

**KARNATAKA PAYMENT OF SUBSISTENCE ALLOWANCE ACT,
1988**

18 of 1992

[August 3, 1992]

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STATEMENT OF OBJECTS AND REASONS KARNATAKA ACT No. 18 of 1992 Karnataka Gazette, Under the provisions contained in Sections 33(1), 33(2)(b) and 33(3) of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) an employer is required to file an application seeking permission or approval as the case may be whenever he wants to discharge or dismiss an employee/a workman till the permission is granted or till the approval is secured at the hands of the Tribunal/Labour Court the dismissal or discharge is not considered as final. During the pendency of such an application for approval or permission the employee/workman has to make arrangements for defending himself, attend all the proceedings before the Labour Court or Tribunal; in addition he cannot take employment elsewhere; the prospects of his getting employed elsewhere when the proceedings are pending against him

may not always be very bright. The situation causes considerable hardship to the workman concerned. At present there is no provision for any subsistence allowance being paid during the pendency of the proceedings. Hence with a view to reduce the hardship that may be caused to the workman during the pendency of such proceedings it is proposed in the Bill that the workman be paid a subsistence allowance by the employer during the pendency of such applications before Tribunals or Labour Courts. In addition, there is need for statutory provision for payment of subsistence allowance during the period of suspension pending enquiry. In West Bengal there is already a legislation on the above lines and the President was pleased to give his assent to such an amending legislation. No financial expenditure is involved and there is no Financial Memorandum.

1. Short title and commencement :-

(1) This Act may be called the Karnataka Payment of Subsistence Allowance Act, 1988.

(2) It shall come into force at once.

2. Definitions :-

In this Act, unless the context otherwise requires.

(b)"Employer" means the owner of an establishment and includes any person entrusted with the supervision and control of employees in such establishment;

(d)"Government" means the State Government;

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3. Payment of Subsistence Allowance :-

(2) An employee shall not be entitled to receive any subsistence allowance if he accepts any other employment during the period of his suspension in any establishment other than the establishment where he had been working immediately before his suspension.

(4) The subsistence allowance under sub-section (1) shall be paid by the employer to the employee on the date or dates on which the wages due to the employee but for his suspension, would have become payable.

4. Recovery of money due from an employer :-

Where any money is due to an employee from an employer under

this Act, the employee himself or any other person authorised by him in this behalf, or in the case of the death of the employee, his legal representative may without prejudice to any other mode of recovery make an application to the Government in such manner as may be prescribed for the recovery of money due to him and if the Government, after giving the employer an opportunity of being heard, in such manner as may be prescribed are satisfied that any money is so due, they shall issue a certificate for that amount to the Deputy Commissioner who shall proceed to recover the same in the same manner as an arrears of land revenue:

Provided that every such application shall be made within one year from the date of which the money became due to the employee from the employer:

Provided further that any such application may be entertained after the expiry of the said period of one year, if the Government is satisfied that the applicant had sufficient cause for not making the application within the said period.

5. Savings of certain rights and privileges :-

Nothing in this Act shall effect any right or privilege to which any employee is entitled to on the date of commencement of this Act under any law for the time being in force or under any contract custom or usage which is more favourable to him than any right or privilege conferred upon him by this Act.

6. Power to grant exemption :-

The Government may, if it thinks fit so to do, in the public interest, by notification exempt, subject to such conditions, if any as may be specified in such notification, from the operation of all or any of the provisions of this Act, any class or classes or establishments, for such period or periods and for such reasons as may be specified in the said notification.

7. Delegation of powers of the Government :-

(1) The Government may, by notification authorise any authority or officer subordinate to it to exercise all or any of the powers vested in it by this Act and may in like manner withdraw such authority.

(2) The exercise of any power delegated under sub-section (1), shall be subject to such restrictions and conditions as may be prescribed or as may be specified in the notifications and also to control and revision by the Government or by such officer as may

be empowered by the Government in this behalf. The Government shall also have the power to control and revise the act or proceedings of any officer so empowered.

8. Protection of action taken in good faith :-

(1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule made thereunder.

9. Penalties :-

Whoever contravenes any provision of this Act or any rule made thereunder, shall be punishable with imprisonment for a term which may extend to three months or with fine which shall not be less than one thousand rupees or with both.

10. Exemption of occupier or manager from liability in certain cases :-

Where an occupier or manager of an establishment is charged with an offence punishable under this Act, he shall be entitled, upon complaint duly made by him and on giving to the complainant not less than three clear days notice in writing of his intention to do so, to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge; and if, after the Commission of the offence has been proved, the occupier or manager or the establishment, as the case may be, proves to the satisfaction of Court.-

(a) that he has used due diligence to enforce the execution of this Act; and

11. Cognizance of offences :-

(1) No Court shall take cognizance of any offence punishable under this Act, except on a complaint in writing made by an officer generally or specially authorised in this behalf by the Government.

(2) No Court inferior to that of Metropolitan Magistrate or a Judicial Magistrate of the First Class shall try any offence punishable by or under this Act.

12. Power to make rules :-

(1) The Government may, by notification make rules to carry out the purposes of this Act.

(3) Every rule made under this section shall be laid as soon as may be after it is made 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 session, immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule shall not have effect, the rule shall from the date on which the modification or annulment is notified by the Government in the Official Gazette have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.