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PERMISSION FOR RETRENCHMENT– THE COMMON MISCONCEPTION

Following a widely reported¹ employee separation programme, the Minister of State for Labour stated² as follows in the Lok Sabha on December 12, 2022 (emphasis added):

“The As per the ID Act, establishments employing 100 persons or more are required to seek prior permission of the appropriate Government before effecting closure, retrenchment or lay-off. Further, any retrenchment and lay-off are deemed to be illegal which is not carried out as per the provisions of ID Act.”

The underscored sentence appears to have stirred the hornet’s nest especially since it has been made in the context of a separation programme initiated by an e-commerce company. Similar statements have been made by the minister also in the Rajya Sabha³ and these have brought about uncertainty on the requirements under the law.⁴

The Industrial Disputes Act, 1947 (“**ID Act**”) has clearly defined ‘retrenchment’ and set forth the precedent conditions. In every case of a ‘workman’ who qualifies for relief, the employer is legally bound to comply with the conditions, one of which requires the employer to submit notice of retrenchment to the concerned labour authorities. Industrial Disputes Rules of the states prescribe the form and procedure for compliance.

On an employer not complying with the conditions, the workman could challenge the termination as ‘wrongful’ and seek redress for reinstatement and back wages. Conversely, where an employer being a commercial establishment has complied with the conditions of termination, the terminated employee may not succeed in mounting a challenge.

To read the ‘notice of retrenchment’ as ‘prior permission’, as done by the minister at the Parliament, appears misconceived.

This *Counselence Connect* contains information in a nutshell on a recent change in law.

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¹ *The New Indian Express* [report](#).

² Press Information Bureau’s [report](#).

³ *The Hindu* [report](#) of December 8, 2022.

⁴ *Inventiva’s* [blog](#) titled ‘Amid Mass Layoffs And Job Losses, The Industrial Disputes Act of 1947 Comes As The Superman And The Saviour Of Many; Know Your Rights!’ of December 11, 2022.

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