

DELHI NOTIFIES REGARDING ENSURING THE PAYMENT OF BONUS UNDER THE PAYMENT OF BONUS ACT, 1965

The Labour Department, Govt. of Delhi notified regarding ensuring the Payment of Bonus under the Payment of Bonus Act, 1965. The Payment of Bonus Act, 1965, is a Central Act. It is applicable to all Private establishments and also establishments set up by the State Government, like M/S Intelligent Communication Systems India Limited ("ICSIL"), which employs 20 or more workers on any day during the accounting year. Section 1 of the Act provides for a minimum payment bonus of 8.33% of the basic and dearness allowance to the employees/workers. As per section 19 of the Act, the bonus is payable within 8 months of the close of the accounting year; however, it is customary to pay the bonus before Deepawali. The notification states that all the Contractor's establishments are covered under the Payment of Bonus Act, 1965, which have employed 20 or more workers on any day during the accounting year.

DESK DISPATCHES

LABOUR LAWS AND THE TWO-CHILD NORM: AN ANALYSIS

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INTRODUCTION

In May 2025, the Supreme Court (hereinafter, referred to as "SC") upheld the provision of maternity leave for K. Umadevi. Invoking international conventions and citing the Delhi High Court's judgement in Commissioner of Police v. Raveena Yadav, the SC held that maternity leave is a "constitutional guarantee to women employees of the country".

K. Umadevi, an employee of the Government of Tamil Nadu ("TN"), had applied for maternity leave for the birth of her first child from her second marriage. She had two children from her previous marriage. According to Rule 101 (a) of the Fundamental Rules of the Tamil Nadu Government 1922 ("FR"), state government employees are entitled to maternity leave up to the birth of two surviving children. Upholding the Maternity Benefit Act, 1961 ("M.B. Act") which had "not placed any restrictions on the number of children to avail maternity benefits", over the FR, a single-judge bench of the Madras High Court had ruled in favour of K. Umadevi. However, on appeal, the Division Bench of the Madras High Court ruled that maternity leave was not a fundamental right. It held that the FR, not the M.B. Act, was applicable to K. Umadevi due to which she was not entitled to maternity leave.

TN's counsel in the SC had argued that the FR were actually in sync with the Government of India's policies on population control. The counsel argued that granting maternity leave to K. Umadevi would lead to "incentivising (a) breach of population control norms and may have (a) severe and adverse impact on (the) government's policy of managing small family norms as a population control measure". The Supreme Court, while granting maternity leave to K. Umadevi, remarked that "population control" and "granting maternity leave" were both "laudable" measures, which must be "harmonised in a purposive and rational manner". Arguably, through this remark, the SC validated the arguments of TN's counsel. The SC, then, potentially propelled the same coercive provisions, intrinsic to TN's and many other states' maternity benefit laws, which it had ruled against, i.e., the two-child norm in the name of population control.

THE TWO-CHILD NORM IN INDIA

India (formally) does not have a two-child policy. However, over the years, the two-child norm has found its way into multiple laws. The 90s saw various states like Andhra Pradesh, Haryana, Rajasthan, Orissa, Himachal Pradesh, Maharashtra and Madhya Pradesh (MP) prohibit persons having more than two children from competing in panchayat and urban local body elections. Buch (2005), in their paper, writes that discussions around introducing the 'two child norms' at the panchayat and municipality levels began soon after the 1991 census. The author argues that the norm 'directly or indirectly' impacted exactly those marginalised sections of society (Scheduled Castes, Scheduled Tribes and Women), whose active participation the 73rd amendment to the Constitution had envisioned. This two-child policy has also made its way into the world of work. The Rajasthan Various Service (Amendment) Rules, 2001 allows only those with two children or fewer to apply for government jobs in the state. In 2024, the SC upheld this rule in the case of Ramji Lal Jat, an ex-army officer who was applying to the post of a constable with the Rajasthan Police. The Court held that the rules were neither discriminatory nor unconstitutional (Business Standard, 2024).

Another state, MP had introduced similar rules as early on as 1961, which were upheld by the Madhya Pradesh High Court and the SC. Frontline (2025) reported that a couple in MP had abandoned their fourth-born out of fear of losing their government job. Maharashtra introduced the Maharashtra Civil Services (Declaration of Small Family Rules), 2005 which declared persons having two children after 2005 ineligible for government jobs. The more recent Assam Public Services (Application of Small Family Norms in Direct Recruitment) Rules, 2019 state that no person having more than two living children after January 1, 2021, would be eligible for government jobs. The rules state that those who have had more than two children before this date would be eligible, so long as they do not have more children. The highly disputed Uttar Pradesh Population Control Bill also disallows candidates with more than two children from applying for government jobs or any form of state support.

THE TWO-CHILD NORM IN WOMEN'S WORLD OF WORK

With every successive legislation seeking to impose the two-child norm, rights groups have tried to dispel the population explosion bogey. Statistics from the Census and the National Family Health Survey are cited frequently, which point to the country's declining replacement level and a stabilising population count. However, as employers, various state governments in India continue to discriminate against their employees through these legislations. Thus, basic reproductive freedoms are denied to the citizens of these states.

The Sample Registration System, 2023, shows that 11.1 percent of total births in India are of the third-order and beyond. Third-order births and beyond are higher in rural areas (12 percent) compared to urban areas (8.4 percent). This means that a huge portion of the population is deprived of its basic right to work, contest elections or even to avail basic benefits. The gendered impact of a two-child norm, disproportionately borne by women, is well known. With an already gender skewed contraceptive burden, many civil society groups and activists have argued that such policies can also potentially exacerbate the use of unsafe methods for abortions, leading to severe health complications.

In line with SC's ruling in K. Umadevi's case, it can be argued that each of these (aforementioned) state governments' rules attempt to override the M.B. Act, 1961, which has now been absorbed into Section 60 of the Code on Social Security ("SS Code"), 2020. The erstwhile Act and the current Code provide leave with pay, although for a shorter duration, to women having two or more surviving children. Furthermore, both the Act and the Code also grant leave with pay in cases of adoption, miscarriage, medical termination of pregnancies, stillbirths and tubectomies. The state governments' rules do not adhere to these provisions either. For example, both the Act and Code grant a leave of six weeks in each such case, while the Rajasthan Rules only provide leave for a total of six weeks during 'the entire service' to women with less than two surviving children. It is not surprising that the same State that expects its employees to conform to the two-child norm does not support them when they adopt intense contraceptive measures.

THE UNCHALLENGED TWO-CHILD NORM ON THE INFORMAL SECTOR WOMAN WORKER

For the informal sector woman worker, conditional cash transfer schemes like the Pradhan Mantri Matru Vandana Yojna (PMMVY) or their equivalent at the state level fill in as 'maternity benefit'. PMMVY promises financial assistance of Rs. 5,000 to pregnant and lactating mothers. TN's Dr. Muthulakshmi Reddy scheme provides Rs. 18,000. The MAMATA Scheme in Odisha provides Rs. 10,000. All these schemes state 'compensation of wage loss' as one of their objectives.

The two-child norm is central to all of them. PMMVY holds that women can avail benefits for up to two live births as long as 'the second child is a girl'. Odisha's MAMATA scheme only relaxes this provision only for people from the Particularly Vulnerable Tribal Groups (PVTGs). The Dr. Muthulakshmi Reddy scheme holds that pregnant women with more than two children will receive nutrition kits and Rs. 4,000 as cash assistance, provided they undergo sterilisation.

The Building and Other Construction Workers' (BoCW) Welfare Board also provides maternity benefits to registered workers. The Model Welfare Scheme for BoCW (2018) states that maternity benefits will be provided for the first two deliveries. As experiences from the field and previous studies suggest, workers in the construction sector enter the labour market at an early age. Swati Sakhtavat, who works with women construction workers in Ahmedabad, says, "Construction workers seek work in jodis, i.e., as a pair in Ahmedabad's nakas. They are young when they enter the labour market. Many experience their first pregnancy at the age of 17 or 18. Since they are underage and often lack the necessary documents, they are not eligible to receive any entitlements. It is only at the time of the second pregnancy that they find themselves eligible to apply". In this context, a restriction on two children automatically denies workers their right to maternity benefits.

It is interesting to see all these schemes conveniently make use of a language of gender justice to enforce the discriminatory and repressive two-child norm. The Dr. Muthulakshmi Scheme goes a step further to actively arm-twist women workers, rendered vulnerable due to their work in already unstable and unpredictable labour markets, to conform to the two-child norm and undergo sterilisation. In stark contrast to the M.B. Act and the SS Code, none of these schemes provides any support for women in cases of adoption, miscarriage, or stillbirths, among others.

Arguably, labour laws, and the schemes that fill in for them are being surreptitiously manipulated into informally imposing the two-child norm to control women's bodies and their reproductive freedoms. The two-child norm is not a formal law and finds no mention in any central labour regulations. However, state governments have continually, designed, re-designed, interpreted and re-interpreted these legislations to enforce the two-child norm. SC's remarks on "harmonising", which stand in contrast to its order granting maternity leave to K. Umadevi, only embolden the imposition of the two-child norm. Such an imposition through the varied state governments' rules on maternity benefit have been continually challenged in Court and have achieved some success like in K. Umadevi's case. However, it is time to contest the same imposition in the case of cash transfer schemes that stand in for maternity benefits for the informal sector.

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