# The Non-Arbitrability of Employment Disputes in India: Analysing the Supreme Court's Evolving Jurisprudence and the Transformative Impact of the Labour Codes

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**Abstract**
This paper analyzes the fundamental transformation of employment dispute resolution in India between 2024 and 2025, driven by critical judicial mandate and statutory reform. The research confirms that the Indian legal system has definitively subordinated private contractual autonomy to statutory labor protections, thereby narrowing the scope of employment arbitration significantly. Specifically, the Supreme Court of India established a clear jurisdictional boundary in its 2024 ruling, confirming that disputes concerning non-payment of wages (Payment of Wages Act, 1936) and the legality of termination (Industrial Disputes Act, 1947) are non-arbitrable, vesting exclusive jurisdiction in specialized statutory authorities.[1] Concurrently, the implementation of the Industrial Relations Code, 2020 (IR Code), structurally excludes the application of the Arbitration and Conciliation Act, 1996 (A&C Act), for industrial disputes, substituting it with a specialized, state-regulated regime requiring mandatory administrative filing of the arbitration agreement within 30 days of execution.[3] This dual shift necessitates an immediate and comprehensive overhaul of corporate employment dispute mechanisms, treating core labor rights as non-derogable public policy matters.

**Keywords:** Employment Arbitration, Labour Codes, Non-Arbitrability, Public Policy, Supreme Court of India

## I. Introduction
The legal framework governing the resolution of employment disputes in India has undergone a profound structural redefinition, resulting from the coordinated influence of a landmark Supreme Court judgment and the implementation of new legislative codes in the 2024–2025 period. This convergence unequivocally signals the prioritization of protective statutory labor mechanisms over the freedom of contract historically favored by commercial arbitration law.
This significant shift is characterized by two profound, mutually reinforcing developments. The first is a judicial pronouncement that has established a clear and restrictive jurisdictional boundary around key employee rights. The Supreme Court decisively ruled that private arbitration clauses cannot displace the exclusive jurisdiction granted to statutory authorities for disputes concerning fundamental livelihood issues, such as wage recovery and wrongful termination.[1] The second development is the structural legislative overhaul brought about by the new Labour Codes, particularly the Industrial Relations Code,

2020 (IR Code), which functionally eliminates the Arbitration and Conciliation Act, 1996 (A&C Act), as the curial law for industrial disputes.[3]

The immediate consequence for legal counsel is the confirmed rejection by the Indian legal system of any notion that private agreements can substitute or circumvent state-provided social and industrial justice mechanisms. Consequently, contractual arbitration clauses are now legally null and void for disputes involving non-payment of wages under the Payment of Wages Act, 1936 (PW Act), and claims regarding the legality and propriety of termination under the Industrial Disputes Act, 1947 (ID Act). Furthermore, any attempt by an employer to strategically deploy arbitration to frustrate an employee's pursuit of statutory remedies has been judicially condemned as an "abuse of process" [4], raising the financial and reputational risk associated with non-compliant dispute resolution strategies.

## II. Related Research Work and Theoretical Framework

The current non-arbitrability standard in Indian employment law is anchored in the traditional distinction between private and public rights, a principle continuously affirmed and refined by the Supreme Court. The long-standing judicial reluctance to allow arbitration clauses to encroach upon certain statutory domains is critical to understanding the 2024–2025 developments.

The theoretical framework for arbitrability was prominently established in *Booz Allen & Hamilton Inc. v. SBI Home Finance Ltd.* (2011).[5] This seminal ruling classified disputes based on the nature of the right involved: rights
*in personam* versus rights *in rem*. Generally, rights *in personam*, which are subordinate interests protected solely against specific individuals (e.g., contractual damages), are considered arbitrable.[5] Conversely, rights
*in rem*, which are exercisable against the world at large and concern matters of sovereign or public interest (e.g., bankruptcy or the validity of a patent), are deemed non-arbitrable.[5]

Critically, the *Booz Allen* test endorsed the exclusive jurisdiction doctrine derived from *Natraj Studios (P) Limited v. Navrang Studios* (1981).[5] This doctrine mandates that if a special statute creates a specific right or remedy (such as tenant protection under Rent Control Acts) and simultaneously vests exclusive jurisdiction over that right in a specified statutory forum, the dispute must be resolved exclusively within that prescribed mechanism.[5]

The non-arbitrability of statutory employment disputes is firmly rooted in this principle of **exclusive statutory remedy**. The machinery created under protective labor laws, particularly the power of an Industrial Tribunal to grant reinstatement following a wrongful termination, constitutes a public law function. The state maintains a vested interest in industrial peace and social welfare, concerns that extend beyond the private contractual relationship.[6] Since an arbitrator's authority derives solely from the private contract, they cannot effectively administer public law remedies, such as the adjudication of the 'legality and propriety of termination' or mandatory wage recovery.[4] Allowing a private contract to displace these specialized tribunals would undermine the state's sovereign function of protecting the vulnerable party. Therefore, core employment claims are treated as non-derogable public policy matters, confirming their exclusion from arbitration under the
*Vidya Drolia* framework, which prohibits arbitration concerning the "non-derogable sovereign and public interest functions of the state".[4]

**III. Methodology**

This research employs a methodology centered on systematic legal jurisprudence analysis, rigorous statutory interpretation, and comparative regulatory review to establish the current legal boundaries of arbitrability in Indian employment law.

1. **Jurisprudence Analysis:** A primary focus was placed on the Supreme Court of India's ruling in *Dushyant Janbandhu v. M/S Hyundai Autoever India Pvt Ltd* (2024), meticulously examining its findings regarding non-payment of wages and termination disputes under the Payment of Wages Act, 1936, and the Industrial Disputes Act, 1947.[1] This analysis was directly connected to foundational precedents, notably
*Booz Allen & Hamilton Inc. v. SBI Home Finance Ltd.* (2011) and *Vidya Drolia v. Durga Trading Corporation* (2020), to comprehensively map the evolution of the public policy exception in the labor context.
2. **Statutory Interpretation:** The study includes a detailed interpretation of the procedural and jurisdictional changes mandated by the anticipated implementation of the Industrial Relations Code, 2020 (IR Code). Special attention was paid to Section 42 (voluntary arbitration) and, critically, Section 42(8) (explicit exclusion of the A&C Act), to define the new statutory requirements for the resolution of industrial labor disputes.[3]
3. **Comparative Regulatory Review:** The implications of the Indian legal position regarding contractual fairness were contextualized through a review of parallel judicial trends in common law jurisdictions, such as rulings on unconscionability and consent in the United States.[8] This review provides a basis for deriving strategic best practices for mitigating risk in contract drafting for multinational employers.

**IV. Findings and Jurisdictional Analysis**

The research yielded two primary findings that fundamentally alter the Indian employment arbitration landscape: the definitive judicial establishment of non-arbitrability for protective claims and the legislative creation of a new, state-controlled industrial arbitration regime.

**4.1 The Landmark Jurisprudence: *Dushyant Janbandhu v. M/S Hyundai Autoever India Pvt Ltd* (2024)**

The Supreme Court's ruling delivered on December 11, 2024, in *Dushyant Janbandhu v. M/S Hyundai Autoever India Pvt Ltd*, represents the judicial apex of the public policy carve-out in the labor domain.[1] The appellant, an Assistant Manager, was terminated after a dispute involving his refusal to resume office attendance, during which his salary was withheld.[11] In response, he pursued two key statutory remedies: a claim for unpaid wages under Section 15(2) of the PW Act, and a challenge to his termination under Section 2(A) of the ID Act.[7]

The employer sought to override these proceedings by invoking the contractual arbitration clause through a petition under Section 11(6) of the A&C Act before the Madras High Court.[7] The Supreme Court delivered a clear and decisive mandate: disputes relating to
**non-payment of wages** and the **legality and validity of the termination order** are **non-arbitrable**.[2] The Court explicitly reinforced the absolute primacy of statutory rights and remedies over private contractual terms, confirming that the statutory authorities (PW Act Authority and Industrial Tribunal) hold exclusive jurisdiction over these protective matters.[1]

Significantly, the Court did not merely dismiss the employer's action; it ruled in favor of the employee, setting aside the High Court's order and dismissing the employer's Section 11(6) petition with costs.[4] The

Court characterized the employer's petition as an "abuse of process" intended to intimidate and threaten the employee for having approached the established statutory authorities.[4] This judgment signals a strong judicial reluctance to tolerate the tactical deployment of arbitration clauses to frustrate the employee's pursuit of statutory remedies, thereby escalating the litigation risk for employers who attempt to enforce arbitration on non-arbitrable labor claims.

The *Janbandhu* principle mandates that if a dispute requires adjudication by a special statutory forum with exclusive remedial power—such as the power of reinstatement or mandatory wage recovery—that dispute is non-arbitrable. This restriction applies to all claims falling under the protective scope of the ID Act (or the new IR Code) or the PW Act.

**4.2 Statutory Overhaul: The Industrial Relations Code, 2020/2025 (IR Code)**

The judicial mandate of non-arbitrability is structurally complemented by the new legislative framework. The implementation of the IR Code, anticipated from April 1, 2025, overhauls the system of voluntary arbitration for industrial disputes.[3]

**The Exclusion of the A&C Act (Section 42(8) IR Code):** The most critical legislative change is the express exclusion of the Arbitration and Conciliation Act, 1996. Section 42(8) of the IR Code explicitly states that the A&C Act **shall not apply** to industrial arbitrations conducted under this section.[3] This statutory bar creates two mutually exclusive legal universes: commercial arbitration (pro-autonomy, governed by A&C Act) and industrial arbitration (protectionist, governed by the IR Code). Consequently, reliance on standard A&C Act provisions—such as Section 11 (appointment of arbitrators), Section 34 (setting aside awards), and Section 9 (interim relief)—is eliminated.[3] Parties seeking urgent directions must now utilize Section 44 of the IR Code or approach the Industrial Tribunal.[3]

**New Procedural Compliance Requirements:** The IR Code imposes stringent procedural mandates that transform private agreement into a state-vetted process. The Code stipulates that a written arbitration agreement **must be filed with the "appropriate Government" and the conciliation officer** within a mandatory period of 30 days of its execution.[3] Failure to comply with this administrative filing obligation constitutes a procedural defect that risks the invalidation of the entire agreement or the imposition of statutory penalties.[3] Furthermore, judicial review of arbitral awards shifts from commercial courts under Section 34 of the A&C Act to

**Industrial Tribunals**, which apply a review standard rooted in labor law and public interest.[3]

## V. Conclusion

The period 2024–2025 has established a restrictive and highly regulated environment for employment arbitration in India. The judiciary has established an inviolable public policy boundary around statutory labor protections (*Janbandhu*) [4], while the legislature has created a new, administratively regulated system for voluntary industrial arbitration (IR Code).[3] This dual transformation signifies the definitive rejection of private contractual overrides concerning fundamental labor rights.

The legal enforceability of an arbitration clause is no longer a matter of simple contractual inclusion, but a complex intersection of jurisdictional law, public policy, and rigorous administrative procedural compliance. The state has permanently reserved the exclusive right to adjudicate disputes involving the legality of termination (including the remedy of reinstatement) and core wage claims, confirming that these matters require the specialized public authority of Industrial Tribunals and PW Act Authorities.[4]

Legal and Human Resources departments must prioritize three mandatory compliance steps to navigate this new environment effectively:

1. **Jurisdictional Audit:** Immediately review all employment agreements and classify potential disputes based on the subject matter and the status of the employee using the following matrix. Extreme caution is required for roles where the status as a 'worker' (under the IR Code) is ambiguous.[15]

| Dispute Category | Statutory/Judicial Basis | Arbitrability Status |
|---|---|---|
| Claims for Non-Payment of Wages | Payment of Wages Act, 1936 (PW Act); *Janbandhu* Ruling (Dec 2024) [1] | **NON-ARBITRABLE.** Exclusive jurisdiction vested in PW Act Authority. |
| Legality/Validity of Termination | Industrial Disputes Act, 1947 (ID Act); *Janbandhu* Ruling (Dec 2024) [4] | **NON-ARBITRABLE.** Exclusive jurisdiction vested in Industrial Tribunal (power of reinstatement). |
| General Industrial Disputes (Involving 'Workers') | IR Code, 2020 (Section 42) [3] | **VOLUNTARILY ARBITRABLE** but A&C Act is barred. Must follow IR Code procedure and filing rules. |
| Pure Contractual Disputes (Non-Workers/Executives) | Rights *in Personam*; General Contract Law | **ARBITRABLE.** Governed by the A&C Act, 1996. |

2. **Contractual Redrafting:** Arbitration clauses covering industrial disputes must be urgently revised. For disputes involving 'workers,' all language invoking the A&C Act, 1996, must be eliminated, including references to Sections 9, 11, 17, and 34.[3] New clauses must explicitly anchor the mechanism in Section 42 of the Industrial Relations Code, 2020. Furthermore, to mitigate unconscionability risks, contracts should ensure mutuality of claims and require clear, express consent.[8]
3. **Procedural Compliance Protocol:** An internal, non-negotiable compliance process must be established to ensure that all written arbitration agreements intended to operate under the IR Code are physically or electronically **filed with the Appropriate Government and the conciliation officer within the mandatory 30-day window**.[3] This procedural step is now a non-derogable legal requirement for validity.

The following checklist summarizes the mandatory procedural changes required for industrial arbitration agreements under the new IR Code regime.

| Compliance Area | Old Position (Pre-2025) | New Requirement (Post-IR Code Rollout) | Citation |
|---|---|---|---|
| Applicable Curial Law | A&C Act, 1996 | Industrial Relations Code, 2020/2025 (Sec 42) | 3 |
| Filing Obligation | None | Must be filed with "appropriate Government" and conciliation officer within 30 days. | 3 |

| Compliance Area | Old Position (Pre-2025) | New Requirement (Post-IR Code Rollout) | Citation |
|---|---|---|---|
| Judicial Review Forum | Commercial Courts (Under Sec 34 A&C Act) | Industrial Tribunal (Limited grounds, akin to Sec 34 parity) | 3 |
| Interim Relief/Emergency Arbitration | Possible under A&C Act (Sec 9) | Barred. Must use Section 44 IR Code (Conciliation Officer) or Tribunal mechanism. | 3 |
| Industrial Action Status | Strikes/lock-outs could continue during private arbitration. | Strikes and lock-outs must cease once dispute is notified under . | 3 |

## VI. References

| Citation | Source Snippet ID | Description |
|---|---|---|
| 3 | 3 | Labour Code 2025 changes: exclusion of A&C Act, mandatory filing obligation, and new judicial review forum (Industrial Tribunals) for arbitration agreements. |
| 1 | 1 | *Dushyant Janbandhu* ruling on non-arbitrability of disputes relating to non-payment of wages and termination. |
| 2 | 2 | *Dushyant Janbandhu* decision on non-arbitrability of wage and termination disputes (December 2024). |
| 4 | 4 | *Dushyant Janbandhu* finding that Section 11(6) petition was an abuse of process and the non-arbitrability of legality and propriety of termination. |
| 5 | 5 | *Booz Allen* test distinguishing rights *in rem* (non-arbitrable) from rights *in personam* (arbitrable) and the exclusive jurisdiction doctrine. |
| 6 | 5 | *Natraj Studios* and *Booz Allen* principles on exclusive jurisdiction of special statutory tribunals. |
| 7 | 4 | Details of the *Dushyant Janbandhu* case: filing of PW Act and ID Act claims prior to the employer's Section 11(6) petition, and citing *Vidya Drolia*. |

| Citation | Source Snippet ID | Description |
|---|---|---|
| 11 | 2 | Background facts of the *Dushyant Janbandhu* dispute involving the Assistant Manager, remote work refusal, and termination. |
| 12 | 2 | Supreme Court's explicit ruling that termination orders are non-arbitrable. |
| 13 | 4 | Ruling that non-payment of wages is non-arbitrable. |
| 15 | 15 | Definition of 'worker' under the IR Code (excluding supervisors with wage thresholds and managers) and the impact of the removal of Labour Courts. |
| 16 | 16 | Updated definitions under the IR Code, including 'worker'. |
| 14 | 3 | Need to delete Section 29A references from arbitration clauses due to the exclusion of the A&C Act. |
| 8 | 8 | South Carolina Supreme Court ruling requiring express consent and additional consideration for mid-employment arbitration agreements, noting silence is not acceptance. |
| 9 | 9 | California Supreme Court ruling allowing refusal of enforcement if even one unconscionable provision renders the agreement unfair (interests of justice). |
| 10 | 10 | Guidance on reviewing arbitration agreements for mutuality and avoiding provisions that deprive parties of rights available under federal or state law. |