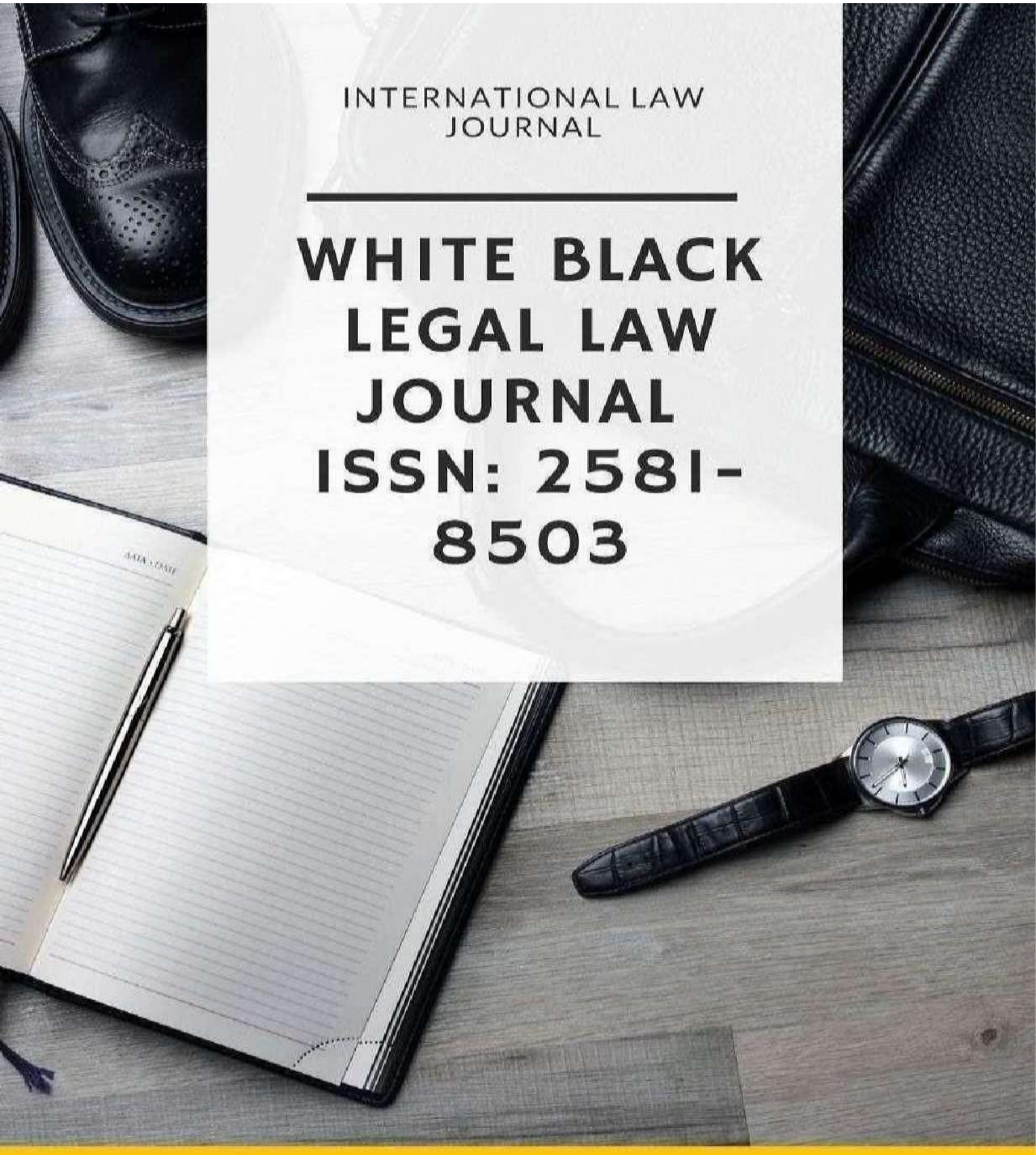

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ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

PROVIDENT FUND AS WELFARE SCHEME- NATURE, RULES, AND PRACTICE

AUTHORED BY - SOUMYA SHARMA

INTRODUCTION

According to the Constitution, the state is obligated to care for the poor, especially the impoverished. To be more explicit, the Indian Constitution addresses some of these concerns, such as the welfare of labour, provident fund, maternity benefit, disability, and old age pension, in Entry 24 of List III of Schedule VII[1]. Several of the government's welfare-enhancing responsibilities, such as social security for the elderly, are reasserted in Article 41 of the Directive Principle of State Policy[2]. These constitutional obligations forced the union and the state governments to develop a range of publicly supported contributing programmes for the financial security of various social categories. Workmen's Compensation Act, 1923, Employees Provident Fund and Miscellaneous Provision Act, 1952, Payment of Gratuity Act, 1972, Maternity Benefit Act, 1962, National Social Assistance Programme (1995), Annapurna Programme (1999), contingency-based Employees' State Insurance Scheme (ESIS 1952), are a few of the more important ones in this regard. Moreover, now a significant percentage of employees working for government agencies, public segment businesses, and organised private segment creations are covered by gratuity, provident fund (PF), and pension plans.

One such socio-beneficial welfare law, the Workers' Provident Funds and Other Provisions Act of 1952 (EPF Act), intends to provide member employees with enough social security in their old age and infirmity. Any establishment (covered establishment/employer) with 20 or more employees is required to comply with the EPF Act, and the EPF Act and the Employees' Provident Funds Programme, 1952 (EPF Scheme), taken together, envision contributory provident funds (PF fund). The PF fund is supervised and managed by the Workers' Provident Fund Organization (EPFO), a statutory organisation created by the Central Government.

[1] Constitution of India, 1950
[2] Constitution of India, 1950

The EPF Act apply to all employees in covered businesses who have previously been PF fund members or new member employees drawing “monthly pay” (including of basic salaries, dearness allowance, retention allowances, and other generally payable allowances) as per the provisions of the Act. With this plan, both the employer and the employee make contributions, but the employer is responsible for depositing the entire sum. The employee’s portion is withheld by the employer from their pay. The interest from this investment is also credited to the employees’ personal accounts. If certain requirements are met, the employees are given the accrued sum when they retire.

PROVIDENT FUND- A MEANS OF SOCIAL SECURITY

Social security is the protection society offers to its members against specific hazards through effective organisation. These risks are essentially contingencies that a person with limited resources cannot successfully address on his own, with the help of his colleagues, or even in private[3]. To put it another way, Social Security is a tool that society has created to combat a variety of uncertainties that result from natural (such as death or illness), social (such as slums), personal (such as disability), and economic (such as inadequate salaries and unemployment) factors.[4]

Social security is quantified in terms of the financial assistance and medical care given to those harmed by specific economic and biological calamities. To put it another way, social security may cover the welfare of people who become unable to work due to old age, illness, or infirmity and are unable to make a living. Social security policies are crucial from two perspectives: first, they represent a substantial step towards the creation of a welfare state, and second, they help workers become more productive and as a result, cut down on waste associated with labour conflicts. Production is hampered by a lack of social security, which also limits the development of a reliable and productive labour force. Because of this, social security policies "are not a burden but rather a sensible investment that pays high benefits.

The goal of social security is to ensure a safe environment for the underprivileged and vulnerable members of society so that they can live honourably alongside everyone else. The idea of "Social Security" is complex in both content and appearance. Mostly, it is a 20th-century idea. Security is provided by the government to citizens because it is necessary for life. An essential component of

[3] K. Madhavan Pillai, Labour and Industrial Laws 267 (Allahabad Law Agency Haryana, 9 edn,.2003)
[4] V.P. Singh, Industrial Law in India 79 (Asia Publishing House New Delhi, 2 edi., 1963).

social security is protection for a man against the ravages of social disputes and inadequacies.

And thus it is right to say that social security results from social justice. Both are sort of like two sides of the same coin because social security always goes hand in hand with social justice. Every welfare state should make an effort to offer its citizens with measures like unemployment benefits, maternity benefits, family allowance, old age grants, death grants, industrial injury benefits, nationalised health care, and ad hoc assistance to weaker segments of society.

Even the goal of the International Labour Organization, which was founded in the year 1919, is to advance social justice and enhance the living and working conditions of workers all over the world. It made a start in this area by highlighting the significance of all-encompassing social security measures in the preamble to its constitution, which promised protection of the worker against illness, disease, and injury arising from his employment, the protection of children, young people, and women, as well as provision for old age and injury. Additionally, the ILO's Declaration of Philadelphia[5] (1944) and its Income Security Recommendation, 1944[6], social security was seen as a core human right. The 1948 Universal Declaration of Human Rights[7] and the 1966 International Covenant on Economic, Social, and Cultural Rights[8] both uphold this right.

The Social Security (Minimum Requirements) Convention, 1952 (No. 102)[9] is a crucial social security treaty. In order to promote the broadest growth of social security schemes. The said Convention was adopted by the International Labour Conference of the ILO on 28 June 1952 and defines a framework of shared important core social security principles on which any social security system should be built. For all ILO Member States, Convention No. 102 is of the utmost importance as the fundamental social security Convention. It embodies an internationally recognised definition

[5] International Labour Organization. Declaration of Philadelphia. International Labour Organization, 1944. https://www.ilo.org/declaration/lang--en/index.htm.
[6] International Labour Organization. Income Security Recommendation, 1944 (No. 67). International Labour Organization, 1944. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:R067.
[7] United Nations. Universal Declaration of Human Rights. United Nations, 1948. https://www.un.org/en/about-us/universal-declaration-of-human-rights.
[8] United Nations General Assembly. International Covenant on Economic, Social and Cultural Rights. United Nations, 1966. https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx.
[9] International Labour Organization. Social Security (Minimum Standards) Convention, 1952 (No. 102). International Labour Organization, 1952. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C102.

of the notion of social security and has been designated as a symbol as a result. By completing the right to social security under international human rights standards, it plays a crucial part. Moreover, Convention No. 102 and the other contemporary social security Conventions have had and continue to have a favourable influence on the growth of social security programmes in the majority of nations worldwide and operate as examples for regional legislation. The most prominent of the eight modern social security agreements is Convention No. 102. It is the only international Agreement that outlines the nine traditional social security branches and establishes minimum requirements for each. They include health care, sickness and unemployment benefits, old age and retirement benefits, old-age and employment injury benefits, family, maternity, and survivors' benefits. A state must ratify the convention in order to accept the common component and at least three of the nine social security branches, including at least one of the following five: survivors, unemployment, old age, and employment injury. Then, depending on the socioeconomic climate of the nation, other social security branches may be ratified at a later time. As a result, States are not required to legislate for all benefits; rather, it is up to each state to design its own programme in accordance with its unique needs and stage of development.

After India received independence, it faced countless issues and challenges. There was extreme social and economic inequality. India was in a dire economic state. India was experiencing a variety of issues socially as well. Social inequality existed, and the most vulnerable members of society—including women, Dalits, and children—were denied access to the necessities of life. The issues were well known to the people who created the Constitution. They made the decision that India would be a welfare state for this reason.

It's an intriguing research to look at how the Welfare State concept has changed throughout time. There is nothing new about the notion that the state is or ought to be an agency of human (defined variably). The State was created, according to Aristotle, not just to make life possible but also to ensure a happy life. As a result, the State has always served the physical wellbeing of man and continues to do so now. However, the statement is relatively new, and the focus has changed from seeing the State as an agent of moral wellbeing to seeing it as an instrument of economic welfare. This is what makes it new or recent. The many definitions of a welfare state that we encounter make this clear. In order to achieve a more equitable distribution of income for every citizen, a basic minimum real income regardless of the market value of his labour and of his property, Dr. Abraham

characterises it as a community where state authority is purposefully utilised to influence the usual play of economic forces.

Every person works in order to earn his bread. And thus for the same purpose he indulges himself to work either as an employee or run his own business. Workplaces enable employees and their families to lead respectable personal, family, and social lives. Moreover, employee welfare aims to mitigate the detrimental effects of extensive urbanisation and industrialization. It has acquired additional significance. The company's employees find it difficult to adapt to the pace of modern life with only the bare necessities. To keep body and soul together, they require further assistance.

Each person has certain needs and objectives that they want to accomplish. They are content with any work that meets their needs and goals. Situational circumstances can influence how satisfied you are with your employment. Salary, incentive programmes, working hours, the work environment, opportunities for advancement, executive behaviour, security, and the recognition of merit are the main factors influencing employment happiness. Moreover, proper performance evaluation, ethical conduct, and friendly relationships with coworkers are all contributing variables.

Thus, each employee has concern for his own economic wellbeing which aims to increase economic output and productivity through development of a fair distribution system. The goal of social development through techniques including social work, social practise, social activity, and social legislation. Conceptually and practically, employee welfare belongs to the social welfare field. It suggests a situation of joy, abundance, wellbeing, satisfaction, protection, and expansion of human resources.

The ILO's committee of experts on industrial worker welfare facilities has divided labour welfare work into two distinct categories: first, intramural activities, which are employee welfare programmes provided within the company's premises which includes factors like provision of safety measures such as adequate lighting, fencing around machines, first aid kits, well-designed machinery and plant, fire extinguishers, and activities aimed at improving employment conditions, hiring and discipline, providing provident funds, pensions, and gratuities, among other things, as well as latrines, urinals, rest shelters etc. Second, the Extra-mural Activities where he employee welfare programmes are offered outside of the business's walls include housing accommodations, indoor and outdoor

recreation amenities, entertainment and games, educational facilities for children and adults, specific libraries and reading rooms, social insurance policies and cultural activities, holidays, homes and leave travel facilities, employees' cooperatives alongside consumer's cooperative shops, and reasonable compensation.

As a result, the provident fund is a type of social security. With the help of a source of income in the form of a lump sum payment or regular pension payments, it is a long-term savings plan that offers financial security to workers after they retire. A basic degree of social security is made available to all workers thanks to the provident fund plan, which is often required of employers in many nations. The provident fund account's contributions from both the employer and the employee are used to create a retirement corpus that can be used to meet the employee's financial needs after retirement. This helps to achieve a primary objective of any social security policy, which is to ensure that employees have a fundamental level of financial stability in their senior years. Ultimately, while provident funds may not provide the same level of comprehensive social security coverage as some other programmes, they do serve an important role in helping people save for their retirement and build a basic level of financial stability. This helps to achieve a primary objective of any social security policy, which is to ensure that employees have a fundamental level of financial stability in their senior years.

AN ANALYSIS OF LAW RELATING TO PROVIDENT FUND IN INDIA

A provident fund is a type of retirement savings plan frequently offered by employers to their staff. It is a type of long-term investment that enables workers to set aside a portion of their pay in an advantageous tax situation and build up a corpus that may be used to meet their financial needs in retirement. The money collected in a provident fund is often invested in conservative, low-risk products like government bonds and fixed deposits that yield a consistent return over time. After retirement or in an emergency, the employee may withdraw the accrued funds.

Early 19th-century British officials introduced the idea of a provident fund for their employees in India, beginning the history of provident funds in India. The British East India Company established the first such fund for its employees in 1843. Under the provisions of The Provident Fund Act, so passed by the British Parliament was made applicable to the Indian territories controlled by the British East India Company. It established a fund that both the employer and the employee were obligated to

contribute to in order to benefit the East India Company's employees. The Act stipulated that an employee would receive a lump sum pay-out upon retirement or, in the event of death, to their family. The Act served as a significant turning point in the history of provident funds in India and established the standard for the creation of similar programmes in the future.[10]

Later, The Workers' Provident Funds and Miscellaneous Provisions Act[11] was first passed in 1952 after the government in India realised the necessity to give social security benefits to workers after the country attained independence in 1947. The Act was created to guarantee that employees in the organised sector had access to a retirement benefit programme that would aid in their ability to accumulate savings for their golden years.

This Act[12] was passed in order to establish deposit-linked insurance funds, family pension funds, and provident funds for workers in factories and other establishments. The Act, which is a crucial piece of social security law in India, has done much to encourage financial security among workers in the organised sector. The Act is applicable to every establishment that is a factory engaged in any of the industries listed in Schedule I and where there are twenty or more people employed, subject to the provisions of Section 16[13]. It also applies to any other business that employs 20 or more people, or to any group of businesses that the central government may designate in this regard by notice published in the official Gazette.[14] If it appears that the employer and the majority of employees in relation to the establishment have agreed that the provisions of the Act, should be applied to that establishment, then the central government is authorised under Sub-Section(4) of Section 1 to apply the provisions of this Act to that establishment by notification in the official Gazette[15]. In this case, neither Section 1(3) nor Section 16(1) of the Act is in the way[16].

As previously noted, the phrase "twenty persons" refers to "twenty employees" in the sense that the term "employee" has been defined in this Act[17]. Accordingly, a worker who receives a monthly pay

[10] 1843, 6 & 7 Vict. c. 76
[11] The Employees' Provident Funds and Miscellaneous Provisions Act, 1952, Act No. 19 of 1952.
[12] Act no. 19 of 1952.
[13] Section 1 (3) (a)
[14] Section 1 (3) (b)
[15] Section 1 (4)
[16] Id., Section 1 (4)
[17] Id., Section 1 (3) (a)

of Rs. 15,000 or less and is engaged for wages or salary in any capacity, whether manual or otherwise, in or related to the operations of an establishment. As a result, the statute allows employees who get a base income of up to Rs. 15,000 per month to join the EPF.[18]Thus, an "employee" is any person who is paid to perform any kind of work, whether manual or otherwise, in or in connection with the operations of a business and who receives his or her pay either directly or indirectly from the employer. This definition also includes any individual employed by or through a contractor in or in connection with the operations of the business.[19]

J. Rajagopalan of the Madras High Court noted that section 2(f) of this Act, by itself, relates to three types of people: the employer, the contractor, and the employee in Annamalai Mudaliar v. Regional Provident Fund Commissioner[20]. The legislative definition of an employee includes an employee of a contractor as well as an employee of an employer.

Similarlly, in the Andhra Pradesh High Court concluded that Section 1 (3) of this Act is not limited to direct labour and that contract labour also enters the determination as to whether that sub-section is applicable in Nazeena Traders (P) Ltd. v. Regional Provident Fund Commissioner[21]. The court pointed out that the definition of "employee" in Section 2(f) of the Act must be considered when interpreting Section 1(3), and that definition brings contract labour within the purview of that section.

Further, the petitioners in P.M. Patel and Sons v. Union of India[22] worked in the production and trade of beedis. They have factories, which are official businesses. Beedis are rolled by workers who are either directly engaged by the producers or through contractors, depending on the situation. The workers prepare beedis at home after acquiring a supply of raw ingredients from the manufacturers or through contractors, as appropriate. As an alternative, the work is performed by independent contractors who treat the workers as their own employees and have it done either at their own location or in the workers' residences in order to fulfil and complete the contract made with the manufacturers for the supply of finished goods made from the raw materials the manufacturers provided to the contractors. When independent contractors and manufacturers have a contract, the independent

[18] Section 2(f) of The Employees' Provident Funds and Miscellaneous Provisions Act
[19] Section 2 (f)
[20] AIR 1955 Mad 387
[21] AIR 1965 AP 200
[22] (1986) S.C.O. (L & S) 155.

contractors pick up the made goods from the workers' houses and bring them to the manufacturers. The payment of wages to home employees is a matter between the contractors and the home workers; the manufacturer is only concerned with payments made to contractors pursuant to the contract. The Supreme Court ruled that a home worker engages in conduct related to industrial employment. The requirements of this Act and its programmes can be applied to home workers since the phrase "in connection with" in the definition of "employee" in section 2(f) of this Act should not be limited to labour done in the plant itself as a component of the overall manufacturing process.

However, Section 2A of the Act says that a worker who belongs to the Employees' Provident Fund (EPF) shall only be qualified for the benefits of the act if he or she has provided continuous service for duration of at least 5 years. However, the clause also states that if an employee is let go for any cause beyond his or her control—such as the closure of the business, bad health, etc.—before accumulating five years of continuous employment, they will be eligible for benefits in accordance with the Act's guidelines[23]. In order to be eligible for the benefits of the EPF, an employee must have worked for at least 240 days in a calendar year (at an establishment to which the act applies). This clause is specified in Section 26(6) of the act, which stipulates that if an employee works for a company for at least 240 days in a year, they are eligible to receive the employer's contribution to the EPF.[24]

The Act grants the central government the authority to designate, by notification in the official Gazette, the formation of provident funds for employees or for any class of employees and the establishments or class of establishments to which the said plan shall apply[25]. The purpose of the Employees' Family Pension Scheme is to provide family pension and life insurance benefits to the employees of an establishment or class of establishments to which this Act applies. This scheme may be created by the central government and may also be announced in the official Gazette[26].

Similar to this, the central government may create an employees' deposit-linked insurance system for which it has been granted authorization in order to provide life insurance benefits to the staff of any

[23] Section 2A of EPF Act
[24] Section 26(6) of EPF Act
[25] Section 5 (1)
[26] Section 6 A (1)

establishment to which this Act applies[27]. All these funds shall vest in and be handled by the Central Board created under Section 5A[28]. All of these programmes will be applicable to contract workers who work for the establishments for which they are designed.

The Act's Section 6 addresses employer and employee contributions as well as potential scheme provisions. The calculation of employer financial obligations is covered in Section 1A. The commissioner has the same authority granted to a court by the Code of Civil Procedure for the purpose of conducting an investigation under section 1A to ascertain the amount of money owed by the employer.

In Food Corporation of India v. Provident Fund Commissioner[29], the appellant possessed depots for handling, storing, and shipping food grains and other items spread throughout Rajasthan. For the completion of these works, it appointed contractors, who then hired certain employees. The provident fund commissioner urged the corporation to deposit contributions due under the Workers Provident Fund Act and the plans created in accordance with it on behalf of such employees. When there was a violation, the commissioner issued an order in accordance with section 1A of the relevant Act establishing the sum owed by the corporation. It was decided that even though both the employer and the contractors are required to keep records of the employees they employ, the real question is whether the commissioner, a statutory authority, has used his authority to gather the necessary evidence before determining the amount due under the relevant Act. When a party to the proceedings demands the calling of evidence from a specific person and their request is denied, it would constitute a failure to exercise jurisdiction.

The legitimacy of two notifications[30] issued by the federal government under section 7(1) of the Act to modify the employers' provident fund system was contested as being unconstitutional and violating Article 19(1)(g) of the Constitution in Orissa Cement Ltd. v. Union of India[31]. The effect of section 6 and paragraphs 30 to 32 of the plan is that the contribution to the provident fund was to be 12 1/2 percent of the basic wages and dearness allowance, that it be shared equally by the employer and the

[27] Section 6 C (1)
[28] Section 5(1-A), Section 6A(3) and Section 6C(5)
[29] 1990 SCC (L&S) 1
[30] No. SRO 331 dated Jan. 15.1958 and no GSR 1467 dated Dec. 2, 1960.
[31] AIR 1962 SC 1402

employees, that the employer was to pay the entire amount, half of his account, and other halves on account of the employee, and that he was to recoup himself by deducting it from the employee's wages.

This decision resulted in the addition of section 8A to the Act, which states that an employer may recover from a contractor either by deducting the amount of contributions and any charges based on those contributions from amounts owed by the contractor under any agreements or by collecting the debt owed by the contractor. Additionally, it stipulates that a contractor from whom the aforementioned sums had been recouped in regard to an employee employed by or through him, may recoup from employees any contributions made under any scheme by deducting them from the basic wages and dearness allowance, if any, due to such employee.

Moreover, the amount from which Provident Fund[32] (PF) is to be withheld is the subject of a protracted disagreement in India between Employers and Employee Provident Fund Organization (EPFO). The Employee's Provident Fund and Miscellaneous Provisions Act, 1952, sections 2(b) and 6 include ambiguities that are the main cause of the disagreement. Regarding the distinction between Section 2(b) and Section 6 of the Act, various Courts and judgements have provided varying and conflicting viewpoints. The Supreme Court of India's rulings are included below to show that the topic is not just one of law but also involves both fact and the law. The following tabular representation says it all:

Name of the case	**Issue**	**Decision of the Supreme Court of India**
Muir Mills Co. Ltd. Vs. Its Workmen[33]	Whether or not basic wages include production bonus?	The production bonus is not included in the base salary. Any variable income that may differ from person to person based on that person's productivity and diligence will be disregarded when defining basic pay.
Jay Engineering	Whether or not	However, the portion of the payment made by the

[32] Retiral that employer and employee both contribute in line with the Employee's Provident Fund and Miscellaneous Provisions Act, 1952
[33] 1960 SCR (3) 488

Works Ltd And ... vs The Union of India And Others[34]	basic wages include production bonus?	petitioner for production up to the quota as well as production between the "quota" and the "norm" is basic wage within the meaning of that term in the Act. The portion of payment made by the petitioner for production above the "norm" would be production of bonus and would be covered by the judgement of this Court in Bridge and Roof Company.
BRIDGE & ROOF CO. (INDIA) LTD Vs. UNION OF INDIA[35]	Whether or not basic wages include production bonus?	This kind of production incentive follows the conventional payment structure of base plus additional payments for base plus additional payments for exceptional performance. This additional payment is not included in the definition of "basic wages" because it is also known as a production bonus and incentive wage.
The Daily Partap vs. The Regional Provident Fund Commissioner, Punjab, Haryana, Himachal Pradesh and Union Territory, Chandigarh[36]	Whether production bonus should form part of basic wages?	The production bonus programme does not pass the legal requirement, so it does not qualify for the exception (ii) to Section 2(b) and is still considered a basic extra wage.
Hindustan Times Limited vs. Union of	Whether Limitation Act is applicable for claims made under	There was no intention on the part of the legislature to set a deadline for calculating and recovering the arrears.

[34] 1963 SCR (3) 995
[35] 1963 SCR (3) 978
[36] (SC) (1998) 8 SCC 90

India[37]	the Act?	
The Manipal Academy Of Higher ... vs The Provident Fund Commissioner[38]	Whether payment towards leave encashment to be considered as basic wages for the purpose of computation of PF?	1.) Basic wages are those that are uniformly, necessarily, and customarily paid to everyone across all levels; 2.) those that are paid specifically to those who take advantage of the chance are not considered basic wages (payment of leave encashment is contingent upon the claim from the employee and hence does not meet the test of universality)
Maharashtra State Cooperative Bank Ltd. v. Assistant Provident Fund Commissioner[39]	If assets pledged in favour of the appellant-bank as security for repayment of the loan might be seized and sold to recover debts owed by the employer, the management of the Sugar Mills, for provident funds and other obligations due under the Act.	Purposive interpretation of the Act's provisions is required, and the Directive Principles of State Policy should be borne in mind. It is essential for the courts to give the provisions contained in the Act a purposeful interpretation while keeping in mind the Directive Principles of State Policy embodied in Articles 38 and 43 of the Constitution. The Act is a social welfare legislation intended to protect the interests of a weaker section of the society, namely the workers employed in factories and other establishments.
Kichha Sugar Company Limited through General Manager vs.	Should basic wages, in cases where the hill development allowance was provided as a	The 15% Hill Development Allowance cannot be calculated using the money obtained as leave encashment or overtime pay. i.e., any payment made as part of a particular incentive or job is not considered to be basic compensation.

[37] [1998]1 SCR4
[38] ILR 2004 KAR 80
[39] (2009) 10 SCC 123

Tarai Chini Mill Majdoor and Union, Uttarakhand[40]	percentage of basic pay, also include overtime pay and leave encashment?	

The EPF Act is a special substantive law with a focus on social welfare that includes methods and procedures for its application[41]. According to Section 14, every employer is expected to keep the registers, records, and papers pertaining to his employees that the relevant authorities may specify. These documents should include details about the employee's name, address, date of birth, date of hire, salary, wages, and EPF contribution history. Additionally, the employer must provide specific reports and returns to the competent government in accordance with Section 14B of the act. The number of employees, the total amount of EPF contributions paid, and any other information that the relevant government may demand should all be included in these reports and returns.

Furthermore, Section 7-A of the EPF Act, which gives the EPFO-appointed Provident Fund Commissioners (PF Commissioners) the authority to launch an investigation to ascertain if any establishment's contributions made in accordance with the EPF Act's provisions are deficient. Relevantly, no method for conducting these inquiries has been set forth under the EPF Act or any of its programmes. As a result, in practise, the PF Commissioners use several criteria for launching inquiries under Section 7-A of the Act. In fact, inquiries are frequently started on entirely inadequate and unsupportable grounds, which leads to general discontent among the employers on the one hand and to the inquiries' lengthy pending on the other.

It is essential that there be some regulation of the inquiries in order to prevent establishments from being harassed by a fishing and roving inquiry given the broad authority granted to the PF Commissioners under this provision as well as the devastating financial and reputational effects the orders have on the operations of covered establishments and establishments exempt from the EPF Scheme.

The EPF Act's Section 7-A grants the PF Commissioner authority akin to that of a civil court,

[40] (2014) 4 SCC 37
[41] Bank of India v. Provident Fund Commissioner 2005 SCC OnLine Ker 658 : (2006) 2 KLJ 135.

including the ability to compel witnesses to testify and examine them under oath, search for and examine records, accept evidence on affidavits, and issue commissions for witness examination. This section's scope is broad in order to safeguard the interests of the employees in a variety of situations.

The PF Commissioners have the authority to open an investigation into a variety of issues, including but not limited to: (a) disputes over whether the EPF Act applies to a particular establishment; (b) disputes over the amount due from any covered establishment under the EPF Act and the schemes framed thereunder; (c) disputes over whether an employee is eligible for membership; and (d) disputes over violations of any of the Act's provisions.

Finally, a worker has the right to make a withdrawal from his or her Employees' Provident Fund (EPF) account under Section 69 if they have been members for a continuous period of not less than 5 years. The section also states that an employee may withdraw up to 90% of the EPF balance, plus interest, for a number of specific reasons, including the purchase or construction of a home, medical care for oneself or a family member, higher education for oneself or a family member, marriage, or the repayment of loans taken out for the same reasons. In accordance with Section 69(2) of the Act, an employee who becomes 58 years old has the right to withdraw the entire EPF sum that is to his or her credit. But, if an employee continues to work after turning 58, he or she may do so until retirement or until age 60, whichever comes first, and may continue to contribute to the EPF account.[42]

CONCLUSION AND SUGGESTIONS

The idea of employee welfare programmes is very important, if not absolutely necessary, for a firm in every field. The management of people with the aid of these welfare programmes enhances the company and the people inside it. Through devoted, motivated, and content people, companies as a whole work to meet their goals. As a result, employee wellness programmes are crucial to any firm. Institutions should continue to work for the benefit of their staff members in order to increase productivity and gain a competitive advantage.

The Act's provision of a social security net for workers in the organised sector is one of its advantages because it can help to ensure financial stability in old age, in the event of disability, or in the event of

[42] Section 69 of EPF Act

death. The Act also mandates that businesses make contributions to the funds, which may serve as a motivator for employers to offer stable, long-term employment to their employees. The Act is subject to considerable criticism, though. The fact that the contribution rates are so low raises some doubts about their ability to offer workers adequate retirement benefits. The Act only covers workers in the organised sector, which leaves many people, especially those in the informal sector, without any type of social safety net. This is another cause for concern.

A crucial source of social security for workers in the event of a job loss, unemployment insurance, is not addressed by the Act. Additionally, because the Act does not provide for impartial arbitration of conflicts between employees and employers, it might not effectively protect the rights of employees. In conclusion, while the Workers' Provident Funds and Miscellaneous Provisions Act, 1952 provides a significant social security net for employees in the organised sector, there is potential for improvement. The Act could be revised to solve issues like unemployment insurance and independent dispute resolution, as well as to cover more workers and offer higher contribution rates.

It is also suggested that the Employee's Provident Fund Scheme and the Workers State Insurance Scheme should be integrated immediately as a first step towards an united comprehensive social security system, as has often been recommended by numerous committees and people with an interest in the issue. Second-step ideas include developing a system for unemployment benefits and incorporating provident fund programmes into pension plans. It should be noted that none of the aforementioned recommendations and ideas have come to pass up to this point, with the exception of a very small amount of provident funds in provident fund plans being transformed into the family pension.