



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

CAN AN ALGORITHM BE A LAWFUL MANAGER? DELEGATED JUDGMENT, NON-DELEGABLE RESPONSIBILITY IN INDIAN EMPLOYMENT LAW

~ Gyan Prakash Upadhyay & Aviral Joshi

Abstract

When an employer lets an algorithmic system score, rank or flag workers for decisions that affect their livelihoods, existing legal categories struggle to say who must answer for the result. This article argues that Indian law already contains the resources needed to answer that question, even though no statute or judgment has yet confronted it directly: an employer may lawfully delegate the exercise of managerial judgment to a computational system, but it cannot delegate away legal responsibility for what that system decides. Examining constitutional non-arbitrariness doctrine, the reasoned-decision requirement in Indian administrative law, the newly consolidated Industrial Relations Code, 2020, and the still largely dormant Digital Personal Data Protection Act, 2023, the article shows that India's existing protections are genuine but fragmented, and that the fragmentation tracks a specific fault line between State and private employment rather than a general absence of principle. Drawing a narrow, non-imitative lesson from the European Union's own unsettled AI Act, the article proposes a proportionate, consequence-based framework: meaningful human review, decision-relevant (not source-code) explanation, data accuracy and contestability, and non-delegable employer accountability, built substantially from institutions Indian labour law already possesses.

Keywords: algorithmic management; procedural fairness; Digital Personal Data Protection Act, 2023; Industrial Relations Code, 2020; meaningful human review; employer accountability; EU AI Act.

I. Introduction: When the Manager Is an Algorithm

An employee is marked for termination. A performance-management system has scored her productivity below threshold for three consecutive cycles, drawing on keystroke intervals, ticket-closure times and a peer-comparison weighting that nobody in the organisation has actually inspected. Her manager signs the termination recommendation because it arrives pre-generated for his signature; he could not reconstruct why the system produced that score even if asked to. She asks why she is being let go. No one can tell her anything more specific than that the system flagged her.

This is not a hypothetical. It describes how performance evaluation, work allocation, disciplinary flagging and, increasingly, recruitment and promotion decisions are already made in Indian workplaces. The legal question this raises is narrower than the general debate about artificial intelligence and work: when a computational system materially shapes a decision that affects a worker's livelihood, who is legally responsible for it, and what must the employer show before the decision can lawfully take effect? This article's thesis is that Indian law already supplies the beginnings of an answer. An employer may lawfully delegate the exercise of managerial judgment to a computational system; it may not thereby delegate away legal responsibility for the decision that results. What follows tests that proposition against India's constitutional, industrial and data-protection architecture, draws a narrow lesson from the European Union's experience, and proposes a proportionate framework built substantially from institutions Indian labour law already possesses.

II. Algorithmic Management as Delegated Managerial Power

Indian courts have traditionally treated managerial decisions, whom to hire, how to allocate work, whom to discipline, as internal to the employment relationship, intervening only where conduct is mala fide, perverse, disproportionate or procedurally unfair. That restraint assumed a human decision-maker who reasoned toward a conclusion and could be made to explain it. Nothing in the

legal character of a managerial decision changes merely because a statistical model, rather than a person, produces the recommendation; what changes is its epistemic structure. The “reasoning” now sits inside a system correlating historical patterns, and the human standing in the workflow may have no independent basis on which to affirm or contradict it.

A functional typology is useful here. Purely administrative or assistive tools, payroll software, scheduling systems, execute managerial judgment rather than displacing it. Tools that generate a recommendation a human genuinely weighs, and may reject, leave judgment intact, even if narrowed. Tools whose output effectively determines the outcome, because no one in the organisation is positioned or incentivised to disagree with it, have displaced managerial judgment regardless of whose signature appears on the final order. Legal consequences should track this spectrum, not the bare fact that software was involved somewhere in the process.

The normative claim that follows is best understood by analogy to a principal employment law has never doubted: an employer cannot disclaim a wrongful dismissal simply by pointing to the branch manager, rather than the board, who signed the order. Delegated authority has never meant delegated responsibility. An algorithmic system occupies the same structural position, with the added difficulty that it has no legal personality, cannot be examined, and cannot itself be held to any standard of good faith. If a human subordinate’s exercise of delegated power does not sever the employer’s responsibility, an instrument even less capable of answering for itself cannot sever it either. Managerial power may be delegated, technologically or otherwise; legal responsibility for its exercise may not.

III. What Indian Law Already Demands of Human Decision-Makers

India’s existing legal resources are genuine, but they are fragmented along one fault line: constitutional doctrine binds the State and its instrumentalities directly, while private employment is governed by contract, statute and industrial adjudication.

Where an employer is “State” under Article 12, Article 14 applies with full force. *Maneka Gandhi v. Union of India* held that any procedure depriving a person of a right must be fair, just and reasonable, making non-arbitrariness a free-standing constitutional demand.¹ In *Central Inland*

¹*Maneka Gandhi v Union of India* AIR 1978 SC 597.

Water Transport Corporation Ltd. v. Brojo Nath Ganguly, the Supreme Court struck down a rule that let a government company terminate an employee on notice without assigning any reason, holding it arbitrary under Article 14 and unconscionable under Section 23 of the Indian Contract Act, 1872, because it had been imposed by a party of overwhelming bargaining dominance.² *Delhi Transport Corporation v. D.T.C. Mazdoor Congress* struck down an equivalent “hire and fire” clause on the same footing.³ Both cases target precisely the pathology that an opaque algorithmic flag reproduces: a decision for which no reason can be demanded. But both bind only State instrumentalities; a private employer is not directly bound by Article 14, and Articles 15 and 16 reach private employment even less, since the horizontal clause in Article 15 is confined to shops and public spaces, not to employment generally. What does travel beyond the State-action line is the Contract Act reasoning. Section 23 unconscionability binds any contracting party, so a private contract that assigns unreviewable power to an opaque system is, in principle, open to the same challenge, independent of Article 14.

A second strand concerns reasons themselves. In *Union of India v. Mohan Lal Capoor*, the Court rejected token reasons offered for supersession in promotion, holding that reasons must be the genuine link between the material considered and the conclusion reached, not a conclusion merely restated in different words.⁴ In *S.N. Mukherjee v. Union of India*, a Constitution Bench held that recording reasons excludes arbitrariness and secures fairness for any determinative authority, treating this as a general requirement rather than one confined to a particular context.⁵ Neither case concerned employment, but the principle applies directly: a decision without an ascertainable reason cannot be tested for arbitrariness, because there is nothing for a reviewer to test. If a manager cannot state, in terms a tribunal could interrogate, why a system produced its output, then what gets recorded as “the reason” is only a record of an output. It is not a reason as *Mohan Lal Capoor* required.

Private employers are directly and generally bound, independent of Article 12, through industrial adjudication. The Industrial Disputes Act, 1947 and the Industrial Employment (Standing Orders)

²*Central Inland Water Transport Corporation Ltd v Brojo Nath Ganguly* (1986) 3 SCC 156; Indian Contract Act 1872, s 23.

³*Delhi Transport Corporation v DTC Mazdoor Congress* AIR 1991 SC 101.

⁴*Union of India v Mohan Lal Capoor* AIR 1974 SC 87.

⁵*SN Mukherjee v Union of India* (1990) 4 SCC 594.

Act, 1946 were repealed with effect from 21 November 2025 and consolidated into the Industrial Relations Code, 2020, whose Central Rules were notified on 8 May 2026.⁶ Section 50 of the Code reproduces the power earlier conferred by Section 11A of the repealed Act⁷: a Tribunal that finds a discharge or dismissal unjustified may set it aside, direct reinstatement, or substitute a lesser punishment. It may go behind the employer's own finding rather than merely policing the procedure that led to it, and this holds regardless of whether the employer is public or private, or whether the assessment behind the decision was human or algorithmic. This is a genuine resource that commentary on this subject tends to overlook: the power to reappraise substance survives the shift to algorithmic decision-making. What may not survive is the practical capacity to exercise that power. Section 50 review presupposes a record connecting material to finding, and an employer who cannot reconstruct why its own system scored a worker in a particular way has defeated the Tribunal's jurisdiction before the worker even invokes it. There is also a coverage gap worth flagging: "worker" excludes persons employed mainly in a managerial or supervisory capacity, which describes precisely the mid-management employees increasingly subject to algorithmic scoring, and precisely those Section 50 does not reach.

A final, more prospective resource comes from data protection doctrine. *Justice K.S. Puttaswamy (Retd.) v. Union of India* recognised informational privacy under Article 21 and, building on *Modern Dental College & Research Centre v. State of Madhya Pradesh*, required State interference with it to satisfy legality, legitimate aim, necessity and procedural safeguards.⁸ This binds only the State's own processing of data. But it supplies a doctrinal vocabulary, legality, necessity, procedural safeguard, that the framework proposed later in this article adapts for private data fiduciaries, even where it cannot itself be invoked as a constitutional right against them.

IV. Data Protection and Discrimination: A Framework Not Yet a Floor

The Digital Personal Data Protection Act, 2023 is India's only general data statute, but it is not currently the site of a right against opaque algorithmic decisions, for two reasons.⁹ First, Section

⁶Industrial Relations Code 2020 (Act 35 of 2020), s 50; Industrial Relations (Central) Rules 2026, GSR 342(E) (8 May 2026).

⁷Industrial Disputes Act 1947, s 11A (repealed).

⁸*Justice KS Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1; *Modern Dental College & Research Centre v State of Madhya Pradesh* (2016) 7 SCC 353.

⁹Digital Personal Data Protection Act 2023 (Act 22 of 2023), s 7(i).

7(i) treats processing “for the purposes of employment” as a ground for processing without consent, without any proportionality test comparable to the EU’s “legitimate interest” analysis, and the Act contains no equivalent of a right against solely automated decision-making and no statutory right to explanation. Second, and more consequentially, most of the Act is simply not yet law. Under commencement notification G.S.R. 843(E) of 13 November 2025,¹⁰ only the Data Protection Board’s own provisions took effect at that point; the Consent Manager provisions commence in November 2026; and Sections 3 to 17, which include Section 7 and the fiduciary’s accuracy duties, commence only on 13 May 2027. An employee whose data feeds a workplace algorithm inaccurately today cannot yet invoke even these modest protections as positive law. The claim that “India has no law regulating AI at work” is therefore imprecise. It would be more accurate to say that the relevant provisions exist on paper and do not yet bind any employer, a gap this article’s proposal can exploit by building safeguards into the Rules before Chapter II commences.

Discrimination law compounds the gap. Article 15 binds the State; its horizontal application under Article 15(2) reaches shops and public spaces, not private employment.¹¹ India has no general private-sector employment anti-discrimination statute comparable to the EU’s equality directives. The Code on Wages, 2019 prohibits sex-based discrimination in recruitment and in wages for similar work, which is narrow and ground-specific.¹² The Rights of Persons with Disabilities Act, 2016 imposes substantive non-discrimination duties on “government establishments,” while requiring larger establishments generally, both government and private, to adopt and register an equal-opportunity policy, a procedural rather than substantive obligation where the employer is private.¹³ Algorithmic scoring is especially prone to indirect discrimination through proxies drawn from skewed data, postal code, career gaps, university tier, that can reproduce caste, gender or disability disadvantage without ever naming the protected ground. Indian courts recognise indirect discrimination as a concept. What is missing is a general private-employment statutory hook through which to litigate it.

¹⁰Digital Personal Data Protection Act 2023, Commencement Notification GSR 843(E) (13 November 2025).

¹¹Constitution of India, art 15(2).

¹²Code on Wages 2019 (Act 29 of 2019), s 3.

¹³Rights of Persons with Disabilities Act 2016 (Act 49 of 2016), ss 20–21.

V. Comparative Lessons from the European Union

The EU AI Act, Regulation (EU) 2024/1689, classifies AI used in recruitment, promotion, termination, task allocation and performance monitoring as “high-risk” under Article 6(2) and Annex III,¹⁴ triggering obligations around risk management, data governance, documentation, logging, transparency, human oversight and accuracy.¹⁵ Article 14 requires the human overseer to understand the system’s capabilities and limitations, correctly interpret its output, and retain genuine power to override or reverse it.¹⁶ This is the closest analogue to what this article calls “meaningful human review.” The GDPR separately gives a qualified right, under Article 22, against decisions “based solely on automated processing” that produce legal or similarly significant effects.¹⁷ Where an exception applies, the data subject retains at least a right to human intervention, to express a view, and to contest the outcome; a right to explanation appears only in Recital 71, not in the operative text itself.¹⁸

Two qualifications matter before any of this can be transplanted. First, none of it is yet operative even within the EU. The Digital Omnibus on AI, in force from 27 July 2026, deferred the Annex III high-risk obligations from 2 August 2026 to 2 December 2027, because regulators concluded that the conformity-assessment infrastructure was simply not ready.¹⁹ That is hardly an obvious template to borrow wholesale. Second, the EU’s trigger is system-based, while a consequence-based approach asks how significant the effect actually is on the particular worker. That difference matters, because category-based tests risk both over-inclusion (catching a scheduling tool that merely touches recruitment) and under-inclusion (missing a plain spreadsheet formula, never marketed as “AI,” that nonetheless determines retrenchment). What is worth borrowing is the design principle: oversight is meaningful only if the overseer can genuinely decide not to follow the machine, and transparency should attach to a decision’s basis rather than to a system’s

¹⁴Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules on artificial intelligence (Artificial Intelligence Act), art 6(2) and Annex III(4).

¹⁵Regulation (EU) 2024/1689, arts 9–15.

¹⁶Regulation (EU) 2024/1689, art 14.

¹⁷Regulation (EU) 2016/679 (General Data Protection Regulation), art 22.

¹⁸Regulation (EU) 2016/679, recital 71.

¹⁹Regulation (EU) 2026/1744 of the European Parliament and of the Council amending Regulation (EU) 2024/1689 (Digital Omnibus on AI).

internals. What is not worth borrowing, at least not yet, is an ex ante conformity-assessment bureaucracy calibrated for an economy that is still unsure it can operate one on schedule.

VI. Defining Meaningful Human Review

Formal presence in a workflow is not meaningful review, and the distinction cannot safely be left to intuition. Building on *Mohan Lal Capoor* and the substantive-review jurisdiction under Section 50, review should count as meaningful only where the reviewer understands, functionally, what the system does and where its outputs are least reliable; has genuine authority to depart from its recommendation without organisational penalty, which addresses automation bias, the well-documented tendency to defer to machine output even when discretion is formally retained; has actually considered case-specific facts, including any explanation the worker had a fair chance to offer; can state, in ordinary language, why the outcome is correct independent of the system's say-so; and leaves a contemporaneous record capable of being tested later. None of this is a new invention. Each element restates, for an algorithmic context, what *Mohan Lal Capoor* required of a reason and what Section 50 already permits a Tribunal to test. The genuinely new step is recognising that a click of approval satisfies none of these conditions on its own, and that the burden of showing genuine review should sit with the employer, since only the employer controls the system and its record.

VII. A Proportionate Indian Framework

The framework proposed here is deliberately narrow, consequence-based, and built from institutions that already exist rather than from a new statute or a new regulator.

Classification should proceed by consequence. Low-impact uses, scheduling, payroll, remain effectively unregulated. Medium-impact uses, productivity scoring, work allocation, shortlisting, warrant disclosure of the system's role and a right to correct the underlying data. High-impact uses, recruitment exclusion, discipline, termination, demotion, material pay reduction, should trigger full safeguards before the decision takes effect. Meaningful human review, as defined above, becomes a precondition for any high-impact decision. Decision-relevant explanation for high-impact decisions should cover five things: that an automated system materially influenced the decision; the principal factors and categories of data relied on; the reason for the outcome; the

accountable human's identity or function; and an avenue to contest the decision internally. This is deliberately narrower than source-code or model-weight disclosure, which explains architecture without explaining any individual outcome, and which an employer who merely licenses third-party software may not itself possess. Accuracy and contestability should let a worker challenge a decision that rests on inaccurate or outdated data, enforceable once the DPDP Act's Chapter II obligations commence, and readable meanwhile into the standing-orders framework as a matter of fair procedure. Employer accountability is the central proposition of this whole framework: an employer may never defend an unlawful high-impact decision by pointing to the system that generated it. "The algorithm decided" should carry no more weight than "my subordinate decided," which is to say, none at all. Auditability, required only for high-impact systems, means retaining the system version, the material inputs and outputs, the review record, and the resolution of any challenge. Proportionality ties the intensity of the obligation to the product of the degree of automation, the severity of the consequence, and the scale of deployment.

None of this requires an omnibus AI Employment Act. It requires, first, subordinate legislation amending the standing-orders framework under Chapter IV of the Industrial Relations Code, 2020, to disclose automated involvement in matters the Code already governs. Second, rules under the DPDP Act, once operative, on accuracy and contestability of employment data, including a Data Protection Impact Assessment for larger deployments. Third, judicial and tribunal development that extends *Brojo Nath Ganguly*'s unconscionability reasoning and Section 50 review to unreviewable algorithmic outputs, which requires no new statute at all. Fourth, for the "worker" coverage gap, an internal-review obligation modelled on the RPwD Act's registered grievance mechanism. Enforcement would then be distributed across Industrial Tribunals, writ courts for State-instrumentality employees, and the Data Protection Board once it becomes operative, rather than concentrated in any new regulator.

VIII. Counterarguments and Limits

Several objections deserve a direct answer. On trade secrets: the obligation proposed is decision-relevant explanation, not source-code disclosure. It tracks the factors behind an outcome, and is dischargeable even by an employer that merely licenses the tool rather than building it. On compliance cost: consequence-based tiering leaves low- and medium-impact uses largely

untouched and scales the obligation to severity and to the scale of deployment. On human bias: the case for review does not rest on humans being less biased than models. It rests on a human being questionable, held to *Mohan Lal Capoor*'s reasons standard, and testable under Section 50, in ways a model simply cannot be. The remedy for human bias remains natural justice and discrimination law, not the removal of an accountable human from the loop. On efficiency: algorithmic management can genuinely reduce inconsistency and favouritism, and the framework leaves low-impact automation unregulated for precisely that reason. It targets consequential opacity, not automation as such. On the sufficiency of existing law: existing doctrine, reasoned decisions, Section 50 review, contractual unconscionability, supplies real principles, but none of them compels a system to generate a reviewable record before the fact, and each has a coverage limit, State action, the "worker" definition, a data statute not yet in force, that leaves a genuine gap behind. On horizontal application: this article does not claim that Articles 14 or 21 bind private employers directly. It uses constitutional reasoning as an interpretive resource for doctrine that already applies horizontally, which is exactly the route *Brojo Nath Ganguly* itself used when it reached for Section 23 of the Contract Act.

IX. Conclusion

An algorithm can lawfully perform functions once reserved to a human manager: screening, scoring, ranking, allocating, even recommending dismissal. Indian law, across its constitutional, industrial and data-protection fragments, already refuses to let an employer point to a rule, a form or a policy and disclaim responsibility for what that instrument produces. Nothing in that refusal turns on whether the instrument is a printed regulation or a trained model. What Indian law currently lacks is not the underlying commitment but a mechanism that makes it operate before a decision becomes irreversible, rather than years later in litigation once opacity has foreclosed any real account of what happened. The framework proposed here builds that mechanism largely from materials Indian labour law already has, calibrated to consequence rather than to the mere presence of a computer. An algorithm may lawfully hold the pen. It may not lawfully hold the responsibility.