

THE INDUSTRIAL DISPUTES (AMENDMENT AND
MISCELLANEOUS PROVISIONS) ACT, 1956

ACT No. 36 OF 1956

[28th August, 1956]

An Act further to amend the Industrial Disputes Act, 1947 and the Industrial Employment (Standing Orders) Act, 1946 and to repeal the Industrial Disputes (Appellate Tribunal) Act, 1950.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956.

(2) It shall come into force on such date or dates as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

For sub-section (2) of section 1 of the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), the following sub-section shall be substituted, namely:—

Amendment of section 1.

“(2) It extends to the whole of India:

Provided that it shall not apply to the State of Jammu and Kashmir except to the extent to which the provisions of this Act relate to industrial disputes concerning workmen employed under the Government of India.”

3. In section 2 of the principal Act,—

Amendment of section 2.

(a) for clause (b), the following clause shall be substituted, namely:—

“(b) ‘award’ means an interim or a final determination of any industrial dispute or of any question relating thereto by any Labour Court, Industrial Tribunal or

¹ S. 2 and S. 3 (b) and (g) came into force on 29-8-1956, vide Notification No. S.R.O. 1934, dated 29-8-56, Gazette of India, Extraordinary, Pt. II, Sec. 3, p. 1785. S. 33 came into force on 1-9-1956, vide Notification No. S.R.O. 1935, dated 28-8-1956, *ibid.*, p. 1785. S. 9 (d), S. 10 (b), S. 14 (c) and (e), Ss. 20 and 27 and S. 32 (a), (b) and (c) came into force on 17-9-1956 vide, Notification No. S.R.O. 2074, dated 10-9-1956, Gazette of India, Pt. II, Sec. 3, p. 1558. S. 3 (e), S. 13 (a), S. 14 (a) and (b) and S. 31 came into force on 7-10-1956, vide Notification No. S.R.O. 2277, dated 5-10-1956, Gazette of India Extraordinary, Pt. II, Sec. 3, p. 2035. The rest of the provisions came into force on 10-3-1957, vide Notification No. S.R.O. 741, dated 1-3-1957, Gazette of India, Pt. II, Sec. 3, p. 441.

Amendment of section 2 by Punjab Act 9 of 1957.

² Rep. by Act 58 of 1960, Part 2 Sch I (w.r. 26.12.60)

National Industrial Tribunal and includes an arbitration award made under section 10A;";

(b) in clause (bb), for the words "Imperial Bank of India", the words "State Bank of India and the Reserve Bank of India" shall be substituted;

(c) after clause (kk), the following clause shall be inserted, namely:—

"(kka) 'Labour Court' means a Labour Court constituted under section 7;";

(d) after clause (l), the following clause shall be inserted, namely:—

"(ll) 'National Tribunal' means a National Industrial Tribunal constituted under section 7B;";

(e) for clause (p), the following clause shall be substituted, namely:—

"(p) 'settlement' means a settlement arrived at in the course of conciliation proceeding and includes a written agreement between the employer and workmen arrived at otherwise than in the course of conciliation proceeding where such agreement has been signed by the parties thereto in such manner as may be prescribed and a copy thereof has been sent to the appropriate Government and the conciliation officer;";

(f) in clause (r), for the words "under this Act", the words, figure and letter "under section 7A" shall be substituted;

(g) for clause (s), the following clause shall be substituted, namely:—

"(s) 'workman' means any person (including an apprentice) employed in any industry to do any skilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

(i) who is subject to the Army Act, 1950, or the 46 of 1950.
Air Force Act, 1950, or the Navy (Discipline) Act, 45 of 1950.
1934; or 34 of 1934.

Rep. by Act 58 of 1960

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.”

4. For section 7 of the principal Act, the following sections shall be substituted, namely:—

Substitution
of new sec-
tions for
section 7.

“7. (1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Labour Courts for the adjudication of industrial disputes relating to any matter specified in the Second Schedule and for performing such other functions as may be assigned to them under this Act.

Labour
Courts.

(2) A Labour Court shall consist of one person only to be appointed by the appropriate Government.

(3) A person shall not be qualified for appointment as the presiding officer of a Labour Court, unless—

(a) he has held any judicial office in India for not less than seven years; or

(b) he has been the presiding officer of a Labour Court constituted under any Provincial Act or State Act for not less than five years.

7A. (1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Industrial Tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the Second Schedule or the Third Schedule.

Tribunals.

(2) A Tribunal shall consist of one person only to be appointed by the appropriate Government.

(3) A person shall not be qualified for appointment as the presiding officer of a Tribunal unless—

(a) he is, or has been, a Judge of a High Court; or

(b) he has held the office of the Chairman or any other member of the Labour Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, 1950, or of 48 of 1950. any Tribunal, for a period of not less than two years.

(4) The appropriate Government may, if it so thinks fit, appoint two persons as assessors to advise the Tribunal in the proceeding before it.

National
Tribunals.

7B. (1) The Central Government may, by notification in the Official Gazette, constitute one or more National Industrial Tribunals for the adjudication of industrial disputes which, in the opinion of the Central Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes.

(2) A National Tribunal shall consist of one person only to be appointed by the Central Government.

(3) A person shall not be qualified for appointment as the presiding officer of a National Tribunal unless—

(a) he is, or has been, a judge of a High Court; or

(b) he has held the office of the Chairman or any other member of the Labour Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, 1950, for a period of not less than two years. 48 of 1950

(4) The Central Government may, if it so thinks fit, appoint two persons as assessors to advise the National Tribunal in the proceeding before it.

Disqualifica-
tions for
the presid-
ing officers
of Labour
Courts, Tri-
bunals and
National
Tribunals.

7C. No person shall be appointed to, or continue in, the office of the presiding officer of a Labour Court, Tribunal or National Tribunal, if—

(a) he is not an independent person; or

(b) he has attained the age of sixty-five years."

Substitution
of new sec-
tions for
sections 8
and 9.

5. For section 8 and section 9 of the principal Act, the following sections shall be substituted, namely:—

Filling of
vacancies.

"8. If, for any reason a vacancy (other than a temporary absence) occurs in the office of the presiding officer of a Labour Court, Tribunal or National Tribunal or in the office of the Chairman or any other member of a Board or Court, then, in the

case of a National Tribunal, the Central Government and in any other case, the appropriate Government, shall appoint another person in accordance with the provisions of this Act to fill the vacancy, and the proceeding may be continued before the Labour Court, Tribunal, National Tribunal, Board or Court, as the case may be, from the stage at which the vacancy is filled.

9. (1) No order of the appropriate Government or of the Central Government appointing any person as the Chairman or any other member of a Board or Court or as the presiding officer of a Labour Court, Tribunal or National Tribunal shall be called in question in any manner; and no act or proceeding before any Board or Court shall be called in question in any manner on the ground merely of the existence of any vacancy in, or defect in the constitution of, such Board or Court.

Finality of
orders con-
stituting
Boards, etc.

(2) No settlement arrived at in the course of a conciliation proceeding shall be invalid by reason only of the fact that such settlement was arrived at after the expiry of the period referred to in sub-section (6) of section 12 or sub-section (5) of section 13, as the case may be.

(3) Where the report of any settlement arrived at in the course of conciliation proceeding before a Board is signed by the Chairman and all the other members of the Board, no such settlement shall be invalid by reason only of the casual or unforeseen absence of any of the members (including the Chairman) of the Board during any stage of the proceeding."

6. After section 9 of the principal Act, the following shall be inserted, namely:—

Insertion of
new Chapter
IIA.

CHAPTER IIA

NOTICE OF CHANGE

9A. No employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change,—

Notice of
change.

(a) without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or

(b) within twenty-one days of giving such notice:

Provided that no notice shall be required for effecting any such change—

(a) where the change is effected in pursuance of any settlement, award or decision of the Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, 1950; or

(b) where the workmen likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply.

Power of
Government
to exempt.

9B. Where the appropriate Government is of opinion that the application of the provisions of section 9A to any class of industrial establishments or to any class of workmen employed in any industrial establishment affect the employers in relation thereto so prejudicially that such application may cause serious repercussion on the industry concerned and that public interest so requires, the appropriate Government may, by notification in the Official Gazette, direct that the provisions of the said section shall not apply or shall apply, subject to such conditions as may be specified in the notification, to that class of industrial establishments or to that class of workmen employed in any industrial establishment."

Amendment
of section 10.

7. In section 10 of the principal Act,—

(a) in sub-section (1),—

(i) for clause (c), the following clauses shall be substituted, namely:—

“(c) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, if it relates to any matter specified in the Second Schedule, to a Labour Court for adjudication; or

(d) refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a Tribunal for adjudication:

Rep. by Act 15 of 1960

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Provided that where the dispute relates to any matter specified in the Third Schedule and is not likely to affect more than one hundred workmen, the appropriate Government may, if it so thinks fit, make the reference to a Labour Court under clause (c).";

(ii) in the proviso, for the words "Provided that", the words "Provided further that" shall be substituted;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) where the Central Government is of opinion that any industrial dispute exists or is apprehended and the dispute involves any question of national importance or is of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such dispute and that the dispute should be adjudicated by a National Tribunal, then, the Central Government may, whether or not it is the appropriate Government in relation to that dispute, at any time, by order in writing, refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, whether it relates to any matter specified in the Second Schedule or the Third Schedule, to a National Tribunal for adjudication.";

(c) in sub-section (2) and sub-section (3), for the words "or Tribunal", the words "Labour Court, Tribunal or National Tribunal" shall be substituted;

(d) in sub-section (4),—

(i) for the words "a Tribunal" the words "a Labour Court, Tribunal or National Tribunal" shall be substituted;

(ii) for the words "the Tribunal", the words "the Labour Court or the Tribunal or the National Tribunal, as the case may be" shall be substituted;

(e) in sub-section (5), for the word "Tribunal", the words "Labour Court, Tribunal or National Tribunal" shall be substituted;

(f) after sub-section (5), the following sub-section shall be inserted, namely:—

"(6) Where any reference has been made under sub-section (1A) to a National Tribunal, then notwithstanding anything contained in this Act, no Labour Court or Tribunal

shall have jurisdiction to adjudicate upon any matter which is under adjudication before the National Tribunal, and accordingly,—

(a) if the matter under adjudication before the National Tribunal is pending in a proceeding before a Labour Court or Tribunal, the proceeding before the Labour Court or the Tribunal, as the case may be, in so far as it relates to such matter, shall be deemed to have been quashed on such reference to the National Tribunal; and

(b) it shall not be lawful for the appropriate Government to refer the matter under adjudication before the National Tribunal to any Labour Court or Tribunal for adjudication during the pendency of the proceeding in relation to such matter before the National Tribunal.

(7) Where any industrial dispute, in relation to which the Central Government is not the appropriate Government, is referred to a National Tribunal, then notwithstanding anything contained in this Act, any reference in section 15, section 17, section 19, section 33A, section 33B and section 36A to the appropriate Government in relation to such dispute shall be construed as a reference to the Central Government but, save as aforesaid and as otherwise expressly provided in this Act, any reference in any other provision of this Act to the appropriate Government in relation to that dispute shall mean a reference to the State Government.”

8. In Chapter III, after section 10 of the principal Act, the following section shall be inserted, namely:—

“10A. (1) Where any industrial dispute exists or is apprehended and the employer and the workmen agree to refer the dispute to arbitration, they may, at any time before the dispute has been referred under section 10 to a Labour Court or Tribunal or National Tribunal, by a written agreement, refer the dispute to arbitration and the reference shall be to such person or persons (including the presiding officer of a Labour Court or Tribunal or National Tribunal) as an arbitrator or arbitrators as may be specified in the arbitration agreement.

(2) An arbitration agreement referred to in sub-section (1) shall be in such form and shall be signed by the parties thereto in such manner as may be prescribed.

(3) A copy of the arbitration agreement shall be forwarded to the appropriate Government and the conciliation officer and

Rep. by Act 58 of 1980

Insertion of
new section
10A.

Voluntary
reference of
disputes to
arbitration.

the appropriate Government shall, within fourteen days from the date of the receipt of such copy, publish the same in the Official Gazette.

(4) The arbitrator or arbitrators shall investigate the dispute and submit to the appropriate Government the arbitration award signed by the arbitrator or all the arbitrators, as the case may be.

30 of 1940.

(5) Nothing in the Arbitration Act, 1940 shall apply to arbitrations under this section."

9. In section 11 of the principal Act,—

Amendment
of section 11.

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Subject to any rules that may be made in this behalf, an arbitrator, a Board, Court, Labour Court, Tribunal or National Tribunal shall follow such procedure as the arbitrator or other authority concerned may think fit.";

(b) in sub-section (2), for the words "Court or Tribunal", the words "or Court or the presiding officer of a Labour Court, Tribunal or National Tribunal" shall be substituted;

(c) in sub-section (3),—

(i) for the words "and Tribunal", the words "Labour Court, Tribunal and National Tribunal" shall be substituted;

(ii) for the words "or Tribunal", the words "Labour Court, Tribunal or National Tribunal" shall be substituted;

(d) to sub-section (4), the following words shall be added, namely:—

"or to be necessary for the purpose of verifying the implementation of any award or carrying out any other duty imposed on him under this Act, and for the aforesaid purposes, the conciliation officer shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of compelling the production of documents.";

5
8 of 1908.

(e) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) A Court, Labour Court, Tribunal or National Tribunal to the appropriate Government and the conciliation officer and

having special knowledge of the matter under consideration as assessor or assessors to advise it in the proceeding before it”;

(f) for sub-section (6) and sub-section (7), the following sub-sections shall be substituted, namely:—

“(6) All conciliation officers, members of a Board or Court and the presiding officers of a Labour Court, Tribunal or National Tribunal shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. 45 of 1950

(7) Subject to any rules made under this Act, the costs of, and incidental to, any proceeding before a Labour Court, Tribunal or National Tribunal shall be in the discretion of that Labour Court, Tribunal or National Tribunal and the Labour Court, Tribunal or National Tribunal, as the case may be, shall have full power to determine by and to whom and to what extent and subject to what conditions, if any, such costs are to be paid, and to give all necessary directions for the purposes aforesaid and such costs may, on application made to the appropriate Government by the person entitled, be recovered by that Government in the same manner as an arrear of land revenue.”;

(g) in sub-section (8), for the word “Tribunal”, the words “Labour Court, Tribunal or National Tribunal” shall be substituted.

Amendment
of section 12.

10. In section 12 of the principal Act,—

(a) in sub-section (5), for the words “or Tribunal”, the words “Labour Court, Tribunal or National Tribunal” shall be substituted;

(b) to sub-section (6), the following proviso shall be added, namely:—

“Provided that the time for the submission of the report may be extended by such period as may be agreed upon in writing by all the parties to the dispute.”.

Amendment
of section 13.

11. In sub-section (4) of section 13 of the principal Act, for the word “Tribunal”, the words “Labour Court, Tribunal or National Tribunal” shall be substituted.

Rep. by Act

58 of 1960

12. For section 15, section 16, section 17 and section 17A of the principal Act, the following sections shall be substituted, namely:—

Substitution
of new
sections for
sections 15,
16, 17 and
17A.

“15. Where an industrial dispute has been referred to a Labour Court, Tribunal or National Tribunal for adjudication, it shall hold its proceedings expeditiously and shall, as soon as it is practicable on the conclusion thereof, submit its award to the appropriate Government.

Duties
of Labour
Courts, Tri-
bunals and
National
Tribunals.

16. (1) The report of a Board or Court shall be in writing and shall be signed by all the members of the Board or Court, as the case may be:

Form of
report or
award.

Provided that nothing in this section shall be deemed to prevent any member of the Board or Court from recording any minute of dissent from a report or from any recommendation made therein.

(2) The award of a Labour Court or Tribunal or National Tribunal shall be in writing and shall be signed by its presiding officer.

17. (1) Every report of a Board or Court together with any minute of dissent recorded therewith, every arbitration award and every award of a Labour Court, Tribunal or National Tribunal shall, within a period of thirty days from the date of its receipt by the appropriate Government, be published in such manner as the appropriate Government thinks fit.

Publication
of reports
and awards.

(2) Subject to the provisions of section 17A, the award published under sub-section (1) shall be final and shall not be called in question by any court in any manner whatsoever.

17A. (1) An award (including an arbitration award) shall become enforceable on the expiry of thirty days from the date of its publication under section 17:

Commence-
ment of the
award.

Provided that—

(a) if the appropriate Government is of opinion, in any case where the award has been given by a Labour Court or Tribunal in relation to an industrial dispute to which it is a party; or

(b) if the Central Government is of opinion, in any case where the award has been given by a National Tribunal,

that it will be inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of the award, the appropriate Government, or as the case may be,

the Central Government may, by notification in the Official Gazette, declare that the award shall not become enforceable on the expiry of the said period of thirty days.

(2) Where any declaration has been made in relation to an award under the proviso to sub-section (1), the appropriate Government or the Central Government may, within ninety days from the date of publication of the award under section 17, make an order rejecting or modifying the award, and shall, on the first available opportunity, lay the award together with a copy of the order before the Legislature of the State, if the order has been made by a State Government, or before Parliament, if the order has been made by the Central Government.

(3) Where any award as rejected or modified by an order made under sub-section (2) is laid before the Legislature of a State or before Parliament, such award shall become enforceable on the expiry of fifteen days from the date on which it is so laid; and where no order under sub-section (2) is made in pursuance of a declaration under the proviso to sub-section (1), the award shall become enforceable on the expiry of the period of ninety days referred to in sub-section (2).

(4) Subject to the provisions of sub-section (1) and sub-section (3) regarding the enforceability of an award, the award shall come into operation with effect from such date as may be specified therein, but where no date is so specified, it shall come into operation on the date when the award becomes enforceable under sub-section (1) or sub-section (3), as the case may be."

Amendment
of section 18.

13. Section 18 of the principal Act shall be re-numbered as sub-section (3) thereof and in that section,—

(a) the following sub-sections shall be inserted, namely:—

"(1) A settlement arrived at by agreement between the employer and workman otherwise than in the course of conciliation proceeding shall be binding on the parties to the agreement.

(2) An arbitration award which has become enforceable shall be binding on the parties to the agreement who referred the dispute to arbitration."

(b) in sub-section (3) as so re-numbered,—

(i) after the words "an award", the words "of a Labour Court, Tribunal or National Tribunal" shall be inserted;

Rep. by Act 58 of 1960

(ii) in clause (b), for the words "or Tribunal", the words "Labour Court, Tribunal or National Tribunal" shall be substituted.

14. In section 19 of the principal Act,—

Amendment
of section 19.

(a) in sub-section (1), the words "arrived at in the course of a conciliation proceeding under this Act" shall be omitted;

(b) in sub-section (2), after the words "six months", the words "from the date on which the memorandum of settlement is signed by the parties to the dispute" shall be inserted;

(c) in sub-section (3), after the words "for a period of one year", the words, figures and letter "from the date on which the award becomes enforceable under section 17A" shall be inserted;

(d) in sub-section (4),—

(i) for the words "to a Tribunal", the words "to a Labour Court, if the award was that of a Labour Court or to a Tribunal, if the award was that of a Tribunal or of a National Tribunal" shall be substituted;

(ii) for the words "the Tribunal", the words "Labour Court or the Tribunal, as the case may be" shall be substituted;

(iii) the words "subject to the provision for appeal" shall be omitted;

(e) sub-section (7) shall be omitted.

15. In section 20 of the principal Act,—

Amendment
of section 20.

(a) in clause (c) of sub-section (2), for the words "or Tribunal", the words "Labour Court, Tribunal or National Tribunal" shall be substituted;

(b) in sub-section (3),—

(i) for the words "before a Tribunal", the words, figures and letters "before an arbitrator under section 10A or before a Labour Court, Tribunal or National Tribunal" shall be substituted;

(ii) for the words "reference of dispute for adjudication", the words "reference of the dispute for arbitration or adjudication, as the case may be" shall be substituted.

Amendment
of section
21.

16. In section 21 of the principal Act,—

(a) for the words "or Tribunal" occurring for the first time, the words "Labour Court, Tribunal, National Tribunal or an arbitrator" shall be substituted;

(b) for the words "or Tribunal" occurring for the second and third time, the words "Labour Court, Tribunal, National Tribunal or arbitrator" shall be substituted;

(c) for the words "Court or Tribunal" occurring for the fourth time, the words "or Court or the presiding officer of the Labour Court, Tribunal or National Tribunal or the arbitrator" shall be substituted.

Amendment
of section 23.

17. In clause (b) of section 23 of the principal Act, for the words "a Tribunal", the words "a Labour Court, Tribunal or National Tribunal" shall be substituted.

Amendment
of section 24.

18. In sub-section (2) of section 24 of the principal Act, for the words "or Tribunal", the words "Labour Court, Tribunal or National Tribunal" shall be substituted.

Omission
of section
25I.

19. Section 25I of the principal Act shall be omitted.

Substitution
of new sec-
tion for sec-
tion 29.

20. For section 29 of the principal Act, the following section shall be substituted, namely:—

Penalty
for breach
of settlement
or award.

"29. Any person who commits a breach of any term of any settlement or award, which is binding on him under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both, and the Court trying the offence, if it fines the offender, may direct that the whole or any part of the fine realised from him shall be paid, by way of compensation, to any person who, in its opinion, has been injured by such breach."

Substitution
of new sec-
tion for sec-
tion 33.

21. For section 33 of the principal Act, the following section shall be substituted, namely:—

Conditions
of service,
etc., to
remain
unchanged
under cer-
tain cir-
cumstances
during
pendency
of pro-
ceedings.

"33. (1) During the pendency of any conciliation proceeding before a conciliation officer or a Board or of any proceeding before a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall,—

(a) in regard to any matter connected with the dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding; or

(b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal or otherwise, any workmen concerned in such dispute,

save with the express permission in writing of the authority before which the proceeding is pending.

(2) During the pendency of any such proceeding in respect of an industrial dispute, the employer may, in accordance with the standing orders applicable to a workman concerned in such dispute,—

(a) alter, in regard to any matter not connected with the dispute, the conditions of service applicable to that workman immediately before the commencement of such proceeding; or

(b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that workman:

Provided that no such workman shall be discharged or dismissed, unless he has been paid wages for one month and an application has been made by the employer to the authority before which the proceeding is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-section (2), no employer shall, during the pendency of any such proceeding in respect of an industrial dispute, take any action against any protected workman concerned in such dispute—

(a) by altering, to the prejudice of such protected workman, the conditions of service applicable to him immediately before the commencement of such proceedings; or

(b) by discharging or punishing, whether by dismissal or otherwise, such protected workman,

save with the express permission in writing of the authority before which the proceeding is pending.

Explanation.—For the purposes of this sub-section, a 'protected workman', in relation to an establishment, means a workman who, being an officer of a registered trade union connected with the establishment, is recognised as such in accordance with rules made in this behalf.

(4) In every establishment, the number of workmen to be recognised as protected workmen for the purposes of sub-section (3) shall be one per cent. of the total number of workmen

employed therein subject to a minimum number of five protected workmen and a maximum number of one hundred protected workmen and for the aforesaid purpose, the appropriate Government may make rules providing for the distribution of such protected workmen among various trade unions, if any, connected with the establishment and the manner in which the workmen may be chosen and recognised as protected workmen.

(5) Where an employer makes an application to a conciliation officer, Board, Labour Court, Tribunal or National Tribunal under the proviso to sub-section (2) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass, as expeditiously as possible, such order in relation thereto as it deems fit."

Amendment
of section
33A.

22. In section 33A of the principal Act, for the word "Tribunal" wherever it occurs, the words "Labour Court, Tribunal or National Tribunal" shall be substituted.

Insertion of
new sections
33B
and
33C.

23. After section 33A of the principal Act, the following sections shall be inserted, namely:—

Power to
transfer cer-
tain proceed-
ings.

"33B. (1) The appropriate Government may, by order in writing and for reasons to be stated therein, withdraw any proceeding under this Act pending before a Labour Court, Tribunal, or National Tribunal and transfer the same to another Labour Court, Tribunal or National Tribunal, as the case may be, for the disposal of the proceeding and the Labour Court, Tribunal or National Tribunal to which the proceeding is so transferred may, subject to special directions in the order of transfer, proceed either *de novo* or from the stage at which it was so transferred:

Provided that where a proceeding under section 33 or section 33A is pending before a Tribunal or National Tribunal, the proceeding may also be transferred to a Labour Court.

(2) Without prejudice to the provisions of sub-section (1), any Tribunal or National Tribunal, if so authorised by the appropriate Government, may transfer any proceeding under section 33 or section 33A pending before it to any one of the Labour Courts specified for the disposal of such proceedings

by the appropriate Government by notification in the Official Gazette and the Labour Court to which the proceeding is so transferred shall dispose of the same.

33C. (1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of Chapter VA, the workman may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue.

Recovery of money due from an employer.

(2) Where any workman is entitled to receive from the employer any benefit which is capable of being computed in terms of money, the amount at which such benefit should be computed may, subject to any rules that may be made under this Act, be determined by such Labour Court as may be specified in this behalf by the appropriate Government, and the amount so determined may be recovered as provided for in sub-section (1).

(3) For the purposes of computing the money value of a benefit, the Labour Court may, if it so thinks fit, appoint a commissioner who shall, after taking such evidence as may be necessary, submit a report to the Labour Court and the Labour Court shall determine the amount after considering the report of the commissioner and other circumstances of the case."

24. In sub-section (4) of section 36 of the principal Act,—

Amendment of section 36.

(a) for the words "before a Tribunal", the words "before a Labour Court, Tribunal or National Tribunal" shall be substituted;

(b) for the words "with the leave of the Tribunal", the words "with the leave of the Labour Court, Tribunal or National Tribunal, as the case may be" shall be substituted.

25. After section 36 of the principal Act the following section shall be inserted, namely:

Insertion of new section 36A.

"36A. (1) If, in the opinion of the appropriate Government, any difficulty or doubt arises as to the interpretation of any provision of an award or settlement, it may refer the question to such Labour Court, Tribunal or National Tribunal as it may think fit.

Power to remove difficulties.

(2) The Labour Court, Tribunal or National Tribunal to which such question is referred shall, after giving the parties an opportunity of being heard, decide such question and its decision shall be final and binding on all such parties."

Amendment
of section 38.

26. In section 38 of the principal Act,—

(a) in sub-section (2),—

(i) in clause (a), for the words "and Tribunals", the words "Labour Courts, Tribunals and National Tribunals" shall be substituted;

(ii) after clause (a), the following clauses shall be inserted, namely:—

"(aa) the form of arbitration agreement, the manner in which it may be signed by the parties, the powers of the arbitrator named in the arbitration agreement and the procedure to be followed by him;

(aaa) the appointment of assessors in proceedings under this Act;"

(iii) in clause (c), for the words "Boards and Tribunals", the words "and Boards and presiding officers of Labour Courts, Tribunals and National Tribunals" shall be substituted;

(iv) in clause (d) and clause (f), for the words "or Tribunal", the words "Labour Court, Tribunal or National Tribunal" shall be substituted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) All rules made under this section shall, as soon as possible after they are made, be laid before the State Legislature or, where the appropriate Government is the Central Government, before both Houses of Parliament."

Substitution
of new sec-
tion for sec-
tion 39.

27. For section 39 of the principal Act, the following section shall be substituted, namely:—

Delegation
of powers.

"39. The appropriate Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or 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; and

(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.”

28. After section 39 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new sec-
tion 40.

“40. The Central Government may, by notification in the Official Gazette, add to, alter or amend the Second Schedule or the Third Schedule and on any such notification being issued, the Second Schedule or the Third Schedule, as the case may be, shall be deemed to be amended accordingly and every such notification shall, as soon as possible after it is issued, be laid before both Houses of Parliament.”

Power of
Central
Government
to amend the
Second and
Third Schedules.

29. For the Schedule to the principal Act, the following shall be substituted, namely:—

Substitution
of new
Schedules
for the
Schedule.

“THE FIRST SCHEDULE

[See section 2(n) (vi)]

Industries which may be declared to be public utility services under sub-clause (vi) of clause (n) of section 2.

1. Transport (other than railways) for the carriage of passengers or goods, by land, water or air.
2. Banking.
3. Cement.
4. Coal.
5. Cotton textiles.
6. Foodstuffs.
7. Iron and steel.
8. Defence establishments.
9. Service in hospitals and dispensaries.
10. Fire Brigade service.

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Rep. by Act 8 of 1956

THE SECOND SCHEDULE

(See section 7)

Matters within the jurisdiction of Labour Courts

1. The propriety or legality of an order passed by an employer under the standing orders;
2. The application and interpretation of standing orders;
3. Discharge or dismissal of workmen including reinstatement of, or grant of relief to, workmen wrongfully dismissed;
4. Withdrawal of any customary concession or privilege;
5. Illegality or otherwise of a strike or lock-out; and
6. All matters other than those specified in the Third Schedule.

THE THIRD SCHEDULE

(See section 7A)

Matters within the jurisdiction of Industrial Tribunals

1. Wages, including the period and mode of payment;
2. Compensatory and other allowances;
3. Hours of work and rest intervals;
4. Leave with wages and holidays;
5. Bonus, profit sharing, provident fund and gratuity;
6. Shift working otherwise than in accordance with standing orders;
7. Classification by grades;
8. Rules of discipline;
9. Rationalisation;
10. Retrenchment of workmen and closure of establishment; and
11. Any other matter that may be prescribed.

THE FOURTH SCHEDULE

(See section 9A)

Conditions of service for change of which notice is to be given

1. Wages, including the period and mode of payment;
2. Contribution paid, or payable, by the employer to any provident fund or pension fund or for the benefit of the workmen under any law for the time being in force;
3. Compensatory and other allowances;
4. Hours of work and rest intervals;
5. Leave with wages and holidays;

4 x 4

- 6. Starting, alteration or discontinuance of shift working otherwise than in accordance with standing orders;
- 7. Classification by grades;
- 8. Withdrawal of any customary concession or privilege or change in usage;
- 9. Introduction of new rules of discipline, or alteration of existing rules, except in so far as they are provided in standing orders;
- 10. Rationalisation, standardisation or improvement of plant or technique which is likely to lead to retrenchment of workmen;
- 11. Any increases or reduction (other than casual) in the number of persons employed or to be employed in any occupation or process or department or shift, not due to forced matters."

14 of 1947. 30. If, immediately before the commencement of this Act, there is pending any proceeding in relation to an industrial dispute before a Tribunal constituted under the Industrial Disputes Act, 1947, as in force before such commencement, the dispute may be adjudicated and the proceeding disposed of by that Tribunal after such commencement, as if this Act had not been passed.

Savings as to proceedings pending before Tribunals.

14 of 1947. 31. (1) If, immediately before the commencement of this Act, there is in force in any State any Provincial Act or State Act relating to the settlement or adjudication of disputes, the operation of such an Act in that State in relation to matters covered by that Act shall not be affected by the Industrial Disputes Act, 1947 as amended by this Act.

Act not to override State laws.

(2) For the removal of doubts it is hereby declared that nothing in this section shall be deemed to preclude the Central Government or the National Tribunal from exercising any powers conferred on it by the Industrial Disputes Act, 1947 as amended by this Act.

20 of 1946. ~~32. The Industrial Employment (Standing Orders) Act, 1946 shall be amended in the manner hereinafter specified, namely:—~~

Amendment of Act 20 of 1946.

(a) in section 2, for clause (i), the following clause shall be substituted, namely:—

"(i) 'workman' means any person (including an apprentice) employed in any industrial establishment to do any skilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be express or implied, but does not include any such person—

(i) who is subject to the Army Act, 1950, or the Air Force Act, 1950, or the Navy (Discipline) Act, 1934; or

of 1950.
of 1950.
of 1934.

Rep. by Act of 1960

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature;";

(b) in section 4, for the words "shall not be the function", the words "shall be the function" shall be substituted;

(c) in section 10, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Subject to the provisions of sub-section (1), an employer or workman may apply to the Certifying Officer to have the standing orders modified, and such application shall be accompanied by five copies of the 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 the workmen, a certified copy of that agreement shall be filed along with the application.";

(d) after section 13, the following sections shall be inserted, namely:—

"13A. If any question arises as to the application or interpretation of a standing order certified under this Act, any employer or workman may refer the question to any one of the Labour Courts constituted under the Industrial Disputes Act, 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. 14 of 1947.

13B. 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 Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Service (Classification, Control and Appeal) Rules or the

Interpreta-
tion, etc., of
standing
orders.

Act not to
apply to cer-
tain indus-
trial estab-
lishments.

Rep. by Act 5 of 1950

~~Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply."~~ 4 xxy

33. (1) The Industrial Disputes (Appellate Tribunal) Act, 1950 is hereby repealed. Repeal of Act 48 of 1950 and saving.

(2) Notwithstanding such repeal—

(a) if, immediately before the commencement of this section, there is any appeal or other proceeding pending before the Appellate Tribunal constituted under the said Act, the appeal or other proceeding shall be decided and disposed of by the Appellate Tribunal as if the said Act had not been repealed by this Act;

(b) the provisions of sections 22, 23, 23A of the said Act shall, in relation to any proceeding pending before the Appellate Tribunal, be deemed to be continuing in force;

(c) any proceeding transferred to an industrial tribunal under section 23A shall be disposed of under the provisions of the Industrial Disputes Act, 1947,

and save as aforesaid, no appeal or other proceeding shall be entertained by the Appellate Tribunal after the commencement of this section, and every decision or order of the Appellate Tribunal, pronounced or made, before or after the commencement of this section, shall be enforced in accordance with the provisions of the said Act.

THE STATES REORGANISATION ACT, 1956

ACT No. 37 OF 1956

Sec India Code, Vol. II - B.

ARRANGEMENT OF SECTIONS

SECTIONS

PART I

PRELIMINARY

1. Short title.
2. Definitions.

PART II

TERRITORIAL CHANGES AND FORMATION OF NEW STATES

3. Transfer of territory from Hyderabad to Andhra and alteration of name.

Rep. by Act 57 of 1960.