

ANDHRA PRADESH LABOUR WELFARE FUND RULES, 1988

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ANDHRA PRADESH LABOUR WELFARE FUND RULES, 1988

In exercise of the powers conferred by Section 37 of the Andhra Pradesh Labour Welfare Fund Act, 1987 (Act No.34 of 1987), the Governor of Andhra Pradesh hereby makes the following rules relating to the Andhra Pradesh Labour Welfare Fund. These rules shall come into force on the 1st May, 1988.

1. Short title and commencement :-

- (1) These rules may be called the Andhra Pradesh Labour Welfare Fund Rules, 1988.
- (2) They extend to whole of the State of Andhra Pradesh.
- (3) They shall come into force on the 1st May, 1988.

2. Definitions :-

- (1) In these rules unless the context otherwise requires
 - (a) Act means the Andhra Pradesh Labour Welfare Fund Act, 1987;
 - (b) Board means the Andhra Pradesh labour Welfare Board established under Section 4 of the Act;
 - (c) Form means form appended to these rules;
 - (d) Notification means a notification published in the Andhra Pradesh Gazette;
 - (e) Register of establishment means
 - (i) in relation to a factory, a Register of adult workers or a Register of child workers maintained under Section 62 or Section 73 respectively of the Factories Act, 1948 (Act No.LXIII of 1948);
 - (ii) in relation to a motor transport undertaking, a Register of workers maintained under Rule 35 of the Andhra Pradesh Motor Transport Workers Rules, 1963; and
 - (iii) in relation to any other establishment, the Register of employment maintained under the Andhra Pradesh Shops and Establishment Rules, 1968;

Provided that where any establishment is not required to maintain such Register, Register of establishment shall mean any other Register in which names of the employees employed in the establishment every day or every month of the year are ordinarily shown;

- (2) All words and expressions used in these rules, unless otherwise defined shall have the same meaning as assigned to them in the Act.

3. Notice of applicability, Change of particulars or closure :-

- (1) Every employer of an establishment shall give a notice of opening in Form A to the Welfare Commissioner or to

such other officer as may be authorised in this behalf within,

(a) Sixty days, in respect of the establishments existing as on the date of commencement of these rules; and

(b) Thirty days in respect of other establishments.

(2) Every employer shall within thirty days intimate in Form to the Welfare Commissioner or to such other officer as may be authorised in this behalf, any change in the information under sub rule (1).

(3) Where an employer intends to close down his business for good and sufficient reason, he shall serve a notice of such intended closure in Form C on the Welfare Commissioner atleast, ninety days before the date on which the intended closure is effective;

Provided that any such closure shall be in accordance with the provisions of law.

(4) All notices to be given under this rule shall be by registered post and acknowledgment obtained thereof.

4. Maintenance of Registers by employers :-

(1) Every Employer of an establishment shall maintain and preserve for a period of five years:

(a) A register of wages in Form except in cases where a simple register is maintained under any other law for the time being in force, and

(b) A consolidated register of unclaimed wages and fines in Form G provided that in respect of cases of pending before the appellate authorities such records register shall be preserved till the cases are finally disposed of.

(2) The employer of an establishment shall by the 31st January of every year forward to the Welfare Commissioner a copy of the extract from the register in Form E pertaining to the previous year.

5. Mode of payment of dues including fines realised from employees and unpaid accumulations by the employer :-

(1) Every employer of an establishment shall pay, the employer s and employee s contribution of the provident fund, all dues including fines realised from the employees and unpaid accumulations by a demand draft of money order to the Welfare Commissioner or to such other officer as may be authorised in this behalf for every quarter ending within the 31st March, the 30th June, the 30th September, and 31st December, within fifteen days from the closing of each quarter:

Provided that in respect of the existing establishments, the sums payable by the employer under sub rule (1) shall be paid in the manner provided therein within fifteen days from the date of coming into force of these rules.

(2) The payments under sub rule (1) shall be accompanied by a statement showing full particulars of the amounts paid.

6. Payment of employer s and employee s contributions :-

Every employer of an establishment operating for any length of period during the twelve months preceding the 31st December, of every year shall pay to the Welfare Commissioner or such officer as may be authorised in this behalf, the employers contribution and also the employees contribution, whose names stand on the register of establishment preceding the 31st December, by the 31st January succeeding year, along with a statement showing full particulars in Form F.

7. Submission of Statement to the Government :-

The Welfare Commissioner shall submit to the Government not before the 31st March of each year a statement of employers and employees contributions received by him by the 31st January of the year in Form G.

8. Notice to employers for payment of dues :-

Where the employer does not pay the whole or any part of the amount, due from him in accordance with Rule 5 6 within the stipulated time the Welfare Commissioner may after making such enquiries as he may deem fit, serve a notice on such employer to pay the amount due from him within fifteen days from the date of receipt of the notice.

(2) The notice under sub rule (1) shall be served on the employer either by personal service after taking receipt or by registered post with acknowledgment due;

Provided that an employer refuses to receive such a notice, it shall be deemed to have been served properly for the purpose of this rule, if a copy thereof is pasted on any suitable place at or near about the main entrance of the establishment or where such notice was sent by post, if it was returned by the postal authorities with such remarks as would indicate that it could not be served owing to refusal to accept or negligence on the part of the employer concerned.

9. Particulars to be incorporated in Board s notice about unpaid accumulation :-

The notice under sub section (3) of Section 8 shall contain the following particulars namely :

(a) name and address of the establishment in which the unpaid accumulation was earned;

(b) wage period during which the unpaid accumulation was earned;

(c) amount of unpaid accumulation; and

10. Remission of penalty :-

(2) Where the Welfare Commissioner is satisfied that the non payment of dues was due to the circumstances beyond the control of the employer the Welfare Commissioner may remit in part or whole of the penalty payable under sub section (2) of Section 9;

11. Constitution of the Board :-

(a) Fine persons to be nominated by the Government as indicated below :

(c) Five persons representing employees nominated by the Government in consultation with the organisation of employees functioning in Andhra Pradesh.

12. Committees of the Board :-

(a) The Board may constitute one or more committees for the purpose of advising the Board in discharging its functions and in particular for carrying into effect any of the matters specified in sub section (2) of Section 12 of the Act.

(2) The Committee shall be represented with equal number of representatives of the employees and employers.

(3) The Board shall determine the qualification and term of office of the Committee or Committees constituted under Section 7 of the Act.

(4) The Committee shall meet at such time and at such place as the chairman of the said Committee may decide and the committee shall observe such rules of procedure in regard to the transaction of the business as its meeting as it may deem proper.

(5) The Committee shall be treated as first class Government committee and the provisions of Rule 12 shall apply to the members of the committee for purposes of Travelling Allowance and Dearness Allowance.

13. Procedure regarding Board meeting :-

(1) The Board shall meet as often as may be necessary but not less than once in every three months commencing from the first meeting convened.

(2) The Welfare Commissioner shall in consultation with the chairman fix a date, time and place as well as agenda for, each meeting of the Board and give not less than seven day s notice thereof to each member:

Provided that seven day s notice shall not be necessary where in the opinion of the Chairman that the business to be transacted at the meeting is of a very urgent nature requiring immediate attention and members are informed accordingly.

(3) The Chairman shall preside over all the meetings of the Board and no matter other than those included in the agenda shall be discussed at any meeting except with the permission of the Chairman.

Provided that if for any other reason the Chairman is unable to attend a meeting the members present shall choose one among them to preside over and carry on the functions of the Chairman for that meeting.

(4) No business shall be transacted in any meeting of the Board unless there is quorum of not less than one third of the number of members of the Board: Provided that if a meeting adjourned by the Chairman for lack of quorum even after waiting for not less than thirty minutes from the appointed time the Welfare Commissioner shall with the same agenda as fixed for the original meeting, fix a date not earlier than seven days from the date of that meeting

and give notice in this behalf to all members and it shall thereupon be lawful to dispose of the business included in the agenda in the meeting irrespective of members present.

(5) All matters at the meeting of the Board shall be decided by majority of votes of the members present and voting: Provided that in case of equality of votes the chairman shall have a casting vote or a second vote.

(6) Votes on any issue shall be taken by show of hands at the meeting of the Board and the names of the persons voting in favour and against on any proposal shall be recorded only if any member requests the Chairman to do so.

14. Minutes of the meeting :-

(1) The Welfare Commissioner shall arrange for preparing the minutes of the proceedings of each meeting of the Board showing inter alia the names of the members present and shall forward a copy of such minutes to each member of the Board as soon after the meetings as possible.

(2) The minutes of two proceedings of each meeting shall be confirmed with such modification, if any, as may be decided upon at the next meeting of the Board and signed by the Chairman at that meeting by way of authentication.

(3) The minutes of the proceedings of each meeting of the Board authenticated by the Chairman under sub rule (2) shall be kept in a separate minutes book and the Welfare Commissioner shall send a copy of such authenticated minutes of the proceedings of each meeting to the Government for information as early as possible.

(4) The minutes book shall be kept in safe custody of the Officer authorised by the Welfare Commissioner who shall be responsible for recording the minutes of the meetings.

15. Allowances of Members :-

Travelling allowance and daily allowances of an official member shall be governed by rules applicable for journey performed by him on official duties and shall be paid by the authority paying his salary. (3) Each non official member of the Board shall be entitled to draw travelling and daily allowance for any journey performed by him in connection with the performance of his duties at the rate admissible to a non official member of the first class Government Committee under the Andhra Pradesh Travelling Allowance Rules.

16. Budget of the Board :-

The Welfare Commissioner shall cause the budget estimates of the fund for every financial year to be prepared and laid before the Board by the 31st January every year and the Board will approve the budget before the 15th March.

17. Additional Expenditure :-

If during the course of financial year it becomes necessary to incur expenditure over and above provision made in the budget, the Welfare Commissioner shall submit additional demands to the Board for its approval.

18. Maintenance of Bank Account and Mode of Payment from Fund :-

Payment from the fund shall be made:

(1) Where the amount payable is less than hundred rupees in cash;

(2) Where the amount payable is hundred rupees and more, a cheque shall be issued by the Welfare Commissioner or such other offices as may be authorised in this behalf;

(3) Each cheque that may be issued shall bear the signatures of two such Officers are authorised by the Welfare Commissioner.

19. Application for Grant from Fund :-

The application for grant from the fund under sub section (3) of Section 12 shall be submitted to the Welfare Commission in triplicate. Such application shall be placed by the Welfare Commissioner before the Board within thirty days of its receipt with his remarks for consideration of the Board. The Board may recommend with or without modification any application placed before it and such application recommended by the Board shall be forwarded to the Government by the Welfare Commissioner within fourteen days from the date of the decision of the Board for the approval of the Government.

20. Maintenance and Audit of Accounts of the Fund :-

(1) The Board shall maintain proper accounts and other relevant records and prepare annual statement of accounts including balance sheet.

(2) The accounts of the Board shall be balanced on the 31st March of each year.

(3) The accounts of the fund shall be maintained by the Accounts Officer of the Board and shall be audited by a chartered Accountant's firm appointed by the Government.

(4) The Government may also at any time order special audit of the accounts of the Board.

(5) The fee for the audit shall be as may be approved by the Government.

21. Appointment of officers, clerical and executive staff by the Board and their service conditions :-

(1) The Board may create all posts and appoint such number of officers executive, clerical and other staff as may be necessary for carrying out its functions under the Act. It shall also have disciplinary and administrative control over

them.

(2) The Board may make regulations specifying the terms and conditions of appointment, service and the scales of pay of officers and other staff of the Board including the payment of travelling and daily allowance in respect of journeys undertaken by the officers and other staff of the Board.

22. Duties and powers of Inspectors :-

(1) An Inspector appointed under Section 18 of the Act shall generally make such inspection as may appear to him necessary for satisfying himself that the provisions of the Act and rules and any orders issued by the Government under this Act are duly observed.

(2) In addition to the powers conferred by clause (a) of sub section (2) of Section 18 of the Act, an Inspector shall for the purpose of giving effect to the provisions of the Act, have power to:

(a) prosecute, conduct or defend before a court any complaint or other proceedings arising under the Act;

(b) require any employer to supply or send any return or true copy of any document or information relating to the provisions of the Act;

(c) make inspection in such manner as he deems fit to satisfy himself that:

(i) the provisions of the Act and Rules regarding the payment of contribution and unpaid accumulation and fines are observed;

(ii) the prescribed registers are properly maintained; and

(iii) the returns and registers to be maintained under these rules are properly maintained and duly sent to the appropriate authority.

(d) note whether the defects or irregularities pointed out in the course of previous inspection have been removed and the orders issued have been complied with;

(e) point out and either to record on the establishment register or inform the employer through a letter all such defects or irregularities as he may have observed in course of an inspection and to give orders for their rectification in the manner he deems fit and proper;

Provided that the employer concerned shall have the right to prefer an appeal to State Government or such other authority as may be specified by the Government in this behalf against an order given by an Inspector under clause (e) within thirty days of the receipt of such an order assigning specific reasons thereof.

23. Financial Transactions :-

(1) The Board shall be free to undertaking any financial transactions with in its budgetary limits for carrying out the purposes of the Act and for this purpose it may

(a) dispose of by sale or exchange any immoveable property belonging to the Board or grant lease of any immoveable property belonging to the Board of any term not exceeding 12 months;

(b) with the approval of the State Government lease sell or otherwise dispose of the other moveable or immoveable property belonging to the Board;

Provided that no financial deal shall be transacted or executed without the prior approval of the State Government if it involves anything of which the money value exceeds ten thousand rupees.

(2) The Board may enter into or execute all such contracts as it may consider necessary or expedient for bringing the provisions of the Act into effect: Provided that prior approval of the State Government shall be obtained in respect of any contract involving an expenditure exceeding ten thousand rupees.

(3) Every contract made under or for any purpose of the Act shall be made on behalf of the Board

(a) by the Welfare Commissioner; or

(b) subject to such condition as the board may specify by such member or officer of the Board it may authorise.

24. Publication of annual report of the Board :-

(1) The Board shall within three months of the date of each financial year submit to the State Government for approval an audited statement of receipts and expenditure together with an annual report giving the activities in the year.

(2) The statement and the report shall be laid as soon as may be after they are approved by the State Government before the State Legislature while it is in session for a period of not less than thirty days.

(3) After the statement and the report are laid before the State Legislature under sub rule (2) the Board shall cause the same to be published in such manner as it may deem fit.