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New wage code bars bonus for those facing sex abuse charges

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Those indulging in sexual harassment of any form could run the risk of losing out on bonus dues from their employers, thanks to a provision in the Code on Wages that the government is currently framing rules for.

Among other things, the Code on Wages lays down norms for annual bonus dues that accrue to employees, replacing the Payment of Bonus Act, 1965. The new Code, expected to become operational once

the government notifies the rules, includes 'conviction for sexual harassment' as a ground for denying bonus payouts to employees.

As per the extant law, bonus dues are barred only in case of employees dismissed for fraud, violent conduct and theft or sabotage.

Move welcomed

"This is a brilliant nudge to get people to be on their best behaviour in the workplace," said Rituparna Chakraborty, co-founder and executive vice-president of Teamlease Services Limited.

"The prospect of losing one's benefits may make employees more careful of their conduct, and they should be made aware of this provision. Money is important to everyone after all; so this serves as an additional deterrent apart from the Prevention of Sexual Harassment (PoSH) law of 2013," Ms. Chakraborty said.

As per the PoSH law guidelines, firms are required to form an Internal Complaints Committee (ICC) to inquire into complaints.

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The Committee is required to make recommendations to employers on the action required pursuant to its inquiry in such complaints.

"If the ICC upholds a complaint, it could be construed as a conviction," Ms. Chakraborty said, adding that the ICC has the powers to decide if someone is guilty and report it further to the police, though not all sexual harassment cases translate into a police case.

Calling this a step forward towards creating seriousness towards instances of sexual harassment, Anshul Jain, partner at PwC told *The Hindu*: "The rules under the Code on Wages should clarify whether the conviction would cover cases of outcomes of the investigation by the Internal Complaints Committee ar-

riving at a conclusion to pay compensation to the victim or not." While the other disqualification triggers for withholding bonus dues, like theft and violent conduct are explicitly restricted to actions on an employer's premises of the employer, the trigger referring to conviction under sexual harassment doesn't include such a condition about the location of the incident.

"At this point, it is not clear if sexual harassment incidents or related crimes against women outside the workplace could lead to dismissal of employees with loss of bonus payments. But yes, harassing a co-worker irrespective of where it is done, should come under this provision's purview," said a labour law consultant, requesting anonymity.