

Industrial Disputes (Rajasthan Amendment) Act, 1958

34 of 1958

[12 August 1958]

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PREAMBLE

An Act to amend the Industrial Disputes Act, 1947 (Central Act XIV of 1947) in its application to the State of Rajasthan.

Be it enacted by the Rajasthan State Legislature in the Ninth Year of the Republic of India as follows: -

1. Short title and commencement :-

(1) The Act may be called the Industrial Disputes (Rajasthan Amendment) Act, 1958.

(2) It shall come into force on such date¹ as the State Government may, by notification in the Official Gazette, appoint.

1. Come into force with effect from 1.7.1960 vide Notifications No. D 816/F. 3(21)/ Lab/59 dated 24.6.1960 Pub. in Raj. Gaz. Part IV-C, dated 27-6-1960 Page 91

2. Definitions :-

In this Act, unless the subject or context otherwise requires;

(i) "Abu Area" means the territory comprised in the Abu Road Taluka of Banaskantha District in the State of Bombay as it existed immediately before the first day of November, 1956;

(ii) "Principal Act" means the Industrial Disputes Act, 1947 (Central Act XIV of 1947) in so far as it applies to the State of Rajasthan;

(iii) "State" or "State of Rajasthan" means the State of Rajasthan as formed by Section 10 of the States Reorganisation Act, 1956 (Central Act 37 of 1956);

(iv) "Sunel Area" means the territory comprised in the Sunel tappa of Bhanpura Tehsil of Mandsaur District in the State of Madhya Bharat as it existed immediately before the first day of November, 1956.

3. Amendment of Section 2, Central Act XIV of 1947 :-

In Section 2 of the principal Act,

(i) after clause (aa) the following new clauses shall be inserted, namely- "(aaa) "arbitration proceeding" means-

(i) any proceeding under Chapter III-A of this Act before an arbitrator, or

(ii) any proceeding before an Industrial Tribunal in arbitration;
(aaaa) "arbitrator" means an arbitrator to whom a dispute is referred for arbitration under the provisions of Chapter III-A of this Act and includes an umpire;"

(ii) in clause (b), for the words, figures and letter "under Section 10-A", the words, figures and letter "under Chapter III-A" shall be

substituted;

(iii) after clause (eee) the following new clause shall be inserted, namely- "(eeee) "member" means a person who is an ordinary member of a Union and who has paid a subscription of not less than four annas per month:

Provided that no person shall at any time be deemed to be a member if his subscription is in arrears for a period of three months or more next preceding such time,"

(iv) in clause (g), after sub-clause (ii), the following sub-clause shall be inserted, namely: -

"(iii) where the owner of any industry in the course of or for the purpose of conducting the industry contracts with any person for the execution by or under the contractor of the whole or any part of any work which is ordinarily a part of the industry, the owner of the industry;"

(v) after clause (oo) the following new clauses shall be inserted, namely: -

(ooo) "Registrar" means the person for the time being appointed to be the Registrar of Unions under this Act and includes in respect of such powers and duties of the Registrar as may be conferred and imposed on him, an Assistant Registrar of Unions;

(oooo) "Representative Union" means a Union for the time being registered as a Representative Union under this Act"

(vi) after clause (rr), the following new clause shall be inserted, namely: -

(rrr) "Union" means a Trade Union of employees registered under

the Indian Trade Unions Act, 1926 (Central Act XVI of 1926);" and

(vii) in clause (s), after the words "employed in any industry", the words "by an employer or by a contractor in relation to the execution of his contracts with such employer" shall be inserted.

4. Insertion of new Section 3-A in Central Act XIV of 1947

:-

After Section 3 of the principal Act, the following new Section shall be inserted, namely-

"3-A. Registrar and Assistant Registrar-

(1) The State Government shall, by notification in the Official Gazette, appoint a person to be the Registrar of Unions for the purpose of this Act for the whole of the State.

(2) The State Government may, by similar notification, appoint a person to be the Assistant Registrar of Unions for any local area and may by general or special order, confer on such person all or any of the powers of the Registrar of Unions under this Act,"

5. Insertion of new Chapter II-B in Central Act XIV of 1947

:-

After Section 9-B of the principal Act, the following new Chapter shall be inserted, namely-

CHAPTER II-B Registration of Unions

9-C. Maintenance of register.--

It shall be the duty of the Registrar to maintain in such form as may be prescribed a register of unions registered by him under the provisions of this Act.

9-D. Application for Registration.--

Any Union which has for the whole of the period of three months next preceding the date of its so applying under this section a membership of not less than fifteen per cent of the total number of workmen employed in unit of an industry may apply in the prescribed form to the Registrar for registration as a Representative Union.

9-E. Registration of Union.--

On receipt of an application from a Union for registration under Section 9-D and on payment of the fee prescribed, the Registrar shall, if, after holding such inquiry as he deems fit, he comes to the conclusion that the conditions requisite for registration specified in the said section are satisfied and that the Union is not otherwise disqualified for registration, enter the name of the Union in the appropriate register maintained under Section 9-C and issue a certificate of registration in such form as may be prescribed.

Provided that-

(i) where two or more Unions fulfilling the conditions necessary for registration under this Act apply for registration in respect of the same unit of an industry, the Union having the largest membership of employees employed in the unit of the industry shall be registered; and

(ii) the registrar shall not register any Union, if he is satisfied that the application for its registration is not made bona fide in the interest of the workmen but is made in the interest of the employees to the prejudice of the interest of the workmen.

9-F Cancellation of registration.--

The Registrar shall cancel the registration of a Union -

(a) if, after holding such inquiry, if any, as he deems fit he is satisfied-

(i) that it was registered under mistake, mis-representation or fraud; or

(ii) that the membership of the Union has for a continuous period of three months fallen below the minimum required under Section 9 D for its registration:

Provided that where a strike or a closure not being an illegal strike or closure under this Act in a unit of industry involving more than one-third of the workmen in the unit of the industry has extended to a period exceeding fourteen days in any calendar month, such month shall be excluded in computing the said period of three months:

Provided further that the registration of a Union shall not be cancelled under the provisions of this sub-clause unless its membership at the time of the cancellation is less than such minimum; or

(iii) that the registered Union is being conducted not bona fide in the interest of workmen but in the interests of employers to the prejudice of the interests of workmen; or

(iv) that it has instigated, aided or assisted the commencement of or continuance of an illegal strike;

(b) if its registration under the Indian Trade Union Act, 1926 (Central Act XVI of 1926) is cancelled.

9-G. Registration of another Union in place of existing registered

Union.--

(1) If at any time any Union (hereinafter in this section referred to as "applicant Union") makes an application to the Registrar for being registered in place of the Union (hereinafter in this section referred to as "representative Union") for a unit of an industry on the ground that it has a larger membership of workmen employed in such unit of the industry, the Registrar shall call upon the representative Union by a notice in writing in show cause within one month of the receipt of such notice why the applicant Union should not be registered in its place. An application made under this sub-section shall be accompanied by such fee as may be prescribed.

(2) The Registrar shall forward to the Labour Commissioner of the State Government a copy of the said application and notice.

(3) If, on the expiry of the period of notice under sub-section (1) and after lodging such inquiry as he deems fit, the Registrar comes to the conclusion that the applicant Union complies with the conditions necessary for Registration specified in Section 9-D and that its membership was during the whole of the period of three months immediately preceding the date of the application under this Section larger than the membership of the representative Union, he shall, subject to the provisions of Section 9-D, register the applicant Union in place of the representative Union.

(4) Every application made under this Section shall be published in the prescribed manner not less than fourteen days before the expiry of the period of notice under sub-section (1).

9-H. Application for re-registration.--

(1) Any Union the registration of which has been cancelled on the ground that it was registered under a mistake or on the ground specified in sub-clause (ii) of clause (a) of Section 9-F may, at any time after three months from the date of such cancellation and on

payment of such fees as may be prescribed, apply for re-registration. The provisions of Section 9-D and 9-E shall apply in respect of such application.

(2) A Union the registration of which has been cancelled on any other ground shall, not, save with the permission of the State Government, entitled to apply for re-registration.

9-I. Appeal to Industrial Tribunal from order of Registrar.--

(1) Any party to a proceeding before the Registrar may, within thirty days from the date of an order passed by the Registrar under this Chapter, appeal against such order to the Industrial Tribunal:

Provided that the Industrial Tribunal may, for sufficient reason, admit any appeal made after the expiry of such period.

(2) The Industrial Tribunal may admit an appeal under sub-section (1), if on a perusal of the memorandum of appeal and the decision appealed against it finds that the decision is contrary to law or otherwise erroneous.

(3) The Industrial Tribunal in appeal, may confirm, modify or rescind any order passed by the Registrar and may pass such consequential orders as it may deem fit. A copy of the orders passed by the Industrial Tribunal, shall be sent to the Registrar.

9-J. Publication of order.--

Every order passed under Sec. 9-E or Sec. 9-F or sec. 9-G and every order passed in appeal under Sec. 9-I shall be published in the prescribed manner."

6. Insertion of new Chapter III-A in Central Act XIV of 1947 :-

For Sec. 10-A of the Principal Act, the following new Chapter shall be inserted, namely: -

CHAPTER III-A Arbitration

10-B. Submission.--

(1) Any employer and a Representative Union or, in the absence of any registered Representative Union, any other Union which is representative of employee may, by a written agreement, agree to submit any present or future industrial dispute or class of such disputes to the arbitration of any person whether such arbitrator is named in such agreement or not. Such agreement shall be called a submission.

(2) A copy of every, such submission shall be sent to the Registrar who shall register it in the register to be maintained for the purpose and shall publish it in such manner as may be prescribed.

10-C. Submission when revocable.--

Every submission shall in the absence of any provision to the contrary contained therein be irrevocable:

Provided that a submission to refer future disputes to arbitration may at any time be revoked by any of the parties to such submission by giving the other party three months notice in writing:

Provided further that, before the expiry of the said period of three months the parties may agree to continue the submission for such further period as may be agreed upon between them.

10-D. Proceedings in arbitration.--

The proceedings in arbitration under this Chapter shall be in accordance with the provisions of the Arbitration Act, 1940 (Central Act X of 1940) in so far as they are applicable and the powers which are exercisable by a civil court under the said provisions shall be exercisable by the Industrial Tribunal.

10-E. Special case may be stated to Industrial Tribunal.--

The arbitrator may refer any question of law arising before him in any proceeding under this Act to the Industrial Tribunal for its decision. Any award by the arbitrator shall be in accordance with such decision.

10-F. Award by arbitrator.--

The arbitrator shall, after hearing the parties concerned, make an award which shall be signed by him.

10-G. Dispute to be referred to Industrial Tribunal, if no arbitrator appointed.--

Notwithstanding anything contained in this Chapter, if no provision has been made in any submission for the appointment of an arbitrator or where by reason of any circumstances no arbitrator is appointed, such dispute may be referred by the State Government for adjudication by the Industrial Tribunal.

10-H. State Government may refer industrial dispute to Industrial Tribunal for adjudication.--

Notwithstanding anything contained in this Chapter the State Government may, at any time, refer an industrial dispute for adjudication by the Industrial Tribunal if on a report made by the

Conciliation officer or otherwise it is satisfied that -

(A) by reason of the continuance of the dispute-

(a) a serious outbreak of disorder or a breach of the public peace is likely to occur; or

(b) serious or prolonged hardship to a large section of the community is likely to be caused; or

(c) the industry concerned is likely to be seriously affected or the prospects and scope for employment therein curtailed; or.

(B) the dispute is not likely to be settled by other means; or

(c) it is necessary in the public interest to do so.

(2) When the State Government makes a reference to the Industrial Tribunal for adjudication of any industrial dispute, any submission or any award of an arbitrator with regard to that industrial dispute shall stand as cancelled.

10-I. Notice of award to parties.--

(1) The arbitrator or the Industrial Tribunal as an arbitrator, as the case may be shall forward copies of the award made by him or it to the parties, the Commissioner of Labour, the Registrar and the State Government.

(2) On receipt of such award, the Registrar shall enter it in the register kept for the purpose.

10-J. Completion of proceeding.--

The arbitration proceeding shall be deemed to have been completed when the award is published under Sec. 17."

7. Repeal :-

On and from the date this Act comes into force the Industrial Disputes and the Industrial Disputes (Appellate Tribunal) Ajmer Amendment Act, 1956 (Ajmer Act V of 1956) in force in the Ajmer area and the corresponding laws, if any, in force in the Abu and Sunel areas shall stand repealed.