

Coronavirus | Companies cannot force leave without pay, say experts

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The employer may treat it as leave without pay if an employee refuses to work from home, says legal expert.

Companies cannot force employees to take leave without pay amid the 21-day lockdown imposed by the government to control to the spread of **COVID-19**, according to experts.

“In general, annual leave is a statutory entitlement to be availed at the employee’s discretion and as per terms of company policy. It cannot be forced upon the employees,” Vikram Shroff, head of HR Laws at Nishith Desai Associates, said.

These are, however, exceptional circumstances and the concept of 'no work no pay' may be tested. The government has clarified that employees shall be deemed to be on duty in case of a lockdown. The employer may treat it as leave without pay if an employee refuses to work from home, he said.

Mr. Shroff pointed out that as a result of such a natural calamity, factories and industrial establishments may be able to lay off its workmen in compliance with law and the employer's Standing Orders, subject however to the government notifications.

S. Ravindaran, a senior advocate, said the legal compulsion to suspend the operations/activities in factories, shops, commercial establishments/offices, etc., did not result in denial of wages to the employees, including contract workmen

An employee could be denied wages only when he was absent from work or when he was on strike and, therefore, all employees, including contract workmen, were entitled to full wages lastly drawn by them during the period up to 14.04.2020, he said.

S. Kannan, CITU president, Kancheepuram district, said that the State government had to pitch in to clarify on the issue of payment of wages.

"This is an extraordinary situation. Even in times of floods and cyclone the recovery has been fast. If companies cut things like shift allowance or conveyance it is understandable. But cutting basic wages is not acceptable," he said.