

वर्ष 2013-14 में दैनिक वेतन भोगी सेवाओं से कार्यभारित /नियमित सेवा में संविलियन/नियमितीकरण किए गए कर्मचारियों द्वारा सेवानिवृत्ति के उपरांत अपनी दैनिक वेतन भोगी सेवाओं के स्थायी वर्गीकरण को आधार बनाकर, पुरानी पेंशन योजना (कार्यभारित पेंशन योजना 1979) में शामिल होकर नियमित पेंशन की प्राप्ति हेतु दायर होने वाले न्यायालयीन प्रकरणों में प्रतिरक्षण के बिंदु

1- जहाँ तक दैनिक वेतन भोगी श्रमिकों को स्थायी वर्गीकृत किये जाने संबंधी कार्यवाही का प्रश्न है, यह सामान्यतः दो प्रकार से की जा सकती है :-

- (i) माननीय श्रम न्यायालय द्वारा प्रकरण के तथ्यों का परीक्षण कर, वाद बिन्दु तय कर, उभयपक्षों के साक्ष्य उपरांत श्रम कानून के अंतर्गत आदेश पारित कर किसी दिनांक विशेष से वादी श्रमिक को स्थायी वर्गीकृत घोषित किया जा सकता है।
- (ii) मध्य प्रदेश शासन द्वारा निर्धारित नियमों/निर्देशों के आधार पर नियोजक द्वारा स्थायी वर्गीकरण का आदेश पारित किया जा सकता है।

2- विभाग के अधीनस्थ कार्यरत कुछ दैनिक वेतन भोगी कर्मचारियों द्वारा मान. श्रम न्यायालयों के समक्ष उन्हें स्थायी वर्गीकृत किये जाने और स्थायी पद का वेतन दिलाए जाने के प्रकरण दायर किये गए थे। ऐसे प्रकरणों में मान. श्रम न्यायालयों ने उनकी मांग को स्वीकार करते हुए उन्हें एक निश्चित दिनांक से स्थायी करने और स्थायी पद का वेतन देने के आदेश पारित किये हैं। जबकि अधिकांश दैनिक वेतन भोगी कर्मचारियों को नियोजकों ने प्रशासकीय तौर पर स्थायी वर्गीकरण का आदेश जारी किया है। लेख है कि विभाग में प्रमुख अभियंता कार्यालय से जारी किये गए पत्र क्रमांक 1139 दिनांक 02/03/2003 के अनुपालन में विभिन्न खंडों में कार्यरत दैनिक वेतन भोगी कर्मचारियों को वर्ष 2003 से 2005 तक की अवधि में संबंधित कार्यपालन यंत्री द्वारा आदेश जारी करने के दिनांक से कार्यरत पद पर स्थाई वर्गीकृत किया गया था।

3- वर्ष 2011 में विभाग के संज्ञान में यह तथ्य आये थे कि अधिकांश कार्यपालन यंत्रियों द्वारा उन दैनिक वेतन भोगी कर्मचारियों को भी स्थाई वर्गीकृत कर दिया गया था, जो रिक्त पद के विरुद्ध कार्यरत नहीं थे तथा इस संबंध में शासन के परिपत्र क्र. एफ 16-295/2001/1/34 भोपाल दिनांक 10.10.2001 द्वारा निर्धारित नीति के अनुरूप शर्तों का पालन नहीं करते थे। ऐसी स्थिति में प्रमुख अभियंता लोक स्वास्थ्य यांत्रिकी भोपाल के आदेश क्र. 6206 दिनांक 15.07.2011 द्वारा सभी

कार्यपालन यंत्रियों को त्रुटिपूर्ण रूप से स्थाई वर्गीकृत किये गये दैनिक वेतन भोगी कर्मचारियों के स्थाई स्टेट्स को निरस्त करने के आदेश दिये गये थे। इन आदेशों के अनुपालन में कार्यपालन यंत्रियों द्वारा त्रुटिपूर्ण स्थाई वर्गीकरण आदेशों को निरस्त भी किया गया था। यह पाया गया है कि वर्ष 2011 में जो स्थायी वर्गीकरण आदेशों को निरस्त करने की कार्यवाही कार्यपालन यंत्री स्तर से की गयी थी वह कर्मचारियों को सुनवाई का अवसर प्रदान किये बिना ही की गयी थी।

4-वर्ष 2017-18 में ऐसे सभी मामलों में सुनवाई का अवसर प्रदान करते हुए सभी त्रुटिपूर्ण स्थाई वर्गीकरण आदेशों को सम्बंधित मुख्य अभियंता स्तर से निरस्त करने के आदेश जारी किये गए थे। इन आदेशों के अनुपालन में अनेको कर्मचारियों के स्थाई वर्गीकरण आदेश मुख्य अभियंता स्तर से निरस्त किये गए थे।

5-वर्ष 2022-23 में मान. उच्च न्यायालय खंडपीठ इंदौर की अवमानना याचिका क्रमांक 2693/2019 (पुष्पा कोराने एवं अन्य विरुद्ध संजय शुक्ला, प्रमुख सचिव एवं अन्य) में उत्पन्न हुई परिस्थितियों के कारण पूर्व में जारी किये गए स्थायी वर्गीकरण आदेशों को मान्य करते हुए, मान. उच्चतम न्यायालय की अवमानना याचिका क्रमांक 771/2015 (राम नरेश रावत एवं अन्य बनाम अश्विनी राय एवं अन्य) में पारित निर्णय दिनांक 15.12.2016 के अनुपालन में अधिकांश दैनिक वेतन भोगी कर्मचारियों को स्थाई वर्गीकरण के आदेश दिनांक से वर्तमान तक की एवं कार्यभारित/नियमित स्थापना में संविलियन किये गए दैनिक वेतन भोगी कर्मचारियों को स्थायी वर्गीकरण दिनांक से कार्यभारित/नियमित स्थापना के पद पर उपस्थिति देने के पूर्व दिनांक तक की अवधि की, पद के नियमित वेतनमान के न्यूनतम वेतन (वेतन वृद्धि छोड़कर) के अनुसार वेतन अंतर की एरियर राशि का भुगतान भी प्रमुख अभियंता कार्यालय भोपाल के स्वीकृति आदेश जारी कर, कर दिया गया है।

6-उपरोक्तानुसार अधिकांश दैनिक वेतन भोगी कर्मचारियों जिन्हें वर्ष 2013-14 में कार्यभारित/नियमित स्थापना में संविलियन किया गया था, के मामलों में उनके स्थाई वर्गीकरण के आदेश दिनांक से लेकर उनका नियमितीकरण किये जाने के दिनांक तक की सेवा अवधि को स्थायी वर्गीकृत सेवा अवधि मान्य कर दिया गया है।

7-वर्ष 2013-14 में दैनिक वेतन भोगी सेवाओं से कार्यभारित/नियमित सेवा में संविलियन/नियमितीकरण किए गए कर्मचारियों द्वारा सेवानिवृत्ति के उपरांत अपनी दैनिक वेतन भोगी सेवाओं के स्थायी वर्गीकरण को आधार बनाकर, पुरानी पेंशन योजना [म.प्र. (कार्यभारित एवं आकस्मिकता निधि से देय कर्मचारी) पेंशन नियम 1979] में शामिल होकर नियमित पेंशन की प्राप्ति हेतु दायर होने वाले न्यायालयीन प्रकरणों में प्रतिरक्षण किसी भी रूप में उनका स्थाई वर्गीकरण मान्य नहीं होने

अथवा उसके निरस्त होने के आधार पर नहीं किया जाना चाहिए बल्कि यह बताया जाना चाहिए कि किसी भी दैनिक वेतन भोगी कर्मचारी को स्थायी घोषित करने तथा उसके लाभस्वरूप उसे पद के नियमित वेतनमान का न्यूनतम वेतन का भुगतान करने से, उसके स्टेटस में परिवर्तन होने की बजाय वह मात्र कुछ सुविधाओं और बड़े हुए वेतन का पात्र बनता है। स्थायी वर्गीकरण कर्मचारी की तत्समय की सेवा स्थितियों / सेवा शर्तों पर कोई प्रभाव नहीं डालता है तथा कर्मचारी निरंतर रूप से दैनिक वेतन भोगी कर्मचारी ही बना रहता है। किसी दैनिक वेतन भोगी श्रमिक को स्थायी वर्गीकृत करना उसका किसी भी रूप में राज्य शासन की नियमित सेवाओं में नियमितीकरण नहीं है।

8—यह कि एक स्थायी वर्गीकृत किये गए दैनिक वेतन भोगी कर्मचारी को परिभाषित करने के लिए निम्नानुसार जानकारी प्रस्तुत है :—

(अ) ऐसे दैनिक वेतन भोगी कर्मचारी जो, बिना किसी भरती नियम के अथवा किसी भरती प्रक्रिया के तथा बिना रिक्त पद और बिना नियुक्ति आदेश के नियोजित कर लिये जाते हैं, उन दैनिक वेतन भोगी श्रमिकों पर राज्य शासन के नियम लागू नहीं होते हैं, इसलिए उन पर म. प्र. औद्योगिक नियोजन (मानक स्थायी आज़ाएँ) अधिनियम 1961, नियम 1963, लागू होने से, अधिनियम के अन्तर्गत निर्मित मानक स्थायी आदेश लागू होते हैं। म प्र औद्योगिक नियोजन (मानक स्थायी आज़ायें) अधिनियम—1961 एवं नियम 1963 के अंतर्गत बनायीं गयी मानक स्तरीय आज़ाओं के स्थायी आदेश क्रमांक—2 के तहत जब कोई दैनिक वेतन भोगी श्रमिक आदेश क्रमांक 2 (i) अथवा 2(vi) के अंतर्गत प्रावधानित शर्तें पूरी करता है तो वह स्थाई रूप में वर्गीकृत होता है। राज्य शासन के सभी उपक्रमों के लिए बनायीं मानक स्तरीय आज़ाओं के स्थायी आदेश क्रमांक 2 में कर्मचारियों का वर्गीकरण एवं स्थाई कर्मचारी को निम्नानुसार परिभाषित किया गया है :—

2. Classification of Employees- Employees shall be classified as- (i) permanent, (ii) permanent seasonal (iii) probationers, (iv) Badlies, (v) apprentices, (vi) temporary, [and (vii)fixed term employment's employee:]

(i) A 'permanent' employee is one who has completed six months' satisfactory service in a clear vacancy in one or more posts whether as a probationer or otherwise, or a person whose name has been entered in the muster roll and who is given a ticket of permanent employee.

(vi) 'temporary employee' means an employee who has been employed for work which is

essentially of a temporary character, or who is temporarily employed as an additional employees in connection with the temporary increase in the work of a permanent nature provided that in case such employee is required to work continuously for more than six months he shall be deemed to be permanent employee, within the meaning of clause(i) above.

(ब) उक्त अनुसार स्थाई रूप में वर्गीकृत दैनिक वेतन भोगी श्रमिक को निम्नानुसार सुविधाएं विभिन्न श्रम अधिनियमों के अन्तर्गत प्राप्त होती हैं:-

1. दैनिक वेतन भोगी श्रमिक को स्थाई आझाओं के अन्तर्गत वर्ष में 3 राष्ट्रीय अवकाश, 2 अक्टूबर, 26 जनवरी, एवं 15 अगस्त एवं 5 सवैतनिक अवकाश एवं 17 सितंबर विश्वकर्मा जयंती के अवकाश प्राप्त होते हैं।
2. दैनिक वेतन भोगी श्रमिक को 7 दिन का आकस्मिक अवकाश प्राप्त होता है।
3. दैनिक वेतन भोगी श्रमिक जहाँ काम करते हैं यदि वहाँ कारखाना अधिनियम, 1948 के प्रावधान लागू होते हैं तो उक्त श्रमिक को 20 दिन कार्य पर एक दिन का सवैतनिक अवकाश एवं अधिसमय कार्य करने पर अधिसमय कार्य हेतु दुगुनी दर से भुगतान एवं अधिनियम के अन्तर्गत अन्य सुविधायें प्राप्त होती हैं।
4. यदि दैनिक वेतन भोगी श्रमिक की सेवाएं सेवा निवृत्ति के पूर्व समाप्त/छटनी की जाती हैं तो औद्योगिक विवाद अधिनियम, 1947 के अन्तर्गत छटनी किये गये ऐसे दैनिक वेतन भोगी श्रमिक को औद्योगिक विवाद अधिनियम 1947 की धारा 25-एफ के अन्तर्गत सम्पूर्ण सेवा काल हेतु प्रत्येक वर्ष की सेवा पर भुगतान किये गये अंतिम वेतन अनुसार 15 दिन का छटनी मुआवजे का भुगतान किया जाता है।
5. ऐसे दैनिक वेतन भोगी कर्मचारी जिनकी सेवाएं 5 वर्ष अथवा उससे अधिक हैं उन्हें उपादान भुगतान अधिनियम, 1972 के अन्तर्गत उपदान देय होता है।

(स) म.प्र. औद्योगिक नियोजन (स्थायी आझाएं) अधिनियम, 1961 के अन्तर्गत निर्मित मानक स्थाई आदेश में दैनिक वेतन भोगी श्रमिक को स्थाई वर्गीकृत किये जाने पर उसे क्या वेतन देय होगा, यह उक्त अधिनियम में प्रावधानित नहीं है। तत्समय दैनिक वेतन भोगी श्रमिक को वेतन का भुगतान न्यूनतम

वेतन अधिनियम 1948 के अंतर्गत श्रमायुक्त द्वारा निर्धारित दर पर किया जाता था।

मान. उच्चतम न्यायालय की अवमानना याचिका क्रमांक 771/2015 (रामनरेश रावत एवं अन्य बनाम अश्विनी राय एवं अन्य) में पारित निर्णय दिनांक 15.12.2016 में स्थाई वर्गीकृत दैनिक वेतन भोगी श्रमिकों को पद के ग्रेडेड वेतनमान का न्यूनतम वेतन (वेतन वृद्धि छोड़कर) देने के आदेश दिए गए थे। उक्त न्यायालयीन निर्णय के अनुपालन में विभागीय स्थाई वर्गीकृत दैनिक वेतन भोगी श्रमिकों को उनकी उक्त स्टेटस अवधि का निर्णयानुसार भुगतान किया गया है।

(द) कंडिका (अ) (ब) एवं (स) में किये गए उल्लेखानुसार दैनिक वेतन भोगी श्रमिक स्थाई वर्गीकृत होने पर भी शासकीय कर्मचारी की श्रेणी में नहीं आता है, उसे ऊपर वर्णित अनुसार वेतन एवं अन्य सुविधाएं प्राप्त होती है तथा उसका स्टेटस दैनिक वेतन भोगी ही बना रहता है।

उपरोक्तानुसार किसी भी दैनिक वेतन भोगी कर्मचारी को स्थायी घोषित करने तथा उसके लाभस्वरूप उसे पद के नियमित वेतनमान का न्यूनतम वेतन का भुगतान करने से, उसके स्टेटस में परिवर्तन होने की बजाय वह मात्र कुछ सुविधाओं और बड़े हुए वेतन का पात्र बनता है। स्थायी वर्गीकरण कर्मचारी की तत्समय की सेवा स्थितियों / सेवा शर्तों पर कोई प्रभाव नहीं डालता है तथा कर्मचारी निरंतर रूप से दैनिक वेतन भोगी कर्मचारी ही बना रहता है। यह भी कि, किसी स्थायी वर्गीकृत दैनिक वेतन भोगी कर्मचारी को पद के नियमित स्थापना / कार्यभारित स्थापना के वेतनमान का न्यूनतम वेतन (वेतन वृद्धि छोड़कर) स्वीकृत कर देने के उपरांत भी उसका बढ़ा हुआ वेतन, जो उसे आगे के सेवाकाल में देय होना है का आहरण, नियमित स्थापना / कार्यभारित स्थापना के कर्मचारियों के वेतन आहरण हेतु निर्धारित हेड से नहीं बल्कि दैनिक वेतन भोगी कर्मचारियों के वेतन आहरण हेतु निर्धारित हेड यानि 20-4215-01-001-9999-1854-12. से ही किया जाता है। निष्कर्षित है कि दैनिक वेतन भोगी श्रमिक को स्थायी वर्गीकृत करना उसका किसी भी रूप में राज्य शासन की नियमित सेवाओं में नियमितीकरण नहीं है तथा ऐसा करने से वह किसी भी रूप में राज्य शासन द्वारा बनाये गए सेवा नियमों के आधीन नहीं आता है।

9- स्थायी वर्गीकृत/बिना स्थायी वर्गीकृत दैनिक वेतन भोगी कर्मचारी के नियमितीकरण को परिभाषित करने के लिए निम्नानुसार जानकारी प्रस्तुत है :-

(अ) यद्यपि मान. उच्चतम न्यायालय द्वारा अपने विभिन्न निर्णयों (एस.एल.पी. (सिविल) क्रमांक 10519/2020 (विभूति शंकर पांडे बनाम म.प्र.शासन एवं अन्य) में पारित निर्णय दिनांक 08.02.2023) में ऐसे दैनिक वेतन भोगी कर्मचारी जो,

बिना किसी भरती नियम के अथवा किसी भरती प्रक्रिया के तथा बिना रिक्त पद और बिना नियुक्ति आदेश के नियोजित कर लिये जाते हैं, को नियमित स्थापना में नियुक्ति देने से मना किया गया है तथापि म.प्र.शासन (सामान्य प्रशासन विभाग) द्वारा समय समय पर इस प्रकृति के कर्मचारियों को विभागीय रिक्त पदों के विरुद्ध विशुद्ध रूप से नवीन नियुक्तियों की शर्तों पर नियमित/ कार्यभारित स्थापना के पदों पर समाहित करने की योजना लाई गई है। योजना में पालन की जाने वाली प्रणाली एवं देखे जाने वाले तथ्यों का स्पष्ट उल्लेख होता है। योजना के तहत कर्मचारी को नवनियुक्त की तरह बिना वेतन एवं वरिष्ठता संरक्षण के नियमित सेवा में संविलियन किया गया है।

(ब) किसी भी दैनिक वेतन भोगी श्रमिक को जब शासन की नीति के अनुसार अथवा विहित प्रक्रिया का पालन करके नियमित/ कार्यभारित स्थापना में संविलियन कर लिया जाता है, तब ही वह शासकीय कर्मचारी माना जाता है तथा वह उन सेवाओं हेतु राज्य शासन द्वारा निर्धारित सेवा नियमों के अधीन आता है। उक्तानुसार दैनिक वेतन भोगी कर्मचारी का नियमितीकरण होता है।

10— माननीय उच्चतम न्यायालय द्वारा अभिनिर्धारित निम्नलिखित न्यायदृष्टांतों में यह स्पष्ट रूप से उल्लेखित है कि किसी दैनिक वेतन भोगी श्रमिक का स्थाई वर्गीकरण तथा उसका नियमित स्थापना में संविलियन जिसे नियमितीकरण कहा जाता है, दोनों ही बिलकुल अलग-अलग प्रक्रियाएं हैं तथा किसी भी दैनिक वेतन भोगी कर्मचारी को स्थायी घोषित करने का आशय उसके नियमितीकरण अथवा राज्य शासन के सेवा नियमों के अधीन आ जाने अथवा नियमित स्थापना का कर्मचारी बन जाने से नहीं निकाला जाना चाहिए। साथ ही माननीय उच्चतम न्यायालय द्वारा यह भी कहा गया है कि नियमितीकरण हेतु उस पद के लिए बनाये गए भर्ती नियम के अनुसार सभी योग्यताये और स्पष्ट रिक्ति के साथ ही, ऐसी भर्ती के लिए बनाई गई प्रक्रिया का भी पालन होना चाहिए। कुछ महत्वपूर्ण न्यायदृष्टांत निम्नानुसार हैं :-

(a) Civil Appeal No. 1270 of 2006 (Branch Manager, M.P. State Agro Industries Development Corpn. Ltd. & Another v/s Shri S.C. Pandey) Decided On, 24 February 2006

16. The Industrial Courts and High Court inter alia proceeded on the basis that the respondent having completed 240 days of service during the preceding 12 months, he should have been regularized in service. Section 25-B of the Industrial Disputes Act was also invoked on that premise. The Labour Court, however, wrongly equated classification with regularization. The term 'regularization' does not connote permanence.

17. The question raised in this appeal is now covered by a decision of this Court in M.P. Housing Board & Anr. v. Manoj Srivastava [Civil

Appeal arising out of SLP (Civil) No. 27360/04 disposed of this date] wherein this Court clearly opined that: (1) when the conditions of service are governed by two statutes; one relating to selection and appointment and the other relating to the terms and conditions of service, an endeavour should be made to give effect to both of the statutes; (2) A daily wager does not hold a post as he is not appointed in terms of the provisions of the Act and Rules framed thereunder and in that view of the matter he does not derive any legal right; (3) Only because an employee had been working for more than 240 days that by itself would not confer any legal right upon him to be regularized in service; (4) If an appointment has been made contrary to the provisions of the statute the same would be void and the effect thereof would be that no legal right was derived by the employee by reason thereof.

18. The said decision applies on all fours to the facts of this case. In Mahendra Lal Jain (supra) this Court has categorically held that the Standing Orders governing the terms and conditions of service must be read subject to the constitutional and statutory limitations for purpose of appointment both as a permanent employee or as a temporary employee. An appointment to the post of a temporary employee can be made where the work is essentially of temporary nature. In a case where there existed a vacancy, the same was required to be filled up by resorting to the procedures known to law i.e. upon fulfilling the constitutional requirements as also the provisions contained in the 1976 Regulations. No finding of fact has been arrived at that before the respondent was appointed, the constitutional and statutory requirements were complied with.

19. A Constitution Bench of this Court in State of Punjab v. Jagdip Singh & Ors. [(1964 (4) SCR 964)] has categorically held that if an order of confirmation is passed when no post was available and that too by a person who was not authorized therefor, the appointment would be void. We have noticed hereinbefore that the Branch Manager in his letter dated 27.9.1985 addressed to the Regional Manager stated that the respondent had already been appointed w.e.f. 16.9.1985. Before the Labour Court, the offer of appointment had not been produced. It had not, therefore, been disclosed as to on what terms and conditions he was appointed.

20. A Full Bench of the Madhya Pradesh High Court in Narayan Singh Rathor (supra) held:

"Service conditions are essentially matters of agreement between employer and the employee. Where the employer frames regulations or rules relating to conditions of service, they are treated as part of the conditions of service of the employee. M.P. Industrial Employment (Standing Orders) Act, 1961 was enacted to provide for rules defining with sufficient precision in certain matters the conditions of service of employees in certain

undertakings in the State. It contemplates statutory interventions in service conditions of employees in certain undertakings. Rules have been framed under the Act. There is no doubt that the intention is to improve the service conditions of the employees and ensure that they are not adversely affected by unilateral action of the employers. But the contours of intervention cannot be extended beyond the statutory frame work.....

21. In Dwarika Prasad Tiwari (supra), whereupon Mr. Mathur placed reliance, a Division Bench of this Court accepted the views of the Full Bench in Narayan Singh Rathor (supra). However, it was held that the Standing Order categorizes the nature of employment and it does not classify individual employees in different posts according to the hierarchy created in a department and thus the proviso to Rule 2 does not apply to promotions or regularizations in higher grade.

22. Such appointments, in our opinion, having regard to the decisions in Mahendra Lal Jain (supra) and Manoj Srivastava (supra) must be made in accordance with extant rules and regulations. It is also a well settled legal position that only because a temporary employee has completed 240 days of work, he would not be entitled to be regularized in service. Otherwise also the legal position in this behalf is clear as would appear from the decision of this Court in Dhampur Sugar Mills Ltd. v. Bhola Singh [(2005) 2 SCC 470] apart from Mahendra Lal Jain (supra).

(b) CIVIL APPEAL Nos. 2417-2418 /2014 (Hari Nandan Prasad & Anr vs Employer I/R To Mangmt.Of F.C.I. & others) , Decided on 17 February, 2014

29. A close scrutiny of the two cases, thus, would reveal that the law laid down in those cases is not contradictory to each other. In U.P. Power Corporation, this Court has recognized the powers of the Labour Court and at the same time emphasized that the Labour Court is to keep in mind that there should not be any direction of regularization if this offends the provisions of Art.14 of the Constitution, on which judgment in Umadevi is primarily founded. On the other hand, in Bhonde case, the Court has recognized the principle that having regard to statutory powers conferred upon the Labour Court/Industrial Court to grant certain reliefs to the workmen, which includes the relief of giving the status of permanency to the contract employees, such statutory power does not get denuded by the judgment in Umadevi's case. It is clear from the reading of this judgment that such a power is to be exercised when the employer has indulged in unfair labour practice by not filling up the permanent post even when available and continuing to workers on temporary/daily wage basis and taking the same work from them and making them some

purpose which were performed by the regular workers but paying them much less wages. It is only when a particular practice is found to be unfair labour practice as enumerated in Schedule IV of MRTTP and PULP Act and it necessitates giving direction under Section 30 of the said Act, that the Court would give such a direction.

.....

34. On harmonious reading of the two judgments discussed in detail above, we are of the opinion that when there are posts available, in the absence of any unfair labour practice the Labour Court would not give direction for regularization only because a worker has continued as daily wage worker/adhoc/temporary worker for number of years. Further, if there are no posts available, such a direction for regularization would be impermissible. In the aforesaid circumstances giving of direction to regularize such a person, only on the basis of number of years put in by such a worker as daily wagger etc. may amount to backdoor entry into the service which is an anathema to Art.14 of the Constitution. Further, such a direction would not be given when the concerned worker does not meet the eligibility requirement of the post in question as per the Recruitment Rules. However, wherever it is found that similarly situated workmen are regularized by the employer itself under some scheme or otherwise and the workmen in question who have approached Industrial/Labour Court are at par with them, direction of regularization in such cases may be legally justified, otherwise, non-regularization of the left over workers itself would amount to invidious discrimination qua them in such cases and would be violative of Art.14 of the Constitution. Thus, the Industrial adjudicator would be achieving the equality by upholding Art. 14, rather than violating this constitutional provision.

(C) CIVIL APPEAL Nos. 5632 /2006 (Punjab Water Supply & Sewerage Board vs Ranjodh Singh & Ors Decided on 6 December, 2006

{See also State of Madhya Pradesh & Ors. vs. Yogesh Chandra Dubey & Ors. [(2006) 8 SCC 67)] and State of M.P. & Ors. vs. Lalit Kumar Verma [2006 (12) SCALE 642].} In the instant case, the High Court did not issue a writ of mandamus on arriving at a finding that the respondents had a legal right in relation to their claim for regularisation, which it was obligated to do. It proceeded to issue the directions only on the basis of the purported policy decision adopted by the State. It failed to notice that a policy decision cannot be adopted by means of a circular letter and, as noticed hereinbefore, even a policy decision adopted in terms of Article 162 of the Constitution of India in that behalf would be void. Any departmental letter or executive instruction cannot prevail over statutory rule and constitutional provisions. Any appointment, thus, made without following the procedure would be ultra vires.

(d) Contempt petition (civil) No. 771/2015 (Ram Naresh Rawat & Ors V. Ashwini Rai & Ors. Decided on 15 December, 2016.

17) With this, we advert to the question posed above. In the first blush, this question appears to be somewhat puzzling, as to how such a question can arise because normally an employee who is given the designation of 'permanent employee' should be treated as 'regular employee' as well. However, this puzzle vanishes when we examine the standing orders, acts and rules in question under which designation of 'permanent employee' is acquired. Fortunately for us, we are not trading on a virgin territory.

18) This Court has already examined the issue in the context of these very standing orders of Madhya Pradesh. In the case of **Mahendra L. Jain & Ors. v. Indore Development Authority & Ors.**, this Court analyzed the Standard Standing Order in question and held that permanent classification does not amount to regularization, inasmuch as it was noted that the matter relating to the recruitment is governed by a separate statute, as can be seen from the following discussion therein:

"28. The 1961 Act provides for classification of employees in five categories. The 1973 Act, as noticed hereinbefore, clearly mandates that all posts should be sanctioned by the State Government and all appointments to the said cadre must be made by the State Government alone. Even the appointments to the local cadre must be made by the Authority. The said provisions were not complied with. It is accepted that no appointment letter was issued in favour of the appellants. Had the appointments of the appellants been made in terms of the provisions of the Adhiniyam and the Rules framed thereunder, the respondent Authority was statutorily enjoined to make an offer of appointment in writing which was to be accepted by the appellants herein. Who made the appointments of the appellants to the project or other works carried on by the Authority is not known. Whether the person making an appointment had the requisite jurisdiction or not is also not clear. We have noticed hereinbefore that in the case of Om Prakash Mondloi, the CEO made an endorsement to the effect that he may be tried in daily wages and should be entrusted with the work of progress collection of ODA work. The said order is not an "offer of appointment" by any sense of the term.

xxx xxx xxx

31. The Standing Orders governing the terms and conditions of service must be read subject to the constitutional limitations wherever applicable. Constitution being the

suprema lex, shall prevail over all other statutes. The only provision as regards recruitment of the employees is contained in Order 4 which merely provides that the manager shall within a period of six months, lay down the procedure for recruitment of employees and notify it on the notice board on which Standing Orders are exhibited and shall send copy thereof to the Labour Commissioner. The matter relating to recruitment is governed by the 1973 Act and the 1987 Rules. In the absence of any specific directions contained in the Schedule appended to the Standing Orders, the statute and the statutory rules applicable to the employees of the respondent shall prevail."

19) The issue came up again in the case of **M.P. State Agro Industries Development Corporation Ltd. & Anr. v. S.C. Pandey** wherein this Court held that only because a temporary employee has completed 240 days of work, he would not be entitled to be regularized in service. The Court also reiterated that the Standing Orders categorize the nature of employment and do not classify individual employees in different post according to the hierarchy created in the Department and thus proviso to Rule 2 does not apply to promotions or regularization in higher grade. We would like to reproduce following paras from the said judgment:

"17. The question raised in this appeal is now covered by a decision of this Court in *M.P. Housing Board v. Manoj Shrivastava* [(2006) 2 SCC 702] wherein this Court clearly opined that: (1) when the conditions of service are governed by two statutes; one relating to selection and appointment and the other relating to the terms and conditions of service, an endeavour should be made to give effect to both of the statutes; (2) a daily-wager does not hold a post as he is not appointed in terms of the provisions of the Act and the Rules framed thereunder and in that view of the matter he does not derive any legal right; (3) only because an employee had been working for more than 240 days that by itself would not confer any legal right upon him to be regularised in service; (4) if an appointment has been made contrary to the provisions of the statute the same would be void and the effect thereof would be that no legal right was derived by the employee by reason thereof.

18. The said decision applies on all fours to the facts of this case. In *Mahendra L. Jain* [(2005) 1 SCC 639 : 2005 SCC (L&S) 154] this Court has categorically held that the Standing Orders governing the terms and conditions of service must be read subject to the constitutional and statutory

limitations for the purpose of appointment both as a permanent employee or as a temporary employee. An appointment to the post of a temporary employee can be made where the work is essentially of temporary nature. In a case where there existed a vacancy, the same was required to be filled up by resorting to the procedures known to law i.e. upon fulfilling the constitutional requirements as also the provisions contained in the 1976 Regulations. No finding of fact has been arrived at that before the respondent was appointed, the constitutional and statutory requirements were complied with.

xx xx xx

22. Such appointments, in our opinion, having regard to the decisions in Mahendra L. Jain [(2005) 1 SCC 639 : 2005 SCC (L&S) 154] and Manoj Shrivastava [(2006) 2 SCC 702] must be made in accordance with extant rules and regulations. It is also a well-settled legal position that only because a temporary employee has completed 240 days of work, he would not be entitled to be regularised in service. Otherwise also the legal position in this behalf is clear as would appear from the decision of this Court in Dhampur Sugar Mills Ltd. v. Bhola Singh [(2005) 2 SCC 470 : 2005 SCC (L&S) 292] apart from Mahendra L. Jain [(2005) 1 SCC 639 : 2005 SCC (L&S) 154].”

20) A direct judgment on the subject is **State of M.P. & Ors. v. Lalit Kumar Verma** wherein it was held that a workman would be entitled to classification as permanent or temporary employee if the conditions precedent are satisfied. It was held that the respondent was not appointed against the clear vacancy, he was not appointed in a permanent post or placed on probation. This Court, thus, held that working on daily wages alone would not entitle him to the status of permanent employee. Para 7 of this judgment needs to be looked into.

“7. A workman, therefore, would be entitled to classification of permanent or temporary employee, if the conditions precedent therefor are satisfied. The respondent was not appointed against a clear vacancy. He was not appointed in a permanent post or placed on probation. He had also not been given a ticket of permanent employee. Working on daily wages alone would not entitle him to the status of a permanent employee.”

21) It is, thus, somewhat puzzling as to whether the employee, on getting the designation of 'permanent employee' can be treated as 'regular'

employee. This answer does not flow from the reading of the Standing Orders Act and Rules. In common parlance, normally, a person who is known as 'permanent employee' would be treated as a regular employee but it does not appear to be exactly that kind of situation in the instant case when we find that merely after completing six months' service an employee gets right to be treated as 'permanent employee'. Moreover, this Court has, as would be noticed now, drawn a distinction between 'permanent employee' and 'regular employee'.

11— ऊपर दिए गए विवरण से स्पष्ट है कि ऐसे मामलो में याचिकाकर्ता सेवानिवृत्त कर्मचारी का स्टेटस कार्यभारित स्थापना के पद पर उपस्थिति देने के पूर्व तक स्थायी वर्गीकृत दैनिक वेतन भोगी/दैनिक वेतन भोगी कर्मचारी ही था तथा इस अवधि के दौरान उसकी सेवाएं म. प्र. औद्योगिक नियोजन (मानक स्थायी आज़ाए) अधिनियम 1961, नियम 1963, के अंतर्गत आती थी। इन नियमों में सेवानिवृत्ति पर सेवाओं के बदले में नियमित पेंशन के प्रावधान नहीं हैं। म. प्र. औद्योगिक नियोजन (मानक स्थायी आज़ाए) अधिनियम 1961, नियम 1963, की प्रति एनेक्ज़र पी/1 है।

राज्य शासन द्वारा भारतीय संविधान के अनुच्छेद 309 के तहत प्रदत्त शक्तियों का उपयोग करते हुए इस प्रकृति के कर्मचारियों के लिए "म. प्र. दैनिक वेतन भोगी कर्मचारी (सेवा की शर्तें) नियम 2013" बनाये थे किन्तु इन नियमों में सेवानिवृत्ति पर सेवाओं के बदले में नियमित पेंशन के स्थान पर पी.एफ.आर.डी.ए. द्वारा प्रयोजित राष्ट्रीय पेंशन स्कीम के तहत 10 प्रतिशत अंशदान के माध्यम से पेंशन की व्यवस्था की गयी थी। "म. प्र. दैनिक वेतन भोगी कर्मचारी (सेवा की शर्तें) नियम 2013" की प्रति एनेक्ज़र पी/2 है।

केवल एवं केवल उसका संविलियन /नवीन नियुक्ति कार्यभारित स्थापना के पद पर होने तथा उक्त पद पर उपस्थिति देने के दिनांक से वह राज्य शासन द्वारा कार्यभारित एवं आकस्मिकता निधि से देय कर्मचारियों के लिए बनाये गए सेवा नियमों के अंतर्गत आया है।

12—यदि राज्य शासन द्वारा कार्यभारित एवं आकस्मिकता निधि से देय कर्मचारियों के लिए बनाये गए सेवा नियमों मुख्य रूप से पेंशन नियमों की बात की जावे तो म. प्र. शासन वित्त विभाग के परिपत्र क्रमांक एफ- 9/3/2003/नियम /चार भोपाल, दिनांक 13.04.2005 एवं समसंख्यक परिपत्र दिनांक 25.09.2006 के माध्यम से दिनांक 01.01.2005 के पश्चात् राज्य शासन के अधीन नियुक्त होने वाले कर्मचारियों हेतु, म.प्र., (कार्यभारित एवं आकस्मिकता निधि से देय कर्मचारी) पेंशन नियम 1979 के स्थान पर नई पेंशन योजना यानि परिभाषित अंशदायी पेंशन योजना 2005 लागू की गयी है जिसमें सेवानिवृत्ति पर सेवाओं के बदले में नियमित पेंशन के स्थान पर अंशदान के माध्यम से पेंशन की व्यवस्था करने तथा भविष्य निधि की

राशि नहीं काटने के प्रावधान है । म. प्र. शासन वित्त विभाग के परिपत्र दिनांक 25.09.2006 की प्रति एनेक्सर पी/3 है ।

याचिकाकर्ता सेवानिवृत्त कर्मचारी का कार्यभारित स्थापना के पद पर उपस्थिति देने का दिनांक 01.01.2005 के पश्चात का होने के कारण वह म.प्र. (कार्यभारित एवं आकस्मिकता निधि से देय कर्मचारी) पेंशन नियम 1979 अथवा इसके किसी प्रावधान के अंतर्गत किसी भी रूप में कवर नहीं होता है ।

12— याचिकाकर्ता सेवानिवृत्त कर्मचारी का नियमितीकरण मुख्य अभियंता— के आदेश क्रमांक— दिनांक— के माध्यम से कार्यभारित स्थापना में —के पद पर किया गया था । उक्त आदेश की कंडिका — में स्पष्ट रूप से उल्लेखित है कि नियुक्त कर्मचारी को परिभाषित अंशदायी पेंशन योजना 2005 लागू होगी ।

13— यह कि वादी कर्मचारी द्वारा तत्समय इस नियुक्ति आदेश को पूर्णतः स्वीकार किया गया था तथा वादी कर्मचारी के कार्यभारित स्थापना के पूरे सेवाकाल के दौरान प्रतिमाह के उसके वेतन से नियमानुसार अंशदान राशि की कटौती की गयी थी तथा उसके वेतन से भविष्य निधि की राशि नहीं काटी गई है । कार्यभारित स्थापना के कर्मचारी के रूप में बिताई गई उसकी पूरी सेवा अवधि में उसने इस पर किसी भी तरह की आपत्ति नहीं जताई है और ना ही इसे कभी भी किसी न्यायालय के समक्ष चुनौती दी है। नियुक्ति आदेश की उक्त कंडिका बाध्यकारी प्रभाव रखती है। ऐसी स्थिति में मान. न्यायालय द्वारा वादी कर्मचारी को सेवानिवृत्ति के उपरांत वर्ष 2005 के पूर्व लागू पेंशन नियमों के अधीन आने की अनुमति देना न्यायोचित प्रतीत नहीं होता है ।

14— यह कि माननीय उच्चतम न्यायालय द्वारा सिविल अपील कं. 3900—3901/2022 (बिहार राज्य एवं अन्य बनाम राजमति देवी एव अन्य) में पारित निर्णय दिनांक 20 मई 2022 में यह अभिनिर्धारित किया गया है कि जिन कर्मचारियों का नियमित सेवा में संविलियन राज्य शासन द्वारा नई पेंशन योजना यानि अंशदायी पेंशन योजना लागू करने के बाद किया गया है उनके मामले में नई पेंशन योजना यानि अंशदायी पेंशन योजना ही लागू होगी। ऐसे कर्मचारी अंशदायी पेंशन योजना लागू होने के नियत दिनांक के पूर्व प्रभावशील रही पुरानी पेंशन योजना के अंतर्गत नियमित पेंशन के पात्र नहीं होंगे। माननीय उच्चतम न्यायालय का निर्णय दिनांक 20 मई 2022 एनेक्सर पी/4 है ।

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Industrial Employment (Standing Orders) Act, 1946 & Rules, 1946

with
M.P. Industrial Employment
(Standing Orders)
Act, 1961 & Rules, 1963

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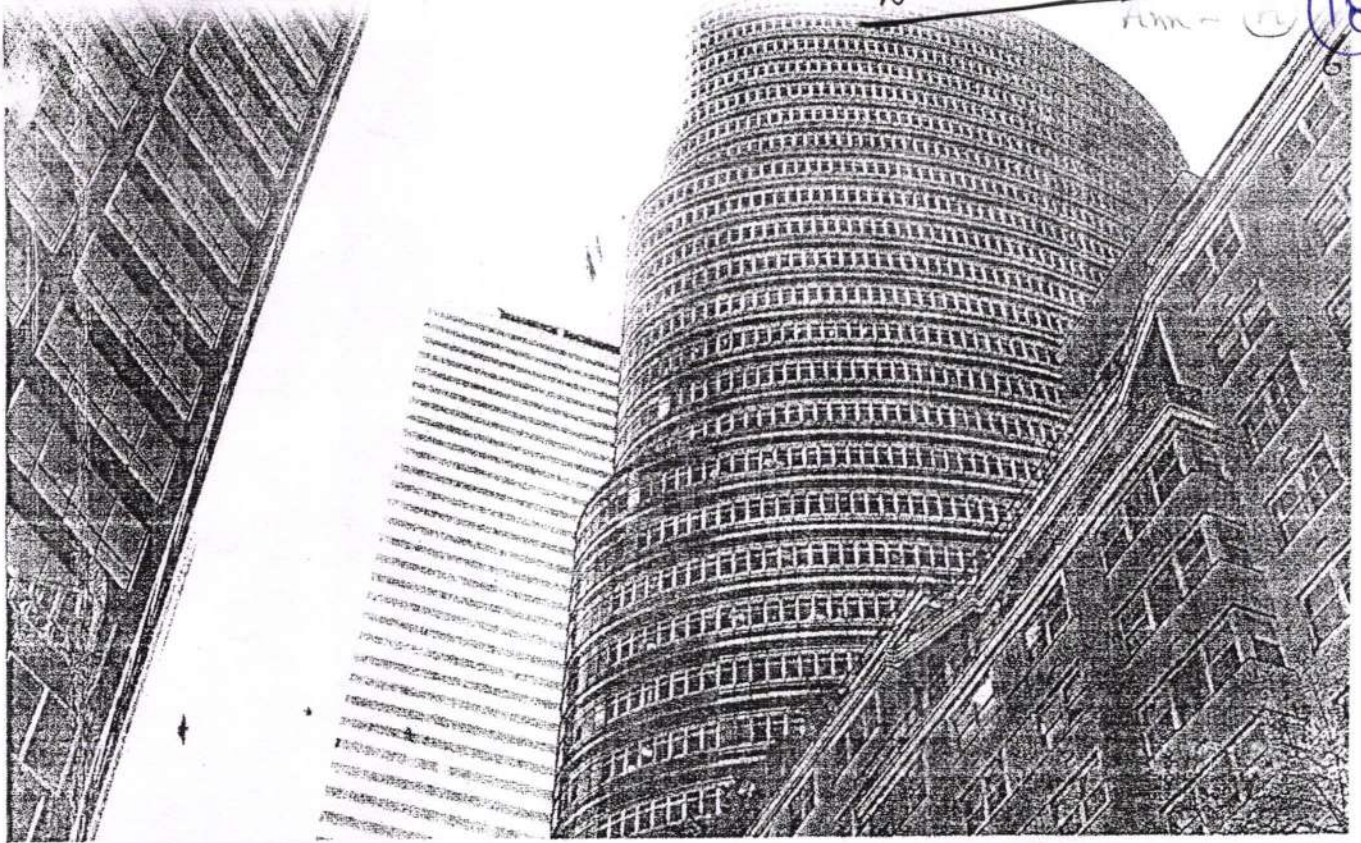
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THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946

INTRODUCTION

Earlier the economic law of demand and supply in the labour market settled mutually beneficial bargain between the employer and the workman. It was taken as granted that such a bargain would secure fair terms and conditions of employment to the workmen. They had an abiding faith in the unity of this law. But the working of this law has belied their faith. Later workmen found that they did not possess adequate bargaining strength to secure fair terms and conditions of service, they organised themselves in trade unions and insisted on collective bargaining with the employer. The advent of trade unions and collective bargaining created new problems for maintaining industrial peace and production for the society. Workmen started putting forth their demands. Recognising the rough deal that was being given to the workers by employers who would not define their conditions of service and the inevitability of industrial strife in such a situation, the Legislature made an attempt to intervene by introducing the Industrial Employment (Standing Orders) Bill, 1946.

STATEMENT OF OBJECTS AND REASONS

Experience has shown that 'standing orders' defining the conditions of recruitment, discharge, disciplinary action, holidays, leave, etc., go a long way towards minimising friction between the management and workers in industrial undertakings. Discussion on the subject at the tripartite Indian Labour Conference revealed a consensus of opinion in favour of legislation. The Bill accordingly seeks to provide for the framing of 'standing orders' in all industrial establishments employing one hundred or more workers.

In the first instance, the Act will apply to the categories of industrial establishments specified in clause (2)(e), which include, besides factories and railways, mines, quarries and oil fields, tramway or motor, omnibus services, docks, wharves and jetties, inland steam vessels, plantations and workshops. Government will be competent to extend the Act to other classes of industrial establishments or to grant exemptions where necessary, by notification.

Within 6 months from the date on which the Act becomes applicable to an industrial establishment the employer is required to frame draft 'standing orders' and submit them to the Certifying Officer for certification. The draft should cover all the matters specified in the Schedule to the Act and any other matter that Government may prescribe by rules. The Certifying Officer will be empowered to modify or add to the draft standing orders so as to render them certifiable under the Act. It will not be his function (nor of the Appellate Authority) to adjudicate upon their fairness or reasonableness. There will be a right of appeal against the decisions of the Certifying Officers.

ACT 20 OF 1946

The Industrial Employment (Standing Orders) Bill, 1946 having been passed by the Legislature received its assent on 23rd April, 1946. It came on the Statute Book as THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946 (20 of 1946).

THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1946 (20 of 1946)¹

[23rd April, 1946]

An Act to require employers in industrial establishments formally to define conditions of employment under them.

WHEREAS it is expedient to require employers in industrial establishments to define with sufficient precision the conditions of employment under them and to make the said conditions known to workmen employed by them;

STATE AMENDMENTS

Maharashtra : Gujarat.—(i) For the long title, substitute the following, namely :—

“An Act to provide for defining with sufficient precision certain conditions of employment in industrial establishments in the State of Bombay”.

[Vide Bombay Act 21 of 1958, sec. 2 (w.e.f. 15-1-1959); Act 11 of 1960, sec. (w.e.f. 1-5-1960)].

(ii) In the Preamble, for the portion beginning with the words “to require” and ending with the words “by them”, substitute the words “to provide for defining with sufficient precision certain conditions of employment in industrial establishments in the State of Bombay, and for certain other matters.”

[Vide Bombay Act 21 of 1958, sec. 3 (w.e.f. 15-1-1959)].

(iii) Nothing in the Industrial Employment (Standing Orders) (Bombay Amendment) Act, 1957 (Bombay Act 21 of 1958), shall be deemed to affect any industrial establishment in respect of which the appropriate Government is the Central Government.

[Vide Bombay Act 21 of 1958, sec. 21 (w.e.f. 15-1-1959)].

Madhya Pradesh.—“Nothing in the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), shall apply to any undertaking to which this Act applies*.”

[Vide Madhya Pradesh Act 26 of 1961, sec. 4 (w.e.f. 25-11-1961)].

* The Act applies to every undertaking in the State, wherein 20 or more persons are employed during the 12 months preceding or on the day the Act, i.e., Madhya Pradesh Act 26 of 1961, came into force or thereafter. Provision for extension of the said Act to any other class or classes of undertakings has been made in the Act by section 2.

It is hereby enacted as follows :—

1. Short title, extent and application.—(1) This Act may be called the **Industrial Employment (Standing Orders) Act, 1946.**

(2) It extends to ²[the whole of India ³[***]].

1. For Statement of Objects and Reasons, see Gazette of India, 1946, Pt. V, pp. 179 and 180. The Act has been extended to Goa, Daman and Diu by Reg. 12 of 1962, sec. 3 and Sch., to Pondicherry by Reg. 7 of 1963, sec. 3 and Sch. 1 (w.e.f. 1-10-1963), and to Laccadive Minicoy and Amin Divi Islands by Reg. 8 of 1965, sec. 3 and Sch. (w.e.f. 1-10-1967).

2. Subs. by the A.O. 1950, for “all the Provinces of India”.

3. The words “except the State of Jammu and Kashmir” omitted by Act 51 of 1970, sec. 2 and Sch. (w.e.f. 1-9-1971).

¹[(3) It applies to every industrial establishment wherein one hundred or more workmen are employed, or were employed on any day of the preceding twelve months :

Provided that the appropriate Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any industrial establishment employing such number of persons less than one hundred as may be specified in the notification.

²[***]

³[(4) Nothing in this Act shall apply to—

- (i) any industry to which the provisions of Chapter VII of the Bombay Industrial Relations Act, 1946 (Bombay Act 11 of 1947) apply; or
- (ii) any industrial establishment to which the provisions of the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (Madhya Pradesh Act 26 of 1961) apply :

⁴Provided that notwithstanding anything contained in the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (Madhya Pradesh Act 26 of 1961), the provisions of this Act shall apply to all industrial establishments under the control of the Central Government.]

STATE AMENDMENTS

Maharashtra : Gujarat.—In section 1, in sub-section (3), for the words "one hundred" substitute "fifty".

[Vide Bombay Act 21 of 1958, sec. 4 (w.e.f. 15-1-1959) and Act 11 of 1960, sec. 87 (w.e.f. 1-5-1960)].

2. Interpretation.— In this Act, unless there is anything repugnant in the subject or context,—

⁴[(a) "appellate authority" means an authority appointed by the appropriate Government by notification in the Official Gazette to exercise in such area as may be specified in the notification the functions of an appellate authority under this Act :

Provided that in relation to an appeal pending before an Industrial Court or other authority immediately before the commencement of the Industrial Employment (Standing Orders) Amendment Act, 1963 (39 of 1963), that court or authority shall be deemed to be the appellate authority;]

(b) "appropriate Government" means in respect of industrial establishments under the control of the Central Government or a ⁵[Railway administration] or in a major port, mine or oil-field, the Central

1. Subs. by Act 16 of 1961, sec. 2, for sub-section (3).
2. Second proviso omitted by Act 39 of 1963, sec. 2 (w.e.f. 23-12-1963).
3. Ins. by Act 39 of 1963, sec. 2 (w.e.f. 23-12-1963).
4. Subs. by Act 39 of 1963, sec. 3, for clause (a) (w.e.f. 23-12-1963).
5. Subs. by the A.O. 1950, for "Federal railway".

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Pt. V, pp.179 and
of 1962, sec. 3 and
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and Sch. (w.e.f. 1-

51 of 1970, sec. 2

Government, and in all other cases, the State Government :

¹[Provided that where any question arises as to whether any industrial establishment is under the control of the Central Government, that Government may, either on a reference made to it by the employer or the workman or a trade union or other representative body of the workmen, or on its own motion and after giving the parties an opportunity of being heard, decide the question and such decision shall be final and binding on the parties;]

²[(c) "Certifying Officer" means a Labour Commissioner or a Regional Labour Commissioner, and includes any other officer appointed by the appropriate Government, by notification in the Official Gazette, to perform all or any of the functions of a Certifying Officer under this Act;]

RELEVANT NOTES

Muthoot Pappachan Consultancy and Management Services. Vs. Labour Commissioner, 2008 (117) FLR 5 (Sum) (Ker.) 2008 (3) LLN 304 (Ker.)

(d) "employer" means the owner of an industrial establishment to which this Act for the time being applies, and includes—

- (i) in a factory, any person named under ³[clause (f) of subsection (1) of section 7, of the Factories Act, 1948 (63 of 1948)], as manager of the factory;
- (ii) in any industrial establishment under the control of any department of any Government in India, the authority appointed by such Government in this behalf, or where no authority is so appointed, the head of the department;
- (iii) in any other industrial establishment, any person responsible to the owner for the supervision and control of the industrial establishment;

(e) "industrial establishment" means—

- (i) an industrial establishment as defined in clause (ii) of section 2 of the Payment of Wages Act, 1936 (4 of 1936), or
- ⁴[(ii) a factory as defined in clause (iii) of section 2 of the Factories Act, 1948 (63 of 1948), or]
- (iii) a railway as defined in clause (4) of section 2 of the Indian Railways Act, 1890 (9 of 1890), or
- (iv) the establishment of a person who, for the purpose of fulfilling a contract with the owner of any industrial establishment, employs workmen;

RELEVANT NOTES

Indraprastha Medical Corpn. Vs. Govt. of NCT of Delhi, 2001 (94) DLT 337; 2001 LLR 715; 2001(3) LLN 562; 2001 III CLR 390; 2001 LIC 3638; [2001] II LLJ 1274 (Del.).

1. Added by Act 18 of 1982, sec. 2 (w.e.f. 17-5-1982).
2. Subs, by Act 16 of 1961, sec. 3, for clause (c).
3. Subs, by Act 16 of 1961, sec. 3, for "clause (e) of sub-section (1) of section 9 of the Factories Act, 1934 (25 of 1934)".
4. Subs, by Act 16 of 1961, sec. 3, for sub-clause (ii).

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- (f) "prescribed" means prescribed by rules made by the appropriate Government under this Act;
- (g) "standing orders" means rules relating to matters set out in the Schedule;
- (h) "trade union" means a trade union for the time being registered under the Indian Trade Unions Act, 1926 (16 of 1926);
- [(i) "wages" and "workman" have the meanings respectively assigned to them in clauses (rr) and (s) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947)].

STATE AMENDMENTS

Maharashtra.—In section 2,—

- (i) before clause (a), insert the following clause, namely :—
“(a) ‘amendments’ mean in relation to the model standing orders any amendments proposed to such orders under section 3 and includes any alterations, variations or additions proposed thereto;”
- (ii) in clause (d), for sub-clause (iii), substitute the following sub-clause, namely :—
“(iii) in any other industrial establishment—
(a) any person responsible to the owner for the supervisions and control of the industrial establishment;
(b) where a person who, for the purpose of fulfilling a contract with the owner of the industrial establishment, employs workmen on the premises of the establishment for the execution of the whole or any part of any work which is ordinarily part of such establishment then in relation to such workmen, the owner of the industrial establishment;
- (iii) in clause (e), delete sub-clause (iv);
- (iv) after clause (e), insert the following clauses, namely :—
“(ee) ‘model standing orders’ mean standing orders prescribed under section 15;
(ef) ‘modification’ includes in relation to a standing order, any alteration, variation, addition or deletion in, or to, such order.”

[Vide Bombay Act 21 of 1958, sec. 5 (15-1-1959); Act 11 of 1960, sec. 87 (w.e.f. 1-5-1960)].

Section 2A

Maharashtra : Gujarat.—After section 2, insert the following section, namely :—

“2A. *Application of model standing orders to every industrial establishment.*—(1) Where this Act applies to an industrial establishment, the model standing orders for every matter set out in the Schedule applicable to such establishment shall apply to such establishment from such date as the State Government may by notification in the Official Gazette appoint *in this behalf :

Provided that nothing in this section shall be deemed to affect any standing orders which are finally certified under this Act and have come into operation under this Act in respect of any industrial establishment before the date of the coming into force of the Industrial Employment (Standing Orders) Bombay Amendment) Act, 1957.”

[Vide Bombay Act 21 of 1958, sec. 6 (w.e.f. 15-1-1959); Act 11 of 1960, sec. 87 (w.e.f. 1-5-1960)].

* 15-1-1959 See Bom. Govt. Gaz. 1959 Pt. 1-1 page 333.

Maharashtra.—Section 2A renumbered as sub-section (1) of that section and after subsection (1) so renumbered, following new sub-section (2) shall be added :

1. Subs. by Act 18 of 1982, sec. 2, for clause (i) (w.e.f. 17-5-1982).

“(2) Notwithstanding anything contained in the proviso to sub-section (1) model standing orders made in respect of additional matters included in the Schedule after the coming into force of the Act referred to in that Proviso (being additional) matters relating to probationers or badlis or temporary or casual workmen shall unless such model standing orders are in the opinion of certifying officer less advantageous to them than the corresponding standing orders applicable to them under the said proviso also apply in relation to such workmen in the establishments referred to in the said proviso from such date as the State Government may, by notification in the Official Gazette, appoint in this behalf.

[Vide Maharashtra Act 54 of 1974, sec. 2].

3. Submission of draft standing orders.—(1) Within six months from the date on which this Act becomes applicable to an industrial establishment, the employer shall submit to the Certifying Officer five copies of the draft standing orders proposed by him for adoption in his industrial establishment.

(2) Provision shall be made in such draft for every matter set out in the Schedule which may be applicable to the industrial establishment, and where model standing orders have been prescribed, shall be, so far as is practicable, in conformity with such model.

(3) The draft standing orders submitted under this section shall be accompanied by a statement giving prescribed particulars of the workmen employed in the industrial establishment including the name of the trade union, if any, to which they belong.

(4) Subject to such conditions as may be prescribed, a group of employers in similar industrial establishments may submit a joint draft of standing orders under this section.

STATE AMENDMENT

Maharashtra : Gujarat.—(i) In section 3, for sub-section (1), substitute the following sub-section, namely :—

“(1) Within six months from the date on which the model standing orders apply to any industrial establishment under section 2A, the employer or any workman employed therein may submit to the Certifying Officer five copies of the draft amendments for adoption in such industrial establishment :

Provided that no amendment which provides for the deletion or omission of any n in the model standing orders relating to any matter set out in the Schedule shall be submitted under this section;”

(ii) delete sub-section (2).

(iii) in sub-section (3), for the words “draft standing orders, substitute “draft amendments”.

(iv) in sub-section (4), for the words “draft of standing orders”, substitute “draft of amendments”.

(v) for the marginal note, substitute the following marginal note :—
“Submission of amendments.”

[Vide Bombay Act 21 of 1958, sec. 7 (w.e.f. 15-1-1959); Act 11 of 1960, sec. 87 (w.e.f. 1-5-1960)].

4. Conditions for certification of standing orders.— Standing orders shall be certifiable under this Act if—

(a) provision is made therein for every matter set out in the Schedule which is applicable to the industrial establishment, and

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S. 5] The Industrial Employment (Standing Orders) Act, 1946

(b) the standing orders are otherwise in conformity with the provisions of this Act,

and it [shall be the function] of the Certifying Officer or appellate authority to adjudicate upon the fairness or reasonableness of the provisions of any standing orders.

STATE AMENDMENT

Maharashtra : Gujarat.—Delete section 4.

[Vide Bombay Act 21 of 1958, sec. 8 (w.e.f. 15-1-1959); Act 11 of 1960, sec. 87 (w.e.f. 1-5-1960)].

5. Certification of standing orders.—(1) On receipt of the draft under section 3, the Certifying Officer shall forward a copy thereof to the trade union, if any, of the workmen, or where there is no such trade union, to the workmen in such manner as may be prescribed, together with a notice in the prescribed form requiring objections, if any, which the workmen may desire to make to the draft standing orders to be submitted to him within fifteen days from the receipt of the notice.

(2) After giving the employer and the trade union or such other representatives of the workmen as may be prescribed, an opportunity of being heard, the Certifying Officer shall decide whether or not any modification of or addition to the draft submitted by the employer is necessary to render the draft standing orders certifiable under this Act, and shall make an order in writing accordingly.

(3) The Certifying Officer shall thereupon certify the draft standing orders, after making any modifications therein which his order under sub-section (2) may require, and shall within seven days thereafter send copies of the certified standing orders authenticated in the prescribed manner and of his order under sub-section (2) to the employer and to the trade union or other prescribed representatives of the workmen.

STATE AMENDMENT

Maharashtra : Gujarat.—(i) In section 5, in sub-section (1),—

(a) after the words "as may be prescribed", insert "or the employer, as the case may be", and after the word "workmen" where it occurs for the third time, insert "or employer";

(b) for the words "draft standing orders", substitute the words "draft amendments";

(ii) in sub-section (2),—

(a) after the words "giving the employer", insert "the workmen submitting the amendments";

(b) delete the words "or addition to";

(c) for the words "the draft submitted by the employer is necessary to render the draft standing orders certifiable under this Act", substitute "the draft submitted under sub-section (1) of section 3 is necessary";

(iii) in sub-section (3),—

(a) for the words "certify the draft standing orders", substitute "certify the draft amendments";

1. Subs. by Act 36 of 1956, sec. 32, for "shall not be the function" (w.e.f. 17-9-1956).

(b) for the words "certified standing orders", substitute "model standing orders together with copies of the certified amendments thereof".

(iv) in the marginal note, for the words "standing orders", substitute the word "amendments".

[Vide Bombay Act 21 of 1958, sec. 9 (w.e.f. 15-1-1959); Act 11 of 1960, sec. 87 (w.e.f. 1-5-1960)].

6. Appeals.—(1) ¹[Any employer, workmen, trade union or other prescribed representatives of the workmen] aggrieved by the order of the Certifying Officer under sub-section (2) of section 5 may, within ²[thirty days] from the date on which copies are sent under sub-section (3) of that section, appeal to the appellate authority, and the appellate authority, whose decision shall be final, shall by order in writing confirm the standing orders either in the form certified by the Certifying Officer or after amending the said standing orders by making such modifications thereof or additions thereto as it thinks necessary to render the standing orders certifiable under this Act.

(2) The appellate authority shall, within seven days of its order under subsection (1), send copies thereof of the Certifying Officer, to the employer and to the trade union or other prescribed representatives of the workmen, accompanied, unless it has confirmed without amendment the standing orders as certified by the Certifying Officer, by copies of the standing orders as certified by it and authenticated in the prescribed manner.

RELEVANT NOTES

Gabriel Employees Union Vs. Gabriel India Ltd. and Others, 2008 (1) LLJ 618 (H.P.)

STATE AMENDMENT

Maharashtra : Gujarat.—In section 6,—

(i) in sub-section (1) for the portion beginning with "confirm the standing orders" and ending with "certifiable under this Act", substitute the following, namely :—
"confirm the amendments either in the form certified by the Certifying Officer or after further modifying the same as the appellate authority thinks necessary."

(ii) in sub-section (2),—

(a) for "unless it has confirmed without amendment the standing orders" substitute "unless it has confirmed without further modifications the amendments";

(b) for "by copies of the standing orders", substitute "by copies of the model standing orders together with the amendments".

[Vide Bombay Act 21 of 1958, sec. 10 (w.e.f. 15-1-1959); Act 11 of 1960, sec. 87 (w.e.f. 1-5-1960)].

7. Date of operation of standing orders.—Standing orders shall, unless an appeal is preferred under section 6, come into operation on the expiry of thirty days from the date on which authenticated copies thereof are sent under subsection (3) of section 5, or where an appeal as aforesaid is preferred, on the expiry of seven days from the date on which copies of the order of the appellate authority are sent under sub-section (2) of section 6.

1. Subs. by Act 18 of 1982, sec. 3, for "Any person" (w.e.f. 17-5-1982).

2. Subs. by Act 16 of 1961, sec. 4, for "twenty-one days".

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8 (1) LLJ 618 (H.P.)

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STATE AMENDMENT

Maharashtra : Gujarat.—In section 7 and in the marginal note thereto, after the words "standing orders", insert the words "or amendments".

[*Vide* Bombay Act 21 of 1958, sec. 11 (w.e.f. 15-1-1959); Act 11 of 1960, sec. 87 (w.e.f. 1-5-1960)].

Saurashtra Area (Gujarat).—In its application to the Saurashtra area of the State of Bombay, in section 7, sub-section (2) inserted by the Industrial Employment Standing Orders (Saurashtra Amendment) Act, 1953, shall be deleted; and section 7(1) shall be renumbered as section 7 of the said Act :

Provided that any model standing orders in respect of any industrial establishment referred to in the said sub-section (2) of section 7 deleted as aforesaid, and in operation on the date of the coming into force of this Act, shall be deemed to be the model standing orders prescribed under section 15 of the said Act and applied to the industrial establishment under section 2A, and the provisions of the said Act shall apply thereto as they apply to the model standing orders duly applied under the said section 2A.

Nothing in this Act shall be deemed to affect any industrial establishment in respect of which the appropriate Government is the Central Government.

[*Vide* Bombay Act 21 of 1958, sec. 12 and 21 (w.e.f. 15-1-1959); Act 11 of 1960, sec. 87 (w.e.f. 1-5-1960)].

8. Register of standing orders.—A copy of all standing orders as finally certified under this Act shall be filed by the Certifying Officer in a register in the prescribed form maintained for the purpose, and the Certifying Officer shall furnish a copy thereof to any person applying therefor on payment of the prescribed fee.

STATE AMENDMENT

Maharashtra : Gujarat.—In section 8,—

(i) after the words "all standing orders", insert the words "or model standing orders together with all the amendments";

(ii) in the marginal note, after the words "standing orders", insert "and model standing orders together with all certified amendments".

[*Vide* Bombay Act 21 of 1958, sec. 13 (w.e.f. 15-1-1959); Act 11 of 1960, sec. 87 (w.e.f. 1-5-1960)].

9. Posting of standing orders.—The text of the standing orders as finally certified under this Act shall be prominently posted by the employer in English and in the language understood by the majority of his workmen on special boards to be maintained for the purpose at or near the entrance through which the majority of the workmen enter the industrial establishment and in all departments thereof where the workmen are employed.

STATE AMENDMENT

Maharashtra : Gujarat.—In section 9,—

(i) after the words "standing orders", insert the words "or model standing orders together with all the amendments";

(ii) in the marginal note, after the words "standing orders", insert the words "and model standing orders together with all certified amendments".

[*Vide* Bombay Act 21 of 1958, sec. 13 (w.e.f. 15-1-1959); Act 11 of 1960, sec. 87 (w.e.f. 1-5-1960)].

10. Duration and modification of standing orders.—(1) Standing orders finally certified under this Act shall not, except on agreement between the employer

and the workmen, ¹[or a trade union or other representative body of the workmen] be liable to modification until the expiry of six months from the date on which the standing orders or the last modifications thereof came into operation.

²[(2) Subject to the provisions of sub-section (1), an employer or workman ¹[or a trade union or other representative body of the workmen] may apply to the Certifying Officer to have the standing orders modified and such application shall be accompanied by five copies of ³[***] the modifications proposed to be made, and where such modifications are proposed to be made by agreement between the employer and the workmen ¹[or a trade union or other representative body of the workmen] a certified copy of that agreement shall be filed along with the application.]

(3) The foregoing provisions of this Act shall apply in respect of an application under sub-section (2) as they apply to the certification of the first standing orders.

⁴[(4) Nothing contained in sub-section (2) shall apply to an industrial establishment in respect of which the appropriate Government is the Government of the State of Gujarat or the Government of the State of Maharashtra.]

RELEVANT NOTES

Suri Babu & Another Vs. Nuclear Fuel Complex and Others, 2009 (111) LLJ 477.

STATE AMENDMENTS

Maharashtra : Gujarat.—In section 10,—

(i) in sub-section (1),—

- (a) after the words “standing orders”, at both the places where they occur, insert the words “or the amendments”;
- (b) after the words “came into operation”, add the following :—
“and where model standing orders have not been amended as aforesaid, the model standing orders shall not be liable to such modification until the expiry of one year from the date on which they were applied under section 2A”.

*(ii) for sub-section (2), substitute the following sub-section, namely :—

“(2) Subject to the provisions of sub-section (1), an employer, workman or any prescribed representatives of workmen desiring to modify the standing orders or the model standing orders together with the amendments, as finally certified under this Act, or the model standing orders applied under section 2A, as the case may be, shall make an application to the Certifying Officer in that behalf, and such application shall be accompanied by five copies of the standing orders, or the model standing orders, together with all amendments thereto as certified under this Act or model standing orders in which shall be indicated the modifications proposed to be made and where such modifications are proposed to be made by agreement between the employer and workmen a certified copy of the agreement shall be filed along with the application”.

[*Vide* Bombay Act 21 of 1958, sec. 14 (w.e.f. 15-1-1959); Act 11 of 1960, sec. 87 (w.e.f. 1-5-1960)].

* See sub-section (4) now inserted by Act 39 of 1963, sec. 4.

Maharashtra.—In section 10, in sub-section (4), delete the words “or the Government of the State of Maharashtra”

[*Vide* Maharashtra Act 54 of 1974, sec. 3].

1. Ins. by Act 18 of 1982, sec. 4 (w.e.f. 17-5-1982).
2. Subs. by Act 36 of 1956, sec. 32, for sub-section (2) (w.e.f. 17-9-1956).
3. The words “the standing orders in which shall be indicated” omitted by Act 39 of 1963, sec. 4 (w.e.f. 23-12-1963).
4. Ins. by Act 39 of 1963, sec. 4 (w.e.f. 23-12-1963).

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¹[10A. Payment of subsistence allowance.—(1) Where any workmen is suspended by the employer pending investigation or inquiry into complaints or charges of misconduct against him, the employer shall pay to such workman subsistence allowance—

- (a) at the rate of fifty per cent, of the wages which the workman was entitled to immediately preceding the date of such suspension, for the first ninety days of suspension; and
- (b) at the rate of seventy-five per cent, of such wages for the remaining period of suspension if the delay in the completion of disciplinary proceedings against such workman is not directly attributable to the conduct of such workman.

(2) If any dispute arises regarding the subsistence allowance payable to a workman under sub-section (1) the workman or the employer concerned may refer the dispute to the Labour Court, constituted under the Industrial Disputes Act, 1947 (14 of 1947), within the local limits of whose jurisdiction the industrial establishment wherein such workman is employed is situate and the Labour Court to which the dispute is so referred shall, after giving the parties an opportunity of being heard, decide the dispute and such decision shall be final and binding on the parties.

(3) Notwithstanding anything contained in the foregoing provisions of this section, where provisions relating to payment of subsistence allowance under any other law for the time being in force in any State are more beneficial than the provisions of this section, the provisions of such other law shall be applicable to the payment of subsistence allowance in that State.]

11. Certifying Officers and appellate authorities to have powers of civil court:—²[(1)] Every Certifying Officer and appellate authority shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witnesses, and compelling the discovery and production of documents, and shall be deemed to be a civil court within the meaning of ³[sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974)].

⁴[(2) Clerical or arithmetical mistakes in any order passed by a Certifying Officer or appellate authority, or errors arising therein from any accidental slip or omission may, at any time, be corrected by that Officer or authority or the successor in office of such Officer or authority, as the case may be.]

12. Oral evidence in contradiction of standing orders not admissible.—No oral evidence having the effect of adding to or otherwise varying or contradicting standing orders as finally certified under this Act shall be admitted in any Court.

STATE AMENDMENT

Maharashtra : Gujarat.—(i) In section 12, for the words "standing orders as finally certified under this Act", substitute the words "standing orders or the model standing orders,

1. Ins. by Act 18 of 1982, sec. 5 (w.e.f. 17-5-1982).
2. Section 11 re-numbered as sub-section (1) thereof by Act 39 of 1963, sec. 5 (w.e.f. 23-12-1963).
3. Subs. by Act 18 of 1982, sec. 6, for "sections 480 and 482 of the Code of Criminal Procedure, 1898 (5 of 1898)" (w.e.f. 17-5-1982).
4. Ins. by Act 39 of 1963, sec. 5 (w.e.f. 23-12-1963).

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1 by Act 39 of 1963,

or model standing orders with all the amendments as finally certified under this Act, as the case may be".

(ii) in the marginal note, for the words "standing orders" substitute "standing orders, etc.",

[Vide Bombay Act 21 of 1958, sec. 15 (w.e.f. 15-1-1959); Act 11 of 1960, sec. 87 (w.e.f. 1-5-1960)].

12A. Temporary application of model standing orders.—(1) Notwithstanding anything contained in sections 3 to 12, for the period commencing on the date on which this Act becomes applicable to an industrial establishment and ending with the date on which the standing orders as finally certified under this Act come into operation under section 7 in that establishment, the prescribed model standing orders shall be deemed to be adopted in that establishment, and the provisions of section 9, sub-section (2) of section 13 and section 13A shall apply to such model standing orders as they apply to the standing orders so certified.

(2) Nothing contained in sub-section (1) shall apply to an industrial establishment in respect of which the appropriate Government is the Government of the State of Gujarat or the Government of the State of Maharashtra.]

13. Penalties and procedure.—(1) An employer who fails to submit draft standing orders as required by section 3, or who modifies his standing orders otherwise than in accordance with section 10, shall be punishable with fine which may extend to five thousand rupees, and in the case of a continuing offence with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.

(2) An employer who does any act in contravention of the standing orders finally certified under this Act or his industrial establishment shall be punishable with fine which may extend to one hundred rupees, and in the case of a continuing offence with a further fine which may extend to twenty-five rupees for every day after the first during which the offence continues.

(3) No prosecution for an offence punishable under this section shall be instituted except with the previous sanction of the appropriate Government.

(4) No Court inferior to that of ²[a Metropolitan Magistrate or Judicial Magistrate of the second class] shall try any offence under this section.

STATE AMENDMENTS

Madhya Pradesh.—In section 13, after sub-section (4), insert the following subsections, namely :—

"(5) A Court taking cognizance of an offence under sub-section (2) shall state upon the summons to be served on the accused person that he—

- (a) may appear by pleader and not in person; or
- (b) may, by a specified date prior to the hearing of the charge, plead guilty to the charge by registered letter acknowledgment due and remit to the Court such sum as the Court may, subject to the maximum limit of fine prescribed for the said offence, specify.

1. Ins. by Act 38 of 1963, sec. 6 (w.e.f. 23-12-1963).

2. Subs. by Act 18 of 1982, sec. 7, for "a Presidency Magistrate or Magistrate of the second class" (w.e.f. 17-5-1982).

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S. 13-A] The Industrial Employment (Standing Orders) Act, 1946

(6) Where an accused person pleads guilty and remits the sum in accordance with the provisions of sub-section (5), no further proceedings in respect of the offence shall be taken against him.

(7) Nothing contained in this section shall apply to the continuing offence referred to in sub-section (2)."

[Vide Madhya Pradesh Act 18 of 1967, sec. 2 (w.e.f. 1-6-1968)].

Maharashtra : Gujarat.—In section 13,—

(i) in sub-section (1),—

(a) for "who fails to submit draft standing orders as required by section 3, or who modifies his standing ordres", substitute "who modifies the standing orders, model standing orders or amendments";

(b) for "section 10", substitute "the provisions of this Act";

(c) for "shall be punishable", substitute "shall on conviction, be punished",

(ii) in sub-section (2), for the words "the standing orders finally certified under this Act for his industrial establishment shall be punishable", substitute the words "the standing orders, model standing orders or the amendments as finally certified under this Act for his industrial establishment, as the case may be, shall, on conviction, be punished",

(iii) after sub-section (2), insert the following sub-sections, namely :—

"(2A) Whoever contravenes the provisions of this Act or of any rule made thereunder in cases other than those falling under sub-section (1) or sub-section (2), shall, on conviction, be punished with fine which may extend to one hundred rupees and in the event of such person being previously convicted of an offence under this Act, with fine which may extend to two hundred rupees and in the case of a continuing offence with a further fine which may extend to twenty-five rupees for every day after the first during which the offence continues.

(2B) The Court convicting an employer under sub-section (1) or subsection (2) may direct such employer to pay such compensation as it may determine to any workman directly and adversely affected by the modification or contravention of the standing orders, model standing orders or amendments, as the case may be.

(2C) The compensation awarded under sub-section (2B) may be recovered as if it were a fine and if it cannot be so recovered, the person by whom it is payable shall be sentenced to imprisonment of either description for a term not exceeding three months as the Court thinks fit".

[Vide Bombay Act 21 of 1958, sec. 16 (w.e.f. 15-1-1959); Act 11 of 1960, sec. 87 (w.e.f. 1-5-1960)].

¹[13A. Interpretation, etc., of standing orders.—If any question arises as to the application or interpretation of a standing order certified under this Act, any employer or workman ²[or a trade union or other representative body of the workmen] may refer the question to any one of the Labour Courts constituted under the Industrial Disputes Act, 1947 (14 of 1947), and specified for the disposal of such proceeding by the appropriate Government by notification in the Official Gazette, and the Labour Court to which the question is so referred shall after giving the parties an opportunity of being heard, decide the question and such decision shall be final and binding on the parties.]

1. Ins. by Act 36 of 1957] sec. 32 (w.e.f. 10-3-1957).

2. Ins. by Act 18 of 1982, sec. 8 (w.e.f. 17-5-1982).

STATE AMENDMENT

Maharashtra : Gujarat.—In section 13A, after the words “standing order” and in the marginal note thereto after the words “standing orders”, insert the words “model standing order or amendments”; and after the word “workman”, insert “or any prescribed representatives of workmen”.

[*Vide* Bombay Act 21 of 1958, sec. 17 (w.e.f. 15-1-1959); Act 11 of 1960, sec. 87 (w.e.f. 1-5-1960)].

¹[13B. Act not to apply to certain industrial establishments.—Nothing in this Act shall apply to an industrial establishment in so far as the workmen employed therein are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Services) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Service (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations as may be notified in this behalf by the appropriate Government in the Official Gazette, apply.]

RELEVANT NOTES

Suri Babu & Another Vs. Nuclear Fuel Complex and Others, 2009, (111) LLJ 477.

143 Power to exempt.—The appropriate Government may by notification in the Official Gazette exempt, conditionally or unconditionally, any industrial establishment or class of industrial establishments from all or any of the provisions of this Act.

RELEVANT NOTES

Suri Babu & Another Vs. Nuclear Fuel Complex and Others, 2009 (111) LLJ 477.

²[14A. Delegation of powers.—The appropriate Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or any rules made thereunder shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also—

- (a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification.
- (b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification.]

15. Power to make rules.—(1) The appropriate Government may, after previous publication, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

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

- (a) prescribe additional matters to be included in the Schedule, and the procedure to be followed in modifying standing orders certified under this Act in accordance with any such addition;

1. Ins. by Act 36 of 1957, sec. 32 (w.e.f. 10-3-1957).

2. Ins. by Act 16 of 1961, sec. 5 and Subs. by Act 39 of 1963, sec. 7, (w.e.f. 23-12-1963).

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- (b) set out model standing orders for the purposes of this Act;
- (c) prescribe the procedure of Certifying Officers and appellate authorities;
- (d) prescribe the fee which may be charged for copies of standing orders entered in the register of standing orders;
- (e) provide for any other matter which is to be or may be prescribed :

Provided that before any rules are made under clause (a) representatives of both employers and workmen shall be consulted by the appropriate Government.

[(3) Every rule made by the Central Government under this section shall be laid as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or [in two or more successive sessions, and if, before the expiry of the 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 should not be made, the rule shall thereafter 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.]

STATE AMENDMENT

Maharashtra : Gujarat.—In section 15, in sub-section (2),—

- (a) in clause (a), after the words "standing orders", insert, the words "or amendments";
- (b) in clause (d), for the words "copies of standing orders entered in the register of standing orders", substitute "copies of standing orders or model standing orders together with all the amendments filed in the register under section 8".

[Vide Bombay Act 21 of 1958, sec. 18 (w.e.f. 15-1-1959); Act 11 of 1960, sec. 87 (w.e.f. 1-5-1960)].

THE SCHEDULE

[See sections 2(g) and 3(2)]

MATTERS TO BE PROVIDED IN STANDING ORDER UNDER THIS ACT

1. Classification of workmen, e.g., whether permanent, temporary, apprentices, probationers, [badlis].
2. Manner of intimating to workmen periods and hours of work, holidays, pay-days and wage rates.
3. Shift working.
4. Attendance and late coming.
5. Conditions of, procedure in applying for, and the authority which may grant, leave and holidays.
6. Requirement to enter premises by certain gates, and liability to search.
7. Closing and re-opening of sections of the industrial establishment, and temporary stoppages of work and the rights and liabilities of the employer and workmen arising therefrom.
8. Termination of employment, and the notice thereof to be given by employer and workmen.

1. Ins. by Act 16 of 1961, sec. 6.

2. Subs. by Act 18 of 1982, sec. 9, for certain words (w.e.f. 17-5-1982).

3. Subs. by G.S.R. 655(E), dated 10th October, 2007 (w.e.f. 10-10-2007).

9. Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.
10. Means of redress for workmen against unfair treatment or wrongful exactions by the employer or his agents or servants.
11. Any other matter which may be prescribed.

STATE AMENDMENTS

Maharashtra : Gujarat.—In the Schedule,—

- (i) in the heading—
 - (a) for “sections 2(g) and 3(2)”, substitute “section 2A”.
 - (b) after the words “Standing Orders”, insert “model standing orders and amendments”.
- (ii) after item 10, insert the following item, namely :—
“10A. Age for retirement or superannuation.”

[Vide Bombay Act 21 of 1958, sec. 19 (w.e.f. 15-1-1959); Act 11 of 1960, sec. 87 (w.e.f. 1-5-1960)].

Maharashtra.—After item 10B, insert the following item, namely :—

“10C. Employment or re-employment of probationers or badlis or temporary or casual workmen and their conditions of service.”

[Vide Maharashtra Act 54 of 1974, sec. 4].

Uttar Pradesh.—Schedule amended by Uttar Pradesh Industrial Employment (Standing Orders) (First Amendment) Rules, 1978.

Rule 2 amending original Rule 6 whereby in addition to the matters set out in the Schedule, the following additional matters are included in the Schedule :—

- 1A. Recruitment.
 - 8A. Issue of service certificate.
 - 9A. Censure and warning notice.
 - 10A. Condition for promotion of workmen.
 - 11 A. Issue of wages slips.
 - 11B. Introduction of welfare schemes such as provident fund, gratuities, etc.
 - 11C. Age of Superannuation or retirement, rate of pension or any other facility, which the employers may like to extend or may be agreed upon by the parties.
- [Vide Uttar Pradesh Gazette, Extra., Pt. 4, p. 2, dated 10th February, 1978.]

R. 1-2A] The Industrial Employment (.....) Central Rules, 1946

THE INDUSTRIAL EMPLOYMENT (STANDING ORDERS) CENTRAL RULES, 1946¹

In exercise of the powers conferred by section 15, read with clause (b) of section 2 of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), the Central Government is pleased to make the following rules, the same having been previously published as required by sub-section (1) of the said section 15, namely:—

1. (1) These rules may be called the Industrial Employment (Standing Orders) Central Rules, 1946.

²[(2) They extend to all Union territories, and shall also apply in any State (other than a Union territory) to industrial establishments under the control of the Central Government or a Railway administration or in a major port, mine or oil field.]

2. In these rules, unless there is anything repugnant in the subject or context,—
(a) 'Act' means the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946),

(b) 'Form' means a form set out in Schedule II appended to these Rules.

³[2A. In the Schedule to the Act, after item 10, the following additional matters shall be inserted, namely:—

*10A. Additional matters to be provided in Standing Orders relating to all industrial establishments in coal mines—

- (1) Medical aid in case of accident;
- (2) Railway travel facilities;
- (3) Method of filling vacancies;
- (4) Transfers;
- (5) Liability of manager of the establishment or mine;
- (6) Service certificate;
- (7) Exhibition and supply of Standing Orders.

*10B. Additional matters to be provided in the Standing Orders relating to all Industrial Establishments,—

- (1) Service Record—matters relating to service card, token tickets, certification of service, change of residential address of workers and record of age;
- (2) Confirmation;
- (3) Age of retirement;
- (4) Transfer;
- (5) Medical aid in case of accidents;
- (6) Medical examination;
- (7) Secrecy;
- (8) Exclusive service.”]

1. Vide Notification No. LR 11(37), dated 18th December, 1946.

2. Subs. by G.S.R. 208, dated 31st January, 1964.

3. Subs. by G.S.R. 30(E), dated 17th January, 1983.

¹[3. (1) Save as otherwise provided in sub-rule (2), the Model Standing Orders for the purposes of the Act shall be those set out in Schedule I appended to these rules. (2) The Model Standing Orders for the purposes of the Act in respect of industrial establishments in coal mines shall be those set out in Schedule IA appended to these rules.]

4. An application for certification of Standing Orders shall be made in Form I.

5. The prescribed particulars of workmen for the purposes of sub-section (3) of section 3 of the Act shall be—

- (1) Total number employed;
- (2) Number of permanent workmen;
- (3) Number of temporary workmen;

²[(3A) Number of casual workmen;]

(4) Number of badlis or substitutes;

³[(4A) *****]

(5) Number of probationers;

(6) Number of apprentices;

(7) Name of the trade union, or trade unions, if any, to which the workmen belong;

(8) Remarks.

6. As soon as may be after he receives an application under rule 4 in respect of an industrial establishment, the Certifying Officer shall—

- (a) where there is a trade union of the workmen, forward a copy of the draft Standing Orders to the trade union together with a notice in Form II;
- (b) where there is no such trade union, call a meeting of the workmen to elect three representatives, to whom he shall, upon their election, forward a copy of the draft Standing Orders together with a notice in Form II.

7. Standing Orders certified in pursuance of sub-section (3) of section 5 or sub-section (2) of section 6 of the Act shall be authenticated by the signature and seal of office of the Certifying Officer or the appellate authority as the case may be and shall be forwarded by such officer or authority within a week of authentication by registered letter post to the employer and to the trade union, or, as the case may be, the representatives of the workmen elected in pursuance of rule 6.

⁴[7A. (1) Any person desiring to prefer an appeal in pursuance of subsection (1) of section 6 of the Act shall draw up a memorandum of appeal setting out the grounds of appeal and forward it in quintuplicate to the appellate authority accompanied by a certified copy of the Standing Orders, amendments or

1. Subs. by G.S.R. 732, dated 12th May, 1971.
2. Ins. by S.R.O. 556, dated 24th February, 1956.
3. Omitted by G.S.R. 655(E), dated 10 October, 2007.
4. Ins. by G.S.R. 1166, dated 28th June, 1963.

Standing Orders modifications, as the case may be. ¹[The memorandum of appeal shall be in ²[Form appended to these IV A] set out in Schedule II to these rules.]

Act in respect of being heard, confirm the Standing Orders, amendments or modifications as certified by the Certifying Officer unless it considers that there are reasons for giving the other parties to the proceedings a hearing before a final decision is made in the appeal.

shall be made in (3) Where the appellate authority does not confirm the Standing Orders, amendments or modifications, it shall fix a date for the hearing of the appeal and direct notice thereof to be given—

(a) where the appeal is filed by the employer or a workman, to trade unions of the workmen of the industrial establishments, and where there are no such trade unions to the representatives of workmen elected under clause (b) of rule 6, or as the case may be, to the employer;

(b) where the appeal is filed by a trade union, to the employer and all other trade unions of the workmen of the industrial establishment;

(c) where the appeal is filed by the representatives of the workmen, to the employer and any other workman whom the appellate authority joins as a party to the appeal.

(4) The appellant shall furnish each of the respondents with a copy of the memorandum of appeal.

(5) The appellate authority may at any stage call for any evidence it considers necessary for the disposal of the appeal.

(6) On the date fixed under sub-rule (3) for the hearing of the appeal, the appellate authority shall take such evidence as it may have called for or consider to be relevant.]

8. The register required to be maintained by section 8 of the Act shall be in Form III and shall be properly bound and the Certifying Officer shall furnish a copy of Standing Orders approved for an Industrial Establishment to any person applying therefor on payment of a fee ³[calculated at the following rates per copy —

(i) for the first two hundred words or less seventy-five paise;

(ii) for every additional one hundred words or fraction thereof thirty-seven paise :

Provided that, where the said Standing Order exceeds five pages, the approximate number of words per page shall be taken as the basis for calculating the total number of words to the nearest hundred, for the purpose of assessing the copying fee.]

1. Ins. by G.S.R. 732, dated 12th May, 1971.

2. Subs. by G.S.R. 910, dated 10th August, 1984.

3. Subs. by G.S.R. 1573, dated 10th October, 1967.

SCHEDULE I

¹[MODEL STANDING ORDERS IN RESPECT OF
INDUSTRIAL ESTABLISHMENT NOT BEING INDUSTRIAL
ESTABLISHMENTS IN COAL MINES]

1. These orders shall come into force on.....

2. Classification of workmen.—(a) Workman shall be classified as—

- (1) Permanent
- (2) probationers
- (3) *badlis*

²[(3A) * * * * *]

- (4) temporary
- (5) casual
- (6) apprentices.

✓(b) A 'permanent' workman is a workman who has been engaged on a permanent basis and includes any person who has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial establishment including breaks due to sickness, accident, leave, lockout, strike (not being an illegal strike) or involuntary closure of the establishment.

(c) A 'probationer' is a workman who is provisionally employed to fill a permanent vacancy in a post and has not completed three months' service therein. If a permanent employee is employed as a probationer in a new post he may, at any time during the probationary period of three months, be reverted to his old permanent post.

(d) A '*badli*' is a workman who is appointed in the post of a permanent workman or probationer who is temporarily absent.

(e) A 'temporary' workman is a workman who has been engaged for work which is of an essentially temporary nature likely to be finished within a limited period.

(f) A 'casual' workman is a workman whose employment is of a casual nature.

(g) An 'apprentice' is a learner who is paid an allowance during the period of his training.

²[(h) * * * * *]

3. Tickets.—(1) Every workman shall be given a permanent ticket unless he is a probationer, *badli*, temporary worker or apprentice.

(2) Every permanent workman shall be provided with a departmental ticket showing his number, and shall, on being required to do so, show it to any person authorised by the manager to inspect it.

1. Subs. by G.S.R. 732, dated 12th May, 1971.
2. Omitted by G.S.R. 655(E), dated 10th October, 2007.

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✓(3) Every *badli* shall be provided with a *badli* card, on which shall be entered the days on which he has worked in the establishment, and which shall be surrendered if he obtains permanent employment.

(4) Every temporary workman shall be provided with a 'temporary' ticket which he shall surrender on his discharge.

(5) Every casual worker shall be provided with a 'casual' card, on which shall be entered the days on which he has worked in the establishment.

(6) Every apprentice shall be provided with an 'apprentice' card, which shall be surrendered if he obtains permanent employment.

4. Publication of working time.—The periods and hours of work for all classes of workers in each shift shall be exhibited in English and in the principal languages of workmen employed in the establishment on notice boards maintained at or near the main entrance of the establishment and at time-keeper's office, if any.

5. Publication of holidays and pay days.—Notices specifying (a) the days observed by the establishment as holidays, and (b) pay days shall be posted on the said notice boards.

6. Publication of wage rates.—Notice specifying the rates of wages payable to all classes of workmen and for all classes of work shall be displayed on the said notice boards.

[7. Shift working.—More than one shift may be worked in a department or departments or any section of a department of the establishment at the discretion of the employer. If more than one shift is worked, the workmen shall be liable to be transferred from one shift to another. No shift working shall be discontinued without two months' notice being given in writing to the workmen prior to such discontinuance, provided that no such notice shall be necessary if the closing of the shift is under an agreement with the workmen affected. If as a result of the discontinuance of the shift working, any workmen are to be retrenched, such retrenchment shall be effected in accordance with the provisions of the Industrial Disputes Act, 1947 (14 of 1947), and the rules made thereunder. If shift working is re-started, the workmen shall be given notice and re-employed in accordance with the provisions of the said Act and the said rules.]

[7A. Notice of change in shift working.—Any notice of discontinuance or of restarting of a shift working required by Standing Order 7 shall be in the ³[Form IVA] and shall be served in the following manner, namely :—

The notice shall be displayed conspicuously by the employer on a notice board at the main entrance to the establishment ⁴[***] :

Provided that where any registered trade union of workmen exists, a copy of the notice shall also be served by registered post to the secretary of such union.]

1. Subs. by G.S.R. 557, dated 30th April, 1959.

2. Ins. by G.S.R. 655, dated 3rd June, 1960.

3. Subs. by G.S.R. 910, dated 10th August, 1984.

4. Omitted by G.S.R. 824, dated 30th June, 1975.

8. **Attendance and late coming.**—A workman shall be at work at the establishment at the times fixed and notified under paragraph 4. Workmen attending late will be liable to the deductions provided for in the Payment of Wages Act, 1936.

9. **Leave.**—(1) Holidays with pay will be allowed as provided for in ¹[Chapter VIII of the Factories Act, 1948] and other holidays in accordance with law, contract, custom and usage.

(2) A workman who desires to obtain leave of absence shall apply to the ¹[employer or any other officer of the industrial establishment specified in this behalf by the employer], who shall issue orders on the application within a week of its submission or two days prior to the commencement of the leave applied for, whichever is earlier, provided that if the leave applied for is to commence on the date of the application or within three days thereof, the order shall be given on the same day. If the leave asked for is granted, a leave pass shall be issued to the worker. If the leave is refused or postponed, the fact of such refusal or postponement and the reasons therefor shall be recorded in writing in a register to be maintained for the purpose, and if the worker so desires, a copy of the entry in the register shall be supplied to him. If the workman after proceeding on leave desires an extension thereof, he shall apply to ²[employer or the office specified in this behalf by the employer] who shall send a written reply either granting or refusing extension of leave to the workman if his address is available and if such reply is likely to reach him before the expiry of the leave originally granted to him.

(3) If the workman remains absent beyond the period of leave originally granted or subsequently extended, he shall lose his lien on his appointment unless he (a) returns within 8 days of the expiry of the leave, and (b) explains to the satisfaction of the ¹[employer or the officer specified in this behalf by the employer] his inability to return before the expiry of his leave. In case the workman loses his lien on his appointment, he shall be entitled to be kept on the *badli* list.

10. **Casual leave.**—A workman may be granted casual leave of absence with or without pay not exceeding 10 days in the aggregate in a calendar year. Such leave shall not be for more than three days at a time except in case of sickness. Such leave is intended to meet special circumstances which cannot be foreseen. Ordinarily, the previous permission of the head of the department in the establishment shall be obtained before such leave is taken, but when this is not possible, the head of the department shall, as soon as may be practicable, be informed in writing of the absence from and of the probable duration of such absence.

11. **Payment of wages.**—(1) Any wages, due to the workman but not paid on the usual pay day on account of their being unclaimed, shall be paid by the employer on an unclaimed wage pay day in each week, which shall be notified on the notice boards as aforesaid.

(2) All workmen will be paid wages on a working day before the expiry of the seventh or the tenth day after the last day of the wage period in respect of which the wages are payable, according as the total number of workmen employed in the establishment does not or does exceed one thousand.

1. Subs. by G.S.R. 732, dated 12th May, 1971.

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12. Stoppage of work.—(1) The employer may, at any time, in the event of fire, catastrophe, breakdown of machinery or stoppage of power supply, epidemics, civil commotion or other cause beyond his control, stop any section or sections of the establishment, wholly or partially for any period or periods without notice.

(2) In the event of such stoppage during working hours, the workmen affected shall be notified by notices put upon the notice board in the departments concerned [and at the office of the employer and at the time-keeper's office, if any], as soon as practicable, when work will be resumed and whether they are to remain or leave their place of work. The workmen shall not ordinarily be required to remain for more than two hours after the commencement of the stoppage. If the period of detention does not exceed one hour the workmen so detained shall not be paid for the period of detention. If the period of detention exceeds one hour, the workmen so detained shall be entitled to receive wages for the whole of the time during which they are detained as a result of the stoppage. In the case of piece-rate workers, the average daily earning for the previous month shall be taken to be the daily wage. No other compensation will be admissible in case of such stoppages. Wherever practicable, reasonable notice shall be given of resumption of normal work.

(3) In cases where workmen are laid off for short periods on account of failure of plant or a temporary curtailment of production, the period of unemployment shall be treated as compulsory leave either with or without pay, as the case may be. When, however, workmen have to be laid off for an indefinitely long period, their services may be terminated after giving them due notice or pay in lieu thereof.

(4) The employer may in the event of a strike affecting either wholly or partially any section or department of the establishment close down either wholly or partially such section or department and any other section or department affected by such closing down. The fact of such closure shall be notified by notices put on the notice board in the section or department concerned and in the time-keeper's office, if any, as soon as practicable. The workmen concerned shall also be notified by a general notice, prior resumption of work, as to when work will be resumed.

13. Termination of employment.—(1) For terminating employment of a permanent workman, notice in writing shall be given either by the employer or the workmen—one month's notice in the case of monthly-rated workmen and two weeks' notice in the case of other workmen one month's or two weeks' pay, as the case may be, may be paid in lieu of notice.

²[(2) No temporary workman whether monthly rated weekly rated or piece rate and no probationer or *badli* shall be entitled to any notice or pay in lieu thereof, in his services are terminated :

Provided that no temporary workman shall be terminated by way of punishment unless he has been given an opportunity of explaining the charges of misconduct "alleged against him in the manner prescribed in paragraph 14."

1. Subs. by G.S.R. 824, dated 30th June, 1975.

2. Subs. by Notifn. G.S.R. 655(E), dated 10th October, 2007.

(3) Where the employment of any workman is terminated, the wages earned by him and other dues, if any, shall be paid before the expiry of the second working day from the day on which his employment is terminated.

14. Disciplinary action for misconduct.—(1) A workman may be fined up to two per cent, of his wages in a month for any of the following acts and omissions, namely :—

Note.—Specify the acts and omissions which the employer may notify with the previous approval of the..... Government or of the prescribed authority in pursuance of section 8 of the Payment of Wages Act, 1936.

(2) A workman may be suspended for a period not exceeding four days at a time or dismissed without notice or any compensation in lieu of notice, if he is found to be guilty of misconduct.

(3) The following acts and omissions shall be treated as misconduct :—

- (a) wilful in-subordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior;
- (b) theft, fraud, or dishonesty in connection with the employer's business or property;
- (c) wilful damage to or loss of employer's goods or property;
- (d) taking or giving bribes or any illegal gratification;
- (e) habitual absence without leave or absence without leave for more than 10 days;
- (f) habitual late attendance;
- (g) habitual breach of any law applicable to the establishment;
- (h) riotous or disorderly behaviour during working hours at the establishments or any act subversive of discipline;
- (i) habitual negligence or neglect of work;
- (j) frequent repetition of any act or omission for which a fine may be imposed to a maximum of 2 per cent, of the wages in a month;
- (k) striking work or inciting others to strike work in contravention of the provisions of any law, or rule having the force of law.
- [(l) sexual harassment which includes such un-welcome sexual determined behaviour (whether directly or by implication) as—
 - (i) physical contact and advances; or
 - (ii) demand or request for sexual favours; or
 - (iii) sexually coloured remarks; or
 - (iv) showing pornography; or
 - (v) any other un-welcome physical, verbal or non-verbal conduct of sexual nature.]

¹[(4) (a) Where a disciplinary proceeding against a workman is contemplated or is pending or where criminal proceedings against him in respect of any offence are under investigation or trial and the employer is satisfied that it is necessary or desirable to place the workman under suspension, he may, by order in writing, suspend him with effect from such date as may be specified in the order. A statement setting out in detail the reasons for such suspension shall be supplied to the workman within a week from the date of suspension.]

²[(b) A workman who is placed under suspension shall be paid subsistence allowance in accordance with the provisions of section 10A of the Act.]

³[(ba) In the inquiry, the workman shall be entitled to appear in person or to be represented by an office bearer of a trade union of which he is a member.

(bb) The proceedings of the inquiry shall be recorded in Hindi or in English or the language of the State where the industrial establishment is located, whichever is preferred by the workman.

(bc) The proceedings of the inquiry shall be completed within a period of three months :

Provided that the period of three months may, for reasons to be recorded in writing, be extended for such further period as may be deemed necessary by the inquiry officer.]

(c) If on the conclusion of the inquiry or, as the case may be, of the criminal proceedings, the workman has been found guilty of the charges framed against him and it is considered, after giving the workman concerned a reasonable opportunity of making representation on the penalty proposed, that an order of dismissal or suspension or fine or stoppage of annual increment or reduction in rank would meet the ends of justice, the employer shall pass an order accordingly :

Provided that when an order of dismissal is passed under this clause, the workman shall be deemed to have been absent from duty during the period of suspension and shall not be entitled to any remuneration for such period, and the subsistence allowance already paid to him shall not be recovered :

Provided further that where the period between the date on which (he workman was suspended from duty pending the inquiry or investigation or trial and the date on which an order of suspension was passed under this clause exceeds four days, the workman shall be deemed to have been suspended only for four days or for such shorter period as is specified in the said order of suspension and for the remaining period he shall be entitled to the same wages as he would have received if he had not been placed under suspension, after deducting the subsistence allowance paid to him for such period :

Provided also that where an order imposing fine or stoppage of annual increment or reduction in rank is passed under this clause, the workman shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages as he would have received if he had not been placed under suspension after deducting the subsistence allowance paid to him for such period :

1. Subs. by G.S.R. 1123, dated 18th July, 1967.
2. Subs. by G.S.R. 910, dated 10th August, 1984.
3. Ins. by G.S.R. 824, dated 30th June, 1975.

Provided also that in the case of a workman to whom the provisions of clause (2) of article 311 of the Constitution apply, the provisions of that article shall be complied with.

(d) If on the conclusion of the inquiry, or as the case may, of the criminal proceedings, the workman has been found to be not guilty of any of the charges framed against him, he shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages as he would have received if he had not been placed under suspension, after deducting the subsistence allowance paid to him for such period.

(e) The payment of subsistence allowance under this standing order shall be subject to the workman concerned not taking up any employment during the period of suspension.

¹[(5)] In awarding punishment under this standing order, the ²[authority imposing the punishment] shall take into account the gravity of the misconduct, the previous record, if any, of the workman and any other extenuating or aggravating circumstances that may exist. A copy of the order passed by the ²[authority imposing the punishment] shall be supplied to the workman concerned.

²[(6)(a)] A workman aggrieved by an order imposing punishment, may within twenty-one days from the date of receipt of the order, appeal to the appellate authority;

(b) the employer shall, for the purposes of clause (a), specify the appellate authority;

(c) the appellate authority, after giving an opportunity to the workman of being heard shall pass such order as he thinks proper on the appeal within fifteen days of its receipt and communicate the same to the workman in writing.]

15. Complaints.—All complaints arising out of employment including those relating to unfair treatment or wrongful exaction on the part of the employer or his agent, shall be submitted to the manager or other person specified in this behalf with the right of appeal to the employer.

16. Certificate on termination of service.—Every permanent workman shall be entitled to a service certificate at the time of his dismissal, discharge or retirement from service.

17. Liability of ³[employer].—The ³[employer] of the establishment shall personally be held responsible for the proper and faithful observance of the standing orders.

⁴[17A. — (1) Any person desiring to prefer an appeal in pursuance of sub-section (1) of section 6 of the Act shall draw up a memorandum of appeal setting out the ground of appeal and forward it in quintuplicate to the appellate authority accompanied by a certified copy of the standing orders, amendments or modifications, as the case may be.

1. Clause (6) re-numbered as clause (5) by G.S.R. 1128, dated 18th July, 1967.

2. Subs. by G.S.R. 824, dated 30th June, 1975.

3. Subs. by G.S.R. 824, dated 30th June, 1975.

4. Ins. by G.S.R. 1166, dated 28th June, 1963.

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(2) The appellate authority shall, after giving the appellant an opportunity of being heard, confirm the standing orders, amendments or modifications as certified by the Certifying Officer unless it considers that there are reasons for giving the other parties to the proceedings a hearing before a final decision is made in the appeal.

(3) Where the appellate authority does not confirm the standing orders, amendments or modifications it shall fix a date for the hearing of the appeal and direct notice thereof to be given —

(a) where the appeal is filed by the employer or a workman, to trade unions of the workmen of the industrial establishments, and where there are no such trade unions, to the representatives of the workmen elected under clause (b) of rule 6, or as the case may be, to the employer;

(b) where the appeal is filed by a trade union to the employer and all other trade unions of the workmen of the industrial establishment;

(c) where the appeal is filed by the representatives of the workmen, to the employer and any other workman whom the appellate authority joins as a party to the appeal.

(4) The appellant shall furnish each of the respondents with a copy of the memorandum of appeal.

(5) The appellate authority may at any stage call for any evidence it considers necessary for the disposal of the appeal.

(6) On the date fixed, under sub-rule (3) of the hearing of the appeal, the appellate authority shall take such evidence as it may have called for or consider to be relevant.]

18. Exhibition of standing orders — A copy of these orders in English and in local language shall be posted ¹[* * *] and on a notice board maintained at or near the main entrance to the establishment and shall be kept in a legible condition.

²[***]

³[SCHEDULE I A

MODEL STANDING ORDERS FOR INDUSTRIAL ESTABLISHMENTS IN COAL MINES

1. These orders shall come into force on.....

2. Definition.—In these orders, unless the context otherwise requires,—

(a) ‘attendance’ means presence of the workman concerned at the place or places where by the terms of his employment he is required to report for work and getting his attendance marked;

(b) the expression ‘employer’ and ‘workman’ shall have the meanings assigned to them in section 2(d) and (i) respectively of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946);

1. Omitted by G.S.R. 824, dated 30th June, 1975.

2. Form omitted by G.S.R. 910, dated 10th August, 1984.

3. Ins. by G.S.R. 732, dated 12th May, 1971.

(c) 'Manager' means the manager of the mine and includes an acting manager for the time being appointed in accordance with the provisions of the Mines Act, 1952 (35 of 1952);

(d) words importing masculine gender shall be taken to include females;

(e) words in the singular shall include the plural and *vice versa*.

3. Classification of workmen.—(a) 'Workmen' shall be classified as—

(i) permanent;

(ii) probationers;

(iii) *badlis* or substitutes;

¹[(iiiA) ** * * * *]

(iv) temporary;

(v) apprentices; and

(vi) casual.

(b) A 'permanent' workman is one who is appointed for an unlimited period or who has satisfactorily put in three months' continuous service in permanent post as a probationer;

(c) A 'probationer' is one who is provisionally employed to fill a vacancy in a permanent post and has not completed three months' service in that post unless the probationary period is extended. If a permanent workman is employed as a probationer in a new post, he may, at any time, during the probationary period not exceeding three months, be reverted to his old permanent post unless the probationary period is extended.

(d) A '*badli*' or substitute is one who is appointed in the post of a permanent workman or a probationer who is temporarily absent; but he would cease to be a '*badli*' on completion of a continuous period of service of one year (190 attendances in the case of below ground workman and 240 attendances in the case of any other workman) in the same post or other post or posts in the same category or earlier the post is vacated by the permanent workman or probationer. A '*badli*' working in place of a probationer would be deemed to be permanent after completion of the probationary period.

(e) A 'temporary' workman is a workman who has been engaged for work which is of an essentially temporary nature likely to be finished within a limited period. The period within which it is likely to be finished should also be specified but it may be extended from time to time, if necessary.

(f) An 'apprentice' is a learner who is either paid an allowance or not paid any allowance during the period of his training, which shall *inter alia* be specified in his term of contract.

(g) A 'casual' workman is a workman who has been engaged for work which is of an essentially casual nature.

¹[(h) ** * * * *]

4. Every workman shall be given a ticket appropriate to his classification at the time of his appointment and shall on being required to do so, show it to the

1. Omitted by G.S.R. 655(E), dated 10th October, 2007.

includes an acting person authorised by the employer in that behalf. The said ticket shall carry the signature or thumb impression of the workman concerned. If the workman loses his ticket, the manager shall provide him with another ticket on a payment of 25 paise.

include females;

et *versa*.

classified as—

5. Display of notices.—(a) The period and hours of work for all classes of workmen in each shift shall be exhibited in English and in the language understood by the majority of workmen employed in the establishment on notice boards maintained at or near the main entrance of the establishment and at the time-keeper's office, if any.

(b) Notices specifying (a) the days observed by the establishment as holidays and (b) pay days shall be posted on the said notice boards, (c) Notices specifying the rates of wages and scales of allowances payable to all classes of workmen and for all classes of work shall be displayed on the said notice boards.

6. Payment of wages.—(a) Wages shall be paid direct to the individual workman on any working day between the hours 6.00 A.M. and 6.00 P.M. at the office of the Mine. The manager or any other responsible person authorised by him shall witness and attest the payments and note the date of payment in the wage register. Payment of wages to a contractor's workman shall be made at a place to be specified by the manager and it shall be witnessed by a nominee of the employer deputed for this purpose in writing.

(b) Any wages due to a workman but not paid on the usual pay day on account of their being unclaimed shall be paid by the employer on such unclaimed wage pay day in each week as may be notified to the workmen. If the workman so desires, the unpaid wages and other dues payable to him shall be remitted to his address by money order after deducting therefrom the money order commission charges. All claims for the unpaid wages shall be presented to the employer within a period of twelve months from the date on which the wages became due.

(c) Overtime shall be worked and wages thereof paid in accordance with the provisions of the Mines Act, 1952 as amended by the Mines (Amendment) Act, 1959 and as may be prescribed from time to time. For work on weekly rest day, the workman shall be paid as laid down in any agreement or award or as the case may be, as per usage or custom.

7. Shift working.—More than one shift may be worked in a department or departments or any section of a department of the establishment at the discretion of the employer. If more than one shift is worked, a workman shall be liable to be transferred from one shift to another. No shift working shall be discontinued without two months' notice being given in writing to the workmen prior to such discontinuance, provided that no such notice shall be necessary if the closing of the shift is under an agreement with the workman affected. If as a result of the discontinuance, of the shift working, any workmen are to be retrenched, such retrenchment shall be effected in accordance with the provisions of the Industrial Disputes Act, 1947 (14 of 1947), and the rules made thereunder. If shift working is re-started, the workmen shall be given notice and re-employed in accordance with the provisions of the said Act and the said rules.

8. Attendance.—All workmen shall be at work at the Mine at the time fixed and notified to them.

9. **Absence from place of work.**—Any workman, who after going underground or after coming to his work in the department in which he is employed, is found absent from his proper place of work during working hours without permission from the appropriate authority or without any sufficient reason shall be liable to be treated as absent for the period of his absence.

10. **Festival holidays and leave.**—(a) There shall be seven paid festival holidays or as laid down in the agreement or an award in force. Out of these seven days, the Republic Day, Independence Day and Mahatma Gandhi's Birthday shall be allowed without option and the rest of the days shall be fixed by agreement or local custom. Whenever a workman has to work on any of these holidays, he shall, at his option be entitled to either thrice the wages for the day or twice the wages for the day on which he works and in addition to avail himself of a substituted holiday with wages on any other day or as laid down in an agreement or an award in force.

(b) (i) The workmen shall be entitled to leave with wages in accordance with the provision contained in Chapter VII of the Mines Act, 1952.

(ii) Normally a workman will not be refused the leave applied for by him. But the employer may refuse, revoke or curtail the leave applied for by workman, if the exigencies of work so demand. Wages in lieu of leave shall be paid to a workman, where he has been refused the leave asked for and in cases where he cannot accumulate the leave any further. If a workman is refused leave in a particular year in the interest of work, it would be open to him next year either to avail of leave on two occasions with the usual railway concessions or in case he avails of leave on only one occasion, the railway fare for the unavailed trip would be paid to him in the shape of National Savings/National Defence/ Certificates.

(c) Quarantine leave shall be granted to a workman, who is prevented from attending to his duty because of his coming into contact, through no fault of his own, with a person suffering from a contagious disease. The leave shall be granted for such period as is covered by a certificate from the Medical Officer of the mine. Payment for the period of quarantine leave shall be at the rate of 50 per cent, of the wages (basic plus dearness allowance) payable to a workman. Quarantine leave cannot be claimed, if a workman has refused to accept during the previous three months, prophylactic treatment for the disease in question.

(d) A workman who desires to obtain leave of absence shall apply to the manager not less than fifteen days before the commencement of the leave, except where leave is required in unforeseen circumstances, and the manager shall issue orders on the application within a week of its submission or two days prior to the commencement of the leave applied for, whichever is earlier, provided that if the leave applied for is to commence on the date of the application or within three days thereof, orders shall be given on the same day. If the leave asked for is granted, the leave-pass shall be given to the workman. If the leave is refused or postponed, the fact of such refusal or postponement and the reasons therefor shall be recorded in writing in a register to be maintained for the purpose, and if the worker so desires a copy of the entry in the register shall be supplied to him. If the workman after proceeding on leave desires an extension thereof, he shall apply to the manager

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who shall send a written reply either granting or refusing extension of leave to the workman. Sanction/refusal of leave should be communicated to the workman in writing invariably.

(e) If a workman remains absent beyond the period of leave originally granted or subsequently extended, he shall lose lien on his appointment unless he—

(a) returns within ten days of expiry of his leave, and

(b) explains to the satisfaction of the manager his inability to return on the expiry of his leave.

In case, the workman loses as aforesaid, his lien on the appointment, he shall be entitled to be kept on the 'badli list'.

(f) A workman may be granted casual leave of absence with pay not exceeding five days in the aggregate in a calendar year. Such leave shall not be for more than three days at a time except in case of sickness. Such leave is intended to meet special circumstances which cannot be foreseen. Ordinarily, the previous permission of the head of the department in the establishment shall be obtained before such leave is taken, but where this is not possible, the head of the department shall, as soon as may be practicable, be informed in writing of such absence and of the probable duration thereof.

(g) Notwithstanding anything mentioned above, any workman who overstays his sanctioned leave or remains absent without reasonable cause will render himself liable for disciplinary action.

11. [***]

12. **Railway travel facilities.** — (a) When a workman proceeds on leave and is qualified for free railway fare, the employer shall give him the cost equivalent of his ticket (including bus fare) and for boat to his home.

(b) Every workman who has completed a period of twelve months' continuous service would qualify for railway fare or bus fare or both for going home on leave and returning to the mine on the expiry of the leave. The twelve months' service shall be deemed to have been completed if, during the twelve months preceding the date on which he applies for leave, he has worked for not less than two hundred and forty days.

(c) If on the expiry of the leave, a workman returns, he shall then receive a cash payment equivalent to the return fare. If on his return the mine is unable to have him back, he shall be paid return fare at once.

(d) If the journey home is by bus or partly by bus and partly by train, the cost of the journey shall be adjusted accordingly.

(e) The workman shall be entitled to railway fare by mail or express train, wherever under the Railway Rules tickets are available for such travel.

(f) The class by which a workman is entitled to travel shall be : —

(i) if his basic wage is Rs. 165 or less per month III Class.

(ii) if his basic wage is above Rs. 165 and upto Rs. 265 per month II Class.

(iii) if his basic wage is above Rs. 265 per month I Class.

1. Rule 11 omitted by G.S.R. 910, dated 10th August, 1984.

13. Termination of services.—(a) For terminating the services of a permanent workman having less than one year of continuous service, notice of one month in writing with reasons or wages in lieu thereof shall be given by the employer :

Provided that no such notice shall be required to be given when the services of the workman are terminated on account of mis-conduct established in accordance with the Standing Orders.

¹[(b) Subject to the provisions of the Industrial Disputes Act, 1947 (14 of 1947) no notice of termination of employment shall be necessary in the case of temporary and *badli* workmen :

Provided that a temporary workmen who has completed three months continuous service shall be given two weeks notice of the intention to terminate his employment if.

Provided further that when the services of a temporary workmen who has not completed three months continuous service are terminated before the completion of the term of employment given for termination in writing and when the service of a *badli* workmen are terminated before the return to work of the permanent incumbent or the expiry of his (*Badli*) term of employment he shall be informed of the reasons for such termination in writing].

(c) No workman shall leave the service of an employer unless notice in writing is given at the scale indicated below :

(i) For monthly paid workmen

One month

(ii) For weekly paid workmen

Two weeks :

Provided that it will be for the employer to relax this condition and the workman may pay cash in lieu of such notice.

(d) For purposes of Standing Orders 13(a), (b) and (c) the terms 'service' and 'wages' shall have the same meaning as assigned to these in sections 25(B) (1) and 2(r) respectively of the Industrial Disputes Act, 1947.

14. Stoppage of work and re-opening.—(a) Subject to the provisions of Chapter VA of the Industrial Disputes Act, 1947, the employer may at any time, in the event of underground trouble, fire, catastrophe, break-down of machinery, stoppage of power-supply, epidemic, civil commotion or any other cause beyond the control of the employer, stop any section or sections of the mine wholly or partly for any period or periods.

(b) In the event of such stoppage during working hours, the workmen affected shall be notified by notice put up on the notice board in the departments concerned and of the office as soon as practicable as to when work will be resumed and whether they are to remain or leave their place of work. The workmen will not ordinarily be required to remain for more than two hours after the commencement of the stoppage. Whenever workmen are laid off on account of failure of plant or a temporary curtailment of production or other causes they shall be paid compensation in accordance with the provisions of the Industrial Disputes Act, 1947. Where no such compensation is admissible, they shall be granted leave with or without wages as the case may be at the option of the workman concerned, leave with wages being

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(c) The employer may be in the event of a strike affecting either wholly or partially any section of the mine close down either wholly or partially such section of the mine and any other section affected by such closure. The fact of such closure shall be notified by notices put up on notice board in the manager's office. Prior to resumption of work, the workmen concerned will be notified by a general notice indicating as to when work will be resumed. A copy of such notice shall be sent to the registered trade union or unions functioning in the establishment.

15. Method of filling vacancies.—In the matter of filling up of permanent vacancies *badli* and temporary workmen and probationers would be given preference in the order of their seniority.

16. [***]

17. Disciplinary action for misconduct.—(i) A workman may be suspended by the employer pending investigation or departmental enquiry and shall be paid subsistence allowance in accordance with the provisions of section IDA of the Act. The employer shall normally complete the enquiry within 10 days. The payment of subsistence allowance shall be subject to the workman not taking any employment elsewhere during the period of suspension.]

The following shall denote misconduct :—

- (a) theft, fraud, or dishonesty in connection with the employer's business or property;
- (b) taking or giving of bribes or an illegal gratification whatsoever in connection with the employer's business or in his own interests;
- (c) wilful in-subordination or dis-obedience, whether along or in conjunction with another or others, or of any lawful or reasonable order of a superior. The order of the superior should normally be in writing;
- (d) habitual late attendance and habitual absence without leave or without sufficient cause;
- (e) drunkenness, fighting or riotous, disorderly or indecent behaviour while on duty at the place of work;
- (f) habitual neglect of work;
- (g) habitual indiscipline;
- (h) smoking underground or within the mine area or in places, where it is prohibited;
- (i) causing wilful damage to work in progress or to property of the employer,
- (j) sleeping on duty;
- (k) malingering or slowing down work;

1. Rule 16 omitted by G.S.R. 910, dated 10th August, 1984.

2. Subs. by G.S.R. 910, dated 10th August, 1984.

- (l) acceptance of gifts from subordinate employees;
- (m) conviction in any court of law for any criminal offence involving moral turpitude;
- (n) continuous absence without permission and without satisfactory cause for more than ten days;
- (o) giving, false information regarding one's name, age, father's name, qualification or previous service at the time of the employment;
- (p) leaving work without permission or sufficient reason;
- (q) any breach of the Mines Act, 1952, or any other Act or any rules, regulations or bye-laws thereunder, or of any standing orders;
- (r) threatening, abusing or assaulting any superior or co-worker;
- (s) habitual money-lending;
- (t) preaching of or inciting to violence;
- (u) abetment of or attempt at abetment of any of the above acts of misconduct;
- (v) going on illegal strike either single or with other workers without giving 14 days previous notice;
- (w) disclosing to any unauthorised person of any confidential information in regard to the working or process of the establishment which may come into the possession of the workman in the course of his work;
- (x) refusal to accept any charge-sheet or order or notice communicated in writing;
- (y) failure or refusal to wear or use any protective equipment given by the employers;
- [(z) sexual harassment which includes such un-welcome sexual determined behaviour (whether directly or by implication) as—
- (i) physical contact and advances; or
- (ii) a demand or request for sexual favours; or
- (iii) sexually coloured remarks; or
- (iv) showing pornography; or
- (v) any other un-welcome physical, verbal or non-verbal conduct of sexual nature.]

(ii) No order of punishment under Standing Order No. 17(i) shall be made unless the workmen concerned is informed in writing of the alleged misconduct and is given an opportunity to explain the allegations made against him. A departmental enquiry shall be instituted before dealing with the charges. During the period of enquiry, the workman concerned may be suspended. The workman may take the assistance of a co-worker to help him in the enquiry, if he so desires. The records of the departmental enquiry shall be kept in writing. The approval of the owner, agent or the chief mining engineer of the employer or a person holding similar position shall be obtained before imposing the punishment of dismissal.

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copy of the enquiry proceedings shall be given to the workman concerned on the conclusion of the enquiry, on request by the workman.

(iii) If a workman is not found guilty of the charges framed against him, he shall be deemed to be on duty during the full period of his suspension and he shall be entitled to receive the same wages as he would have received if he had not been suspended.

(iv) In awarding punishment under this standing order, the authority awarding punishment shall take into account the gravity of the misconduct, the previous record, if any, of the workman and any other extenuating or aggravating circumstances that may exist. A copy of the order passed by the authority awarding punishment shall be supplied to the workman concerned.

18. Time limit for making complaints, appeals, etc.—All complaints arising out of employment including those relating to unfair treatment or wrongful exaction on the part of the employer or his servant shall be submitted within 7 days of such cause of complaint to the manager, of the mine, with the right of appeal to the employer. Any appeal to the employer shall be made within 3 days of the decision of the manager. The employer shall normally give his decision within 3 days of the receipt of the appeal.

19. Liability of manager of the mine.—The manager of the mine shall personally be held responsible for the proper enforcement of these standing orders provided that where a manager is over-ruled by his superior, the latter shall be held responsible for the decision taken.

20. Service certificate.—Every workman who was employed continuously for a period of more than three months shall be entitled to a service certificate at the time of his leaving the service of employer.

21. Entry and exit.—All workmen shall enter and leave the premises of the establishment through authorised gates and shall be liable for search while going in or coming out of the premises. In case of women workmen, search will only be made by women.

22. Exhibition and supply of Standing Orders.—A copy of these orders in English and in the regional languages of the local area in which the mine is situated shall be posted at the manager's office and in such other places of the mine as the employer may decide and it shall be kept in a legible condition. A copy of the standing orders shall be supplied to a workman on application, on payment of a reasonable price. A trade union in the establishment will, however, be entitled to the free supply of a copy of the Standing Orders, provided the union is one which is recognised by the employer.]

[SCHEDULE IB

MODEL STANDING ORDERS ON ADDITIONAL ITEMS APPLICABLE TO ALL INDUSTRIES

(1) Service record

Matters relating to service card, token tickets, certification of service, change of residential address of workers and record of age :

1. Ins. by G.S.R. 30(E), dated 17th January, 1983.

(i) *Service card*.— Every industrial establishment shall maintain a service card in respect of each workman in the form appended to these orders, wherein particulars of that workman shall be recorded with the knowledge of that workman and duly attested by an officer authorised in this behalf together with date.

(ii) *Certification of service*.— (a) Every workman shall be entitled to a service certificate, specifying the nature of work (designation) and the period of employment (indicating the days, months, years) at the time of discharge, termination, retirement or resignation from service.

(b) The existing entries in para 16 of Schedule I and para 20 of Schedule I-A shall be omitted.

(iii) *Residential address of workman*.— A workman shall notify the employer immediately on engagement the details of his residential address and thereafter promptly communicate to his employer any change of his residential address. In case, the workman has not communicated to his employer the change in his residential address, his last known address shall be treated by the employer as his residential address for sending any communication.

(iv) *Record of age*.— (a) Every workman shall indicate his exact date of birth to the employer or the officer authorised by him in this behalf, at the time of entering service of the establishment. The employer or the officer authorised by him in this behalf may before the date of birth of a workman is entered in his service card, require him to supply :

- (i) his matriculation or school leaving certificate granted by the Board of Secondary Education or similar educational authority;
- (ii) a certified copy of his date of birth as recorded in the registers of a municipality, local authority or Panchayat or Registrar of Births;
- (iii) in the absence of either of the aforesaid two categories of certificates, the employer or the officer authorised by him in this behalf may require the workman to supply, a certificate from a Government Medical Officer not below the rank of an Assistant Surgeon, indicating the probable age of the workman provided the cost of obtaining such certificate is borne by the employer;
- (iv) where it is not practicable to obtain a certificate from a Government Medical Officer, an affidavit sworn, either by the workman or his parents, or by a near relative, who is in a position to know about the workman's actual or approximate date of birth, before a First Class Magistrate or Oath Commissioner, as evidence in support of the date of birth given by him.

(b) The date of birth of a workman, once entered in the service card of the establishment shall be the sole evidence of his age in relation to all matters pertaining to his service including fixation of the date of his retirement from the service of the establishment. All formalities regarding recording of the date of birth shall be finalised within three months of the appointment of a workman.

(c) Cases where date of birth of any workman had already been decided on the date these rules come into force shall not be re-opened under these provisions.

Sch. IB] The Industrial Employment (.....) Central Rules, 1946

Note.—Where the exact date of birth is not available and the year of birth is only established then the 1st July of the said year shall be taken as the date of birth.

(2) Confirmation

The employer shall in accordance with the terms and conditions stipulated in the letter of appointment, confirm the eligible workman and issue a letter of confirmation to him. Whenever a workman is confirmed, an entry with regard to the confirmation shall also be made in his service card within a period of thirty days from the date of such confirmation.

(3) Age of retirement

The age of retirement or superannuation of a workman shall be as may be agreed upon between the employer and the workman under an agreement or as specified in a settlement or award which is binding on both the workman and the employer. Where there is no such agreed age, retirement or superannuation shall be on completion of ¹[58] years of age by the workman.

(4) Transfer

A workman may be transferred according to exigencies of work from one shop or department to another or from one station to another or from one establishment to another under the same employer :

Provided that the wages, grade, continuity of service and other conditions of service of the workman are not adversely affected by such transfer :

Provided further that a workman is transferred from one job to another, which he is capable of doing, and provided also that where the transfer involves moving from one State to another such transfer shall take place, either with the consent of the workman or where there is a specific provision to that effect in the letter of appointment, and provided also that (i) reasonable notice is given to such workman, and (ii) reasonable joining time is allowed in case of transfers from one station to another. The workman concerned shall be paid travelling allowance including the transport charges, and fifty per cent, thereof to meet incidental charges.

(5) Medical aid in case of accidents

²[Where a workman meets with an accident in the course of] or arising out of his employment, the employer shall, at the employer's expense make satisfactory arrangements for immediate and necessary medical aid to the injured workman and shall arrange for his further treatment, if considered necessary by the doctor attending on him. Wherever the workman is entitled for treatment and benefits under the Employees' State Insurance Act, 1948, or the Workmen's Compensation Act, 1923, the employer shall arrange for the treatment and compensation ²[accordingly].

(6) Medical examination

Wherever the recruitment rules specify medical examination of a workman on his first appointment, the employer shall, at the employer's expense, make arrangements for the medical examination by a registered medical practitioner.

1. Subs. by G.S.R. 1040, dated 12th September, 1984.
2. Vide Corrigenda G.S.R. 739, dated 18th June, 1984.

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(7) Secrecy

No workman shall take any papers, books, drawings, photographs, instruments, apparatus, documents or any other property of an industrial establishment out of the work premises except with the written permission of his immediate superior, nor shall he in any way pass or cause to be passed or disclose or cause to be disclosed any information or matter concerning the manufacturing process, trade secrets and confidential documents of the establishment to any unauthorised person, company or corporation without the written permission of the employer.

(8) Exclusive service

A workman shall not at any time work against the interest of the industrial establishment in which he is employed and shall not take any employment in addition to his job in the establishment, which may adversely affect the interest of his employer.

SCHEDULE II
FORM I

Industrial Employment (Standing Orders) Act, 1946, section 3

Dated.....20....

To

The Certifying Officer

(Area)
(Place)

Sir,

Under the provisions of section 3 of the Industrial Employment (Standing Orders) Act, 1946, I enclose five copies of the draft standing orders proposed by me for adoption in

(Name)

(Postal address)

(Place)

an industrial establishment owned/controlled by me, with the request that these orders may be certified under the terms of the Act. I also enclose a statement giving the particulars prescribed in rule 5 of the Industrial Employment (Standing Orders) Central Rules, 1946.

I am etc.,

(Signature)

Employer
Manager

[Sch. II

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(Signature)

Employer
Manager

Sch. III] The Industrial Employment (.....) Central Rules, 1946

39

FORM II

[Notice under section 5 of the Industrial Employment (Standing Orders) Act, 1946]

Office of the Certifying Officer.....area,
place..... dated the.....20.....

I..... Certifying Officer area, forward herewith a copy of
the draft Standing Orders proposed by the employer for adoption in the
..... industrial establishment and submitted to me for certification
under the Industrial Employment (Standing Orders) Act, 1946. Any objections which
the workmen may desire to make to the draft Standing Orders should be submitted
to me within fifteen days from the receipt of this notice.

.....
(Certifying Officer)

To Seal

The Secretary,

Union.

Representative elected under rule 6

Name
Occupation
Industrial Establishment.

FORM III

Industrial Employment (Standing Orders) Act, 1946, section 8
Register

PART I

INDUSTRIAL ESTABLISHMENT

S. No.	Date of the despatch of the copy of standing orders authenticated under section 5 for the first time	Date of filing appeal	Date and nature of decision appeal, if any	Amendment made on appeal,	Date of the despatch of the copy of the standing orders as settled on appeal	Any notice subsequently given or received of any amendment	Result

PART II

(Should contain the authenticated copy of the Standing Orders)

23

¹FORM IV

[See rule 7A (1)]

[To be furnished in respect of each clause appealed against, separately]

- (1) Draft of the Standing Order under appeal as submitted by the employers.
- (2) Objection made/modification suggested, if any, to the Draft Standing Order under appeal, by the Trade Union/ Representatives of workmen.
- (3) Standing Order under appeal, as certified by the Certifying Officer.
- (4) Grounds of appeal by the employers/ trade union/ workmen's representatives.]

²FORM IVA

(See Standing Order 7 A of Schedule I)

Notice of discontinuance/ re-starting of a shift working to be given by an employer.

Name of employer.....

Address

Dated the day of 20.....

In accordance with Standing Order No..... of the Standing Orders certified and approved in respect of my/our industrial establishment, I/we hereby give notice to all concerned that it is my/our intention to discontinue/restart the shift working specified in the Annexure with effect from.....

Signature.....

Designation.....

Annexure

(Here specify the particulars of change in the shift working proposed to be effected).]

Copy forwarded to—

- (1) The Secretary of registered Trade Union, if any.
- (2) The Assistant Labour Commissioner (Central)/Labour Employment Officer (Here enter office address of the Assistant Labour Commissioner (Central) Labour Employment Officer in the local area concerned).
- (3) The Regional Labour Commissioner (Central) Zone.
- (4) The Chief Labour Commissioner (Central), New Delhi.

1. Ins. by G.S.R. 732, dated 12th May, 1971.
2. Ins. by G.S.R. 910, dated 10th August, 1984.

[Sch. III]

Sch. III The Industrial Employment (.....) Central Rules, 1946

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FORM V

(See Standing Order I, Schedule I-B)

Service Card

Name of Estt./Factory
Ticket/Token No.

1. Register Serial No.
2. Name
3. Specimen Signature/Thumb Impression
4. Father's or Husband's name
5. Sex
6. Religion
7. Date of Birth
8. Place of Birth
9. Date of Joining
10. Details of Medical Certificate at the time of joining
11. Educational and other qualifications
12. Can Read
13. Can Write
14. Can Speak
15. Height
16. Identification Marks
17. Category of Workman
18. Department
19. Details of family members
20. Permanent Address
21. Local Address
22. Quarter No.
23. Life Insurance Policy No.
24. Provident Fund Account No.
25. Nominee for Gratuity
26. Nominee for Pension, if any
27. Employees' State Insurance No.
28. Training courses attended (details)
29. (Eligibility for higher jobs)
30. Proficiency tests passed
31. Employment History

1. Ins. by G.S.R. 30(E), dated 17th January, 1983.

Department	Token No.	Designation	Scale of Pay	Joined	Left (Reason)
1	2	3	4	5	6

32. Absence Periods

From	To	Reason	Medical reports regarding suitability for continued employment
		(i) Sick Leave	
		(ii) Earned Leave	
		(iii) Any other leave	

33. Maternity Benefit

34. Workmen's Compensation

Details of accidents :

35. Details of Disciplinary Action

36. Promotions

(i) Details

(ii) Awards

(iii) Issue of Certificate of commendation

37. Date of superannuation

38. Any other matter.]

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[Sch. III]
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THE MADHYA PRADESH INDUSTRIAL EMPLOYMENT (STANDING ORDERS) ACT, 1961

[No. 26 of 1961]

[Received the assent of the President on the 8th July, 1961: assent first published in the Madhya Pradesh Gazette, on the 28th July, 1961]

As amended subsequently by the following—

1. M.P. Act 51 of 1962;
2. M.P. Act 34 of 1965;
3. M.P. Act 18 of 1967; and
4. M.P. Act 25 of 1985.

**An Act to provide for rules defining with sufficient precision
 in certain matters the conditions of employment of
 employees in undertakings in the
 State of Madhya Pradesh.**

Be it enacted by the Madhya Pradesh Legislature in the Twelfth Year of the Republic of India as follows—

Statement of Objects and Reasons.— The Madhya Pradesh Industrial Relations Act, 1960, the Indian Trade Unions (Madhya Pradesh Amendment) Act, 1960, and the Madhya Pradesh Industrial Workmen (Standing Orders) Act, 1959, together form an integrated scheme of laws and orders on industrial relations. As the first two Acts were enacted a year after the enactment of the third, it has become imperative to bring the third Act, the Madhya Pradesh Industrial Workmen (Standing Order) Act, in conformity with the first two Acts by re-enacting it. The Bill is designed to serve this purpose.

1. Short title, extent and commencement.— (1) This Act may be called the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961.

(2) It extends to the whole of Madhya Pradesh.

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

2. Application of the Act.— (1) This Act shall apply to—

- (a) every undertaking wherein the number of employees on any day during the twelve months preceding or on the day this Act comes into force or on any day thereafter was or is ¹[more than fifty]; and
- (b) such other class or classes of undertaking as the State Government may, from time to time, by notification, specify in this behalf.

²[Provided that it shall not apply to an undertaking carried on by or under the authority of the Central Government or railway administration or a mine or an oilfield.]

(2) Nothing in this Act shall apply to the employees in an undertaking to whom the Fundamental and Supplementary Rules, Civil Services (Classification,

1. Subs. by The M.P. Industrial Employment (Standing Orders) Amendment Act, 2014.

¹Published in the M.P. Gazette (Extra-ordinary) dated the 30-12-2014.

2. Added by M.P. 5 of 1962.

Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Services Regulations or any other rules or regulations that may be notified in this behalf by the State Government in the Official Gazette apply.

'[(3) Nothing in this Act shall apply to an establishment or industrial entity classified as Micro Industry' under the Micro, small and Medium Enterprises Development Act, 2006 (No. 27 of 2006) :

Provided that the State Government may withdraw, partially or fully any exemption granted to any Micro Industry or category of Micro Industries, if it is satisfied that it is so required in the interest of workers.]

RELEVANT NOTES

Indore Development Authority Vs. Indore Development Authority Daily Wages Sub-Engineers Union, 2000 (2) JLJ 190. *Chhaya Bhopatkar Vs. State of Madhya Pradesh*, 2001 (4) MPHT 238. *Mahender L. Jain Vs. Indore Development Authority*, 2005 (3) JLJ 233.

3. Definitions.—In this Act, unless the context otherwise requires,—

- (a) "Certifying Officer" means the Commissioner of Labour or such other officer not below the rank of an Assistant Commissioner of Labour as may be appointed by Government, by notification, to exercise the powers and perform the functions of a Certifying Officer under this Act;
- (b) "standard standing orders" means rules framed under section 21 relating to matters set out in the Schedule;
- (c) "standing orders" in respect of any industrial establishment means the standing orders applicable to such establishment immediately before the coming into force of this Act and includes standard standing orders together with all amendments thereto, if any certified under section 8;
- (d) the words and expressions used in the Act but not defined herein shall have the meaning assigned to them in Madhya Pradesh Industrial Relations Act, 1960 (27 of 1960).

4. Central Act XX of 1946 not to apply.—Nothing in Industrial Employment (Standing Orders) Act, 1946 (XX of 1946), shall apply to any undertaking to which this Act applies:

Provided that any proceeding under the said Act pending on the date of the commencement of this Act may be continued and completed in accordance with the provisions of the said Act as if this Act had not been passed.

5. Power to exempt.—Where the State Government is of the opinion that it is necessary or expedient in the public interest so to do, it may, by notification and subject to such conditions, if any, as it may specify in the notification,—

- (a) exempt any undertaking or class of undertakings from the operation of all or any of the provisions of this Act; and
- (b) as often as may be, cancel any such notification and again subject, by a like notification, the undertaking or class of undertakings to the operation of such provisions.

1. Ins. by The M.P. Industrial Employment (Standing Orders) Amendment Act, 2014. Published in the M.P. Gazette (Extra-ordinary) dated the 30-12-2014.

[S. 3-5

S. 6-8] The M.P. Industrial Employment (S.O.) Act, 1961

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6. Application of standard standing orders to under-takings.—The State Government may, by notification, apply standard standing orders to such class of undertakings and from such date as may be specified therein.

(2) Where immediately before the commencement of this Act standing orders are in force in respect of any undertaking, such standing orders shall, until standard standing orders are applied to such undertaking under sub-section (1) continue in force as if they were made under this Act.

(3) The standard standing orders made or amendments certified under this Act shall provide for every matter set out in the Schedule.

7. Submission of amendment.—(1) The employer or any representative of employees may submit to the Certifying Officer in the prescribed manner draft amendment to the standing orders applicable to an undertaking under section 6:

Provided that no such amendment shall, except on an agreement between the parties, be entertained—

(a) in respect of standard standing orders within one year of the date on which—

(i) such orders were made applicable under section 6; or

(ii) an amendment is certified under sub-section (3) of section 8; or

(b) in respect of standing orders within one year of the date on which the last amendment to such orders were certified.

(2) The draft amendments submitted under this section shall be accompanied by a statement giving prescribed particulars of the employees in the undertaking.

(3) Subject to such conditions as may be prescribed, a group of employers or representatives of employees in the same industry may submit a joint draft of amendments under this section.

8. Certification of amendments.—(1) On receipt of the draft under section 7, the Certifying Officer shall forward a copy thereof to the representative of the employees or the employer, as the case may be, requiring objections, if any, to be submitted to him in the prescribed manner within fifteen days of the date of receipt of the copy.

(2) After giving both the parties an opportunity of being heard, the Certifying Officer shall decide whether or not the draft amendments or any modifications thereof or additions thereto are necessary and shall make an order in writing accordingly:

Provided that no order to the effect that the draft amendments or any modifications or additions thereto is necessary shall be made unless the Certifying Officer is satisfied that such amendments or modifications or additions are fair or reasonable.

(3) If, under the preceding sub-section, the Certifying Officer decides that the draft amendments be certified, with or without any modifications or additions, he shall certify the amendment with such modifications or additions, if any, and shall within seven days thereafter send certified copies of such amendments to the employer and to the representative of the employees :

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¹[Provided that where the Government has made any amendment in the Standard Standing Orders, the same shall be deemed to be duly incorporated in any award, agreement or settlement and in the certified amendments to the standing orders applicable to an undertaking.]

9. Appeals.—²[Any employer, employee or representative of employees] aggrieved by the order of the Certifying Officer under sub-section (2) of section 8, may, within thirty days of the date of passing the said order, file an appeal before the Industrial Court which may confirm, vary or rescind the order:

Provided that in computing the period of thirty days, the time requisite for obtaining a copy of the order appealed against shall be excluded:

Provided further that the Industrial Court may, for sufficient reasons admit any appeal made after the expiry of such period.

(2) The Industrial Court shall cause a copy of its order under sub-section (1) to be transmitted to the Certifying Officer who shall proceed to take necessary action under sub-section (3) of section 8 as if the order was passed by him.

(3) The order of the Industrial Court shall be final and binding on the parties.

10. Date of operation of amendments.— Amendments of standing orders shall come into operation on the expiry of thirty days from the date on which certified copies thereof are sent under sub-section (3) of section 8 or where an appeal is preferred, on the expiry of seven days from the date on which they are sent by the Certifying Officer under the said sub-section read with sub-section (2) of section 9.

11. Posting of standing orders.— The text of the standing orders shall be prominently posted by the employer in English and Hindi on special boards to be maintained for the purpose at or near the entrance through which the majority of the employees enter the undertaking and in all departments thereof where the employees are employed.

12. Register of standing orders.— A copy of all standing orders shall be filed by the Certifying Officer in a register maintained for the purpose, and he shall furnish a copy thereof to any person applying therefor on payment of the prescribed fee.

13. Disputes regarding application and interpretation of standing orders.— If any question arises as to the application or interpretation of a standing order, an employer, an employee or a representative of employees may refer the question to the Labour Court having jurisdiction and the Court shall, after giving the parties an opportunity of being heard, decide the question and his decision shall be final and binding on the parties.

14. Recovery of money due from an employer.— Any sum required to be paid under this Act by an employer to an employee but not paid by him shall be recovered as delayed wages under the provisions of the Payment of Wages Act, 1936 (IV of 1936).

1. Subs. by The M.P. Industrial Employment (Standing Orders) Amendment Act, 2014, Published in the M.P. Gazette (Extra-ordinary) dated the 30-12-2014.

2. Subs. by M.P. 25 of 1985 for "any person".

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15. Appointment of Inspectors and their powers and duties.— (1) The State Government may, by notification, appoint such officers of the Labour Department not below the rank of a Deputy Labour Officer, as it may think fit, to be Inspectors for the purposes of this Act. Such notification shall define the class of undertakings in respect of which and the areas within which they shall exercise their respective jurisdictions.

(2) It shall be the duty of every such Inspector to ensure within the area of his jurisdiction the proper implementation of the provisions of this Act and the rules made thereunder.

(3) An Inspector may, within the area of his jurisdiction make such inquiries and collect such information from the employers and employees as he may consider necessary for the purposes of this Act.

16. Certain officers to be public servants.— An Inspector or a Certifying Officer, appointed under this Act, shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code, 1860 (XLV of 1860).

17. Penalties and procedure.— (1) If, in any undertaking to which the Madhya Pradesh Industrial Relations Act, 1960 (27 of 1960), does not apply, any employer modifies his standing orders otherwise than in accordance with the provisions of this Act, he shall be punished with fine which may extend to five thousand rupees and in case of a continuing offence with a further fine which may extend to two hundred rupees for every day after the first during which the offence continues.

(2) Any employer who does any act in contravention of standing orders shall be punished with fine which may extend to one hundred rupees and in the case of a continuing offence with a further fine which may extend to twenty-five rupees for every day after the first during which the offence continues.

(3) Whoever contravenes the provisions of this Act or of any rule made thereunder, in cases other than those falling under sub-section (2), shall be punished—

- (a) with fine which may extend to one hundred rupees and in the event of such person being previously convicted of an offence under this Act, with fine which may extend to two hundred rupees; and
- (b) in the case of a continuing offence, with a further fine which may extend to twenty-five rupees for every day after the first during which the offence continues.

(4) The Court convicting an employer under sub-section (1) or sub-section (2) or sub-section (3) may direct such employer to pay such compensation as it may determine to any employer directly and adversely affected by such modification or contravention, as the case may be.

¹[(5) An offence punishable under this section shall, on a complaint made by the representative of the employees or the Inspector appointed under this Act, be triable by a Labour Court within the local limits of whose jurisdiction it was committed.]

1. Subs. by M.P. 34 of 1965.

(6) In trying offences under this section, the Labour Court shall exercise the same powers and follow the same procedure as in respect of offences under the Madhya Pradesh Industrial Relations Act, 1960 (27 of 1960).

¹[17-A. **Summary disposal of cases.**— (1) A Labour Court taking cognizance of an offence under sub-section (2) or (3) of Section 17 shall state upon the summons to be served on the accused person that he—

- (a) may appear by pleader and not in person; or
- (b) may, by a specified date prior to the hearing of the charge, plead guilty to the charge by registered letter acknowledgment due and remit to the Labour Court such sum as the Court may, subject to the maximum limit of fine prescribed for the said offence, specify.

(2) Where an accused person pleads guilty and remits the sum in accordance with the provisions of sub-section (1), no further proceedings in respect of the offence shall be taken against him.

(3) Nothing contained in this section shall apply to —

- (a) continuing offence under sub-section (2) and clause (b) of sub-section (3) of Section 17;
- (b) the previously convicted person under clause (a) of sub-section (3) of section 17.]

²[17-B. Notwithstanding anything contained in any other provisions of this Act, an officer authorized by the State Government in this behalf by notification may, subject to any general or special order of the State Government in this behalf, compound any offence committed for the first time or after expiry of a period of two years of commitment of previous offence (if any), either before or after institution of the prosecution, on realization of such amount of composition fee, as he thinks fit, not exceeding the maximum amount of fine but not less than half of the maximum amount of fine for the offence as composition fee; when the offence is so compounded—

- (i) before the institution of the prosecution the offender shall not be liable to prosecution and shall, if in custody, be set at liberty :
- (ii) after the institution of prosecution, the composition shall amount to acquittal of the offender.]

18. Certifying Officer, Labour Court and Industrial Court to have powers of Civil Courts.— In any proceeding under this Act except in respect of an offence, Certifying Officer, the Labour Courts and the Industrial Courts shall have all the powers of a Civil Court for the purposes of receiving evidence, administering oaths, enforcing the attendance of witness and compelling the discovery and production of documents and shall be deemed to be a Civil Court within the meaning of sections ³[345 and 346 of the Code of Criminal Procedure, 1973 (No. 2 of 1974)].

1 Ins. by MP 18 of 1967.

2 Ins. by The M.P. Industrial Employment (Standing Orders) Amendment Act, 2014. Published in the M.P. Gazette (Extra-ordinary) dated the 30-12-2014.

3 Subs. by M.P. 25 of 1985.

[S. 17A-18

S. 19-23]

The M.P. Industrial Employment (S.O.) Act, 1961

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19. Oral evidence in contradiction of standing orders, etc., not admissible.— No oral evidence having the effect of adding to or otherwise varying or contradicting standing orders shall be admitted in any Court.

20. Procedure before Certifying Officer, Labour Court or Industrial Court.— Subject to the provisions of sub-section (6) of section 17, section 18 and to the rules framed under this Act, the Certifying Officer, the Labour Court or the Industrial Court shall in proceedings before him/it, follow such procedure as he/it may think fit.

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

(2) In particular and without prejudice to the generality of the forgoing powers, such rules may—

- (a) provide for additional matters to be included in the Schedule;
- (b) frame standard standing orders for the purpose of this Act and different standard standing orders may be framed for—
 - (i) different classes of undertakings, and
 - (ii) different categories of employees;
- (c) lay down the procedure to be followed by the Certifying Officer, the Labour Court or the Industrial Court;
- (d) specify the fee which may be charged for furnishing copies of standing orders filed in the register under section 12;
- (e) provide for any other matter which is to be or may be prescribed.

(3) The rules made under this section shall be subject to the condition of previous publication in the Gazette.

22. Construction of references.— Any reference in any law for the time being in force to standing orders in relation to an undertaking to which this Act applies shall—

- (i) where standard standing orders have been applied to such undertaking under section 6 of this Act be construed as a reference to such standard orders; and
- (ii) in any other case be construed as a reference to standing orders, if any, in force in respect of such undertaking.

23. Repeal and saving.— The Madhya Pradesh Industrial Workmen (Standing Orders) Act, 1959 (No. XIX of 1959), is hereby repealed:

Provided that any proceeding under the said Act pending on the date of the commencement of this Act may be continued and completed in accordance with the provisions of the said Act, as if this Act had not been repealed.

nt Act, 2014.

SCHEDULE

[See sections 3 (b) and 6 (3)]

Matters to be provided in standard standing orders

- I. Classification of employees, e.g., whether permanent, temporary, apprentices, probationers, ¹["badlis or fixed term employment's employee"] and whether seasonal or otherwise.
- II. Tickets, cards, service books, registers and service certificates.
- III. Recruitment.
- IV. Manner of intimating to employees the period and hours of work, holidays, pay days and wage rates.
- V. Shift working.
- VI. Holidays, procedure and authority to grant.
- VII. Closing and re-opening of sections of the undertaking and temporary stoppage of work including laying off and the rights and liabilities of the employer and employees arising therefrom.
- VIII. Liability to search and entry into premises by certain gates.
- IX. Attendance and late coming.
- X. Leave, conditions, procedure and authority to grant.
- XI. Termination of employment otherwise than by way of punishment, and the notice thereof to be given to the employers and employees.
- XII. Punishment involving warning, censure, fine and deductions in wages.
- XIII. Suspension or dismissal for misconduct, and acts or omissions which constitute misconduct.
- XIV. Means of redress for employees against unfair treatment or wrongful exactions by the employer or his agents or servants.

²[XV. Age of retirement.]

1. Amended by Notfn. No. F-4 (E) 2-2004-A-XVI, Dated 17-3-2005. Published in M.P. Rajpatra (Asadharan) Dated 17-3-2005 at Page 172.
2. Ins. by Notification dated 19-10-1973, M.P. Gaz. 4 (ga), d. 2- 11-73, pp. 770-771.

[Sch.

NOTIFICATIONS

[Notification No. 7788-XVJ, dated 4-11-1961, published in M.P. Gazette, dated 17-11-1961, PL I, at p. 1906].— In exercise of the powers conferred by sub-section (3) of section 1 of the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (No. 26 of 1961), the State Government hereby notify the 25th November, 1961, as the date on which the said Act shall come into force.

[Notification No. 7770-XVI, published in M.P. Rajpatra, dated 17-11-61, pt. I, p. 1906].— In exercise of the powers conferred by sub-section (2) of section 2 of the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (No. 26 of 1961), the State Government hereby notifies that the said Act shall not apply to employees in any undertaking to whom the following rules or regulation apply —

- (i) Civilians Defence Services (Classification, Control and Appeals) Rules;
- (ii) The Indian Railway Establishment Code; and
- (iii) any other rules or regulations which have already been notified by the Central Government under section 13-B of the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946).

[Notification No. 4 (e) 10-92-XVI-A (8), dated the 2nd November, 1992, published in M.P. Rajpatra Part I dated 20-11-92, page 3039].— In exercise of the powers conferred by section 3(a) of the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (No. 26 of 1961), and in supersession of the previous Notification No. 4 (E)-8-86-XVI-A, dated 21st June, 1986, the State Government hereby appoint Shri G.R. Mahajan, Deputy Labour Commissioner (Head quarter) Indore as the Certifying Officer for the whole of the State of Madhya Pradesh.

[No.4747-2130-XVI-A, D. 6.8.1980, Published in M.P. Rajpatra, pt.4(ga), D.5.9.1980, P.2223].— In exercise of the powers conferred by sub-section (1) of Section 6 of the M.P. Industrial Employment (Standing Orders) Act, 1961 (No. 26 of 1961) and in supersession of all notifications issued in this behalf previously, the State Government hereby applies, with effect from the date of publication of this notification in the Madhya Pradesh Gazette, the Standard Standing Orders to all undertakings to which the said Act applies.

[Notification No. 8087-8553-XVI, published in M.P. Rajpatra, dated 20-12-63, PL I, page 3439].— In exercise of the powers conferred by section 15 of the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (No. 26 of 1961), and in supersession of this Department Notification No. 4918-3899-XVI, dated the 10th July 1963, the State Government hereby appoints the officers mentioned in column (1) of the Table below to be the Inspectors for purposes of the said section and further directs that they shall exercise their respective jurisdiction in respect of all classes of undertakings to which the standing orders are applicable under sub-section (1) of section 6 of the said Act and within the areas specified in the corresponding entries in column (2) of the said Table.

ished in M.P.

770-771.

TABLE

Officers	Area
Deputy Labour Commissioner	All revenue districts of Madhya Pradesh.
Assistant Labour Commissioner	All revenue districts of Madhya Pradesh.
Labour Officer	All revenue districts of Madhya Pradesh.
Deputy Labour	Officer All revenue districts of Madhya Pradesh.

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THE MADHYA PRADESH INDUSTRIAL EMPLOYMENT (STANDING ORDERS) RULES, 1963

[Published by Labour Department Notification No. 9556-9727-XVI, dated the 26th December, 1962, vide M.P. Gazette, dated 1st February 1963, (Part IV-G), page 56]

And as amended subsequently by the following notifications :-

S.No.	Notification No.	Dated	Published in MP Rajpatra		
			Pt.	Dated	Page
1.	369-8835-XVI	22.1.1965	4(ga)	28.05.65	520
2.	968-9050-XVI	27.02.1971	4(ga)	26.03.71	138
3.	5782-9676-XVI	19.10.1973	4(ga)	02.11.73	770
4.	1004-1034-XVI	14.02.1975	4(ga)	21.02.75	74
5.	5167-3541-XVI	07.08.1981	4(ga)	21.08.81	270
6.	757-273-XVI-A	02.03.1987	4(ga)	27.03.87	45
7.	932-83-XVI-A	10.3.1987	4(ga)	27.3.87	51
8.	4(E)10-91-XVI-A	10.01.1992	EXT.	23.01.92	71

NOTE : In the footnotes appearing hereinafter, reference to amending Notifications is made by Serial No. as given to them above.

1. Short title.— These rules may be called the **Madhya Pradesh Industrial Employment (Standing Orders) Rules, 1963.**

2. Definitions.— In these rules the context otherwise requires,—

- (i) "Act" means the Madhya Pradesh Industrial Employment (Standing Orders) Act, 1961 (No. 26 of 1961);
- (ii) "Annexure" means an annexure appended to these rules;
- (iii) "Form" means a form appended to these rules; and
- (iv) "Section" means a section of the Act.

RELEVANT NOTES

Indore Development Authority Vs. Indore Development Authority Daily Wages Sub-Engineers Union, 2000 (2) JLJ 190. *Chhaya Bhopatkar Vs. State of Madhya Pradesh*, 2001 (4) MPHT 238. *Engineer-in-chief, PHED Vs. Budha Rao Magarde*, 2001 (2) JLJ 399, *State of M.P. Vs. Hariram*, 2008 (3) JLJ 41.

3. Procedure for submission of amendment.— (1) An application for submission of amendment under sub-section (1) of section 7 shall be in Form A.

(2) The particulars of the employees for the purpose of subsection (2) of section 7 shall, in addition to those mentioned in Form A, be as follows :

- (a) number of employees employed;
- (b) number of employees employed through contractors;
- (c) name of the trade union or trade unions, if any, to which the employees belong; and
- (d) if the application is by a trade union, the latest figure of its membership.

(3) A group of employees or representatives of employees in the same industry desirous of submitting a joint draft of amendments referred to in sub-section (3) of

section 7 shall apply in Form A through a person authorised in this behalf by such group or representatives, as the case may be, and shall in addition to the particulars mentioned in sub-section (2), furnish the following particulars along with the draft:

- (a) list of employees or representatives of employees, as the case may be, constituting the group with names and addresses in full of each undertaking; and
- (b) by a declaration signed jointly by employers or the representatives of the employees in the group to the effect that the undertaking constituting it or that the employees of the undertaking, as the case may be, shall abide by the conditions laid down in the joint draft of amendment.

4. Certification of amendments.— As soon as may be, on receipt of an application under rule 3, the Certifying Officer, shall forward a copy thereof to (a) the employers when the applicant is the representative of employees, or (b) the representatives of employees when the applicant is the employer of the undertaking together with a notice in Form B.

5. Methods of sending Standing Orders.— Standing orders certified in pursuance of sub-section (3) of section 8 shall be sent by registered post to the employer and the representative of the employees, as the case may be.

6. Register of Standing Orders.— The register required to be maintained under section 12 shall be in Form C and shall be properly bound. The Certifying Officer shall furnish a copy of standing orders to any person applying therefor on payment of a fee of rupees five per copy.

[6-A. Additional matter included in the Schedule.— In the Schedule to the Act after item XIV, the following item shall be added namely :

“XV-Age of Retirement”].

7. Framing of Standing Orders.— ²[Subject to the provisions of section 6 of the Act, the Standard Standing Orders for all undertakings to which the Act applies shall be those set out in the Annexure].

FORM A

[See rule 3]

Application for amendment of Standing Orders

Dated the day of 19

To

The Certifying Officer,
.....(Place).

Sir,

1. I hereby apply for the amendment of the standing orders applicable in the following undertakings)-

2. Address to which reply has to be sent

3. (a) The reference of the standing orders to which amendment is sought-
.....

1. Inserted by 3 [2-11-1973].

2. Substituted by No. 2 [26-3-71].

(b) Number of standing order to which amendment is sought
4. (Not applicable when the application is on behalf of employees) I am entitled to make this application being an employer of the undertaking concerned.

OR

I am entitled to make this application on behalf of the group of employers/¹ representative of employees vide note of authority attached.

Please fill the blank.

5. As an Officer or a representative/approved/registered trade union of the employees concerned I am entitled to make this application under rule 3, [Strike off what is not applicable.]

6. Five copies of the draft amendment typewritten on one side of the paper only indicating amendments are enclosed. The justification for the proposed amendments is mentioned against each.

7. The particulars required by sub-rules (2) and (3) of rule 3 are enclosed.

Station

Signature

Designation.....

Name of the undertaking in case of an employer and name of the trade union in the case of employees.

FORM B
[See rule 4]

In the matter of certification of amendments to the standing orders for (name and address of the undertaking)

To

The Employer (Name and address)

OR

The prescribed representatives of employees (state whether representative union, approved union, registered trade union, Labour Officer)

A copy of the draft amendments to the standing orders of..... submitted by is enclosed. Please take notice that objections, if any, which you may desire to make to the draft amendments should be submitted to the undersigned within fifteen days from the receipt of the copy of draft amendments along with this notice by you.

A copy of the standing orders to which amendments are proposed is also enclosed.

Page.....

Date

Certifying Officer
Madhya Pradesh.

1. Strike off that portion which is not applicable.

FORM C

[See rule 6]

REGISTER**Part I- Undertaking**

S. No.	Date of the despatch of the copy of standing orders authenticated under section 8 for the first time	Date of filing appeal if any	Date and nature of decision
(1)	(2)	(3)	(4)

Amendment made on on appeal, if any	date of the despatch of the copy of standing orders as settled on appeal	any notice subsequently given or received of any amendment.	Result
(5)	(6)	(7)	(8)

Part II

(Should contain the authenticated copy of the standing orders)

ANNEXURE**Standard Standing Orders for all the Undertakings in the State****1. Definitions.**— In these rules, unless the context otherwise requires,—

(a) "Manager" means, if the undertaking is a factory, a person nominated as manager under the Factories Act, 1948, or a person whom an undertaking shall nominate as Manager for the purpose of these standing orders and includes a person authorised by him.

(b) "Season" means the period or periods of each year during which the principal operations of a seasonal undertaking is carried on.

2. Classification of Employees.— Employees shall be classified as—(i) permanent, (ii) permanent seasonal, (iii) probationers, (iv) Badlies, (v) apprentices, (vi) temporary, [and (vii) fixed term employment's employee :]

(i) A 'permanent' employee is one who has completed six months' satisfactory service in a clear vacance in one or more posts whether as a probationer or otherwise, or a person whose name has been entered in the muster roll and who is given a ticket of permanent employee;

1. Amended by Notfn. No. F-4 (E) 2-2004-A-XVI, Dated 17-3-2005, Published in M.P. Rajpatra (Asadharan) Dated 17-3-2005 at Page 172.

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¹[(ii) A 'permanent seasonal employee' is an who has completed service for a period equal to 2/3 of the duration of a season or three months whichever is less in a clear vacancy and shall be deemed to be a permanent employee for the purposes of these orders);

(iii) A 'probationer' means an employee who is provisionally employed to fill a clear vacancy, and who has not completed six months' satisfactory service in the aggregate;

(iv) A 'badli' employee means an employee who is employed on the post of a permanent employee, or a probationer or a permanent seasonal employee who is temporarily absent;

(v) An 'apprentice' means a learner; provided that no employee shall be classified as an apprentice if he has had training for an aggregate period of one year; provided further that a longer period of apprenticeship shall be required if prescribed by a law or an award, or by agreement with the representative of employees;

(vi) 'temporary employee' means an employee who has been employed for work which is essentially of a temporary character, or who is temporarily employed as an additional employee in connection with the temporary increase in the work of a permanent nature; provided that in case such employee is required to work continuously for more than six months he shall be deemed to be a permanent employee, within the meaning of clause (i) above.

²[(vii) "fixed term employment's employee" means an employee who has been engaged on the basis of contract of employment for a fixed period. However, his working hours, wages, allowances and other benefits shall not be less than that of a permanent employee. He shall also be eligible for all statutory benefits available to a permanent employee proportionately according to the period of service rendered by him even though his period of employment does not extend to the qualifying period of employment required in the statute."]

³3. Ticket etc.— (1) The manager shall cause to be entered the name of all employees in the muster roll indicating the classification.

(2) The manager shall arrange to provide every employee except those belonging to the clerical, supervisory or technical personnel with a ticket bearing,—

- (i) the name of the department in which he is working;
- (ii) date of entry of his service;
- (iii) his number; and

³[(iii-a) the record of daily attendance];

(iv) such other particulars as the manager may think fit.

1. Substituted by No. 1 [28-5-1965].

2. Added by Notfn. No. F-4 (E) 2-2004-A-XVI, Dated 17-3-2005.

2. Inserted by No. 2 [26-3-71].

Employee

If so required by the manager the employee shall deliver up his ticket before starting work for the day provided that ticket shall be returned to the employee before the close of the shift. If so required by a person authorised by the manager the employee shall show it or produce it for entries being made therein.

For technical, supervisory personnel and clerks a service book may be provided instead of a ticket.

¹[(3) (i) Every badli employee shall be provided with a 'badli card'; on which shall be entered, the days on which he has worked in the undertaking and which shall be surrendered if he obtains permanent employment.

(ii) Every temporary employee shall be provided with a 'temporary card' on which shall be entered the days on which he has worked in the undertaking and which he shall surrender on his discharge or being taken on the badli or permanent register.

(iii) Every casual worker shall be provided with a 'Casual Card' on which shall be entered the days on which he has worked in the undertaking.

(iv) Every apprentice shall be provided with an 'Apprentice Card' on which shall be entered the days on which he has worked in the undertaking and which shall be surrendered if he obtains permanent employment.

(v) The cards referred to in this sub-clause shall also bear the information specified in sub-clause (2) above.]

4. Recruitment.— The manager may after consulting the Employment Exchange lay down the procedure for recruitment of employees and notify it on the notice board on which standing orders are exhibited.

²[4-A. **Letter of appointment.**— Every employee shall be given a letter of appointment, in which among other things, his name, age, qualification, designation, classification, pay-scale, allowance, nature of job, name of department etc., shall be indicated.]

5. Manner of intimating to employees periods and hours of work, holidays, pay days and wage rates.— (a) Notices showing the periods and hours of work for every class and group of employees for each shift in the undertaking shall be displayed on notice board maintained for the purpose in the department concerned, at the time keeper's office and at or near the main entrance of the undertaking.

(b) Notices specifying the dates on which wages are to be paid, shall be displayed on the notice boards at the time-keeper's office and at or near the main entrance of the undertaking.

(c) Notices specifying the wage rates showing separately the allowances, if any, payable to each class of time-rated employees and the basis of calculation of wage rates in respect of piece-rated employees shall be displayed at conspicuous places inside the departments in which the employees concerned are actually working.

(d) One day in each week shall be notified in the manner provided in clause (a) as the day for the payment of wages due to any employee but not paid on the usual pay day on account of their being unclaimed.

1. Ins. by No. 2 [26-3-71].

2. Ins. by No. 7 [27.3.1987]

(e) The unclaimed wages due to an employee shall be paid by the manager on the days notified under this standing order and following the date on which a substantiated claim is presented by the employee or on his behalf by his legal representative within three years from the date on which the wages become due to the employee.

(f) In the case of bidi manufacturing undertaking the manager shall also display notice of the hours when leaves and tobacco shall be distributed and manufactured bidis shall be received by him, and the manager shall maintain a record showing for each worker the quantity of leaves and tobacco given to him, the bidis of different kinds manufactured and delivered to the manager by him and the number of bidis rejected as of bad quality.

6. Shift Working.— (a) Shift working shall be regulated in accordance with the Factories Act, 1948 (No. 68 of 1948), wherever applicable and subject as aforesaid in accordance with any agreements, settlements or awards.

(b) Subject as aforesaid more than one shift may be worked in the whole undertaking or in one or more sections or departments.

(c) Whenever an additional shift started or whenever working hours of the shift are changed, notice of seven days shall be given.

(d) Whenever a shift is discontinued notice of one month shall be given, provided that wherever any permanent employee is likely to be discharged, notice of three months shall be given before discontinuing that shift.

(e) Change over of any employee or employees from one shift or another shall be regulated by agreement, settlement or award and in their absence by custom or usage. The manager may, in the discretion, transfer an employee from one shift to another if such transfer is in the interest of the undertaking.

(f) Retrenchment of employees as a result of discontinuance of a shift or shifts shall be regulated in accordance with the provisions of the Industrial Disputes Act, 1947, provided that in case of retrenchment of permanent employee notice of three months as provided in standing orders 6 (d) shall be given before retrenchment.

(g) If an undertaking proposes to employ additional employees whether on restarting a shift or otherwise the manager shall give the shift first opportunity of employment to retrenched employees. If an additional shift is started not less than one week's notice shall be put up on the notice board and shall be published in a Hindi newspaper with wide local circulation.

7. Attendance and late coming.— (a) All employees shall be at work in the undertaking at the times fixed and notified. Employees attending late may be shut out and treated as absent provided that no employee who attends within 5 minutes of the starting time shall be shut out. Employee coming late shall not be treated as absent without leave but may be given whatever leave may be due to them.

(b) An employee who is found absent from his proper place of work during working hours, without permission or without any sufficient reason, shall be liable to be treated as absent for the period of his absence, and his wages for the period of absence shall be liable to be deducted subject to the provisions of section 9 of the Payment of Wages Act.

8. Condition and procedure in applying for, and authority which may grant leave and holidays.— (a) Holidays and leave with or without pay or leave of any other kind shall be regulated by the provisions of the law applicable to the undertaking and subject to the minimum prescribed under it by custom, usage, agreement, settlement or award.

(b) An employee who desires to obtain leave of absence shall apply to the manager or the officer authorised by him. It shall be the duty of the manager or the officer to pass orders thereon on two days in a week fixed for the purpose, provided that, if the leave asked for is of an urgent nature; i.e. commences on the date of the application or within three days thereof, orders for the grant or refusal of leave shall be communicated without delay.

(c) The grant of leave or in case it is refused such refusal with reasons therefor shall be recorded on the employee's ticket or service book.

(d) If an employee after proceeding on leave desires an extension of the leave granted, he shall make an application in writing for the same to the manager or the officer authorised by him. A written reply either of the grant or refusal of such extension shall be sent to the employee at the address given by him in the application for extension.

(e) An employee remaining absent beyond the period of leave originally granted or subsequently extended shall be liable to lose his lien on his post and shall be deemed to have left the service from the date of his unauthorised absence unless he returns within ten days of the expiry of the sanctioned leave and/or explains to the satisfaction of the manager or the officer authorised by him, his inability to resume immediately on the expiry of his leave. An employee who so loses his lien but reports for duty within 30 days of the expiry of his leave shall be kept as a badli if he so desires and his name shall be entered in the badli register.

¹[8-A. Holidays.— The employees shall be entitled to three days national holidays, namely, Republic Day, Independence Day, and Gandhi Jayanti and five days festival holiday with full wages every year. The festival holidays shall be determined by the employer in consultation with the representatives of employees and a notice indicating the days fixed shall be pasted on the Notice Board:

Provided that only those employees who will actually work either on the preceding day, or as the case may be, on the succeeding day of such holiday shall be entitled to avail of such holiday:

²[Provided further that nothing in this order shall adversely affect the operation of the term of any contract, agreement, settlement or award which is more beneficial to employees on this subject.]

³[8-B. (1) If an employee is required to work on any National holiday or festival holiday with wages on account of continuous process, essential services or under prevailing practices, then he shall be paid for the work done on each National

1. Ins. by No. 4 [21.2.75].

2. Second proviso inserted by No 4, Subs. by No. 5 [21.8.1981].

3. Ins. by No. 5 [21.8.1981].

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holiday or festival holiday with wages, wages for holiday, wages for work done and additional wages for one day.

(2) In respect of employees getting wages on the basis of Calendar month, if the National holiday or festival holiday is substituted in accordance with the provisions of Section 52 of the Factories Act, 1948 (No. 63 of 1948) or such a paid holiday occurs on a weekly rest day of the employee then such an employee shall be paid additional wages for such a holiday at his ordinary rates of wages.

8-C. Casual leave.— Subject to the provisions of the terms of any contract, agreement, settlement or award, which are more beneficial to the employees on the subject—

- (1) the permanent employees shall be allowed seven days casual leave with wages in a calendar year, and
- (2) the temporary and badli employees, who have put in 240 days work in the previous year, shall be allowed seven days casual leave with wages in a calendar year.

Explanation.— The computation of 240 days shall be made in accordance with Section 79 of the Factories Act, 1948.

- (3) Ordinarily casual leave will not be admissible for more than two days at a time.

- (4) Except when it may not be possible to obtain previous permission, casual leave shall be availed of with the permission of the Manager. Where it is not possible to obtain previous permission, the employee shall intimate in writing the absence and its period at his earliest to the Manager.]

9. Requirement to enter premises by certain gates and liability to search.—

(a) No employee shall enter or leave the premises of the undertaking and the department except by the gates appointed for the purpose.

(b) All the employee including female employees shall surrender articles or things in their possession, for examination by the watch and ward staff of the undertaking or any other person appointed for the purpose and shall also be liable to be detained and searched by the watch and ward staff or the person so appointed for the purpose in the presence of two witnesses provided that the female employee shall be searched by female searcher, and in presence of female witnesses.

10. Closures, temporary stoppages and lay-off, etc.— (a) In the event of the break-down of machinery, stoppage of power supply, fire, epidemic, civil commotion, catastrophe, or any other cause beyond the control of the employer, he may, at any time, without notice, stop wholly or partially for a reasonable period the whole or part of the undertaking, any department or any machine directly or indirectly affected by the catastrophe or the cause.

(b) In any event of stoppage under clause (a) during working hours the employees affected shall, as soon as practicable, be informed by putting up notice on the notice board in the department concerned and at the time-keeper's office as to when work will be resumed and whether they are to stay or leave the premises of the undertaking. The period of detention in the undertaking shall not ordinarily exceed two hours after the commencement of stoppage, and the employees so

detained shall be entitled to receive wages (including all allowances), in the proportion of a quarter day for every two hours or less. Provided that the wages that he receives plus the detention wage shall not exceed his normal day's wages. In the case of piece-rate employees, the average daily earnings in the previous wage period shall be taken to be the daily wage.

(c) Whenever practicable a reasonable notice shall be given of the resumption of the normal work.

(d) Employees may be laid off by the undertaking on account of shortage of coal, power or water, or raw materials or materials or accumulation of stocks, temporary curtailment of production or similar reasons by exhibiting as far as possible, one week's notice for the information of the employees concerned.

(e) The employer may close down any department or section of a department or the whole undertaking after giving two month's notice to the employees and in case of seasonal employees 15 day's notice. Before reopening the department, section or the undertaking, as the case may be, at least seven days' notice shall be given to the employees.

(f) On the re-opening of the department, section of a department or the whole of the undertaking, as the case may be, the manager shall give reasonable notice to the retrenched employees who offer themselves for re-employment and those retrenched employees who offer themselves for re-employment within a fortnight shall be given preference over other persons according to the length of service.

¹[(g) Copies of the notice under this Standing Order shall be immediately sent to the Government Labour Officer of the area concerned by the employer].

11. Termination of employment and the notice thereof to be given by employer and employee.— (a) When the employment of a permanent employee is to be terminated, he shall be given one month's notice or shall be paid wages for one month in lieu of notice. No employee other than a permanent employee shall be entitled to any such notice or wages in lieu thereof for termination of his service.

(b) The reason for the termination of service shall be recorded in writing and shall be communicated to the employee unless such communication may in the opinion of the manager directly or indirectly lay the company or the manager or the person signing the communication open to civil or criminal proceedings at the instance of the employee.

(c) Any permanent employee desirous of leaving the employment shall give one month's notice to his departmental officer stating the reason for which he is leaving but if he so requires he may be relieved earlier than the date on which the period of notice expires.

(d) No notice shall be necessary for the discontinuance of the employment of a permanent seasonal employee on the expiry of the season, but he shall have a lien on his post at the commencement of the next season.

²[(e) subject to the provisions of the Industrial Disputes Act, 1947 (14 of 1947), no temporary employee, whether monthly rated or Weekly rated or piece rated, and no probationer or badli or fixed term employment's employee, as a result

1. Added by No. 1 [28-5-65].

2. Added by Notfn. No. F-4 (E) 2-2004-A-XVI, Dated 17-3-2005.

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Annexure] The M.P. Industrial Employment (S.O.) Rules, 1963

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of non-renewal of contract of employment or on its expiry, shall be entitled to any notice or pay in lieu thereof, if his Services are terminated, but the Services of a temporary employee shall not be terminated as a punishment unless he has been given an opportunity of explaining the charges of misconduct alleged against him.”]

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RELEVANT NOTES

214. *Mahesh Pal Sing Vs. Superintending Engineer Lower Chambal Circle, 2001 (4) MPHT*

12. Disciplinary action for misconduct.—(1) The following acts or omissions on the part of an employee shall amount to a major misconduct:

- (a) conviction by a court of law for an offence involving moral turpitude;
- (b) theft, fraud or dishonesty in connection with the business or property of the undertaking;
- (c) taking or giving bribe or any illegal gratification;
- (d) wilful disobedience of any lawful or reasonable order of a superior involving safety of any person or property for other matter having an adverse effect upon the work or wages of other employees;
- (e) gambling within the premises of the undertaking;
- (f) drunkenness, riotous or disorderly behaviour, during working hours at the undertaking or conduct endangering the life or safety of any person, intimidation, physical duress, or any act subversive of discipline;
- (g) collections of any moneys within the premises of the undertaking for purposes and by persons not authorised by law or if no such authority is required by law without the sanction of the manager;
- (h) engaging in trade, or business within the premises of the undertaking including collection of pay-tickets given to the employees or the sale or canvassing of tickets, coupons or other tokens of any commodity or article, without the previous sanction of the manager.
- (i) canvassing for trade union membership and collection of union's dues within the premises except as permissible under law;
- (j) holding meetings inside the premises of the undertaking without the previous permission of the manager or except as permitted by law;
- (k) commencing, going or joining the strike in contravention of the provisions of any law for the time being in force;
- (l) inciting, instigating others to take part or otherwise acting in furtherance of a strike in contravention of the provisions of any law for the time being in force;
- (m) wilful slowing down in performance of work, or abatement or instigation thereof;
- (n) wilful damage to work in process or to any other property of the undertaking;
- (o) disclosing to any unauthorised person any information in regard to the processes of the undertaking which may come into his possession in the course of his work;
- (p) unauthorised absence from duty for more than ten consecutive days;

¹[(p-1) Obtaining financial assistance from the Employees State Insurance Corporation on the basis of tax on forged documents.]

(q) a minor misconduct of which a workman is found habitually guilty, i. e., for not less than three occasions within a space of one year or less.

²[(r) Sexual harassment including such unwelcome sexually determined behaviour (whether directly or by implication) as :-

- (a) Physical contact and advances;
- (b) Demand or request for sexual favours;
- (c) Sexually coloured remarks;
- (d) Showing pornography; and
- (e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.]

(2) Any of the following acts or omissions shall amount to a minor misconduct:

- (a) late attendance;
- (b) absence from duty without leave or without sufficient cause, which is not major misconduct;
- (c) refusal to work on a job of a similar nature without giving adequate reasons for the same;
- (d) sleeping during working hour;
- (e) failure to observe safety instructions, or unauthorised removal in reference to machinery, guard, fencing or other safety device installed in the premises of the establishment;
- (f) any act or omission for which deductions from the wages of an employed person are authorised by or under the Payment of Wages Act;
- (g) entering or leaving the premises of the undertaking except by the gate or gates appointed for the purpose;
- (h) committing a nuisance in the premises of the undertaking, indiscipline, breach of any standing order or instructions for the maintenance and running of any department and maintaining its cleanliness.

(3) (a) The punishment for a minor misconduct may be— (i) censure, or (ii) fine.

(b) The punishment for a major misconduct may be—

- (i) censure, or
- (ii) fine, or
- (iii) suspension for a period not exceeding four days on any one occasion, or
- (iv) withholding of increment for a period of one year, or
- (v) demotion, or
- (vi) dismissal.

1. Ins. by No. 7 [27.3.1987]

2. Ins. by No. 9 [19.12.2002]

- (c) In awarding the punishment the manager shall take into account the gravity of the misconduct, the previous record of the employee, if any, and other extenuating or aggravating circumstances.

(4) No punishment shall be imposed on an employee unless proved guilty of misconduct in an enquiry conducted in the following manner:

- (a) The manager or other officer authorised by him in this behalf shall give to the employee a charge sheet clearly setting forth the misconduct charged and the circumstances appearing against him and requiring his explanation;
- (b) The employee shall be given for submitting his explanation a period of at least 24 hours if he is charged with a minor misconduct and at least 72 hours if he is charged with major misconduct;
- (c) An employee shall be allowed to defend by himself or the representative of employees, if he so desires;
- (d) Except in cases where he admits the charge levelled against him the employee shall be permitted to produce witness in his defence and cross-examine any witness on whose evidence the charge rests;
- (e) The substance of the evidence shall be recorded and read over;
- (f) An order of punishment shall be in writing and shall be issued over the signature of the manager or other officer authorised under standing order (1) (a). A copy of the order passed awarding the punishment shall be given to the employee;
- (g) In case of an employee other than the one belonging to the clerical, technical or supervisory staff the manager can suspend him pending enquiry into an alleged major misconduct for a period not exceeding four days;
- (h) The manager may suspend a clerical, technical or supervisory employee for a period of three months pending enquiry into major misconduct alleged against him and shall pay suspension allowance to such employee at the rate of half of the average wage;
- (i) The order of suspension shall be in writing and may take effect immediately on communication thereof to the employee. If no action is taken within a period of six months then the amount of wages for the period of suspension shall be payable in full.

(5) If on enquiry, the order is confirmed or the period of suspension reduced the employee shall be deemed to be absent from duty for the period of suspension and shall not be entitled to any wage for such period. If, however, the order is rescinded the employee shall be deemed to be on duty during the full period of suspension and shall be entitled to the same wages as he would have received if he had not been suspended:

Provided that if the enquiry is not completed within four days from the date of submission of explanation, the employee shall be entitled to full wages until the completion of the enquiry from the date of submission of his explanation.

¹[(6) An employer shall not be competent to initiate proceedings against an employee—

- (a) for major misconduct after one year of its commission, and
- (b) for a minor misconduct after six months of its commission.]

13. Means of redress for employee against unfair treatment or wrongful exaction by the employer, agent or servant.— (1) (a) An aggrieved employee may first present his grievance to his immediate superior in person who thereon shall give a reply within 48 hours of the presentation of the complaint;

(b) If the employee is not satisfied with the reply of his immediate superior he or the authorised representative on his behalf may forward the complaint to the manager or any officer appointed by him for this purpose;

(c) The manager or such officer shall personally investigate the complaint at such time and place as he may fix and the complainant employee or the authorised representative shall have a right to be present at such investigations:

Provided that the decision¹ of the Investigation Officer and the action, if any, taken by him shall be communicated to the complainant ordinarily within a week of the presentation of the complaint.

(2) Grievances of employees relating to—

- (a) assault or abuse by any person holding a supervisory position or
- (b) refusal of an application for urgent leave;
- (c) unfair labour practices, such as,—(i) interference with the rights of employees to enroll or continue as an union member; (ii) discrimination, restrain or coercion against any employee or restraint of recognised activities of trade union; and (iii) victimization of an employee or abuse of authority in any form;

shall be enquired into immediately by the manager and he shall take appropriate disciplinary action against such officers of the undertaking who are found responsible for that. The complainant will be supplied with a copy of the order or action taken by the manager in this behalf.

14. An employee against whom any order is passed by the manager may if so desires submit his representation to the Managing Agents or the Managing Director or the Proprietor or any person who has the ultimate control over the management of the undertaking who shall communicate his decision to the employee within a period of 15 days.

²**[14-A. Retirement.—** (1) ³[An employee shall retire from the service of the employer on the date he attains the age of 60 years] but he shall not be retained in service after the age of 60 years :

Provided that nothing in this clause shall adversely affect the operation of the terms of any contract, agreement, settlement, or award on this subject, ³[if the age of retirement is not less than 60 years] :

1. Added by No. 7 (27.3.1987).

2. Subs. by No. 5 [21.8.1981].

3. Subs. by The M.P. Industrial Employment (Standing Orders) Amendment Act, 2014. Published in the M.P. Gazette (Extra-ordinary) dated the 28-06-2014.

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1. Apprentices Act, 1961 With Rules	125/-
2. Beedi & Cigar Workers (Conditions of Employment) Act, 1966 With Rules	100/-
3. Building & Other Construction Workers (Regulation of Employment & Condition of Service) Act, 1996 With Rules (E)	400/-
4. Building & Other Construction Workers (Regulation of Employment & Condition of Service) Act, 1996 With Rules (H)	400/-
5. Child Labour (Prohibition & Regulation) Act, 1986 With Rules	35/-
6. Contract Labour (Regulation & Abolition) Act, 1970 With Rules (E)	100/-
7. Contract Labour (Regulation & Abolition) Act, 1970 With Rules (H)	100/-
8. Contract Labour (Regul. & Abolition) Act, 1970 With Rules (Diglot)	200/-
9. Dock Workers (Regulation of Employment) Act, 1948 With Rules	50/-
10. Employees Provident Funds & Miscellaneous Provisions Act, 1952	350/-
11. Employees State Insurance Act, 1948 With Rules	400/-
12. Equal Remuneration Act, 1976 With Rules	25/-
13. Factories Act, 1948 With M.P. Rules	500/-
14. Industrial Disputes Act, 1947 With Rules	250/-
15. Industrial Employment (Standing Orders) Act, 1946 With Rules	75/-
16. Industrial Development Bank of India Act, 1964	50/-
17. Industrial (Development & Regulation) Act, 1951	35/-
18. Inter State Migrant Workmen (Regulation of Employment & Conditions of Service) Act, 1979 With Rules	50/-
19. Maternity Benefit Act, 1961 With Rules	45/-
20. Madhya Pradesh Asahgathit Karmkar Kalyan Adhiniyam, 2003	125/-
21. Madhya Pradesh Industrial Relations Act, 1960 With Rules	125/-
22. Madhya Pradesh Shram Kalyan Nidhi Adhiniyam, 1982 With Rules	50/-
23. Madhya Pradesh Shops & Establishment Act, 1958 With Rules	75/-
24. Minimum Wages Act, 1948 With Rules	125/-
25. Motor Transport Workers Act, 1961 With Rules	25/-
26. Payment of Bonus Act, 1965 With Rules	60/-
27. Payment of Gratuity Act, 1972 With Rules	75/-
28. Payment of Wages Act, 1936 With Rules	75/-
29. Sales Promotion Employees (Conditions of Service) Act, 1976 With Rules	25/-
30. Trade Union Act, 1926 With Rules	50/-
31. Working Journalists & Other News Paper Employees (Conditions of Service) & Miscellaneous Provisions Act, 1955 With Rules	50/-
32. Employees Compensation Act, 1923 With Rules	150/-

Provided further that before retiring an employee from the service in accordance with the provisions contained in this clause, the employer shall give to the said employee at least one month's intimation in writing of such retirement. However, failure to give such intimation will not entitle the employee to continue in service after attaining the age of retirement. On the employer's failure to give such intimation, he shall be liable to pay to the employee concerned one month's wages.

¹[Provided further that this amendment shall not apply to the employees of Corporations, Boards and Undertakings of the State Government.]

²[(1-a) Notwithstanding anything contained in sub-clause (1) the age of retirement for working journalists as defined in Section 2(f) of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 (No. 45 of 1955) shall be 60 years.]

(2) For the purpose of clause (1) the age shall be reckoned by any of the following methods in order of priority—

- (i) the date of birth as given by the employee at the time of his employment and accepted by the Manager;
- (ii) The date of birth as given in the Higher Secondary School Certificate or equivalent examination Certificate;
- (iii) The certificate issued by the Local Authority of the place where the employee was born, on the basis of the records maintained by such authority or certified copy of the entry in the Birth and Death Register in which date of birth is mentioned;
- (iv) The date of birth as declare by the employee in his declaration card for purpose of membership of the Employees Provident Fund.

(3) Notwithstanding anything contained in the foregoing clause, if any dispute arises regarding the date of birth intimated at the time of employment or declared in the declaration card for the purpose of membership of the Employees Provident Fund, as the case may be, then the date of birth shall be determined on the basis of School Leaving Certificate and in its absence, the date of birth determined by a Registered Medical Practitioner, not below the rank of Civil Surgeon, shall be considered as final, but any such dispute shall not be entertained within the period of six months before the date of retirement.

15. An employee who leaves service or retires or is discharged shall without avoidable delay but not later than thirty days after he leaves service or retires or as the case may be is discharged, shall be given by the employer a service Certificate indicating such information and particulars as may be notified.]

1. Subs. by The M.P. Industrial Employment (Standing Orders) Amendment Act, 2014. Published in the M.P. Gazette (Extra-ordinary) dated the 28-06-2014.
2. Ins. by No. 8 [23.1.1992]

***SERVICE CERTIFICATE**

(See Rule 15)

1. Name and address of the Institution
2. Name and address of the employee/worker
3. Nature of work/designation
4. Duration of employment from date to
5. Wages rate Rupees per month
6. Reasons for discharge Retirement/Discharge/Resignation/ Other

Signature of employer

16. Liability of the Manager.— The Manager of the undertaking or in case if there is no manager, the Managing Agents, the Managing Director or the Proprietor or any person who has the ultimate control over the management of the undertaking shall be held responsible for the proper and faithful observance of these standing orders.

17. (a) Notice to be exhibited or given under these standing orders shall be in a language understood by majority of employees.

(b) Any notice, order, charge-sheet, communication or intimation which is meant for individual employee and is given in writing under these standing orders shall be in a language understood by majority of employees.

18. Copies of these standing orders shall be posted in the timekeeper's office and in all departments of the undertaking and shall be kept in legible condition.

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मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 242]

भोपाल, गुरुवार, दिनांक 30 मई 2013—ज्येष्ठ 9, शक 1935

सामान्य प्रशासन विभाग
मंत्रालय, वल्लभ भवन, भोपाल
भोपाल, दिनांक 30 मई 2013

क्र. सी. 5-1-2013-3-एक.—भारत के संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियों को प्रयोग में लाते हुए, मध्यप्रदेश के राज्यपाल, एतद् द्वारा मध्यप्रदेश राज्य में दैनिक वेतन भोगी कर्मचारियों के रूप में नियुक्त व्यक्तियों की सेवा की शर्तों का विनियमन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात् :-

1. संक्षिप्त नाम, लागू होना तथा प्रारंभ :- (1) इन नियमों का संक्षिप्त नाम मध्यप्रदेश दैनिक वेतन भोगी कर्मचारी (सेवा की शर्तों) नियम, 2013 है।
- (2) ये नियम ऐसे दैनिक वेतन भोगी कर्मचारियों पर लागू होंगे जो 31 दिसम्बर, 1988 के पूर्व से ही नियोजित हैं या मध्यप्रदेश शासन के सामान्य प्रशासन विभाग द्वारा दिनांक 21 जनवरी, 2004 को जारी आदेश द्वारा पुनः पदस्थ किए गए हैं।
- (3) ये नियम राजपत्र में इनके प्रकाशन की तारीख से प्रवृत्त होंगे।
2. परिभाषाएं.— इन नियमों में जब तक कि संदर्भ से अन्यथा अपेक्षित न हो,—
 - (क) “नियंत्रण कर्ता अधिकारी” से अभिप्रेत है ऐसा अधिकारी जिसे दैनिक वेतन भोगी कर्मचारी पर नियंत्रण का प्रशासनिक अधिकार हो ;
 - (ख) “कर्मचारी” से अभिप्रेत है शासन के विभिन्न विभागों में कार्य कर रहे दैनिक वेतन भोगी कर्मचारी ;

- (ग) "शासन" से अभिप्रेत है मध्यप्रदेश शासन ;
 (घ) "एन पी एस" से अभिप्रेत है राष्ट्रीय पेंशन स्कीम ;
 (ङ) "पी एफ आर डी ए" से अभिप्रेत है भारत सरकार द्वारा आदेश दिनांक 10 अक्टूबर, 2003 द्वारा पेंशन क्षेत्र में, विनियामक प्राधिकरण के रूप में गठित पेंशन निधि विनियामक विकास प्राधिकरण।

3. सेवा का वर्गीकरण,-

कर्मचारियों को निम्नलिखित प्रवर्गों में वर्गीकृत किया जाएगा, अर्थात् :-

- (क) कुशल दैनिक वेतन भोगी कर्मचारी ;
 (ख) अर्धकुशल दैनिक वेतन भोगी कर्मचारी ;
 (ग) अकुशल दैनिक वेतन भोगी कर्मचारी।

4. कर्मचारियों के शासकीय अभिलेख,-

नियंत्रणकर्ता अधिकारी, अनुसूची एक में कर्मचारियों के दर्शाए गए अनुसार पूर्ण व्यौरों का उल्लेख करते हुए दैनिक वेतन भोगी कर्मचारियों के अभिलेख संधारित करेगा।

5. मजदूरी :-

- (1) कर्मचारियों की मजदूरी, सक्षम प्राधिकारी द्वारा इस संबंध में नियत तथा पुनरीक्षित दैनिक मजदूरी के अनुसार होगी।
 (2) उपरोक्त उपनियम (1) में वर्णित मजदूरी के अतिरिक्त दैनिक मजदूरी पर कार्यरत कर्मचारियों को विशेष भत्ते की पात्रता होगी; अर्थात् :-

अनुक्रमांक	दैनिक वेतन भोगी कर्मचारी के रूप में सेवा की कुल अवधि	विशेष भत्ता (प्रति माह)
(1)	(2)	(3)
1	दस से बीस वर्ष	रु. 1500/-
2	बीस वर्ष से अधिक	रु. 2500/-

6. अधिवार्षिकी आयु.-

ऐसे दैनिक वेतन भोगी कर्मचारी जो तृतीय श्रेणी या समकक्ष पदों के विरुद्ध कार्य कर रहे हों, साठ वर्ष की आयु पूर्ण करने पर और ऐसे कर्मचारी जो चतुर्थ श्रेणी या समकक्ष पदों के विरुद्ध कार्य कर रहे हों, बासठ वर्ष की आयु पूर्ण करने पर सेवानिवृत्त होंगे।

7. सेवानिवृत्ति लाभों के संबंध में सरकार का अंशदान.-

- (1) अधिवार्षिकी आयु पर, दैनिक वेतन भोगी कर्मचारी अंशदान के लिए हकदार होगा। कर्मचारी को रुपये 1,00,000/- (रुपये एक लाख) से अधिक की राशि का केवल सरकार के अंशदान के रूप में भुगतान किया जाएगा, जो उसकी पन्द्रह दिन की मजदूरी के आधार पर संगणित की जाएगी।

परन्तु सरकार के अंशदान की राशि में, नियम 5 के उपनियम (2) में यथाविहित विशेष भत्ते की राशि सम्मिलित नहीं है :

परन्तु यह और कि जो कर्मचारी नियम 10 के उपनियम (1) के खण्ड (ख) के अधीन हटाए गए हैं, सरकार के अंशदान की राशि के लिए हकदार नहीं होंगे।

- (2) सरकार के अंशदान में से कटोत्र नियम 10 के उपनियम (2) में विनिर्दिष्ट कदाचार के लिए अनुपातिक आधार पर किया जाएगा।

- (3) अंशदान की गणना कर्मचारी के नियंत्रणकर्ता अधिकारी के कार्यालय द्वारा की जाएगी।
- (4) किसी कर्मचारी के लिए सरकार के अंशदान के लिए पात्र होने के लिए पांच वर्ष की निरंतर सेवा आवश्यक होगी :

परन्तु मृत और शारीरिक निर्योग्यता की दशा में यह शर्त लागू नहीं होगी।

8. पी एफ आर डी ए द्वारा विनियमित राष्ट्रीय पेंशन स्कीम.—

- (1) पी एफ आर डी ए द्वारा प्रारंभ की गई राष्ट्रीय पेंशन स्कीम, मध्यप्रदेश राज्य में लागू की गई है, जो मध्यप्रदेश के मूल निवासियों के लिए 1 मई, 2009 से प्रभावी होगी।
- (2) कर्मचारी, राष्ट्रीय पेंशन स्कीम के अधीन सदस्य होने के लिए विकल्प दे सकेगा और पेंशन के लाभ का उपभोग कर सकेगा।
- (3) उपरोक्त उपनियम (2) के अधीन कर्मचारी द्वारा दिए गए विकल्प की दशा में, दस प्रतिशत के बराबर अंशदान उसकी मजदूरी से कटौती किया जाएगा और सरकार भी उसी के बराबर अंशदान करेगी और कर्मचारी के स्थाई खाते में जमा किया जाएगा और समेकित राशि और उस पर अनुज्ञात ब्याज उसकी अधिवार्षिकी पर देय होगा।

9. अवकाश.—

- (1) कर्मचारी एक कैलेंडर वर्ष में तीन राष्ट्रीय अवकाश जैसे कि 26 जनवरी, 15 अगस्त और 2 अक्टूबर के लिए पात्र होगा।
- (2) उपरोक्त उपनियम (1) में यथाविनिर्दिष्ट राष्ट्रीय अवकाशों के अतिरिक्त, कर्मचारी, पांच त्यौहार अवकाश के लिए पात्र होगा। कर्मचारी शासकीय/ऐच्छिक/स्थानीय अवकाशों की सूची में से ऐसे अवकाशों को चुन सकेगा।
- (3) उपरोक्त उपनियम (1) और (2) में उल्लिखित अवकाशों के अतिरिक्त कर्मचारी एक कैलेंडर वर्ष में सात दिन के आकस्मिक अवकाश के लिए पात्र होगा। सामान्य मामलों में कर्मचारी दो दिन से अधिक के लगातार आकस्मिक अवकाश का पात्र नहीं होगा।
- (4) महिला कर्मचारी शासन की नीति के अनुसार मातृत्व अवकाश की पात्र होंगी।
- (5) उपरोक्त उपनियम (1),(2),(3) और (4) में उल्लिखित अवकाशों और छुट्टियों के अतिरिक्त कर्मचारी रविवार को साप्ताहिक अवकाश का भी पात्र होगा। आपातकालीन परिस्थितियों में, यदि साप्ताहिक अवकाश के दिन काम लिया गया है तो उसके बदले में अगले सप्ताह में अवकाश स्वीकृत किया जाएगा।

10. कदाचार पर कर्मचारी के विरुद्ध अनुशासनात्मक कार्रवाई.—

(1) निम्नलिखित कृत्यों को गंभीर कदाचरण माना जाएगा :—

- (क) न्यायालय द्वारा किसी मामले में दोषी पाया जाना;
 - (ख) शासकीय सम्पत्ति की चोरी या गबन;
 - (ग) शासकीय कार्य निपटाने में धूस लेना;
 - (घ) अधिकारियों के आदेश की अवहेलना करना;
 - (ङ) कार्यस्थल में कार्य के दौरान जुआ खेलना;
 - (च) शासकीय कार्य के दौरान शराब पीना;
 - (छ) हड़ताल में भाग लेना;
 - (ज) शासकीय सम्पत्ति नष्ट करना;
 - (झ) बिना पूर्व सूचना के 10 दिन लगातार अनुपस्थित रहना;
 - (ञ) अन्य कर्मचारियों को हड़ताल में भाग लेने के लिए उकसाना।
- उपरोक्त उल्लिखित गंभीर कदाचरण में से किसी के लिए भी कर्मचारी सेवा से हटाए जाने के दंड का दायी होगा।

(2) निम्नलिखित कृत्यों को लघु कदाचरण की श्रेणी में रखा जाएगा :—

- (क) कर्तव्य पर विलम्ब से आना;
 - (ख) बिना सूचना के 10 से कम दिनों के लिए कर्तव्य से अनुपस्थित रहना;
- ऊपर उल्लिखित लघु कदाचरण में से किसी के लिए, कर्मचारी उसकी मजदूरी से वसूली के दंड का दायी होगा या उसके मजदूरी का भुगतान नहीं किया जाएगा।

11. सेवा की समाप्ति.—

(1) निम्नलिखित आधार पर किसी भी कर्मचारी की सेवा समाप्त की जा सकेगी, अर्थात:—

- (क) यदि उस पद पर, जिस पर कि कर्मचारी कार्य कर रहा है, कार्य की अत्यावश्यकता न हो;
- (ख) यदि नियम 10 के उपनियम (1) में यथा उल्लिखित आरोप सिद्ध हो जाते हैं।

(2) नियंत्रणकर्ता अधिकारी ऐसी सेवा समाप्ति लिए कारणों को उल्लिखित करते हुए आख्यापक, युक्तियुक्त एवं सुस्पष्ट आदेश पारित करेगा।

12. निर्वचन.—

यदि इन नियमों के निर्वचन के संबंध में कोई प्रश्न उद्भूत होता है उसे मध्यप्रदेश शासन के सामान्य प्रशासन विभाग को निर्दिष्ट किया जायेगा, जिसका विनिश्चय अंतिम और बाध्यकारी होगा।

अनुसूची-एक
(नियम 4 देखिए)

1. कार्यालय के विभागाध्यक्ष का नाम :
2. नियंत्रणकर्ता अधिकारी का नाम :
3. कर्मचारी का नाम :
4. पिता/पति का नाम :
5. जन्मतिथि :
6. वर्तमान कार्यस्थल :
7. प्रथम नियुक्ति की तिथि :
8. उच्चतम न्यायालय के निर्णय के अनुसार
नियुक्ति की प्रकृति :
9. कर्मचारी का वर्ग अनुसूचित जाति/
अनुसूचित जनजाति/अन्य पिछड़ा वर्ग :
10. निवास का पता :
11. वशिष्ठ पहचान चिन्ह :
12. महिला कर्मचारी के लिए मातृत्व अवकाश का
अभिलेख :

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
आर. के. गजभिये, उपसचिव.

भोपाल, दिनांक 30 मई 2013

क्र. सी. 5-1-2013-3-एक.—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, इस विभाग की अधिसूचना क्र. सी. 5-1-2013-3-एक, दिनांक 30 मई 2013 का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
आर. के. गजभिये, उपसचिव.

Bhopal, the 30th May 2013

No. C-5-1-2013-3-One.—In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Madhya Pradesh, hereby, makes the following rules regulating the conditions of service of the persons appointed as daily wages employees in the State of Madhya Pradesh, namely:-

1. **Short title, application and commencement.**— (1) These rules may be called as Madhya Pradesh Daily Wages Employees (Conditions of Service) Rules, 2013.

(2) These rules shall be applicable on such daily wage employees who are already employed before 31st December, 1988 or reinstated by the order dated 21st January, 2004 issued by the Central Administration Department, Government of Madhya Pradesh.

(3) These rules shall come into force from the date of its publication in the official Gazette.

2. **Definitions.**— In these rules, unless the context otherwise requires,-

- (a) "Controlling Officer" means an officer who has the administrative powers to control the daily wages employee;
- (b) "employee" means the daily wages employee working in different departments of the Government;
- (c) "Government" means the Government of Madhya Pradesh;
- (d) "NPS" means the National Pension Scheme;
- (e) "PFRDA" means the Pension Fund Regulatory Development Authority, constituted as Regulatory Authority in the Pension Sector, by the Government of India vide order dated 10th October, 2003.

3. **Classification of Service.-** The employees shall be classified in the following categories, namely:-

- (a) Skilled Daily Wage Employee;
- (b) Semi-skilled Daily Wage Employee;
- (c) Unskilled Daily Wage Employee.

4. **Official record of employees.-** The Controlling Officer shall maintain the records of the daily wage employees mentioning the complete details as shown in Schedule I.

5. **Wages.-** (1) The wages of the employees shall be as per the daily wages fixed and revised by the Competent Authority in this regard.

(2) In addition to the wages mentioned in sub-rule (1) above, employees working on daily wages shall be entitled to get special allowances, namely :-

S. No.	Total period of service as a daily wage employee	Special Allowance (Per Month)
(1)	(2)	(3)
1.	Ten to twenty years	Rs. 1,500/-
2.	Above twenty years	Rs. 2,500/-

6. **Age of superannuation.-** Such daily wage employees who are working against class III or equivalent posts shall superannuate on completion of sixty years of age and the employees against who are working against class IV or equivalent posts shall superannuate on completion of sixty two years of age.

7. **Contribution of the Government towards retiral benefits.-**

(1) At the age of superannuation, the daily wage employee shall be entitled for the contribution. Employee shall be paid an amount not

exceeding Rs. 1,00,000/- (Rupees One Lakh) only as a contribution of the Government which shall be calculated on the basis of his wages of fifteen days :

Provided that the amount of contribution of the Government shall not include the amount of special allowances as prescribed in sub-rule (2) of rule 5 :

Provided further that the employees who have been terminated under clause (b) of sub-rule (1) of rule 10 shall not be entitled for the amount of contribution of the Government.

(2) Deduction in the contribution of the Government shall be done on the basis of pro-rata for the misconducts specified in sub-rule (2) of rule 10.

(3) The calculation of contribution shall be done by the office of the Controlling Officer of the employee.

(4) Five years continuous service shall be essential for an employee to become eligible for the contribution of the Government :

Provided that in case of death and physical disability this condition shall not be applicable.

8. National Pension Scheme regulated by PFRDA.- (1) The NPS initiated by PFRDA has been applied in the State of Madhya Pradesh, with effect from 1st May, 2009 for the domiciles of Madhya Pradesh.

(2) The employee can opt to be a member under NPS and can avail the benefit of pension.

(3) In case of an option given by the employee under sub-rule (2) above, a contribution equivalent to ten percent shall be deducted from his wages and the Government shall also contribute the same sum of amount and shall deposit it in the permanent account of the employee and the

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consolidated amount and permissible interest thereon shall be paid on his superannuation.

9. **Leave.-** (1) The employees shall be eligible for three national holidays that is 26th January, 15th August and 2nd October in a calendar year.

(2) Apart from the national holidays as specified in sub-rule (1) above, the employees shall be eligible for five festival holidays. The employee can choose such holidays from the list of Government/Optional/Local Holidays.

(3) Apart from the holidays mentioned in sub-rule (1) and (2) above, the employee shall be eligible for seven casual leaves in a calendar year. In normal case the employee shall not be eligible for more than two days of continuous casual leave.

(4) Women employees shall be eligible for maternity leave as per the policy of the Government.

(5) Apart from the holidays and leaves mentioned in sub-rule (1), (2), (3) and (4) above, the employee shall also be eligible for weekly holiday on Sundays. In the emergent situations, if the work has been taken on the weekly holiday, then the holiday in lieu thereof shall be permitted in the following week.

10. Disciplinary action against the employee on misconducts.-

(1) The following acts shall be treated as serious misconduct :-

- (a) conviction by the court of law in any case;
- (b) theft and misappropriation of any Government property;
- (c) taking bribe to carry out the Government work;
- (d) disobeying the orders of officers;
- (e) gambling on duty in the work place;

- (f) consumption of liquor on Government duty;
- (g) participation in strike;
- (h) to destroy the Government property;
- (i) continuous absence for ten day without prior information;
- (j) provoking the other employee to partake in strike.

for any of the serious misconducts mentioned above, the employee shall be liable for punishment of termination from service.

- (2) The following acts shall be categorized as minor misconducts:-

- (a) late arrival on duty;
- (b) absent from duty for less than ten days without information;

for any of the minor misconducts mentioned above, the employee shall be liable for the punishment of recovery from his wages or payment of wages shall not be made to him.

11. Termination.- (1) The termination of the employee shall be made on the basis of the following grounds, namely :-

- (a) if there is no exigency of the work of the post on which the employee was working;
- (b) if the charges are proved as mentioned in sub-rule (1) of rule 10.

(2) The Controlling Officer shall pass a speaking, reasonable and crystal clear order, mentioning the reasons for such termination.

12. Interpretation.- If any question arises for the interpretation of these rules, the same shall be referred to the General Administration Department, Government of Madhya Pradesh, whose decision shall be final and binding.

SCHEDULE-I
(see rule 5)

(1)	Name of the Head of the Department of Office	:	
(2)	Name of the Controlling Office	:	
(3)	Name of the employee	:	
(4)	Father's/Husband's Name	:	
(5)	Date of Birth	:	
(6)	Current place of work	:	
(7)	Date of first appointment	:	
(8)	Nature of appointment as per the judgment of Supreme Court	:	
(9)	Category of employee, whether SC/ST/OBC	:	
(10)	Residential Address	:	
(11)	Distinct Identification Mark	:	
(12)	Record of maternity leave for women employee	:	

By order and in the name of the Governor of Madhya Pradesh,

R. K. GAJBHIYE, Dy. Secy.

इसे वेबसाईट www.govtpressmp.nic.in
से भी डाउन लोड किया जा सकता है.



मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 374]

भोपाल, मंगलवार, दिनांक 20 अगस्त 2013—श्रावण 29, शक 1935

सामान्य प्रशासन विभाग

मंत्रालय, वल्लभ भवन, भोपाल

भोपाल, दिनांक 20 अगस्त 2013

क्र. सी. 5-1-2013-3-एक.—भारत के संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियों को प्रयोग में लाते हुए, मध्यप्रदेश के राज्यपाल, एतद्द्वारा दैनिक वेतनभोगी कर्मचारी (सेवा की शर्तों) नियम, 2013 में, निम्नलिखित संशोधन करते हैं, अर्थात् :—

संशोधन

उक्त नियमों में, नियम 7 के स्थान पर, निम्नलिखित नियम स्थापित किया जाए, अर्थात् :—

“7. उपदान.—(1) अधिवार्षिकी पर, दैनिक वेतनभोगी कर्मचारी उपदान का हकदार होगा. कर्मचारी को रुपये 1,00,000/- (रुपये एक लाख) केवल से अनधिक की राशि का उपदान के रूप में भुगतान किया जाएगा, जो उसकी पन्द्रह दिन की मजदूरी के आधार पर संगणित की जाएगी :

परन्तु उपदान की राशि में, नियम 5, के उपनियम (2) में यथाविहित विशेष भत्तों की राशि सम्मिलित नहीं होगी :

परन्तु यह और कि जो कर्मचारी नियम 10 के उपनियम (1) के अधीन हटा दिए गए हैं, उपदान के हकदार नहीं होंगे.

(2) उपदान में कटौती नियम 10 के उपनियम (2) में विनिर्दिष्ट कदाचार के लिए अनुपातिक आधार पर किया जाएगा.

(3) उपदान की गणना कर्मचारी के नियंत्रणकर्ता अधिकारी के कार्यालय द्वारा की जाएगी.

(4) किसी कर्मचारी के लिए उपदान के लिए पात्र होने के लिए पांच वर्ष की निरंतर सेवा आवश्यक होगी :

परन्तु मृत्यु और शारीरिक निर्योग्यता की दशा में यह शर्त लागू नहीं होगी.”

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
आर. के. गजभिये, उपसचिव.

भोपाल, दिनांक 20 अगस्त 2013

क्र. सी. 5-1-2013-3-एक.—भारत के संविधान के अनुच्छेद 309 के खण्ड (3) के अनुसरण में, इस विभाग की अधिसूचना क्रमांक सी-5-1-2013-3-एक, दिनांक 20 अगस्त, 2013 का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्वारा प्रकाशित किया जाता है।

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
आर. के. गजभिये, उपसचिव.

Bhopal, the 20th August 2013

File No. C-5-1-2013-3-I.—In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Madhya Pradesh, hereby, makes the following amendment in the Madhya Pradesh Daily Wage Employees (Conditions of Service) Rules, 2013, namely :—

AMENDMENT

In the said rules, for rule 7, the following rule shall be substituted, namely :—

"7. **Gratuity.**—(1) At the age of superannuation, the daily wage employee shall be entitled for the gratuity. Employee shall be paid an amount not exceeding Rs. 1,00,000/- (Rupees One Lakh) only as gratuity, which shall be calculated on the basis of his wages of fifteen days :

Provided that the amount of gratuity shall not include the amount of special allowances as prescribed in sub-rule (2) of rule 5 :

Provided further that the employees who has been terminated under sub-rule (1) of rule 10 shall not be entitled for gratuity.

- (2) Deduction in the gratuity shall be made on the basis of pro-rata for the misconducts specified in sub-rule (2) of rule 10.
- (3) The calculation of gratuity shall be done by the office of the controlling Officer of the employee.
- (4) Five years continuous service shall be essential for an employee to become eligible for the gratuity:

Provided that in case of death and physical disability this condition shall not be applicable.

By order and in the name of the Governor of Madhya Pradesh,
R. K. GAJBHIYE, Dy. Secy.

मध्यप्रदेश शासन
वित्त विभाग
मंत्रालय, वल्लभ भवन, भोपाल

—00—

क्रमांक/एफ-9/3/2003/नियम/चार, भोपाल, दिनांक 13/04/2005
प्रति,

शासन के समस्त विभाग,
अध्यक्ष, राजस्व मंडल, ग्वालियर,
समस्त संभागीय आयुक्त,
समस्त विभागाध्यक्ष,
समस्त कलेक्टर (म.प्र.)

विषय:—राज्य शासन के अधीन दिनांक 1.1.2005 अथवा इसके बाद नियुक्त होने वाले कर्मचारियों को परिभाषित अंशदान पेंशन प्रणाली लागू की जाना ।

—0—

मध्यप्रदेश शासन द्वारा यह निर्णय लिया गया है कि मध्यप्रदेश शासन के अधीन सिविल सेवा व सिविल पदों पर दिनांक 1-1-2005 के पश्चात नियुक्त कर्मचारियों के लिये परिभाषित अंशदान पेंशन योजना लागू की जाएगी । इस योजना के लिये संविधान के अनुच्छेद 309 के परन्तुक के अंतर्गत प्राप्त सभी शक्तियों का उपयोग करते हुये राज्य शासन द्वारा विस्तृत नियम बनाये जा रहे हैं ।

2/ मध्यप्रदेश शासन, वित्त विभाग की अधिसूचना क्रमांक एफ-9/3/2005/नियम/चार, दिनांक 2-4-2005 द्वारा मध्यप्रदेश सिविल सेवा (पेंशन) नियम 1976, में किये गये संशोधन के फलस्वरूप अब मध्यप्रदेश शासन के अधीन सिविल सेवा अथवा सिविल पदों पर नियुक्त शासकीय कर्मचारियों व अधिकारियों को दिनांक 1-1-2005 के पश्चात मध्यप्रदेश सिविल सेवा (पेंशन) नियम 1976 लागू नहीं होंगे । इसी प्रकार मध्यप्रदेश शासन वित्त विभाग की अधिसूचना क्रमांक एफ -5/1/2005/नियम/चार, दिनांक 2-4-2005 के अनुसार मध्यप्रदेश शासन के अधीन सिविल सेवा अथवा सिविल पदों पर नियुक्त कर्मचारियों व अधिकारियों को मध्यप्रदेश सामान्य भविष्य निधि लागू नहीं होंगे ।

3/ परिभाषित अंशदान पेंशन योजना के लिये विस्तृत नियम जारी होने तक दिनांक 1-1-2005 अथवा इसके पश्चात नियुक्त कर्मचारियों व अधिकारियों के लिये प्रस्तावित परिभाषित अंशदान पेंशन योजना के अंतर्गत कर्मचारियों का अंशदान प्राप्त करने, शासन का अंशदान जमा करने एवं उसके लेखे के संधारण के लिये निम्नानुसार अन्तरिम व्यवस्था लागू की जाती है :-

{1} प्रत्येक आहरण एवं संवितरण अधिकारी का यह उत्तरदायित्व होगा कि उसके कार्यालय से वेतन पाने वाले दिनांक 1-1-2005 अथवा इसके पश्चात नियुक्त कर्मचारी के मासिक वेतन एवं मंहगाई भत्ते से 10 प्रतिशत राशि परिभाषित अंशदान पेंशन योजना के लिये कर्मचारी अंशदान के रूप में कटौती करेगा तथा अपनी स्थापना से संबंधित ऐसे कर्मचारियों के मासिक अंशदान कटौती का विवरण संलग्न परिशिष्ट में दिये गये प्रपत्र में दर्ज कर वेतन देयक के साथ संलग्न करेगा।

{2} कोषालय अधिकारी प्रत्येक माह महालेखाकार मध्यप्रदेश ग्वालियर को परिभाषित अंशदान पेंशन योजना कटौती का विवरण प्रेषित करेगा।

{3} परिभाषित अंशदान पेंशन योजना में कर्मचारियों के वेतन कटौती से प्राप्त धनराशि तथा शासन अंशदान की राशि लोक लेखा के रूप में रखी जायेगी।

{4} अंशदान पेंशन योजना के अंतर्गत प्राप्त कर्मचारी अंशदान व शासन के अंशदान से प्राप्त धनराशि से संबंधित लोक लेखा के संधारण हेतु निर्देश महालेखाकार मध्यप्रदेश के परामर्श से पृथक जारी किये जा रहे हैं।

मध्यप्रदेश के राज्यपाल के नाम से
तथा आदेशानुसार

अजीत

(ए० पी० श्रीवास्तव)

सचिव

मध्य प्रदेश शासन, वित्त विभाग

वेतन देयक से कटौती अंशदान दर्शाने वाला पत्रक

माह -----

सेवा का लेखा शीर्ष -----

जमा का लेखा शीर्ष :

8001

बीमा तथा पेंशन निधियां
106 अन्य बीमा तथा पेंशन निधि
(0004) शासकीय कर्मचारी
अंशदान पेंशन योजना, 2005

सरल क्रमांक	कर्मचारी का नाम एवं पदनाम कर्मचारी के क्रमांक सहित	कर्मचारी से अंशदान
1	2	3

कार्यालय प्रमुख / आहरण संवितरण अधिकारी

पृष्ठांकन क्रमांक: एफ 9/3/2003/नियम/चार
प्रतिनिधि:-

भोपाल दिनांक 13 अप्रैल 2005

1. राज्यपाल मध्यप्रदेश के सचिव, राजभवन भोपाल।
2. प्रमुख सचिव, मध्य प्रदेश विधान सभा भोपाल।
3. निबंधक, उच्च न्यायालय मध्यप्रदेश जबलपुर।
4. प्रमुख सचिव, मुख्यमंत्री, मुख्यमंत्री सचिवालय, भोपाल
5. सचिव, लोक सेवा आयोग, इंदौर।
6. सचिव, लोक आयुक्त मध्यप्रदेश भोपाल।
7. निज सचिव/निज सहायक मंत्री/राज्यमंत्री मध्यप्रदेश शासन भोपाल।
8. मुख्य निर्वाचन पदाधिकारी मध्यप्रदेश शासन।
9. सचिव राज्य निर्वाचन आयोग मध्यप्रदेश भोपाल।
10. रजिस्ट्रार मध्यप्रदेश राज्य प्रशासनिक न्यायाधिकरण भोपाल/जबलपुर/इंदौर/ग्वालियर।
11. महाधिवक्ता/उप महाधिवक्ता, मध्यप्रदेश भोपाल/इंदौर/ग्वालियर।
12. महालेखाकार (लेखा और हकदारी)/(आडिट)-1/2 मध्यप्रदेश ग्वालियर/भोपाल।
13. अध्यक्ष व्यावसायिक परीक्षा मंडल/माध्यमिक शिक्षा मंडल, मध्यप्रदेश भोपाल।
14. प्रमुख सचिव/सचिव/उप सचिव सामान्य प्रशासन विभाग, भोपाल।
15. आयुक्त जन संपर्क संचालनालय, मध्यप्रदेश भोपाल।
16. नियंत्रक शासकीय केन्द्रीय मुद्रणालय, भोपाल की ओर राजपत्र में प्रकाशन के लिए,
17. अवर सचिव, सामान्य प्रशासन विभाग(स्थापना शाखा/अधीक्षण शाखा/अभिलेख/मुख्य लेखाधिकारी)मंत्रालय भोपाल
18. मुख्य सचिव के स्टाफ आफिसर मंत्रालय भोपाल।
19. समस्त संभागीय संयुक्त संचालक, कोष, लेखा एवं पेंशन मध्यप्रदेश।
20. सभी प्राचार्य, लेखा प्रशिक्षण शाला, मध्यप्रदेश।
21. सभी कोषालय अधिकारी, मध्य प्रदेश।
22. संयुक्त संचालक, जनसंपर्क प्रकोष्ठ, मंत्रालय भोपाल।
23. अध्यक्ष, मध्यप्रदेश राज्य कर्मचारी कल्याण समिति, कक्ष- 84, मंत्रालय, भोपाल।
24. अध्यक्ष, शासन के समस्त मान्यता प्राप्त कर्मचारी संगठन/संघों।
25. गार्ड फाईल।

की ओर सूचनार्थ एवं आवश्यक कार्यवाही के लिये अग्रोषित।



(पी.सी.वर्मा)

उप सचिव

मध्य प्रदेश शासन, वित्त विभाग

मध्यप्रदेश शासन
वित्त विभाग
मंत्रालय, वल्लभ भवन, भोपाल

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क्रमांक एफ-9/3/2003/नियम/चार/ भोपाल, दिनांक 25 सितम्बर, 2006
प्रति,

शासन के समस्त विभाग,
अध्यक्ष, राजस्व मण्डल, ग्वालियर
समस्त संभागीय आयुक्त,
समस्त विभागाध्यक्ष,
समस्त कलेक्टर (म0प्र0)

विषय:—राज्य शासन के अधीन दिनांक 1.1.2005 अथवा इसके बाद नियुक्त होने वाले कर्मचारियों को परिभाषित अंशदान पेंशन योजना लागू की जाना ।

संदर्भ:—विभाग का ज्ञाप क्रमांक एफ-9/3/2003/नियम/चार, भोपाल
दिनांक 13.4.2005

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मध्यप्रदेश शासन के अधीन सिविल सेवा व सिविल पदों पर दिनांक-1.1.2005 के पश्चात् नियुक्त कर्मचारियों के लिए परिभाषित अंशदान पेंशन योजना लागू की गई है । वित्त विभाग के संदर्भित ज्ञाप दिनांक 13.4.2005 द्वारा परिभाषित अंशदान पेंशन योजना के लिये विस्तृत नियम जारी होने तक दिनांक 1.1.2005 अथवा उसके पश्चात् नियुक्त कर्मचारियों व अधिकारियों के लिए प्रस्तावित योजना के अंतर्गत कर्मचारी का अंशदान प्राप्त करने शासन का अंशदान जमा करने एवं उसके लेखों के संधारण के लिए अंतरिम व्यवस्था लागू की गई है । दिनांक-1.1.2005 से लागू नई परिभाषित अंशदान पेंशन योजना के संबंध में विस्तृत लेखा संधारण संबंधी अंतरिम निर्देश इस ज्ञाप के साथ संलग्न है ।

2. उक्त विस्तृत निर्देशों के अनुरूप नई परिभाषित अंशदान पेंशन योजना संबंधी विस्तृत लेखा संधारण किए जाने की कार्यवाई सुनिश्चित की जाने के लिए कृपया अपने अधीनस्थ अधिकारियों को आवश्यक निर्देश प्रसारित किए जाएं ।

संलग्न:—एक

अर्जुन
(ए0पी0 श्रीवास्तव)
सचिव

मध्यप्रदेश शासन, वित्त विभाग

क्रमांक : एफ 9-3/नियम/चार/2003

भोपाल, दिनांक 25 सितम्बर, 2006

प्रतिलिपि:-

1. राज्यपाल मध्यप्रदेश के सचिव, राजभवन भोपाल
2. प्रमुख सचिव, मध्यप्रदेश, विधानसभा, भोपाल
3. निबंधक, उच्च न्यायालय मध्यप्रदेश, जबलपुर
4. प्रमुख सचिव, मुख्यमंत्री, मुख्यमंत्री सचिवालय, भोपाल
5. सचिव, लोक सेवा आयोग, इंदौर
6. सचिव, लोक आयुक्त, मध्यप्रदेश, भोपाल
7. निज सचिव / निज सहायक मंत्री/राज्यमंत्री, मध्यप्रदेश शासन, भोपाल
8. मुख्य निर्वाचन पदाधिकारी, मध्यप्रदेश, भोपाल
9. सचिव राज्य निर्वाचन आयोग, मध्यप्रदेश, भोपाल
10. रजिस्ट्रार, मध्यप्रदेश राज्य प्रशासनिक न्यायाधिकरण भोपाल /जबलपुर/इंदौर/ग्वालियर
11. महाधिवक्ता / उप महाधिवक्ता, मध्यप्रदेश भोपाल / इंदौर/ ग्वालियर ।
12. महालेखाकार (लेखा ओर हकदारी / (आडिट)-1/2 मध्यप्रदेश ग्वालियर / भोपाल ।
13. अध्यक्ष व्यावसायिक परीक्षा मंडल / माध्यमिक शिक्षा मंडल, मध्यप्रदेश भोपाल ।
14. प्रमुख सचिव / सचिव / उप सचिव, सामान्य प्रशासन विभाग, भोपाल
15. आयुक्त, जनसम्पर्क संचालनालय, मध्यप्रदेश भोपाल
16. नियंत्रक शासकीय केन्द्रीय मुद्रणालय, भोपाल की और राजपत्र में प्रकाशन के लिए,
17. अवर सचिव, सामान्य प्रशासन विभाग (स्थापना शाखा/अधीक्षण शाखा/ अभिलेख / मुख्य लेखाधिकारी) मंत्रालय, भोपाल
18. मुख्य सचिव के स्टाफ आफिसर मंत्रालय, भोपाल
19. समस्त संभागीय संयुक्त संचालक, कोष, लेखा एवं पेंशन मध्यप्रदेश
20. सभी प्राचार्य, लेखा प्रशिक्षण शाला, मध्यप्रदेश
21. संयुक्त संचालक, जनसंपर्क प्रकोष्ठ, मंत्रालय, भोपाल
22. अध्यक्ष, मध्यप्रदेश राज्य कर्मचारी कल्याण समिति कक्ष-84, मंत्रालय, भोपाल
23. अध्यक्ष, शासन के समस्त मान्यता प्राप्त कर्मचारी संगठन / संघों
24. सभी कोषालय अधिकारी / उप कोषालय अधिकारी
25. गार्ड फाईल

की ओर सूचनार्थ एवं आवश्यक कार्यवाही के लिये अग्रेषित

P. S. V.

(पी.सी. वर्मा)

उप सचिव

मध्यप्रदेश शासन, वित्त विभाग

मध्यप्रदेश परिभाषित अंशदान पेंशन योजना लेखा संधारण संबंधी अंतरिम निर्देश

यह योजना 1.1.2005 अथवा इसके पश्चात राज्य शासन के अधीन सिविल सेवा या सिविल पदों पर नियुक्त सभी अधिकारियों/कर्मचारियों के लिए अनिवार्य होगी ।

2. राज्य शासन मध्यप्रदेश के सामान्य भविष्य निधि नियम, दिनांक 1.1.2005 अथवा उसके पश्चात नियुक्त शासकीय सेवकों पर लागू नहीं होंगे । ऐसे कर्मचारियों का कोई सामान्य भविष्य निधि खाता न खोला जावे और न ही कोई राशि इस प्रकार के खाते में जमा कराई जावे ।
3. शासकीय सेवक सेवा में उपस्थित होते ही परिशिष्ट-1 में स्वयं से संबंधित जानकारी/विवरण नाम, वेतनमान, जन्मतिथि, नामांकन तथा नामंकित व्यक्ति से संबंध की जानकारी आहरण एवं संवितरण अधिकारी को उपलब्ध करायेगा ।
4. संबंधित आहरण एवं संवितरण अधिकारी की जिम्मेदारी होगी कि वह निर्देश क्रमांक-3 के अनुसार जानकारी संबंधित शासकीय सेवक से निर्धारित प्रारूप पर प्राप्त करे ।
5. संबंधित आहरण एवं संवितरण अधिकारी माह के दौरान नियुक्त शासकीय सेवकों की जानकारी आगामी माह की 7 तारीख के पहले कोषालय अधिकारी के माध्यम से संयुक्त संचालक, कोष लेखा एवं पेंशन को एकजाई कर परिशिष्ट-2 में प्रस्तुत करेगा ।
6. परिशिष्ट-1 आहरण एवं संवितरण अधिकारी द्वारा संधारित किया जाकर विभागाध्यक्ष को भेजा जावेगा ।
7. शासकीय सेवक से संबंधित जानकारी जो विभागाध्यक्ष को अधीनस्थ आहरण एवं संवितरण अधिकारी द्वारा प्राप्त होती है, को विभागाध्यक्ष द्वारा एकजाई कर संभावित परिशिष्ट-2(अ) पर संबंधित संभागीय संयुक्त संचालक, कोष लेखा एवं पेंशन को प्रत्येक माह की 15 तारीख से पहले उपलब्ध करानी होगी ।

12

(2)

8. कटौती राशि के समतुल्य शासकीय अंशदान की राशि राज्य सरकार द्वारा नियोजित योगदान के रूप में जमा की जावेगी। शासकीय सेवक तथा शासन के अंशदान को निम्नलिखित शीर्ष के अंतर्गत जमा किया जावेगा :-

मुख्य शीर्ष	8342	अन्य जमा
लघु शीर्ष	117	विविध जमा
उपशीर्ष	(01)	शासकीय सेवक का अंशदान-पेंशन योजना
उपशीर्ष	(02)	शासन अंशदान-पेंशन योजना

देय ब्याज निम्नानुसार शीर्ष के अंतर्गत विकलनीय होगा :-

मुख्य शीर्ष	2049	ब्याज भुगतान
उप मुख्य शीर्ष	03	अल्प बचत एवं भविष्य निधियों पर ब्याज
लघु शीर्ष	117	परिभाषित पेंशन योजना पर ब्याज
उपशीर्ष	(01)	परिभाषित पेंशन योजना पर ब्याज

9. स्थायी पेंशन खाता कमांक का आवंटन संचालक, पेंशन मध्यप्रदेश द्वारा निर्धारित प्रक्रिया के अनुसार संबंधित संभागीय संयुक्त संचालक, कोष लेखा एवं पेंशन द्वारा किया जायेगा।
10. संभागीय संयुक्त संचालक, कोष लेखा एवं पेंशन परिशिष्ट-2(अ) में प्राप्त जानकारी के आधार पर 7 दिवस के अंदर स्थायी पेंशन खाता कमांक संबंधित शासकीय सेवक को आवंटित कर आहरण एवं संवितरण अधिकारी, संबंधित कर्मचारी तथा संबंधित विभागाध्यक्ष को प्राप्त प्रपत्र की एक प्रति उपलब्ध कराते हुए सूचित करेगा।
11. संभागीय संयुक्त संचालक, कोष लेखा एवं पेंशन कार्यालय परिशिष्ट-2 में दर्शित विवरण अनुसार आवंटित स्थायी पेंशन खाता कमांक नवनियुक्त कर्मचारी को आहरण एवं संवितरण अधिकारी के माध्यम से शीघ्र प्रेषित करेगा।
12. आहरण एवं संवितरण अधिकारी आवंटित स्थायी पेंशन खाता कमांक की अभिस्वीकृति विभागाध्यक्ष को देगा तथा नवनियुक्त कर्मचारी को लिखित में सूचना देगा और समान प्रविष्टि वेतन देयक रजिस्टर में इन्द्राज करेगा।
13. स्थायी पेंशन खाता कमांक की प्रविष्टि शासकीय सेवक की सेवा-पुस्तिका के प्रथम पृष्ठ पर आहरण एवं संवितरण अधिकारी द्वारा की जावेगी। यह स्थाई पेंशन खाता कमांक पूरे सेवाकाल के लिये एक ही रहेगा।

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14. परिभाषित अंशदान पेंशन योजना के अंतर्गत शासकीय सेवक के मूल वेतन+मंहगाई भत्ते की 10 प्रतिशत राशि मासिक अंशदान के रूप में जमा की जावेगी तथा कर्मचारी द्वारा इसका भुगतान किया जायगा। रुपये के अपूर्ण भाग को अगले रुपये में पूर्णांकित किया जावेगा।
15. शासकीय सेवक के अंशदान की गणना में कटौती हेतु मंहगाई भत्ते के अतिरिक्त अन्य किसी भी प्रकार के भत्ते/विशेष वेतन आदि को शामिल नहीं किया जावेगा।
16. उपरोक्तानुसार अंशदान की राशि संबंधित आहरण एवं संवितरण अधिकारी द्वारा प्रत्येक माह के वेतन देयक से काटी जावेगी, एवं उक्त राशि को मुख्य शीर्ष 8342-117-(01) लघुशीर्ष में जमा/अंतरित की जावेगी।

टीप- शासकीय सेवक से अंशदान की वसूली उसके सेवा में उपस्थित होने वाले माह के अगले माह के वेतन से प्रारंभ की जावेगी। शासकीय सेवक जिस माह में सेवा ग्रहण करता है उस माह कोई कटौती उसके वेतन से नहीं किया जावेगा।

17. शासकीय अंशदान मुख्य शीर्ष 8342-117-(02) के अंतर्गत कोषालय अधिकारी/संभागीय संयुक्त संचालक, कोष लेखा एवं पेंशन द्वारा जमा की जावेगी।
18. शासकीय अंशदान की राशि जमा किये जाने हेतु आवश्यक प्रावधान शीर्ष-2071 पेंशन तथा अन्य सेवानिवृत्त हित लाभ उपशीर्ष (01) सिविल (101)-अधिवार्षिकी तथा सेवानिवृत्ति भत्ते, [6854]-अंशदायी पेंशन योजना, 43-अंशदान, के अंतर्गत होगा।
19. आहरण एवं संवितरण अधिकारी द्वारा एक पृथक वेतन देयक पंजी का संधारण ऐसे कर्मचारियों हेतु किया जावेगा जिन्होंने 1.1.2005 से या इसके पश्चात शासकीय सेवा प्रारंभ की है। आहरण एवं संवितरण अधिकारी द्वारा एक पृथक वेतन देयक इस योजना के अंतर्गत सम्मिलित कर्मचारियों हेतु तैयार किया जावेगा तथा निर्धारित तिथि तक कोषालय में पत्रकों सहित प्रस्तुत करना होगा।

आहरण एवं संवितरण अधिकारी द्वारा वसूली पत्रक परिशिष्ट-3 में पूर्ण कर वेतन देयक के साथ संलग्न किया जावे।

अंशदान की राशि का मिलान सम्पूर्ण वसूली की राशि से किया जावेगा

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22. शासन के समतुल्य अंशदान हेतु परिशिष्ट-4 का उपयोग आहरण हेतु कोषालय अधिकारी/संभागीय संयुक्त संचालक, कोष लेखा एवं पेंशन द्वारा किया जावेगा ।
23. ऐसे शासकीय सेवक जो प्रतिनियुक्ति पर हैं इनका मासिक अंशदान तथा समतुल्य नियोक्ता अंशदान चालान द्वारा कोषालय में जमा करना होगा । चालान में कर्मचारी को आवंटित स्थायी पेंशन खाता क्रमांक का उल्लेख होना आवश्यक है । कटौती की जिम्मेदारी विभागाध्यक्ष कार्यालय की होगी ।
24. कोषालय अधिकारी ऐसे कर्मचारियों (1.1.2005 अथवा इसके पश्चात नियुक्त) के वेतन देयक प्राप्त होने पर आवश्यक जाँच कर भुगतान हेतु पारित करेंगे ।
25. देयक से पेंशन अंशदान की राशि संबंधी प्रपत्र वेतन देयक से पृथक किया जावेगा तथा पत्र के माध्यम से संयुक्त संचालक, कोष लेखा एवं पेंशन को भेजा जावेगा । लेखा संधारण हेतु अंशदान की राशि कर्मचारी के खाते (Ledger) में जमा की जाने हेतु संबंधित संभागीय संयुक्त संचालक, कोष लेखा एवं पेंशन को कोषालय द्वारा प्रेषित की जावेगी ।
26. इस पेंशन योजना के अंतर्गत विस्तृत अभिलेखों के रख-रखाव का कार्य संभागीय संयुक्त संचालक, कोष लेखा एवं पेंशन करेंगे । विस्तृत खाते संभागीय संयुक्त संचालक, कोष लेखा एवं पेंशन द्वारा परिशिष्ट-5 के अनुसार संधारित किये जायेंगे ।
27. कर्मचारी अंशदान तथा शासकीय अंशदान की राशि कर्मचारी के खाते तथा विस्तृत लेखे में संभागीय संयुक्त संचालक, कोष लेखा एवं पेंशन के द्वारा जमा की जावेगी । इस राशि का मिलान संभागीय संयुक्त संचालक, कोष लेखा एवं पेंशन द्वारा महालेखाकार से किया जावेगा ।
28. संभागीय संयुक्त संचालक, कोष लेखा एवं पेंशन कार्यालय नवनियुक्त शासकीय सेवक के पक्ष में जारी स्थायी पेंशन खाता क्रमांक के रख-रखाव हेतु विशेष पंजी परिशिष्ट-6 में वर्णित विवरण अनुसार रखेगा ।
29. कर्मचारी के स्थानांतरण अथवा विभाग बदलने से नये खाते के आवंटन की आवश्यकता नहीं है, खाता निरन्तर रहेगा ।

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30. शासकीय सेवक की असामयिक मृत्यु अथवा त्यागपत्र देने की स्थिति में अंतिम भुगतान की कार्यवाही से संबंधित प्रक्रिया पृथक से निर्धारित की जावेगी ।
31. जमा राशि पर ब्याज भुगतान का निर्धारण शासन द्वारा समय-समय पर जारी निर्देशों के अनुसार किया जावेगा ।
32. समस्त संभागीय संयुक्त संचालक, कोष लेखा एवं पेंशन वित्तीय वर्ष के अंत में वार्षिक पत्रक तैयार करेंगे जिसमें प्रारंभिक शेष एवं अंतिम शेष जमा राशि, देय ब्याज तथा शासकीय अंशदान को दर्शाते हुए अंतिम शेष का उल्लेख होगा ।
33. संभागीय संयुक्त संचालक, कोष लेखा एवं पेंशन आहरण एवं संवितरण अधिकारी के माध्यम से वार्षिक लेखा कर्मचारी को उपलब्ध करावेंगे ।
34. आहरण एवं संवितरण अधिकारी प्राप्त राशि के विवरण से कर्मचारी के व्यक्तिगत खाते में जमा राशि का मिलान सुनिश्चित करेगा ।
35. यह निर्देश जारी होने के पूर्व की अवधि में परिभाषित अंशदान पेंशन योजना के अंतर्गत वित्त विभाग के ज्ञाप क्रमांक एफ.9/3/2003/नियम/चार, दिनांक 13.4.2005 के अनुसार कर्मचारियों के वेतन कटौती से प्राप्त राशि तथा शासन अंशदान की राशि की पुष्टि कोषालय अधिकारियों द्वारा महालेखाकार से करा ली जाए । यह राशि कर्मचारियों के खातों में जमा की जाने हेतु संबंधित संभागीय संयुक्त संचालक, कोष लेखा एवं पेंशन के कार्यालय को हस्तांतरित करने की समस्त आवश्यक कार्यवाही कोषालय अधिकारी द्वारा की जाएगी । इस योजना के अंतर्गत कर्मचारी के अंशदान तथा शासन के अंशदान की राशि सुनिश्चित की जाने हेतु उपर्युक्तानुसार महालेखाकार, मध्यप्रदेश एवं संबंधित आहरण एवं संवितरण अधिकारी से आवश्यक जानकारी प्राप्त की जा सकेगी ।

परिशिष्ट-1
(निर्देश क्रमांक-3)

परिभाषित अंशदान पेंशन योजना के अंतर्गत कर्मचारी से संबंधित जानकारी का पत्रक

(प्रथम नियुक्ति के पश्चात कर्मचारी द्वारा भरा जावेगा)

1. कर्मचारी का नाम : _____
2. पदनाम : _____
3. कार्यालय का नाम: _____
4. विभाग का नाम _____
5. कोषालय का नाम _____
6. वेतनमान : _____
7. जन्मतिथि : _____
8. नियुक्ति दिनांक : _____
9. मूल वेतन : _____
10. पेंशन खाते में जमा राशि हेतु नामांकन:-

स.क्र.	नाम-निर्देशिति/ नाम-निर्देशितियों का नाम	आयु	प्रत्येक को कितना हिस्सा संदत्त किया जाएगा	शासकीय कर्मचारी से संबंध

कर्मचारी के हस्ताक्षर: _____

आहरण एवं संवितरण अधिकारी: _____
डी0डी0ओ0 कोड क्रमांक.....

परिशिष्ट-2
(निर्देश क्रमांक-5)

परिभाषित अंशदान पेंशन योजना के तहत नियुक्त शासकीय सेवकों का विवरण पत्रक
(विभाग/कार्यालय के आहरण एवं संवितरण अधिकारी द्वारा भरा जावेगा)
(दो प्रतियों में)

आहरण एवं संवितरण अधिकारी का नाम एवं कोड नम्बर-----

कार्यालय का नाम एवं पता -----

माह.....वर्ष

प्रशासकीय विभाग का नाम -----

विभागाध्यक्ष कार्यालय का नाम-----

स.क्र.	शासकीय सेवक का नाम	पदनाम	मूल वेतन	जन्मतिथि	नियुक्ति का दिनांक	पेंशन खाते में शेष राशि हेतु नाम-निर्देशिती/ नाम-निर्देशितियों का विवरण				कर्मचारी को आवंटित स्थायी पेंशन खाता क्रमांक
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.

दिनांक:-----

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आहरण एवं संवितरण अधिकारी का नाम
कार्यालय की मुद्रा

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परिशिष्ट- 2 (अ)
(निर्देश क्रमांक-7)

विभागाध्यक्ष द्वारा संभावित परामर्शित अंशदान पेंशन योजना के तहत नियुक्त कर्मचारियों का विवरण पत्रक
(विभागाध्यक्ष कार्यालय द्वारा संभागीय संयुक्त संचालक, कोष लेखा एवं पेंशन को भेजा जावेगा)
(दो प्रतियों में)

प्रशासकीय विभाग का नाम _____
विभागाध्यक्ष कार्यालय का नाम : _____
संभागीय संयुक्त संचालक द्वारा विभाग को आवंटित कोड क्रमांक : _____
संयुक्त संचालक, कोष लेखा एवं पेंशन संभाग का नाम : _____

स. क्र.	शासकीय सेवक का नाम	पदनाम	कार्यालय का नाम एवं पता	मूल वेतन	जन्मतिथि	नियुक्ति का दिनांक	पेंशन खाते में जमा राशि हेतु नाम-निर्देशिनी/ नाम-निर्देशितियों का विवरण				रिमार्क	कर्मचारी को आवंटित स्थायी पेंशन खाता क्रमांक
1.	2.	3.	4.	5.	6.	7.	8. नाम	9. शासकीय सेवक से संबंध	10. प्रत्येक का हिस्सा (प्रतिशत)	11. नामांकन निरस्त होने की स्थिति	12.	13.

परिशिष्ट-3
(निर्देश क्रमांक-20)

परिभाषित अंशदान पेंशन योजना के अंतर्गत कर्मचारी के अंशदान का पत्रक
(आहरण एवं संवितरण अधिकारी द्वारा भरा जावेगा)

कार्यालय: _____ विभाग का नाम: _____
तहसील: _____ विभागाध्यक्ष का नाम: _____
जिला: _____

कर्मचारी को आवंटित स्थायी पेंशन खाता क्रमांक	शासकीय सेवक का नाम	पदनाम	मूल वेतन (रु.)	मंहगाई भत्ता (रु.)	योग (कालम 4 + 5)	अंशदान की राशि (रूपये)	योग (रु.)	रिमार्क
1.	2.	3.	4.	5.	6.	7.	8.	9.

(शब्दों में रूपये) _____

चिन्हित कालम को पूर्ति अंतरिम अवधि में न की जावे

इस पत्रक में उल्लेखित विवरण का मिलान वेतन देयक एवं वेतन पंजी से कर सत्यापित किया जावे

आहरण अधिकारी के हस्ताक्षर एवं दिनांक: _____
पदनाम: _____

परिशिष्ट-4
(निर्देश क्रमांक-22)

संयुक्त संचालक द्वारा शासन का अंशदान आहरण करने का प्रपत्र

आहरण एवं संवितरण अधिकारी का नाम/कोड नम्बर:-----

विभाग का नाम	विभागाध्यक्ष का नाम	कर्मचारी को आवंटित स्थायी पेंशन खाता क्रमांक	शासकीय सेवक का नाम	पदनाम	मूल वेतन (रु.)	मंहगाई भत्ता (रु.)	योग (कालम 4+5)	शासन का अंशदान	रिमार्क
		2.	3.	4.	5.	6.	7.	8.	9.

(शब्दों में रूपये -----)

इस पत्रक में उल्लेखित विवरण का मिलान वेतन देयक एवं वेतन पंजी से कर सत्यापित किया जावे

आहरण अधिकारी के हस्ताक्षर एवं दिनांक:-----
पदनाम :-----

परिशिष्ट-5

(निर्देश क्रमांक-26)

परिभाषित अशदान पेंशन योजना का लेजर
(संभागीय सयुक्त संचालक, कोष लेखा एवं पेंशन द्वारा सधारित किया जायगा)

नाम: श्री श्रीमती/कु.0

पदनाम:-

नियुक्ति दिनांक:-

सेवा निवृत्ति का दिनांक:-

विभाग

कर्मचारी को पृथक स आवटित स्थायी पेंशन खाता क्रमांक

माह	मूल वेतन	मंहगाई भत्ता (रु.)	कर्मचारी का अंशदान (रु.)	शासन का अंशदान (रु.)	कुल योग (रु.)	रिमार्क	
अप्रैल							
मई							रु.
जून							
जुलाई							
अगस्त							
सितम्बर							
अक्टूबर							
नवम्बर							
दिसम्बर							
जनवरी							
फरवरी							
मार्च							

परिशिष्ट-6
(निर्देश क्रमांक-28)

कार्यालय का नाम (विभागाध्यक्ष)

परिभाषित अंशदान पेंशन योजना का इंडेक्स रजिस्टर
(विभागाध्यक्ष कार्यालय द्वारा संचारित किया जायगा)

स्थायी पेंशन खाता क्रमांक	कर्मचारी का नाम	पदनाम	कर्मचारी के प्रथम नियुक्ति के कार्यालय का नाम	जन्मतिथि	नियुक्ति दिनांक	विभागाध्यक्ष द्वारा प्राधिकृत अधिकारी के हस्ताक्षर
1.	2.	3.	4.	5.	6.	7.

REPORTABLE**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION****CIVIL APPEAL NOS. 3900-3901 OF 2022**

The State of Bihar & Ors.

..Appellant (S)

Versus

Rajmati Devi & Anr.

..Respondent (S)

J U D G M E N T

M. R. Shah, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 11.04.2017 passed by the Division Bench of the High Court of Judicature at Patna in Letters Patent Appeal No. 1099/2016, by which, the Division Bench of the High Court has dismissed the said appeal preferred by the State and has confirmed the judgment and order dated 02.09.2015 passed by the learned Single Judge holding that respondent No. 1 being widow of the deceased employee would be entitled for grant

of family pension from the date of death of her husband, the State of Bihar has preferred the present appeals.

2. The husband of respondent No. 1 herein joined the Bihar Research Society, an autonomous society registered under Societies Act, as a peon. The said society was taken over by the Government of Bihar vide Bihar Research Society (Taking Over) Act, 2007. By resolution dated 31.08.2005, the State abolished the Old Pension Rules i.e., Bihar Pension Rules, 1950 and replaced the same with New Pension Scheme i.e., Bihar Government Servant Contributory Pension Scheme, 2005, w.e.f. 01.09.2005. As per the New Pension Scheme, the employees appointed after 31.08.2005 shall be governed by the new contributory pension scheme under which the government employees appointed after 31.08.2005 shall not be entitled to the pension/family pension. The Bihar Research Society (Taking Over) Act, 2007 (hereinafter referred to as the Act, 2007) came into force on 02.03.2009 resulting in taking over of the Institute/Society where the husband of respondent No. 1 was working. The husband of respondent

No. 1 died on 23.03.2013 while in service. The employees of the aforesaid Society were taken into government service vide order dated 25.03.2014 w.e.f. 02.03.2009. A corrigendum came to be issued by the State of Bihar amending the employment order dated 25.03.2014 substituting the word "appointed" with the word "absorbed". Clause 6 was inserted by the corrigendum stating that prior to date of acquisition, the service would not be calculated as government service. That respondent No. 1 filed the writ petition before the High Court praying for family pension and other retiral benefits. By judgment and order dated 02.09.2015, the learned Single Judge allowed the said writ petition and directed the State to pay the family pension to respondent No. 1 from the date of her husband's death i.e., 23.03.2013.

- 2.1 Feeling aggrieved and dissatisfied with the judgment and order passed by the learned Single Judge allowing the family pension, the State preferred the Letters Patent Appeal before the Division Bench of the High Court. By the impugned judgment and order, the High Court has

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dismissed the said appeal and has confirmed the judgment and order passed by the learned Single Judge, which has given rise to the present appeals.

3. Learned counsel appearing on behalf of the appellant has vehemently submitted that pension and family pension was available to the employees of the State Government who were governed by the Old Pension Rules. It is submitted that when the husband of respondent No. 1 was absorbed in the year 2014 w.e.f. 02.03.2009, the Old Pension Rules were abolished and the New Contributory Pension Scheme was replaced. It is submitted that therefore, the Old Pension Rules were not applicable to the husband of respondent No. 1 and therefore, respondent No. 1 shall not be entitled to the family pension under the Old Pension Rules.

- 3.1 It is submitted that the Old Pension Rules were abolished on 01.09.2005 and thereafter, the New Pension Scheme came into force, therefore, New Pension Scheme was applicable to all the employees of the State Government, who were appointed/absorbed on or after 01.09.2005.

3.2 It is submitted that a corrigendum dated 22.06.2015 was also issued by the Government making it abundantly clear that the term of Government service will be calculated only from the cut-off date i.e., 02.03.2009 and the services of the adjusted employees, prior to date of acquisition in Bihar Research Society shall not be calculated as a government service. It is submitted that in that view of the matter, the High Court has committed a grave error in allowing the family pension applying the Old Pension Rules, 1950.

3.3 Making the above submissions, it is prayed to allow the present appeals.

4. The present appeals are vehemently opposed by Ms. Rachitta Rai, learned counsel appearing on behalf of respondent No. 1. It is vehemently submitted that the husband of respondent No. 1 was absorbed in the State Government service w.e.f. 02.03.2009 by way of adjustment vide Section 5 of the Act, 2007. It is submitted

that it was not a fresh appointment and therefore, his services were to be treated as continuous.

4.1 It is submitted that the husband of respondent No. 1 died in harness and while in service and therefore, as per clause 7(1) to the family pension scheme, on the death of her husband who died while in service, respondent No. 1 was entitled to the family pension and the family pension scheme being beneficial scheme, both, the learned Single Judge as well as the Division Bench of the High Court have rightly held that respondent No. 1 is entitled to the benefit of the family pension scheme.

5. We have heard learned counsel appearing on behalf of both the parties at length.

6. At the outset, it is required to be noted that the husband of respondent No. 1 came to be absorbed in the government service in the year 2014 w.e.f. 02.03.2009. Till 02.03.2009, he remained the employee of the Bihar Research Society, of which he was an employee and working. The Old Pension Rules, 1950 came to be

abolished and the New Contributory Pension Scheme came to be introduced w.e.f. 01.09.2005. Under the New Contributory Pension Scheme, there is no provision for pension/family pension. As per the Scheme, all those who are appointed after 31.08.2005 shall be governed by the New Contributory Pension Scheme. Therefore, at the time when the husband of respondent No. 1, who died in the year 2013, was absorbed, the Old Pension Rules were abolished and the New Contributory Pension Scheme was in existence. As per the corrigendum issued in the appointment order and as per clause 6, the prior service rendered by the concerned employee prior to his absorption shall not be treated as a government service. Therefore, the husband of respondent No. 1 can be said to be a government servant and in government service w.e.f. 02.03.2009 only. Therefore, the husband of respondent No. 1 was governed by the New Contributory Pension Scheme under which there is no provision for the pension/family pension. Therefore, the High Court has committed a grave error in directing the appellant to pay the family pension to respondent No. 1 applying the Old

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Pension Rules, which were applicable prior to 31.08.2005.

The aforesaid aspect has not been considered by the High Court at all and the learned Single Judge simply considered that on the death of the husband of respondent No. 1, who died in harness while in service, respondent No. 1 is entitled to the family pension under family pension scheme. However, the High Court has not at all considered that on coming into force the New Contributory Pension Scheme, no government employee appointed after 31.08.2005 shall be entitled to any other benefit except under the New Contributory Pension Scheme. In that view of the matter, respondent No. 1 shall not be entitled to the family pension under the Old Pension Rules, which were not applicable at the time when the husband of respondent No. 1 came to be absorbed in the government service w.e.f. 02.03.2009.

7. In view of the above discussion and for the reasons stated above, the impugned judgment(s) and order(s) passed by the High Court deserve(s) to be quashed and set aside. Accordingly, the judgments and orders passed by the

learned Single Judge as well as the Division Bench of the High Court holding that respondent No. 1 shall be entitled to the family pension under the Old Pension Rules are hereby quashed and set aside. It is observed and held that as the husband of respondent No. 1 was absorbed in the government service only w.e.f. 02.03.2009, he shall be governed by the New Pension Scheme i.e., Bihar Government Servant Contributory Pension Scheme, 2005. The present appeals are allowed, accordingly. No costs.

.....J.
(M. R. SHAH)

.....J.
(B.V. NAGARATHNA)

New Delhi,
May 20, 2022

(एक) जब लघुकृत अवकाश स्वीकृत किया जाए तो ऐसे अवकाश का दुगुना देय अर्द्धवेतन अवकाश खाते में विकलित किया जाएगा।

(दो) जब तक कि अवकाश को स्वीकृत करने वाले सक्षम प्राधिकारी को यह विश्वास करने का कारण न हो कि कर्मचारी अवकाश की समाप्ति पर अपने कर्तव्य पर वापस लौट आयेगा, लघुकृत अवकाश स्वीकृत नहीं किया जा सकेगा।

(तीन) लघुकृत अवकाश सेवानिवृत्ति पूर्व अवकाश के रूप में स्वीकृत नहीं किया जाएगा।

7. प्रसूति अवकाश- किसी महिला कर्मचारी को चाहे वह स्थायी अथवा अस्थायी हो, 45 दिन का प्रसूति अवकाश इस शर्त के अधीन स्वीकार्य होगा कि जिस महिला कर्मचारी के (दो या दो से) अधिक जीवित बच्चे हैं प्रसूति अवकाश स्वीकार्य नहीं होगा।

8. असाधारण अवकाश- विशेष परिस्थितियों में किसी एक अवसर पर अधिक से अधिक 90 दिन का असाधारण अवकाश किसी कर्मचारी को स्वीकृत किया जायेगा।

9. अवकाश वेतन- जिस माह में अवकाश लिया जाता है उससे ठीक पूर्व वाले महीने में जिस दर से वेतन निकाला गया है उसी दर के बराबर कर्मचारी को अर्जित अवकाश तथा प्रसूति अवकाश में अवकाश वेतन की पात्रता होगी। असाधारण अवकाश में किसी को किसी प्रकार के अवकाश वेतन की पात्रता नहीं होगी।

विषय- कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारियों की सेवा के सदस्यों की अवकाश यात्रा सुविधा।

राज्य शासन द्वारा यह निर्णय लिया गया है कि कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारियों की सेवा के स्थायी सदस्यों को नियमित शासकीय सेवकों के समान अवकाश यात्रा सुविधा का लाभ वित्त विभाग के शाप क्र. 1342/सी.आर./2654/चार/आर-1/72, दिनांक 17-11-72 सहित शाप क्र. 749/27-77/आर-1/चार, दिनांक 22-6-77 एवं शाप क्र. 1536/4107/82/आर-1/चार, दिनांक 29-11-82 के प्रतिबंधों के अधीन दिया जावे।

2. यह आदेश जारी होने के दिनांक से लागू होगी।

[वित्त विभाग क्र. 1759/4293/नि-1/चार, दिनांक 30-11-1981]

पेंशन तथा परिवार पेंशन

इस सेवा के सदस्यों को अधिवार्षिकी आयु पर सेवानिवृत्त होने पर पेंशन की पात्रता है। किन्तु केवल सेवा के स्थाई सदस्यों को इस सेवा के नियमों के अनुसार स्थाई सदस्य वह है जिसने 1-1-1974 को 15 वर्ष की सेवा पूरी कर ली है, तथा इसके पश्चात् नियुक्त कर्मचारी के मामले में जब वह 15 वर्ष की निरन्तर सेवा पूरी कर ले। किन्तु पेंशन के प्रयोजनार्थ 1-4-1981 को या इसके पश्चात् अधिवार्षिकी आयु पर सेवानिवृत्त होने वाले कर्मचारी के मामले में स्थाई सदस्य वह माना गया है जिसने 1-1-1974 को या उसके बाद 10 वर्ष की सेवा पूरी कर ली है।

पेंशन के वास्ते अर्हकारी सेवा को गिनने के लिये दिनांक 1-1-1959 से आगे की सेवा को हिसाब में लेने के निर्देश हैं।

इस प्रकार दिनांक 1-4-1981 को या इसके पश्चात् सेवा में रहते हुए या सेवानिवृत्ति के बाद मृत्यु हो जाने पर परिवार के आश्रित सदस्य को परिवार पेंशन की पात्रता भी है।

जो कर्मचारी इस सेवा का स्थाई सदस्य नहीं बना पाया है और स्थाई सदस्य बनने के पहले ही सेवा समाप्त कर दी जाती है, तो वह उपदान परिलाभ नियम, 1962 में उल्लेखित लाभ पाने का हकदार है। पेंशन/परिवार पेंशन को मंजूरी पेंशन कागजात बनाने की विधि तथा पेंशन वितरण का प्राधिकार जारी करने की प्रक्रिया वैसे ही है, जैसी नियमित कर्मचारियों के मामले में अपनाई जाती है।

1. नियम 7 शब्द "तीन" के स्थान पर शब्द "दो" प्रतिस्थापित/म.प्र. शासन शापन क्र. 510/981/आर-6/चार, दि. 4-4-91, म.प्र. राजपत्र 4 (ग) दि. 30.8.91 पृष्ठ 335.

पेंशन नियम

वर्कचाई/कर्टीजेन्सी कर्मचारियों के लिये पेंशन (Pension)

तथा परिवार पेंशन

विषय- मध्यप्रदेश (कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारी) पेंशन नियम, 1979।

मध्यप्रदेश (कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारी) पेंशन नियम, 1979 की एक प्रति संलग्न है। ये नियम दिनांक 1 जनवरी, 1974 से प्रवृत्त हुए समझे जावेंगे। इस संबंध में निम्नलिखित बातें जानकारी में लाई जाती हैं :-

(एक) आकस्मिकता से वेतन पाने वाले या कार्यभारित ऐसा कर्मचारी हो सिर्फ जिसने 1-1-1974 को या उसके बाद पन्द्रह साल की निरन्तर सेवा कर ली हो, कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारियों की सेवा का स्थाई सदस्य बनने का हकदार होगा। अतः पेंशन के वास्ते अर्हकारी सेवा को गिनने के लिये दिनांक 1-1-1959 से आगे की सेवा अवधि को ही हिसाब में लिया जायेगा।

(दो) आकस्मिकता से वेतन पाने वाले कर्मचारियों को मध्यप्रदेश कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारी (उपदान लाभ) नियम, 1962 के नियम 3 (क) के अनुसार ही उपदान मिलेगा। अगर उसकी सेवाएं इस सेवा के स्थाई सदस्य बनने के पहले समाप्त कर दी जाती हैं, उन्हें अंशदायी भविष्य निधि के सदस्य बनने की पात्रता न होने से इनके मामलों में, पेंशन तथा अंशदायी भविष्य निधि सम्बन्धी लाभों के बीच देने का प्रश्न ही नहीं उठता है।

(तीन) (क) कार्यभारित कर्मचारियों को कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारियों की सेवा का स्थाई सदस्य बन जाने के पहले, सेवा समाप्त हो जाने की स्थिति में ऊपर बताये गये 1962 के नियमों के अंतर्गत सेवा निवृत्ति के लाभ मिलेंगे।

(ख) ऐसे कार्यभारित कर्मचारियों को, जिन्हें मध्यप्रदेश कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारियों की सेवा का स्थाई सदस्य बन जाने की पात्रता प्राप्त हो चुकी है, इस शासन के जारी होने की तारीख के तीन माह के अन्दर या तो उपदान (ग्रेजुटी) तथा अंशदायी भविष्य निधि के वर्तमान लाभों के अंतर्गत बने रहने या इन पेंशन नियमों को चुन लेने का विकल्प देना आवश्यक होगा।

(ग) ऐसे कार्यभारित कर्मचारी जो इसके पश्चात् 15 साल की निरन्तर सेवा पूरी कर लेंगे उन्हें या तो उपदान (ग्रेजुटी) तथा अंशदायी भविष्य निधि के वर्तमान लाभों के अंतर्गत बने रहने या

इन पेंशन नियमों को चुन लेने का विकल्प रहेगा।

- (घ) उपर्युक्त (ख) तथा (ग) में बताये गये सेवा के स्थायी सदस्यों द्वारा विकल्प, संलग्न प्रारूप में दो प्रकरणों में दिया जायेगा और वह कार्यालय प्रमुख को इस ज्ञापन में जारी होने की तारीख से या उस तारीख के, जिसको वह सेवा का स्थायी सदस्य बन जाय, जैसी भी स्थिति हो, तीन माह के अन्दर प्रस्तुत कर दिया जायेगा। विकल्प की एक प्रति, उसमें दिये गये अंशदायी भविष्य निधि लेखा क्रमांक का सत्यापन कर देने के बाद कार्यालय प्रमुख द्वारा महालेखाकार, मध्यप्रदेश यादितर को भेज दी जायेगी।

- (ङ) अपार सेवा के ऐसे स्थायी सदस्य द्वारा, जो मध्यप्रदेश अंशदायी भविष्य निधि का अभिदाता हो, निर्धारित अवधि के अन्दर कोई विकल्प नहीं दिया जाता है तो यह मान लिया जायेगा कि संबंधित शासकीय कर्मचारी ने इन पेंशन नियमों द्वारा शासित होने का विकल्प दिया है और उसकी अंशदायी भविष्य निधि के समायोजन के संबंध में मध्यप्रदेश अंशदायी भविष्य निधि नियमों के नियम 30 में बताये अनुसार कार्यवाही की जायेगी।

- (च) कार्यभारित सेवा के वे स्थायी सदस्य, जो अंशदायी भविष्य निधि के साथ-साथ उपदान (ग्रेजुएट) के लाभ का मध्यप्रदेश कर्मचारी तथा आकस्मिकता से वेतन पाने वाले कर्मचारी (उपदान लाभ) नियम, 1962 के अन्तर्गत प्राप्त नहीं कर रहे थे, अपने आप ही मध्यप्रदेश (कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारी) पेंशन नियम 1979 द्वारा शासित होने लगे।

- (चार) इन नियमों के अंतर्गत पेंशन की पात्रता रखने वाले इस सेवा के ऐसे कर्मचारियों के मामले में जिसकी मृत्यु 1-1-1974 या उसके बाद किन्तु इस ज्ञापन के जारी होने के तीन माह खलम होने की तारीख के पहले ही जाय तो उसका मामला इन नियमों के या इस ज्ञापन के जारी होने के पूर्व उस पर लागू नियमों के उपबन्धों द्वारा, जो भी उसको ज्यादा लाभप्रद हो, शासित होगा।

- (पाँच) इन नियमों के अंतर्गत परिवार पेंशन की अदायगी के लिए कोई उपबंध नहीं है, इसलिए वित्त विभागीय ज्ञापन क्रमांक 1663/सी आर-903-चार-नि-2, तारीख 17 अगस्त, 1956 के पैराग्राफ 7 और मध्यप्रदेश सिविल सेवा (पेंशन) नियम, 1976 के नियम 44 (3) के अनुसार, जैसी भी स्थिति हो, मृत्यु एवं निवृत्ति उपदान से दो माह की परिलब्धियों की जो राशि काटी जाती है, वह काटा जाना आवश्यक नहीं है।

2. निवेदन है कि इस नियमों को सर्वसम्बन्धितों की जानकारी में लाया जाये और जो कर्मचारी दिनांक 1-1-1974 या उसके बाद सेवा निवृत्त हो चुके हैं या मृत हो गये हैं, उनके मामले में संलग्न नियमों के नियम 5 के अनुसार शीघ्रातिशीघ्र महालेखाकार को भेजे जावें।

[म.प्र. शासन वित्त विभाग क्र. FB/6/8 (1)/R-II/79/IV, दिनांक 18-12-1979]

विकल्प का प्रारूप

(वित्त विभाग के ज्ञापन क्रमांक एफ.बी. 6/8 (1)/79/नि-2/चार, दिनांक 18-12-79 के पैरा 1 (तीन) (घ) में संदर्भित)

1. मैं वित्त विभाग की अधिसूचना क्रमांक एफ.बी. 3/8/79/नि-2/चार, दिनांक 18-12-79 द्वारा प्रसारित मध्यप्रदेश (कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारी) पेंशन नियम, 1979 के अंतर्गत पेंशन का लाभ लेने का विकल्प देता हूँ।

अथवा

2. मैं वर्तमान अंशदायी भविष्य निधि की व्यवस्था चालू रखने का विकल्प देता हूँ। मेरा अंशदायी भविष्य निधि खाता क्रमांक है।

स्थान हस्ताक्षर
दिनांक वर्तमान पद

अभिप्रमाणित
(कार्यालय प्रमुख)

टीप-

1. विकल्प दी प्रतियों में प्रस्तुत किया जावे, विकल्प का भाग (1) अथवा (2) जो लागू न हो, वह काट दिया जावे।

2. विकल्प प्रस्तुत होने पर जिन प्रकरणों में मध्यप्रदेश अंशदायी भविष्य निधि के खाते बन्द किये जाने हैं, उनके संबंध में कार्यालय प्रमुख द्वारा विकल्प की एक प्रति महालेखाकार को भेजकर अभिप्र कार्यवाही की जावेगी।

3. कर्मचारी का अभिप्रमाणित विकल्प सेवा पुस्तिका/सेवा अभिलेख के साथ रखा जावे।

मध्यप्रदेश शासन

वित्त विभाग

अधिसूचना

(मध्यप्रदेश राजपत्र दिनांक 8 फरवरी, 1980 के भाग 4 (ग) में प्रकाशित)।

क्रमांक एफ.बी. 6/8/79/नि-2/चार, भोपाल, दिनांक 18 दिसम्बर, 1979 :-

भारत के संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियों को प्रयोग में लाते हुए

मध्यप्रदेश के राज्यपाल, एतद्वारा निम्नलिखित नियम बनाते हैं, अर्थात् :-

नियम

1. संक्षिप्त नाम- (1) ये नियम मध्य प्रदेश (कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारी) पेंशन नियम, 1979 कहलायेंगे।

- (2) ये 1 जनवरी, 1974 से प्रवृत्त हुए समझे जायेंगे।

2. परिभाषाएँ- इन नियमों में, जब तक कि संदर्भ से अन्यथा अपेक्षित न हो,-

- (क) 'आकस्मिकता से वेतन पाने वाले कर्मचारी' से अभिप्रेत है ऐसा व्यक्ति जो किसी कार्यालय या स्थापना में पूर्णकाल के लिए नियोजित हो और उसे मासिक आधार पर भुगतान किया जाता हो और जिसका वेतन कार्यालय आकस्मिकताएं पर प्रभावी हो, किन्तु उसमें ऐसे कर्मचारी सम्मिलित नहीं हैं जो वर्ष में केवल कतिपय कालावधियों के लिये ही नियोजित किये जाते हैं; 'कार्यभारित कर्मचारी' से अभिप्रेत है किसी विनिर्दिष्ट कार्य के वास्तविक निष्पादन कार्य में जो कि उक्त कार्य में सामान्य पर्यवेक्षण से भिन्न है, या ऐसे कार्य के सम्बन्ध में, विभागीय श्रमिकों, स्टोर विद्युत उत्सर्क और मशीनरी के चालन तथा उनकी मरम्मत के अधीनस्थ पर्यवेक्षण कार्य में नियोजित कोई व्यक्ति, जिसके अंतर्गत वे श्रमिक जिन्हें कि उस कार्य के संबंध में दैनिक भुगतान मिलता हो तथा वे कर्मचारी जो कि उस कार्य के संबंध में मस्टर रोल पद्धति से नियोजित किए जाते हैं, नहीं आते हैं;

- (ग) 'स्थायी कर्मचारी' से अभिप्रेत है आकस्मिकता से वेतन पाने वाला ऐसा कर्मचारी या

कार्यभारित ऐसा कर्मचारी जिसने 1 जनवरी, 1974 को या उसके पश्चात् पन्द्रह वर्ष या उससे अधिक की सेवा पूर्ण कर ली हो :

¹[परन्तु आकस्मिकता से वेतन पाने वाले ऐसे कर्मचारी या कार्यभारित ऐसे कर्मचारी, जिसने 1-4-81 को या उसके पश्चात् अधिवार्षिकी आयु प्राप्त कर ली है, के संबंध में स्थायी कर्मचारी से अभिप्रेत है ऐसा कर्मचारी जिसने 1-1-1974 को या उसके पश्चात् दस वर्ष की सेवा पूर्ण कर ली हो।]

3. विस्तार तथा प्रयुक्ति- ये नियम कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारियों की सेवा के प्रत्येक स्थायी सदस्य को लागू होंगे।

4. पेंशन की रकम का विनियमन- नियम 5 तथा 6 में अन्तर्विष्ट किसी बात के होते हुए भी, स्थायी कर्मचारियों की पेंशन तथा उपदान का भुगतान नीचे दिये गये अनुसार, विनियमित किया जावेगा, अर्थात्:-

- (1) मध्यप्रदेश न्यू पेंशन रूलस, 1951, उसके नियम 5 को छोड़, ऐसे समस्त स्थायी कर्मचारी को लागू होंगे जो 1 जनवरी, 1974 को या उसके पश्चात् किन्तु 1 जून, 1976 से पूर्व सेवा निवृत्त हुए हों।
- (2) समय-समय पर यथा संशोधित मध्यप्रदेश सिविल सर्विसेज (पेंशन) रूलस, 1976 उसके नियम 47 तथा 48 को छोड़, ऐसे समस्त स्थायी कर्मचारियों को लागू होंगे जो 1 जून, 1976 को या उसके पश्चात् सेवा निवृत्त हुए हैं।

¹[4.(क) नियम 4 में अंतर्विष्ट किसी बात के होते हुए भी, किसी ऐसे स्थायी कर्मचारी, जिसकी सेवा में रहते हुये या 1-4-81 को या उसके पश्चात् पेंशन पर सेवा निवृत्त होने के पश्चात् मृत्यु हो जाती है, का परिवार उसकी मृत्यु/सेवा निवृत्ति के समय उसे मिलने वाले वेतन का 30 प्रतिशत जो कि न्यूनतम 40 रुपये तथा अधिकतम 100 रुपये प्रतिमास के अध्यक्षीन रहते हुये होगा, म.प्र. सिविल सर्विसेज (पेंशन) रूलस, 1976 के नियम 47 के उपनियम (3) को छोड़कर, उक्त नियम (नियम 47) की अन्य शर्तों के अध्यक्षीन रहते हुये परिवार पेंशन पाने का हकदार होगा।]

5. पेंशन के कागजात, पेंशन की मंजूरी तथा भुगतान आदि की तैयारी की प्रक्रिया- म.प्र. सिविल सर्विसेज (पेंशन) रूलस, 1976 के अध्याय आठ, ग्यारह तथा बारह में नियम कर्मचारियों के मामले में जिनमें, ऐसे कर्मचारी भी सम्मिलित हैं जो 1 जनवरी, 1974 को या उसके पश्चात् किन्तु 1 जून, 1976 के पूर्व सेवा निवृत्त हो गये हैं, यथावश्यक परिवर्तन सहित लागू होंगे।

6. अर्हक सेवा का प्रारंभ- यथास्थिति मध्यप्रदेश सिविल सर्विसेज (पेंशन) रूलस, 1976 के अध्याय तीन या मध्यप्रदेश न्यू पेंशन रूलस, 1951 के अनुभाग (सेक्शन) चार के उपबन्धों के अध्यक्षीन रहते हुए-

- (1) किसी स्थायी कर्मचारी की, जो उस रूप में सेवा-निवृत्त होता हो, अर्हक सेवा की संगणना के लिये 1 जनवरी, 1959 से आगे की गई सेवा गिनी जायेगी;
- (2) किसी स्थायी कर्मचारी के बिना किसी व्यवधान के किसी भी नियमित पेंशन योग्य पद पर संविलियन किये जाने पर उसकी अर्हक सेवा की संगणना के लिये 1 जनवरी, 1959 से आगे की गई सेवा गिनी जायेगी मानो कि ऐसी सेवा किसी नियमित पद पर की गई हो।

1. वित्त विभाग क्र. FB-6/8/79/R/II/IV, दिनांक 13-9-1982 से जोड़ा गया।

- ¹(3) किसी अस्थाई कर्मचारी के बिना किसी व्यवधान के किसी भी नियमित पेंशन योग्य पद पर संविलियन किये जाने पर 1 जनवरी, 1974 से आगे की गई सेवा, बशर्ते कि ऐसी सेवा छह वर्ष से कम की न हो, पेंशन के लिये गिनी जाएगी, मानो कि ऐसी सेवा किसी नियमित पद पर की गई हो।

**GOVERNMENT OF MADHYA PRADESH
FINANCE DEPARTMENT
NOTIFICATION²**

Bhopal, dated the 18th Dec, 1979.

No. F.B. 6/8/79/R-II-V- In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Madhya Pradesh hereby makes the following Rules, namely :-

RULES

1. Short title- (1) These rules may be called the **Madhya Pradesh (Work-charged and Contingency Paid Employees) Pension Rules, 1979.**

(2) They shall be deemed to have come into force with effect from the 1st January, 1974.

2. Definitions- In these rules, unless the context otherwise requires,-

(a) "**Contingency paid employee**" means a person employed for full time in an office or establishment and who is paid on monthly basis and whose pay is charged to office contingencies excluding the employees who are employed for certain period only in a year.

(b) "**Work-charged employees**" means a person employed upon the actual execution, as distinct from general supervision of a specified work or upon subordinate supervision of the departmental labour, store, running and repairs of electrical equipment and machinery in connection with such work, excluding the daily paid labour and muster-role employee employed on the work.

(c) "**Permanent employee**" means a contingency paid employee or a work-charged employee who has completed fifteen years of service or more on or after the 1st January, 1974.

¹[Provided that in respect of a contingency paid employee who has attained the age of superannuation on or after 1-4-1981, permanent employee means an employee who has completed ten years of service on or after the January 1, 1974.]

3. Scope and application- The rules shall apply to every permanent member of the work-charged and contingency paid employee's service.

4. Regulation of amount of pension- Notwithstanding anything contained in Rules 5 and 6, the payment of pension and gratuity of permanent employees shall be regulated as under, namely :-

(1) The Madhya Pradesh New Pension Rules, 1951 except Rule 5 thereof, shall apply to all permanent employees who have retired on or after the 1st January, 1974 but before the 1st June, 1976.

1. वित्त विभाग क्र. B-25/17/45/PWC/IV, दिनांक 30-1-96 द्वारा अन्तःस्थापित।

2. Published in M.P. Rajpatra Part IV (Ga), dated 8th February, 1980.

3. Inserted by F.D. No. F.B. 6/8/79/R-II/IV, dated 13-9-1982.

(2) The Madhya Pradesh Civil Services (Pension) Rules, 1976, except Rules 47 and 48 thereof, as amended from time to time, shall apply to all permanent employees who have retired on or after the 1st June, 1976.

[4-A. Notwithstanding anything contained in Rule 4, the family of a permanent employee, who dies while in service or after retirement on pension on or after 1-4-1981 shall be entitled to family pension at the rate of 30% of his/her pay drawn at the time of death/retirement, subject to a minimum of Rs. 40 per month and maximum of Rs. 100 per month subject to other conditions of Rule 47 of the M.P. Civil Services (Pension) Rules, 1976 except sub-rule (3) of the said rule.]

5. Procedure for preparation of pension papers, sanction and payment of pension etc.- The rules in chapters VIII, XI and XII of the Madhya Pradesh Civil Services (Pension) Rules, 1976, shall apply mutatis mutandis in the case of employees including those who have retired on or after the 1st January, 1974 but prior to 1st June, 1976.

6. Commencement of qualifying service- (1) Subject to the provisions of chapter III of the Madhya Pradesh Civil Services (Pension) Rules, 1976 of section IV of Madhya Pradesh New Pension Rules, 1951, as the case may be, for calculating qualifying service of a permanent employee who retired as such, the service rendered with effect from the 1st January 1959 onwards shall be counted.

(2) On absorption of a permanent employee without interruption against any regular pensionable post, the service rendered with effect from 1st January, 1959 onwards shall be counted for Pension as if such service was rendered in a regular post.

(3) On absorption of temporary employee without interruption against any regular pensionable post, the service rendered with effect from 1st January, 1974 onwards, if such service is of less than six years shall be counted for pension as if such service was rendered in a regular post.

विषय- कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारियों की नियमित स्थापना में नियुक्ति होने पर अर्हतादायी सेवा का निर्धारण।

मध्यप्रदेश (कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारी) पेंशन नियम 1979 के नियम 6 (2) में यह प्रावधान है कि कार्यभारित तथा आकस्मिकता से वेतन पाने वाले स्थाई कर्मचारी को यदि नियमित स्थापना में संविलियन होता है तो 1-1-59 से आगे की गई सेवा पेंशन प्रयोजन के लिए अर्हतादायी सेवा मानी जाएगी।

2. राज्य शासन ने विचारोपरान्त, अब यह निर्णय लिया है कि कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारी का जिसने कम से कम 6 वर्ष का सेवाकाल पूर्ण कर लिया हो, यदि बिना किसी व्यवधान के किसी नियमित पेंशन योग्य पद संविलियन किया जाता है तो ऐसे कर्मचारी द्वारा कार्यभारित तथा आकस्मिकता सेवा में की गई सेवा पेंशन प्रयोजन हेतु अर्हतादायी सेवा मानी जावेगी।

3. मध्यप्रदेश (कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारी) पेंशन नियम, 1979 के नियम 6 में संशोधन संलग्न है।

[मध्यप्रदेश शासन, वित्त विभाग क्रमांक/बी. 25/17/95/पी.डब्ल्यू.सी./चार]

दिनांक 30 जनवरी, 96

1. Inserted by F.D. No. F.B. 6/8/79/R-II/IV, dated 13-9-1982.

2. Substituted vide Notification No. B-25/17/95/PWC/IV, dt. 30-1-96.

सहपत्र- उपरोक्तानुसार

परिवार पेंशन

इस सेवा के जिन स्थाई कर्मचारियों की दिनांक 1-4-1981 को या इसके पश्चात् सेवा में रहते हुए अथवा सेवानिवृत्ति के पश्चात् मृत्यु हो जाए तो उनके परिवार के पात्र सदस्य को शासन के प्रचलित नियमों तथा दरों पर परिवार पेंशन की पात्रता होगी। शासन के नियमित कर्मचारियों के लिये परिवार पेंशन योजना दिनांक 1-4-1966 से प्रभावशील है, किन्तु इस सेवा के सदस्यों को परिवार पेंशन योजना दिनांक 1-4-1981 से प्रभावशील की गई है। इस संबंध में राज्य शासन अनुदेश निम्नानुसार हैं-

(1)

विषय- कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारियों की सेवा के सदस्यों को पेंशन तथा परिवार पेंशन के संबंध में।

कार्यभारित तथा आकस्मिकता की स्थापना के स्थायी सदस्यों को म.प्र. (कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारी) पेंशन नियम, 1979 के अनुसार पेंशन की पात्रता होती है। इन नियमों के नियम 2 (ग) के अनुसार दिनांक 1-1-74 को या उसके पश्चात् 15 वर्ष की सेवा पूर्ण करने वाले कर्मचारी को इस सेवा का स्थायी सदस्य माना गया है। इन नियमों में इस सेवा के सदस्यों को परिवार पेंशन की पात्रता संबंधी प्रावधान नहीं है।

2. कुछ समय से इस सेवा के सदस्यों को अन्य कर्मचारियों के समान दस वर्ष की सेवा के पश्चात् सामान्य पेंशन तथा परिवार पेंशन दिये जाने का प्रश्न राज्य शासन के विचाराधीन था। सामान्य प्रशासन विभाग ने उनके ज्ञाप क्रमांक डी-19/3000/1 (3) वे/81, दिनांक 18-3-82 द्वारा इस स्थापना के कर्मचारियों की भरती तथा सेवा शर्तें नियमों में संशोधन करते हुए दिनांक 1-1-73 को या उसके पश्चात् दस वर्ष की सेवा पूर्ण करने वाले कर्मचारी को इस स्थापना का स्थायी सदस्य माना है और इन आदेशों को दिनांक 1-4-81 से प्रभावशील किया गया है। अतः म.प्र. (कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारी) पेंशन नियम, 1979 के नियम 2 (ग) में संशोधन किया जाना आवश्यक हो गया है।

अतः राज्य शासन द्वारा यह निर्णय लिया गया है कि इस सेवा के ऐसे कर्मचारी जिन्होंने दिनांक 1-4-81 को या उसके पश्चात् अधिवार्षिकी आयु प्राप्त कर ली है, के संबंध में पेंशन प्रयोजन के लिये स्थायी कर्मचारी उसे माना जावेगा जिसने दि. 1-1-74 को या उसके पश्चात् दस वर्ष की सेवा पूर्ण की हो।

3. इस सेवा के स्थायी सदस्यों को परिवार पेंशन दिये जाने का प्रश्न शासन के समक्ष विचाराधीन था उसके सम्बन्ध में भी विचारोपरान्त यह निर्णय लिया गया है कि इस सेवा के जिन स्थायी कर्मचारियों की दिनांक 1-4-81 को या उसके पश्चात् सेवा में रहते हुये या सेवा निवृत्ति के पश्चात् मृत्यु हो जाय तो उन्हें मृत्यु या सेवा निवृत्ति, जो भी स्थिति हो, के समय प्राप्त वेतन के 30% की दर से न्यूनतम रु. 40 प्रतिमाह तथा अधिकतम रु. 100 प्रतिमाह की सीमा में उसके परिवार को परिवार पेंशन की पात्रता होगी।

4. उपरोक्त निर्णयों के अनुसार म.प्र. (कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारी) पेंशन नियम, 1979 के नियम 2 तथा 4 में संशोधन किया गया है, जिसकी प्रतिलिपि संलग्न है।

[वित्त विभाग क्र. F-13-6/8/79/R-II/IV, दिनांक 13-9-1982]

(2)

विषय- कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारियों की सेवा के स्थायी सदस्यों को परिवार पेंशन देने के संबंध में।

चौधरी वेतन आयोग की अनुशंसा पर राज्य शासन द्वारा लिये गये निर्णय के अनुसार राज्य शासन के नियमित शासकीय कर्मचारियों को देय परिवार पेंशनों की दरों का पुनः निर्धारण इस विभाग के ज्ञाप क्रमांक एफ.बी. 6/6/83/नि-2/चार, दिनांक 10-5-83 द्वारा किया जाकर नई दरों का उक्त ज्ञाप के पैरा 2 में अंकित किया है।

2. वर्तमान में कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारियों की सेवा में स्थायी सदस्यों को इस विभाग के ज्ञापन क्रमांक एफ.बी. 6/8/79/नि-4/चार, दिनांक 13-9-82 के पैरा 3 के अनुसार जिनकी दिनांक 1-4-81 को या उसके पश्चात् सेवा में रहते हुये या सेवा निवृत्ति के पश्चात् मृत्यु हो जाये तो, उन्हें मृत्यु या सेवानिवृत्ति, जो भी स्थिति हो, के समय प्राप्त वेतन के 30% की दर से न्यूनतम रुपये 40 प्रतिमाह तथा अधिकतम रु. 100 प्रतिमाह की सीमा से उसके परिवार को परिवार पेंशन स्वीकार्य है।

3. राज्य शासन ने अब यह निर्णय लिया है कि कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारियों की सेवा के स्थायी सदस्यों को उनकी सेवा में रहते या पेंशन पर सेवानिवृत्ति के पश्चात् मृत्यु होने की स्थिति में नियमित शासकीय कर्मचारियों के समान इस विभाग के ज्ञापन क्रमांक एफ.बी. 6/6/83/नि-2/चार, दिनांक 10-5-83 के अनुसार परिवार पेंशन की पात्रता होगी।

4. ये आदेश जारी होने के दिनांक से लागू होंगे।

5. म.प्र. (कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारी) पेंशन नियम, 1979 में औपचारिक संशोधन पृथक् से जारी किया जावेगा।

[वित्त विभाग क्रमांक F-B-6/14/83/R-II/IV, दिनांक 24-1-1984]

कार्यभारित तथा आकस्मिकता से वेतन पाने वाले कर्मचारी (उपदान हितलाभ) नियम, 1962

The Madhya Pradesh Work-Charge Staff and Contingency Paid Staff (Gratuity Benefits) Rules, 1962

1. (i) These rules may be called the Madhya Pradesh Work-charged Staff and Contingency Paid Staff (Gratuity Benefit) Rules, 1962.

(ii) They shall come into force with effect from the [17th September, 1962].

2. In these rules, unless there is anything repugnant in the subject or context,-

(a) 'Work Charged Staff and contingency paid staff' means the staff listed in the Appendix to these rules;

(b) 'Post in a Regular Establishment' means a permanent or temporary post on pensionable establishment.

Note- Such establishment, service in which does not count for pension, irrespective of whether they are temporary or permanent, shall be excluded from the scope of the above definition.

1. Amended vide Finance Department No. B-6/16/74/R-II/IV, dated 11-9-1974 and No. B-6/16/74/R-II/V, dated 13-5-1976.

(c) 'Employee' means a member of the work-charged staff or the contingency paid staff;

(d) 'Qualifying service' means service rendered under the State Government from 17th September, 1962 onwards after attaining the age of 18 years and includes the period of leave with allowance and service rendered on regular establishment : Provided that if pensionary benefits are admissible under any other rules for the portion of service rendered in regular establishment it shall, except for computing the minimum qualifying service required for eligibility of gratuity, be ignored for purpose of these rules;

(e) 'Pay' means the basic pay admissible to an employee at the time of termination of his service. It will not include dearness allowance, special pay, personal or other emoluments classed as pay :

Provided that where the pay or salary paid the employee is inclusive of dearness allowance, the following amount should be deducted from the salary admissible and the balance thus arrived at shall be considered as pay for this purpose-

Amount of salary per month	Amount to be deducted
Not exceeding Rs. 150	Rs. 10
More than Rs. 150 but not more than Rs. 300	Rs. 15
More than Rs. 300	Rs. 20 :

Provided that if the employee at the time of termination of his service was on leave with allowance, the pay which he would have drawn but proceeding on leave shall be taken into account.

Note- Increment accruing during first four months of leave with allowances, shall only be taken into account for purposes of pay :

Provided that if the employee was on regular establishment at the time of termination of his service the pay admissible to him on the date of his last transfer to the regular establishment shall be considered as pay for this purpose.

[3. On the termination of his service otherwise than as a disciplinary measure or be resignation of his service, the employee concerned shall be eligible for gratuity at the rate of fifteen days for each completed year of continuous qualifying service rendered subject to a maximum of 3.50 lakh and subject to the terms and condition laid down in the payment of Gratuity Act, 1972 :

Provided that no gratuity shall be paid if the continuous qualifying service rendered is less than five years.]

मध्यप्रदेश शासन

वित्त विभाग

मंत्रालय-भोपाल

अधिसूचना

भोपाल, दिनांक 17 जून, 2008

क्रमांक: एफ 9/1/2008/नियम/चार- भारत के संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियों को प्रयोग में लाते हुए, मध्यप्रदेश के राज्यपाल, एतद्द्वारा, मध्यप्रदेश वर्क चार्ज्ड स्टाफ तथा कंटीजेन्सी पेड स्टाफ (ग्रेजुटी बेनीफिट्स) रूल्स 1962 में निम्नलिखित और संशोधन करते हैं, अर्थात् :-