


## Law to increase workers' bonus faces fresh hurdles

• [Somesh Jha](#)

*State-level industry bodies across India approached the courts for relief*

BONUS HURDLES	
Courts in at least 8 states have already stayed the retroactive provisions of the law in the last 2 months	
High Court where stay was granted	Date of passing Interim order
Kerala	Jan. 27, 2016
Karnataka	Feb. 2, 2016
Allahabad	Feb. 12, 2016
Madras	Feb. 25, 2016
Rajasthan	March 18, 2016
Gujarat	April 5, 2016
Punjab & Haryana	April 8, 2016
Madhya Pradesh	April 11, 2016



The government's attempt to appease the working class by paying higher bonus under a 2015 law, applicable with retrospective effect from April 2014, has hit an embarrassing roadblock with High Courts in eight states staying the payment of such benefits.

The Payments of Bonus Act of 2015, passed by Parliament in December 2015 and notified on January 1, doubled the statutory bonus paid to employees and made more workers eligible for bonus by raising the salary ceiling under the law from Rs.10,000 a month to Rs.21,000 a month. While the original Bill was to be effective from April 1, 2015, it was made applicable from April 2014 following a personal intervention from Prime Minister Narendra Modi, Labour Minister Bandaru Dattatreya had said after its passage.

High courts in at least eight states have already stayed the retro-active provisions of the law in the last two months — three of them in the last ten days — forcing the Labour Ministry to consult the Law Ministry on resolving the deadlock, possibly by approaching the Supreme Court.

“It is very unfortunate. The Payment of Bonus law is in the interest of the crores of workers and was unanimously supported by political parties in Parliament,” Mr. Dattatreya told *The Hindu*.

Industry captains had warned the ministry about the financial implications of the retro-active amendments on employers and pointed out that distributing bonus for the previous year after the books of accounts are closed is a difficult prospect.

However, the minister countered this view. “It is an incentive for the industry as giving bonus to workers will lead to more productivity. We are having consultations on the next plan of action following the High Courts’ stay,” he said.

State-level industry bodies across the country approached the courts for relief and the first stay on the retrospective applicability of the law was secured from the Kerala High Court on January 27. The court said the Act will be implemented from April 2015 till the plea is disposed. Since then, employers in Karnataka, Uttar Pradesh, Tamil Nadu and even Bharatiya Janata Party-ruled states such as Gujarat, Rajasthan and Haryana have procured similar stays from respective High Courts.

Perturbed, a few states like Madhya Pradesh even voluntarily issued a directive that local industries need not make bonus payments for the period before April 2015 as directed by the courts. The Centre, however, castigated the state administration for its suo moto action and asked it to withdraw the diktat.

“Unless the High Court having territorial jurisdiction, passes any interim order of like nature, it was or is not necessary to issue any order for compliance of the same,” said a missive from the Union Labour Ministry to the MP government, reviewed by *The Hindu*. However, employers in the state got an interim stay from the courts on April 11. “Day by day, employers in more states are moving the High Court. In some states, there are multiple cases being heard. At present, we are defending all the cases. We are trying to move the Supreme Court and the consultation process with the law ministry is on,” said a senior labour ministry official, on condition of anonymity.

When asked if the labour ministry will challenge the interim orders in the Supreme Court, labour secretary Shankar Aggarwal said: “We have sought the opinion of the law ministry and will take necessary action as per their advice.”

According to the law, an employer is mandated to give a minimum bonus of 8.33 per cent of salary to employees earning upto Rs 21,000 a month.

However, for the purposes of calculating the bonus, only Rs.7,000 a month is considered as the salary.

Industry representatives argued in the various courts that companies have already distributed the bonus for 2014-15 to its workers as per the eight month time limit (after the last day of a financial year) set for such payments under the law.

The Federation of Gujarat Industries termed the new law “unconstitutional” and questioned the Centre’s attempt to justify the retrospective aspect of the law by arguing that the Parliament could not take up the amendment in time for various reasons, in its petition to the Ahmedabad High Court.

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