

DELHI LABOUR WELFARE FUND RULES, 1997

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DELHI LABOUR WELFARE FUND RULES, 1997

In exercise of the powers conferred by Section 19 of the Bombay Labour Welfare Fund Act, 1953 (Bombay Act No. XL of 1953) as extended to the National Capital Territory of Delhi, the Lt. Governor of the National Capital Territory of Delhi, after previous publication, is pleased to make the following rules, namely

1. Short title, extent and commencement :-

(1) These rules may be called the Delhi Labour Welfare Fund Rules,

1997.

(2) They extend to the whole of the National Capital Territory of Delhi.

(3) They shall come into force from a date to be notified by the Government of the National Capital Territory of Delhi.

2. Definitions :-

In these rules, unless there is anything repugnant in the subject or context :

(a) "Act" means the Bombay Labour Welfare Fund Act, 1953, (Bombay Act No. XL of 1953) as extended to the National Capital Territory of Delhi.

(b) "establishment register" means in relation to

(i) 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) any other establishment, a register of employment maintained under the Delhi Shops and Establishment rules, 1954.

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

(c) "Form" means a form appended to these Rules;

(d) "Government" means the Government of National Capital Territory of Delhi;

(e) "Lt. Governor" means the Lt. Governor of National Capital Territory of Delhi appointed by the President under article 239 read with article 239AA of the Constitution;

(f) "section" means a section of the Act.

(g) Words and expressions not defined in these Rules shall have the meanings assigned to them under the Act.

3. Payment of fines and unpaid accumulations of employer :-

(1) Within three months from the date on which these rules shall come into force in the National Capital Territory of Delhi, every

employer in such territory shall pay by cheque, money order or cash to the Welfare Commissioner.

(a) all fines realised from the employees before the said date and remaining unutilised on that date and;

(b) all unpaid accumulations held by the employer on the aforesaid date;

(2) The employer shall alongwith such payment submit a statement to the Welfare Commissioner giving full particulars of the amounts so paid.

(3) Thereafter, all fines realised from the employers and all unpaid accumulations during the quarters ending the 31st March, the 30th June, the 30th September and the 31st December shall be paid by the employer in the manner aforesaid to the Welfare Commissioner on or before the 15th of April, the 15th of July, the 15th of October and the 15th of January succeeding such quarter and a statement giving particulars of the amounts so paid shall be submitted by him alongwith such payment to the Welfare Commissioner.

(4) Every employer shall submit to the Welfare Commissioner on or before the 31 st day of July and 31st day of January, a statement of employer's contribution and the employees contribution in respect of employees whose names stand on the establishment register on the 30th June, and the 31st December, respectively in Form 'A'.

(5) The Welfare Commissioner shall submit to the Lt. Governor not later than the 31st August, and the 28th February, respectively, a statement of employers' contribution received by him on the 30th June, and 31st December, respectively, in form 'B'.

4. Notice for Payment of fines and unpaid accumulations by Welfare Commissioner :-

The Welfare Commissioner may, after making such enquiries as he may deem fit, and after calling for a report from the Inspector, if necessary, serve a notice on any employer to pay any portion of fines realised from the employees or unpaid accumulations held by him which the employer has not paid in accordance with rule 3. The employer shall comply with the notice within fourteen days of the receipt thereof.

5. Particulars of unpaid accumulations to be published

under section 6-3(A) :-

The notice referred to in sub section (3) of section 6-A shall contain the following particulars namely:

(a) Name and addresses of the factory or establishment in which the unpaid accumulations were earned;

(b) Wage period during which the unpaid accumulations were earned;

(c) Amount of the unpaid accumulations;

(d) A declaration that a list containing the names of employees and the amount due to them and paid to the Board has been pasted on the notice board of the factory or establishment in which the unpaid accumulations were earned.

6. Remission of penalty :-

(1) Application for remission of penalty shall be made to the Welfare Commissioner within sixty days from the date of payment of penalty, and shall clearly specify the grounds on which the remission is claimed.

(2) Where the Welfare Commissioner is satisfied that the penalty imposed is likely to cause undue hardship to the employer concerned or that the employer has suffered financially on account of riots, war or through natural calamities or that delay caused in the payment of unpaid accumulations or fines was due to circumstances beyond his control, the Welfare Commissioner may remit in part or whole the penalty payable under sub-section (2) of section 6-B;

Provided that if the amount of penalty to be remitted exceeds five hundred rupees, the remission shall not be made without the prior sanction of the Board.

7. Maintenance and audit of accounts :-

The accounts of the funds shall be prepared and maintained by the Accounts Officers of the Board in Form 'C and shall be audited by the Pay and Accounts Officer to be deputed by the Director of Audit, of the Government once a year. The Welfare Commissioner shall be responsible for the disposal of the audit note.

8. Budget of Board :-

(1) The budget estimates for each financial year shall be prepared

and laid before the Board on or before the 1st day of December of the previous financial year and, after it is approved by the Board, shall be forwarded to the Lt. Governor for approval on or before the 15th December. The Lt. Governor shall approve the budget before the 15th January after making such amendments and alterations as he considers necessary.

(2) The budget, thus amended or altered and approved shall constitute the budget of the Board for the ensuing financial year and shall be issued under the seal of the Board and signed by the Officer or Officers of the 'Board duly authorised in this behalf. An authenticated copy of the budget shall be forwarded to the Lt. Governor, before the 28th February.

9. Additional Expenditure :-

If during the course of the financial year, it becomes necessary to incur expenditure over and above the provision made in the budget, the Board shall immediately submit to the Lt. Governor the details of the proposed expenditure, and specify the manner in which it is proposed to meet the additional expenditure. The Lt. Governor may either approve the proposed expenditure after making such modifications as he considers necessary or reject it. A copy of the order passed by the Lt. Governor on every such proposal to incur additional expenditure shall be communicated to the Board and the auditor, if any, appointed by the Lt. Governor.

10. Application for grant from fund :-

Any employer, local authority or any other body, may make an application to the Welfare Commissioner for a grant under section 7(3) of the Act. Such application shall be placed by the Welfare Commissioner before the Board within a month of its receipt with his remarks, and the recommendations of the Board shall be forwarded to the Lt. Governor by the Welfare Commissioner for obtaining the approval of the Lt. Governor.

11. Mode of payment :-

All payments from the Fund amounting to :

- (a) less than five hundred rupees may be made in cash; and
- (b) five hundred rupees or more shall be made by cheque issued by the Welfare Commissioner;

Provided that the Board may, in any particular case for special reasons, authorise such payment also in cash.

12. Constitution of Board :-

The Boards shall consist of 12 members including the Chairman, out of which three shall be the representatives of employers and employees each, three women representatives and two representatives shall be independent members.

13. Allowances of the members of the Board :-

The members of the Board shall hold their offices in an honorary capacity. Such members shall be eligible for conveyance allowance and to travelling and daily allowances for attending each meeting of the Board at the rate as admissible to a non-official member as laid down in the Government of India's orders issued on the subject from time to time.

14. Allowances of members of Committee :-

The members of the Committee constituted under Section 6-AA shall be eligible to conveyance allowance and to travelling and daily allowances for attending such meeting of the Board at the rate as admissible to non- official member as laid down in Government of India's orders issued on the subject from time to time.

15. Meetings of Board :-

(1)The Board shall meet at least once every quarter and as often as may be necessary.

(2) All members of the Board shall be given seven clear days' notice of a meeting specifying the date and time and place of the meeting and business to be transacted thereat:

Provided that seven clear days' notice shall not be necessary where in the opinion of the Chairman, business of an emergent nature has to be transacted.

16. Quorum :-

The number of members necessary to constitute a quorum at a meeting of the Board shall be seven including the Chairman.

17. Chairman to preside :-

Every meeting of the Board shall be presided over by the Chairman or if the Chairman is, for any reason, unable to attend it, by such one of the members present as may be chosen by the meeting to be the Chairman for the occasion.

18. Adjournments of meetings :-

If there is no quorum as laid down in rule 16, the Chairman, shall,

after waiting for thirty minutes after expiration of the appointed hour, adjourn the meeting to such hour on some other future day as he may reasonably fix. A notice of such adjourned meeting shall be sent to every member of the Board and the business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed off at such meeting, whether there be quorum or not.

19. All questions to be decided by the majority :-

All questions coming before the meeting of the Board shall be decided by a majority of the members present and voting at the meeting. The Chairman shall have a second or casting vote in all cases of equality of votes.

20. Mode of exercising votes :-

Votes shall be taken by show of hands and the names of person voting in favour and against any proposition shall be recorded only if any member requests the Chairman to do so.

21. Minutes of the meetings :-

The Board shall keep minutes of the proceedings of each meeting of the Board and shall include therein the names of the members present. A copy of such minutes shall be submitted by the Board to the Lt. Governor as soon as they are confirmed by the Board.

22. Recruitment and conditions of services of Welfare Commissioner :-

(1) Appointment to the post of Welfare Commissioner shall be made by the either.

(a) by nomination from and amongst the persons.

(i) Who are not less than 35 years and more than 45 years of age.

(ii) Who holds degree in Economics or Sociology of any university recognised by the Government in this behalf and diploma in Labour Welfare or Social Sciences of any institute recognised by the Government in this behalf.

(iii) Who have sufficient knowledge of Hindi and are able to speak, read and write in that language;

(iv) Who have at least ten years experience in responsible capacity in labour or social welfare administration; and

(v) Who have sufficient knowledge and experience of organising physical, cultural and other recreational activities;

(b) by promotion amongst Deputy Welfare Commissioner who have put in continuous service of atleast three years in that post; or

(c) by deputation of officers from the cadre of Deputy Labour Commissioner or of Assistant Labour Commissioner:

(i) Who have put in a continuous service of five years in any capacity, not lower in rank than that of an Assistant Labour Commissioner.

(2) A candidate appointed on deputation shall normally be appointed for a period of 3 years as provided in Government of India's orders issued from time to time. The period of deputation may be extended by one year more in exceptional cases.

(3) The post of Welfare Commissioner shall carry:

(i) The post scale of Rs. 3,000-4,500 for the said post or own scale of pay with Rs. 500 p.m. as deputation allowance.

(ii) a clearness allowance at the rate admissible to an officer of the Govt. of National Capital Territory of Delhi drawing pay equal to that drawn by the Welfare Commissioner and a special pay of Rs. 500 p.m.

(iii) a conveyance allowance as may be approved by the Lt. Governor from time to time.

23. Delegation of powers and functions of the Boards :-

The Board may delegate its powers and functions to the Welfare Commissioner in relation to the following matters subject to the conditions and limitations specified below, namely.

I. under section 7 subject to the provisions of any rule made in this behalf.

(A) to sanction expenditure within the budget grants approved by the Government.

(B) to transfer funds among the following detailed heads of account namely:

(i) Community and social education centres;

(ii) reading rooms at centres;

- (iii) libraries at centres;
- (iv) circulating libraries;
- (v) community necessities;
- (vi) games and sports;
- (vii) excursions, tours and holiday homes;
- (viii) entertainment and other forms of recreations;
- (ix) home industries;
- (x) subsidiary occupations for women and unemployed person;
- (xi) remunerative employment.

(C) to write off any loss when its value is not more than Rs. 2,500/- (Rs. Two thousand and five hundred only).

II. Under section 14:

(A) to appoint the necessary clerical and executive staff to carry out and supervise the activities financed from the fund, on posts, the basic salary of which is not more than Rs. 1,400/- (Rs. One thousand four hundred) per month.

(B) To exercise powers of administration and taking disciplinary action against such staff as stated below:

(i) power to transfer, to sanction increment to fix pay, to grant joining time, to depute on foreign service, sanction of leave and to relax qualifications;

(ii) powers of discharging a person;

(a) on probation during the period of such probation;

(b) to appoint otherwise than under contract to hold a temporary appointment on the expiration of the period of that appointment or for any other reason;

(c) to engage under contract in accordance with the terms of his contract;

(d) to appoint otherwise than under a contract to hold a permanent appointment on the abolition of that post or pay or any other reasons;

(iii) powers of imposing any of the following penalties.

(a) censure;

(b) withholding of increment or promotion including stoppage at an efficiency bar;

(c) reduction to a lower post or time scale or to a lower stage in a time scale;

(d) recovery from pay of the whole or part of any loss caused to the Board by negligence or breach of orders;

(e) fine;

(f) suspension;

(g) removal from the service of the Board, which does not disqualify one from any future employment;

(h) dismissal from the service of the Board which ordinarily disqualifies from future employment;

(i) any other punishment with the approval of the Board;

Provided that every member of such staff shall have a right to appeal to the Board against any order of reduction, dismissal or removal from service, fine or any other punishment.

24. Additional powers of Inspectors :-

Every Inspector shall, for carrying out the purposes of the Act, also have the powers to require any employer to produce any document for his inspection, to supply him a true copy of any such document and to give him a statement in writing.

25. Maximum Limit of expenses on staff :-

The Board shall ensure that the expenses of the staff including the staff employed for carrying out the programme of the Board, and other administrative expenses, shall not exceed sixty percent of the annual income of the Fund.

26. Publication of Annual Report of the Board :-

The Board shall, within three months of the date of the closing of each financial year, submit to the Lt. Governor for approval an audited statement of receipts and expenditure together with an annual report giving its activities in the year.

27. Maintenance of registers by employers :-

(1) Every employer of an establishment shall maintain and preserve for a period of ten years.

(a) a register of wages in Form 'D' except in cases where the employer maintains a muster roll-cum-wage register prescribed under the Delhi Minimum Wages Rules, 1950 and Delhi Shops and Establishment Rules, 1954; and

(b) a consolidated register of unclaimed wages and fines in Form 'E'.

(2) In cases, pending before the Appellate Authority, the record shall be preserved till the cases are finally disposed off.

(3) The employer shall by the 31st January of every year forward to the Welfare Commissioner a copy of the extract from the register in Form 'D' pertaining to the previous year.