

KARNATAKA MATERNITY BENEFIT ACT, 1959

4 of 1960

[18th February, 1960]

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An Act to consolidate and amend the law relating to the prevention of employment of women in factories, plantations and other

establishments for some time before and some time after confinement and to provide for payment of maternity benefit and medical benefit to them. Whereas, it is expedient to consolidate and amend the law relating to prevention of employment of women in factories, plantations and other establishments for some time before and some time after confinement and to provide for payment of maternity benefit and medical benefit to them; Be it enacted by the Karnataka State Legislature in the Tenth Year of the Republic of India as follows:

1. Short title, extent, commencement and application :-

(1) This Act may be called the Karnataka Maternity Benefit Act, 1959.

(2) It extends to the whole of the State of Karnataka.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

(4) It shall apply, in the first instance, to all factories, and plantations.

(5) The State Government may, after giving one month's notice of its intention of so doing, by notification apply the provisions of this Act to any other establishment or class of establishments, industrial, commercial or otherwise.

2. Definitions :-

In this Act, unless the context otherwise requires.

(a) "Certifying Surgeon" means a qualified medical practitioner appointed as such for the purposes of this Act;

(b) "Employer" includes the occupier and the manager of a factory or a plantation or an establishment;

(c) "Establishment" means an establishment to which the provisions of this Act have been applied under sub-section (5) of Section 1;

(d) "Factory" means a factory as defined in clause (m) of Section 2 of the Factories Act, 1948 (Central Act LXIII of 1948), or a place deemed to be a factory under sub-section (2) of Section 85 of that Act;

(e) "Inspector" means an Inspector appointed under Section 14;

(f) "Maternity benefit" means the amount of money payable under

the provisions of this Act to a woman employed in a factory or a plantation or an establishment;

(g) "Notification" means a notification published in the Official Gazette;

(h) "Plantation" means any land used or intended to be used for growing tea, coffee, rubber, or cinchona which measures 25 acres or more and whereon thirty or more persons are employed, or were employed on any day of the preceding twelve months and where the provisions of the Plantation Labour Act, 1951 (Central Act 69 of 1951) have been applied by notification under sub-section (4) of Section 1 of the said Act to any other class of plantations, means also any land used or intended to be used for growing the plant mentioned in such notification and whereon thirty or more persons are employed, or were employed on any day of the preceding twelve months;

(i) "Prescribed" means prescribed by rules made under this Act;

(j) "Woman" means a woman worker; and

(k) "Worker" in relation to a factory has the same meaning assigned to it by the Factories Act, 1948, and in relation to a plantation or in relation to any other establishment means a person employed directly or through an agency whether for hire or not to do any work, skilled or unskilled, manual or clerical, or any person so employed under a contractor engaged in the execution of the whole or any part of any work which is ordinarily part of the trade or business of the employer, but does not include a person whose total emoluments exceed four hundred rupees per mensem or any member of the managerial staff, that is to say, the manager, assistant manager, or other agent of the employer.

3. Prohibition of employment of women in certain period :-

(1) After this Act comes into operation, no employer shall employ a woman in any factory, plantation or other establishment after she has given notice under sub-section (1) of Section 5 or knowingly employ any woman in any such factory, plantation or other establishment during the eight weeks immediately following the day of her confinement.

(2) During the period of pregnancy a woman shall not be knowingly employed on work which is arduous or which requires long hours of

standing at one place or which may in any way interfere with her pregnancy and is likely to cause miscarriage or adversely affect her health or interfere with the normal development of foetus.

4. Right to maternity benefit of women in factories, plantations and other establishments :-

(1) Subject to the provisions of this Act, every woman in a factory, plantation or an establishment shall be entitled to, and her employer shall be liable for (i) the payment of maternity benefit at the rate of seventy-five naye paise a day or calculated at a rate of $\frac{7}{12}$ th ,of the average daily wage multiplied by seven for a week, whichever is higher, and (ii) the grant of maternity leave; during the period of four weeks immediately preceding and including the day of her confinement and for eight weeks immediately following her confinement.

Explanation. For the purpose of this section and Sections 6 and 7, "average daily wage" means average of her total full time earning for the days on which she worked during the three months immediately preceding the day on which she gives notice under sub-section (1) of Section 5:

Provided that a woman shall not be entitled to maternity benefit unless she has been employed in a factory, plantation or an establishment of the employer from whom she claims maternity benefit for at least one hundred and fifty days whether continuously or intermittently during the period of twelve months, or if she has been on the rolls of the said factory, plantation or establishment for a period of nine months immediately preceding the date on which she gives notice under subsection (1) of Section 5.

(2) Notwithstanding anything contained in sub-section (1), if at or before the commencement of this Act, an employer has been paying to women workers in any factory, or plantation or in any other establishment, maternity benefit at a rate higher than that payable under sub-section (1), then, every woman worker in such factory, plantation or an establishment shall be entitled to and the employer shall be liable for the payment of maternity benefit at such higher rate.

(3) The maximum period for which any woman shall be entitled to the payment of maternity benefit and the grant of maternity leave shall be twelve weeks, that is to say, four weeks up to and

including the day of her confinement and eight weeks immediately following that day.

5. Notice of claim of maternity benefit and payment thereof :-

(1) Any woman in a factory or a plantation or in an establishment entitled to maternity benefit under the provisions of this Act, may give notice in writing to her employer stating that her maternity benefit may be paid to her or to such other person as she may nominate in this behalf and that she will not work in any employment during the period for which she receives maternity benefit. If the woman has not been confined, such notice shall state that she expects to be confined within four weeks from the date of the notice; if she has been confined, such notice shall be given within one week of her confinement.

(2) The employer shall on receipt of the notice permit such woman to absent herself from the factory, plantation or establishment until the expiry of eight weeks after the date of her confinement.

(3) The amount of maternity benefit for two weeks shall be paid in advance to the woman and the balance amount for the period up to and including the day of confinement shall be paid by the employer to the woman within forty-eight hours of the production of such proof, as may be prescribed, that the woman has been confined. The amount due for the subsequent period shall be paid punctually each week in arrear.

6. Leave for miscarriage :-

In case of miscarriage, a woman shall on production of a certificate signed by the certifying surgeon or any other qualified medical practitioner or on production of such other proof of miscarriage as may be prescribed, be entitled to three weeks leave from the date of her miscarriage with wages at the rate of seventy-five naye paise a day or calculated at a rate of 7/12th of the average daily wage multiplied by seven for a week, whichever is higher, during the period of her absence.

Explanation. For the purpose of this section, any premature delivery or abortion within a period of six months of pregnancy shall alone be deemed to be miscarriage.

7. Leave for illness arising out of pregnancy or confinement :-

A woman shall be entitled to leave with wages for a maximum period not exceeding thirty days in cases of illness arising out of pregnancy or confinement in addition to the maternity leave to which she is entitled to under Section 4 at the rate of seventy-five naye paise a day or calculated at a rate of 7/12th of the average daily wage multiplied by seven for a week, whichever is higher, on production of such proof as may be prescribed.

8. Payment of medical bonus :-

Every woman entitled to maternity benefit under Section 4 shall also be entitled to receive from her employer a medical bonus of ten rupees if the employer has not made provision for pre-natal care, confinement, and post-natal care free of charge.

9. Payment of maternity benefit in case of claimants death :-

If a woman entitled to maternity benefit under the provisions of this Act dies during the period for which she is entitled to maternity benefit, the employer shall pay the amount of maternity benefit due to the person who undertakes the care of the child, if the child is living, and if the child is not living, to the nominee mentioned in the notice given under sub-section (1) of Section 5, and if there is no such nominee, to the heirs of the deceased woman.

10. Dismissal during pregnancy or absence :-

(1) When a woman absents herself from work in accordance with the provisions of this Act, it shall be unlawful for the employer to dismiss her during or on account of such absence, or to give notice of dismissal on such a day that the notice will expire during such absence.

(2) The dismissal of a woman at any time during her pregnancy if the woman but for such dismissal would have been entitled to maternity benefit under this Act shall not have the effect of depriving her of the maternity benefit.

(3) If the confinement involves illness incapacitating a woman for work, the employer shall not be entitled to dismiss her if she fails to return to duty on the expiry of eight weeks after her confinement, in addition to the leave provided for in Section 7, without getting the approval of the certifying surgeon who may increase the period of absence if he considers fit.

11. Powers of Inspector to direct payments to be made :-

(1) Any woman claiming that maternity benefit to which she is entitled under this Act and any person claiming that the payment due under Section 9 is improperly withheld may make a complaint to the Inspector.

(2) On receipt of such a complaint or on his own motion without any such complaint being made, the Inspector may make inquiry or cause an inquiry to be made, and if satisfied that a payment has been wrongfully withheld may direct the payment to be made in accordance with his orders.

(3) Any person aggrieved by the orders of the Inspector under subsection (2), may appeal to the Commissioner of Labour or such other officer as may be empowered by the State Government in this behalf, within such time and in such manner as may be prescribed, and his decision shall be final.

(4) Any amount payable under this section shall be recoverable as arrears of land revenue.

12. Forfeiture of maternity benefit :-

If a woman works in any factory, plantation or establishment after she has been permitted by the employer to absent herself under the provisions of Section 5, she shall forfeit her claim to the payment of maternity benefit to which she is entitled.

13. Nursing breaks :-

Every woman in a factory, plantation or an establishment who returns to duty after confinement shall be allowed in the course of her daily work intervals of a duration of half an hour after a continuous period of work for three hours to feed the child till the child attains the age of two.

14. Appointment of Inspectors :-

The State Government may by notification appoint such officers of Government as it thinks fit to be Inspectors for the purposes of this Act and may assign to them such local limits or such factories, plantations and establishments as it thinks fit.

15. Powers and duties of Inspectors :-

Subject to any rules made in this behalf, an Inspector may within his jurisdiction enter any place which is used or which he has reason to believe is used as a factory or a plantation or an establishment with such assistants as he thinks fit and inspect the premises and such registers, records, and notices as \\ may be

prescribed.

16. Inspectors to be public servants :-

Every Inspector shall be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

17. Penalty for contravention of Act by employer :-

If any employer contravenes any of the provisions of this Act, he shall, on conviction, be punishable with fine which may extend to two hundred and fifty rupees and where the contravention is of the provision relating to the payment of maternity benefit, and where the amount has not already been recovered, the Court shall recover the amount due on account of the maternity benefit as if it were a fine and pay such amount to the person entitled thereto:

Provided that where the employer has contravened the provisions of Section 10 the Court may pass orders granting such relief as is necessary.

18. Jurisdiction of Courts :-

(1) No Court inferior to that of a Magistrate of the First Class shall try any offence against this Act or any rules made thereunder.

(2) No prosecution for any offence against this Act or any rules made thereunder shall be instituted except by or with the previous sanction of the Inspector.

19. Period of limitation for prosecution under the Act :-

No Court shall take cognizance of, or convict a person for, any offence against this Act or any rule thereunder unless complaint thereof has been made within six months of the date on which the offence was committed. In computing the period of six months aforesaid, the time, if any, taken for the purpose of obtaining the previous sanction of the Inspector under sub-section (2) of Section 18 shall be excluded.

20. Exemption in certain cases :-

The State Government may, by notification, exempt from the provisions of this Act, any seasonal factory or any establishment where, in the opinion of the State Government, it is difficult to enforce the provisions of this Act, subject to such conditions as may be specified in the notification.

21. Bar of benefit under the Act in certain cases :-

When any person is entitled to any of the benefits provided by the

Employees State Insurance Act, 1948 (Central Act XXXIV of 1948), such person shall not be entitled to receive any similar benefit admissible under the provisions of this Act.

22. Rules :-

(1) The State Government may, by notification, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for.

(a) the preparation and maintenance of a muster roll and the particulars to be entered in such roll;

(b) the inspection of factories, plantations and other establishments for purposes of this Act by Inspectors;

(c) the exercise of powers and the performance of duties by Inspectors for the purpose of this Act;

(d) the method of payment of maternity benefit and other benefits under this Act insofar as provision has not been made therefor in this Act;

(e) the nature of proof under sub-section (3) of Section 5 and Section 7; and

(f) all matters which are to be or may be prescribed.

(3) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(4) The making of rules under this section shall be subject to the condition of previous publication.

23. Rules and notifications to be laid before the State Legislature :-

All rules made under this Act and every notification issued under Section 20 shall, as soon as may be, after they are made or issued, be laid before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more sessions; and if before the expiry of the said period, either House of the State Legislature makes any modification of any rule or notification or directs that any rule or notification shall not have effect, and if the modification or direction is agreed to by the other House, such rule or notification shall,

thereafter, have effect only in such modified form or be of no effect, as the case may be.

24. A copy of the Act and rules to be exhibited in factories, plantations and other establishments, employing women :-

A copy of the provisions of this Act and the rules thereunder in English and in the language understood by the majority of workers shall be exhibited in a conspicuous place by the employer in every factory, plantation and establishment in which women are employed.

25. Repeal and savings :-

The Bombay Maternity Benefit Act, 1929 (Bombay Act VII of 1929) as in force in the Bombay Area; the Hyderabad Maternity Benefit Act, 1349 F. (Hyderabad Act No. VII of 1349 F.) as in force in the Hyderabad Area; the Madras Maternity Benefit Act, 1934 (Madras Act VI of 1935) as in force in the Madras Area; and the Mysore Maternity Benefit Act, 1937 (Mysore Act III of 1937) as in force in the Mysore Area are hereby repealed:

Provided that such repeal shall not affect.

(a) the previous operation of the said enactments or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the said enactments; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said enactments; or

(d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as aforesaid; and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

26. Power to remove difficulties :-

If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the Acts in force immediately before the commencement of this Act, the State Government, may by notification make such provisions as appear to it to be necessary or expedient for removing the difficulty.

