
IN THE HIGH COURT OF DELHI AT NEW DELHI

[W.P.(C) 18325/2025 & CM APPL. 75888/2025]

Petitioner: N A Sebastian & ANR.

Counsel for Petitioner: Mr. Ravindra S. Garia, Mr. Sanjay Kumar, Mr. Adrija Bhadra,
Mr. Sarfuddin Khan, Mr. Tej Bahadur Srivastava, Advocates

Respondent: Union of India

Counsel for Respondent: Mr. Chetan Sharma, ASG with Mr. Ashish Dixit, CGSC, Ms.
Gurleen Kaur Waraich, SPC, Mr. Surjeet Singh, GP, Mr. Jaideep Singh Waraich and
Mr. Vivek Sharma, Advocates for UOI

Judge- Hon'ble the Chief Justice, Hon'ble Mr. Justice Tushar Rao Gedela.

Order date 3.12.2025: Issues raised in the Petition

A notice by the Central Government, the Ministry of Labour and Employment, under Section 1(3) of Industrial Relations Code, 2020 (hereinafter referred to as "the Code"), on 21.11.2025, stated 21.11. 2025 as the date when provisions of the Code shall come into force.

1. Transfer of all pending cases to a court not yet constituted

Section 51 of the code states that cases pending immediately before such commencement in the Labour Courts and Tribunals constituted under the Industrial Disputes Act, 1947, shall stand transferred to the Tribunals having corresponding jurisdiction under this Code. Further, cases pending before the National Tribunal constituted under the Industrial Disputes Act, 1947 shall be transferred to the National Industrial Tribunal having corresponding jurisdiction under this Code. Therefore, at present all cases under the Industrial Disputes Act, 1947 on or before 21.11.2025 stand transferred to the new tribunal under the code. However, the Industrial Tribunals under the code are yet to be constituted.

Section 44 of the code provides that appropriate government may constitute the tribunals. Further, it provides the composition of the tribunal as requiring 2 members appointed by the government, namely, one Judicial Member and one Administrative Member.

2. Constitution of Tribunal Members Stalled by Absence of Enabling Rules

Sub-Section (4) of Section 44 of the Code provides that the qualification for appointment, method of recruitment, term of office, salaries and allowances and terms of conditions of service of the Judicial Member and the Administrative Member of the Tribunal shall be in accordance with the rules to be made under Section 184 of the Finance Act, 2017. But such rules under Section 184 of the Finance Act, 2017 have not been constituted. Therefore, earlier cases under Tribunals/Labour Courts created under the Industrial Disputes Act, 1947 cannot be pursued and further, new cases cannot be admitted, thereby creating a legal vacuum leaving disputes unattended. It appears, prima facie, that the requisite provisions for the transition period permitting smooth transition of the new Labour Court have by inadvertence, been overlooked by the Central Government.

Order dated 11.12.2025: Government's Response & Remedy provided

The Ministry of Labour & Employment under Section 103 of Industrial Relations issued a notification dated 08.12.2025, titled *Industrial Relations Code (Removal of Difficulties) Order, 2025*. It provided that this order will come in force from 8th of December 2025.

Point 2 of the said order provides that, "For the removal of difficulties, it is hereby clarified that the existing Labour Courts, Industrial Tribunals and National Industrial Tribunals constituted under the Industrial Disputes Act, 1947 (14 of 1947) shall continue to adjudicate the existing as well as new cases, for the purpose of ensuring continuity of adjudication and avoiding any legal or administrative vacuum until the constitution of Industrial Tribunals and National Industrial Tribunals under the Industrial Relations Code, 2020."

Further, Additional Solicitor General, Mr. Chetan Sharma, assured that the Authorities will look into the issues raised against Section 104 of the said code.

Finally, the court ordered for the case to be next listed on 12.01.2026 and placed 'high on board'.