
MAHARASHTRA INDUSTRIAL RELATION TO (VALIDATION OF CERTAIN PROCEEDINGS) ACT, 1972**10 of 1973****[20th February, 1973]****CONTENTS**

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MAHARASHTRA INDUSTRIAL RELATION TO (VALIDATION OF CERTAIN PROCEEDINGS) ACT, 1972**10 of 1973****[20th February, 1973]**

An Act to validate certain proceedings before Labour Courts or the Industrial Court under certain provisions for recommencing certain proceedings. WHEREAS, the High Court of Judicature at Bombay, (Nagpur Bench), in Special Civil Application No. 812 of 1966, decided on 12th day of April 1967, held ".....for working out of the rights under paragraph D of sub-section (1) of section 78 of the Bombay Industrial Relations Act, 1946, it was not necessary for an employee first to approach an employer or to follow the procedure under sub-section (4) of section 42 of that Act, and its proviso of the Act", and dismissed the petition with costs (this decision being hereinafter in this Act referred to as "the High Court decision") ; AND WHEREAS, the Supreme Court of India, in Civil Appeal No. 12 of 1968, decided almost five years later, that is on the 9th day of March 1972, has taken a contrary view, and overruled the High Court decision (vide 1972, Vol. I Labour Law Journal 657) (hereinafter this decision being referred to in this Act as "the Supreme Court decision") ; AND WHEREAS, during the period commencing on the 12th day of April 1966 (being the date of "the High Court decision") and ending on the 9th day of March 1972 (being the date of the "the Supreme Court decision") (hereinafter in this Act referred to as "the relevant period"), in reliance of the

High Court decision, several proceedings, which were commenced (without following the procedure prescribed by sub-section (4) of section 42 of the principal Act and the proviso thereto) under paragraph D of sub-section (1) of section 78 of the Bombay Industrial Relations Act, 1946 (hereinafter in this Act referred to as the principal Act), are pending either before Courts or in appeal before the Industrial Court; AND WHEREAS, several such proceedings pending in the Labour Courts and the Industrial Court have been dismissed on the ground only that proceedings under paragraph D of sub-section (1) of section 78 were commenced without following the procedure prescribed by sub-section (4) of section 78 of the principal Act and the proviso thereto, and several such proceedings which are pending in those Courts are likely to be dismissed on the same ground and such dismissal has resulted, and is likely to result in undue hardship to parties instituting those proceedings in reliance on the High Court decision; AND WHEREAS, it is expedient that all such proceedings pending in the Labour Courts or the Industrial Court should be deemed to be validly commenced, and where such proceedings have been dismissed on the ground only that such proceedings are commenced without following the procedure prescribed by sub-section (4) of section 42 of the principal Act or the proviso thereto, provision be made for enabling the parties to recommence such proceedings; It is hereby enacted in the Twenty-third Year of the Republic of India as follows :

1. Short title :-

This Act may be called the Maharashtra Industrial Relations (Validation of Certain Proceedings) Act, 1972.

2. Temporary amendment of section 42 and validation and disposal of proceedings instituted in Labour Courts and in Industrial Court under certain provisions of Bom XI of 1947 :-

(1) During the relevant period, the provisions of sub-section (4) of section 42 of the principal Act shall be deemed to be deleted: and accordingly, any such proceeding commenced during the relevant period and pending at the commencement of the Maharashtra Industrial Relations (Validation of Certain Proceedings) Act, 1972, before any Labour Court or before the Industrial Court in appeal, shall be and shall be deemed to have been duly and validly commenced before such Labour Court, or, as the case may be,

maintained before the Industrial Court, and no such proceeding or appeal shall be dismissed or set aside on the ground only that proceedings under paragraph D of sub-section (1) of section 78 of the principal Act were commenced without following the procedure prescribed by sub-section (4) of section 42 of the principal Act, and the proviso thereto.

(2) Where any such proceedings have, before the commencement of this Act, been dismissed by any Labour Court or the Industrial Court on the ground only that proceedings under paragraph D of sub-section (1) of section 78 of the principal Act were commenced without following the procedure prescribed by sub-section (4) of section 42 of the principal Act, and the proviso thereto, such proceedings may be restored to the file of the Labour Court or the Industrial Court on an application made therefor within a period of six months from the commencement of this Act, and be decided as if the proviso to sub-section (4) of section 42 of the Principal Act, has been deleted during the relevant period.