is protected from disclosure
21. Prepare and publish HIV and AIDS Policy (in the Establishment’s website)
22. Ensure Save Work Environment
23. Designate a person (Senior Rank) as Complaints Officer to take care of Complaints of violations of provisions of the Legislation:
 - a. Any Establishment having 100 or more persons, or
 - b. 20 or more persons in case of Healthcare establishment.
24. Provide Training to the Complaints Officer, upon appointment
25. Half yearly reporting by the Complaints Officer where the complaints are received – to complaints.hivact@gmail.com
26. To maintain online records following NACO’s Guidelines
27. To Publish Annual Report in the Establishment’s website
28. On an annual basis,
 - a. organize workshops and
 - b. awareness programs for sensitizing its employees with the provisions of the Act
29. On an annual basis arrange for orientation programs for the Complaints Officer

Hiring – Collection of Communication of Address / Change in Address of Worker/Employee

30. As per the Standing Order or by the HR Policy of an Establishment (for non-workers), the following clause is mandatorily to be included
- a. Every workman shall notify his full address (both Temporary and Permanent addresses) to the company
 - b. He/She has to inform the Employer (through HR or appropriate person) of all changes from time to time, without any delay and in any case, within three days of any such change.
31. In the absence of any intimation in writing, the last known address given by the workman, or as available in the records of the Company will be deemed to be correct address for service of the workman for all purposes
32. Failure to notify to the company of any change in permanent / present address, within three days of such a change is a Misconduct (as per Industrial Establishment Standing Order Act)
33. Complete address for communication is required for the following reasons:
- a. Where there are some Employment related disputes, the Employer can send the official communication, to Worker/Employee, only to such addresses (Legally valid)
 - b. An employer can reach out to the Dependents or Nominees, Legally, only through written communication to such address

Hiring – Consideration for PF and ESI, upon appointment and afterwards

34. Academic Intern / Academic Trainee, who is continuing his/her/their education, is exempted from PF and ESI
35. Any other Person engaged in an Establishment, is to be covered under PF and ESI, irrespective of nomenclature.
36. If any person engaged is not an Indian National or having more than Indian Passport, ensure right coverage under PF Act
37. PF – A person from Nepal and Bhutan (Nationals) – consider as Domestic Worker
38. PF – A person from Singapore (National) who has come to India on Short term Employment Visa – Exclude from PF
39. PF – A person having OCI status – Consider as International Worker
40. PF – An OCI status holding person shall invariably be considered as International Worker, irrespective of whether he/she is coming from SSA countries or not (reason, they will not come with Employment VISA and without VISA, they cannot get Detachment Certificate from the Host Country)
41. PF – A person from SSA country with Detachment Certificate, Exclude from PF
42. PF – A person from SSA country without Detachment Certificate, Include in PF as IW
43. PF – Any person from Non-SSA country, Include in PF as IW
44. PF - Anyone who is not a Domestic worker and if he/she is to be covered under EPF & MP Act, PF is to be paid on TOTAL SALARY, excluding HRA and Overtime
45. PF – HRA exclusion is restricted to HRA as defined in the Income Tax Act, 1961.
46. PF – For International Workers – Total Salary includes ALL MONIES, paid in India and in the HOME Country (split salary for the responsibilities in India)

47. PF – Decide CTC (Cost to the Company) after identifying the individual, whether he/she is a Domestic Worker or International Worker
48. PF and ESI – If you engage a person after closure of Attendance for the specific month, ensure that the person is covered under the PF and ESI (if applicable) in the same month, whether or not you are paying wages/ salary for that particular month or not.
49. PF – Domestic Worker – First Timer (1) – Any person who is for the first time joining a PF covered establishment.
50. PF – Domestic Worker – First Timer (2) – Any person who has experience but not covered under PF in his/her previous establishment as it was not applicable to them and joining your establishment which is covered under the EPF and MP Act
51. PF – Domestic Worker – First Timer (3) – Any person who has UAN, joining your establishment, but he/she has withdrawn both PF and Pension from the past accumulations.
52. PF – Be informed that any PF member shall not be allowed to withdraw Pension, if he/she has contributed as PF member for 9 ½ years or more in one or more Organizations.
53. PF – All the above (3) First timers, if they join your Organization and if their PF wages (Basic + DA) is more than the PF Ceiling Wages (currently Rs.15,000/month), they can be considered as Excluded Employees (not mandatory to cover under the Act)
54. PF – If your establishment is considering such persons under PF for various reasons, contribute both Employee contribution (12%) and Employer contribution (12%) in PF only
55. PF – with the above definition, if any Exempted establishment is considering PF membership, they need to create UAN/Member ID, as it is mandatory for payment of EDLI
56. PF – For those persons who are earning BASIC + DA, less than Rs.15,000 / month, the PF contribution shall be on Gross, excluding HRA and Overtime, restricted upto Rs.15,000.00
57. PF – All allowances, which are paid Universally, Necessarily and Ordinarily shall be considered as WAGES for PF. (this is restricted to PF ceiling wages only, currently it is Rs.15,000)
58. PF – Do not Forget to get Form-11 filled and signed by “Any Person Engaged” in your Organization.
59. PF – Form 11 is for Record Purpose (by the Organization, which may be shown at the time of Inspection or Audits)
60. PF – Form 11, indicates, whether the “Person engaged” is Covered under the PF Act or Excluded under the Act.
61. PF – Form 11, is to be filled by both Domestic Worker and International Worker (even excluded)
62. PF – Any person joining an Establishments, can generate a New UAN (for the first time) by themselves. It is easy for any employer to get that UAN and seed it (avoid challenges of creating a new one with AADHAR details)
63. PF – Duplicate UAN shall be merged to one (with the UAN which is seeded with AADHAR)
64. PF – Each UAN number has to have one Mobile number for activation. Mobile number once used for one UAN cannot be used for another UAN.
65. PF – Non-Contributory Period (NCP) No need to mention NCP days for those who are separated
66. PF – NCP - Putting NCP days/Exit date for absconding cases, long absentee or LOP cases are challenging
67. PF – NCP - Do not put NCP for death cases
68. PF – Any member who joins a new establishment and been a Member in his/her/their previous establishments needs to do a ONLINE TRANSFER. Ensure they do the same upon joining the establishment.
69. PF – Multiple member contribution against one UAN – No automatic transfer will be considered.
70. PF – Any correction with KYC details or Date of Joining, Date of Exit can be updated/approved only by the respective establishment / Jurisdictional RPFC
71. PF – EDLI – minimum insurance coverage of Rs.2.5 lakhs is available only to those PF members, who had contributed to 12 months in one or more establishment

72. PF – Pension any PF member who had contributed for more than 10 years in one or more establishments, if continue to work, such member can contribute to Pension for 2 more years with approval from the Assistant Commissioner of PF
- a. For 59th year of age and
 - b. 60th year of age, only
73. PF – Death away from service is nothing but, an unfortunate demise happened where the Member got separated and deceased but the employer has not updated the separation date, on such separation.
74. PF – Disablement Pension – A member who is unfit to perform the job (continue in the employment) which he/she was doing at the time of (permanent) disablement.
75. PF – Pension – A PF pensioner, if dies, the spouse will get 50% of the pension.
76. PF – Rejoining of an employee in the same Establishment – do not remit PF contributions in the previous Member ID
77. PF – Nomination – currently it is e-nomination (no other nomination is valid)
78. PF – Nomination – A member can amend the nomination any number of times, where last made nomination becomes automatically INVALID.
79. PF – Nomination – Nomination made in favour of persons not in family is INVALID
80. PF – Nomination – Any nomination made before marriage, will be void. Members should make fresh nomination.
81. PF - An employee can be a member only if the Establishment is Covered under the Act (voluntarily or after reaching threshold limit)
82. PF – In an Establishment, where PF is covered, an eligible employee cannot wish to Exclude himself/herself/themselves from the coverage of the PF Act.
83. PF - There is no age restriction to become a member of EPF.
84. PF - For Pension Fund, one should not have attained 58 years of age and other condition of First Timer also applies.
85. PF – No Age restriction - This is applicable to International Workers also.
86. PF - International Workers – Only those who come on EMPLOYMENT VISA will be considered for coverage under the Act
87. PF - Apprentices under the Apprentices Act are not employees under the EPF Act.
88. PF – Apprentices shall be immediately covered once they cease to be an Apprentice.
89. PF - It is an Offense to deduct Employer contribution from the PF Member's wages
90. PF – Employer contribution from Member - If it is part of CTC, it is allowed.
91. PF – For no reason, the wages can be reduced on account of payment to the EPF
92. PF – Downward revision in contribution – from Actual Basic wages to PF ceiling wage (Rs.15000), can only be done with approval from PF Office
93. PF - Subsistence Allowance payable to an employee, is not Wages as per EPF Act
94. PF - Where the Subsistence Allowance is considered as Wages after enquiry process, will be considered as Wages for PF, retrospectively
95. PF – “Interest accrued” on Employee contributions, where his/her PF contributions are more than Rs.2.5 lakhs in a Financial Year is taxable
96. PF – Where the employer is not paying equal amount (member paying VPF), the limit of Taxability on Interest accrued is more than Rs.5 lakhs

97. PF - employees/workers who are engaged on contractual/casual/daily wages basis, are also needs to be covered under EPF Act

(Refer: M/s. Pawan Hans Limited & Ors. Vs. Aviation Karmachari sanghatana & ors; Hon'ble Supreme Court)

98. PF – if any person has grievance of Employer not making PF contributions, even after deducting, he/she/they can,

99. After ensuring through Member passbook, that the deducted PF wasn't remitted by Employer, they can

- a. Write to Employer to remit immediately
- b. Write to Enforcement Officer for action against the Employer
- c. Make a written compliant furnishing your details to Chief Vigilance Officer @ cvo@epfindia.gov.in
- d. File a Criminal Case against the Employer in the local Police Station

100. While making a complaint the Employee (PF Member) shall state the following details, without fail

- a. Name
- b. UAN & PF Number
- c. Employer's name, address & PF Code registration number
- d. Attach Copy of salary slip

Employee getting married? Ensure nominations are amended as per the following:

101. Employee has to change the nomination details in the PF portal. Nomination in EPF and EPS made prior to marriage automatically stands cancelled (void) after marriage. Now it is ONLINE in PF Portal.

102. Under EPF – Members has option to nominate his/her parents apart from Spouse.

103. Under EPS (PF – Pension) – Members have no option and can only nominate Spouse (and children)

104. If the Employee is covered under ESIC, he or she has to change the Dependents details

105. The Nomination details as per the The Payment of Gratuity Act has to amended in Form No.H

106. Nomination as per the erstwhile The Payment of Wages Act (in Form I)

107. Those who are working in Factories has also need to amend the nomination in the State Specific form.

108. If your establishment is having any Personal Accident Insurance Policy or Any other Term Insurance policy it needs to be amended with the nominee details

109. The Spouse name has to be included in the Medicalim Policy, if any, sponsored by the employer

Are you monitoring employees – through Mobile / Desk Phone / Laptop / Desktop / Emails / CCTV?

110. As per the Section 5(2) of IT Rules, 2011 : Body corporate or any person on its behalf shall not collect sensitive personal data or information unless —

- a. the information is collected for a lawful purpose connected with a function or activity of the body corporate or any person on its behalf; and
- b. the collection of sensitive personal data or information is considered necessary for that purpose.

Any Election in the Constituency where you have Factory / Office – Local Administration or Legislative Assembly or Parliament

111. Employer to give Paid Holiday for All Persons engaged

112. Peripheral Security and Maintenance personnel can perform duty, provided they are given minimum 2 hours permission to cast vote

Forms of Separation:

113. **Termination of Contract:** A separation after completion of fixed period agreed by both the workman and employer or at the end of a project for which the particular workman was recruited. Separation happens after proper notice by the employer.

114. **Retrenchment:** Section 2(oo) of the Industrial Disputes Act states that “retrenchment means the termination by the employer of the service of a workman for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action

115. **Removal from Rolls:** A workman who has neither reported for duty nor kept the employer informed (absence without leave), was taken off from the Muster roll after due & appropriate intimation.

116. **Dismissal:** A separation, after appropriate notice & enquiry, where the workman is terminated from service, which is a punishment which deprives him number of benefits.

117. **Resignation:** A separation of a workman upon legally documented information to the employer, as per the obligations of an offer or appointment letter (employment contract).

118. **Death:** Demise of a workman, who was on the rolls of establishment, on the date of death.

119. **Discharge:** A separation where a workman is terminated from service with full benefits, by notice.

120. **Retirement:** Separation of a workman with all benefits on the predetermined age, as per the statutory legislation.

How to Legally Separate an Employee?

121. **Probationer:** No need to give separate notice for separation. Inform the Employee 30 days in advance, that you (Employer) are not satisfied with the performance, hence not willing to confirm. End of Probationary period is the last day with the Establishment (separation date). Nothing else to Pay, except wages till the date of separation.

122. **Any Misconduct:**

- a. Issue Show-cause & get a reply
- b. Issue Charge sheet
- c. Conduct enquiry
- d. Serve notice of separation after proving Misconduct
- e. Get reply for such separation notice and Terminate. (to pay notice pay or allow to serve notice period)

123. **Sexual Harassment:** Upon completion of enquiry by the Internal Committee, a recommendation is sent to the Management. Upon Management’s decision, Termination notice is issued (to pay notice pay, if applicable)

124. **Long Absence / Absconding:** Employer to issue show cause notice “as to why he/she cannot be taken out of Roll?” – a physical letter, to the last, registered communication address with the employer. To send, three times with an interval of 14 days. Where there is no response – TERMINATE – Nothing to pay. If a sum is to be recovered, can be adjusted with undisbursed wages (cannot adjust from Gratuity).

125. Non-Performance: Employee needs to be assessed by the Reporting Supervisor / Manager and such assessment report of under-performance or non-performance is to be submitted to the Employee & a copy to Human Resources. Employee to be put into PIP (Performance improvement Plan) for 1 month each for 3 times (stages). If the Employee is still not performing - can be separated on the last day of 3rd PIP – Nothing to pay as he/she will be prior informed while putting him/her 3rd stage.

Difference between Absconding and Long Absentee

Absconding

126. Explanation:

- a. Employee not reporting for duty (for 3 consecutive days)
- b. No information of absence and
- c. Not reachable through phone or email or at the last stated communication address

127. What does an Employer needs to do?

- a. After 8 working days, if the employee is not reachable or employee did not report, Employer can send a “show cause notice” asking him/her as to why he/she cannot be taken out of Roll?” – a physical letter to the last known address through Registered post – 3 times once in 14 days

128. Terminate, if there is no response

Long Absentee

129. Explanation

- a. Employee not reporting for duty
- b. Without genuine reason or proper documentation in case of illness
- c. Remains absent beyond the period of leave originally granted or subsequently extended
- d. Repeated request by Reporting Manager and HR evokes no response and the employee remain absent

130. Not to be treated as Absent if it is:

- a. He/she has been absent due to temporary disablement caused by accident arising out of & during his employment
- b. Any Woman employee absents herself due to Maternity related illness

131. Treated as a Misconduct

- a. Habitual absence without leave or enough cause.
- b. Continuous absence without permission and without satisfactory cause for more than ten days.

132. EMPLOYER CAN TAKE ACTION IN CASE OF THE ABOVE AFTER ISSUING SHOW CAUSE NOTICE

Suspending worker – 3 Basic Rules / Requirements needed to suspend an employee.

133. Employer must have justifiable reason to believe that that employee has engaged in serious misconduct

134. There must be an Objectively justifiable reason to deny the employee access to the workplace

135. Employee must have an opportunity to state a case before the employer makes any final decision to suspend him/her

Paying Subsistence Allowance to suspended worker (it differs from State to State)

- 136. Pay 50% of Wages upto 90 days and
- 137. 75% between 91 to 180 days and
- 138. 100% if it exceeds 180 days
- 139. Maintain register in Form I

Paying Subsistence Allowance to suspended Manager

- 140. Is a managerial staff, who has been suspended from service, entitled to subsistence allowance?
- 141. The First Bench of the Hon'ble Madras High Court ruled in affirmative when this question was raised.
- 142. A suspended (later terminated) employee moved the Hon'ble High Court and an Hon'ble Single Judge in 2018 ordered payment of the allowance. Hence, the present appeal.
- 143. The bench, comprising Hon'ble Chief Justice AP Sahi and Hon'ble Justice Subramonium Prasad, upheld the Order.

Incentive to Employer for engaging Persons with Disability

- 144. "Person with Disability" - Defined as a person suffering from not less than 40% of any disability as certified by a medical authority.
- 145. The disability being
 - a. blindness
 - b. low vision
 - c. leprosy cured
 - d. hearing impairment
 - e. loco-motor disability
 - f. mental illness
 - g. mental retardation
 - h. autism
 - i. cerebral palsy or
 - j. a combination.
- 146. Employees with disabilities, with monthly wage up to Rs.25000/- per month, shall be covered under both PF and ESI
- 147. Employer contribution will be borne by Government, for 3 years (both PF and ESI)
- 148. Deduction from Employee mandatory
- 149. Employer only pays Administration charges in PF
- 150. One-third of the gratuity amount due and admissible to PwD employees which is required to be paid by the employers under the applicable provisions of the Gratuity Act, shall be borne by the Government.
- 151. If Employer engages PwDs as apprentices in a particular trade and employ them on completion of the apprenticeship period, the stipend during the apprenticeship period payable to the PwD shall be borne by the Government.

Obligations of Employer in Employment Exchanges (CNV) Act – a little known Act (check for applicability in each State)

152. Notifying the vacancies to the Local Employment Exchange office, at least 15 days before the date of interview or test
153. The result of selection shall be furnished to the same office within 15 days from the date of selection
154. Submission of quarterly return in Form no. ER-I within 30 days of the due dates, namely,
- 31st March,
 - 30th June,
 - 30th September and
 - 31st December
155. Submission of biennial returns in form ER-II, shall be furnished within thirty days of the due date (omitted in few States, where the Act is applicable)
156. Though they are obliged to notify the vacancies, they are not bound to appoint only those who are sponsored by Employment Exchanges
157. Employer is not obligated to notify the Employment Exchanges if the vacancies are as follows:
- Employment in agriculture, including horticulture
 - Employment in domestic service
 - Total duration of employment will be less than 3 months
 - Any employment which is to do, unskilled office work
158. Further, if any vacancies are to be filled by promotion or absorption of surplus staff of any branch or department of same establishment or by competitive examination, employer is not obligated for notification

Meaning of Unpaid Accumulation (LWF)

159. Unpaid accumulation means all payments, due to an employee but not paid to him within a period of 3 years from the date on which the payments became due. After an employee got separated due to
- absconding,
 - resignation,
 - discharge,
 - death
160. What are all considered as unpaid accumulation?
- Basic Wages
 - Dearness Allowance and other allowance
 - Overtime
 - Bonus
 - Gratuity
 - Any other item of unpaid accumulations

Employer's Duty

- 161. Reach out to the last registered landline or mobile number, or
- 162. Write to the last registered personal email ID, or
- 163. Send a written communication through registered post. This needs to be done three (3) times with a frequency of 15 days, or
- 164. Display a notice with details of employee & unpaid details in the Office notice board. This needs to be done in 3 different periods with a frequency of 15 days.
- 165. Keep record of all the above efforts taken
- 166. If the effort of Employer fails to reach out the separated employee, the monies can be deposited with the Labour Welfare Board (LWB). Usually, the monies are to be kept till 3 years from the date of such disbursement due and then they need to be deposited to the Government. (it does not attract any interest on pending payment).

How to pay the Unpaid Accumulation - to Labour Welfare Board (LWB)?

- 167. A demand draft for the total amount
- 168. Details of Employee –
 - a. name,
 - b. emp. ID,
 - c. date of joining,
 - d. date & reason for separation,
 - e. amount to be paid for each item period,
 - f. last registered contact number, email ID and contact address
- 169. Copies of all communication through which efforts were taken to reach out
- 170. A covering letter, stating all the above and the efforts taken by the Employer to reach out
- 171. Once the undisbursed amounts are deposited with LWB, Employers was discharged with such liability.
- 172. If any person reaches out to the employer after deposit, he/she can be directed to LWB
- 173. LWB will also try to reach / advertise the details of such Unpaid Accumulation. All genuine claims with appropriate proof and document will be settled by LWB.
- 174. If the monies are not claimed, it will be treated as unclaimed and deposited with Government Account
- 175. Any Unpaid Accumulation is considered as "Abandoned Property".

Compliance Risk leads to Reputational Risk, which will have high impact on the Strategy, Operations and Finance of any Organisation.