

Rep. by Act... of 1974, S. 2 & S. 1 P.

THE INDUSTRIAL DISPUTES (AMENDMENT)
ACT, 1964

No. 36 OF 1964

[9th December, 1964.]

An Act further to amend the Industrial Disputes Act, 1947.

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

1. (1) This Act may be called the Industrial Disputes (Amendment) Act, 1964. Short title and commencement.

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

14 of 1947. 2. In section 2 of the Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act),— Amendment of section 2.

(i) in sub-clause (i) of clause (a)—

10 of 1963. (a) the words and figures "the Agricultural Refinance Corporation established under section 3 of the Agricultural Refinance Corporation Act, 1963, or" shall be omitted;

(b) for the words "the Deposit Insurance Corporation established", the following shall be substituted, namely:—

34 of 1948. "the Employees' State Insurance Corporation established under section 3 of the Employees' State Insurance Act, 1948, or the Agricultural Refinance Corporation established under section 3 of the Agricultural Refinance Corporation Act, 1963, or the Deposit Insurance Corporation established";

10 of 1963.

¹ 19th December, 1964: Vide Notification No. S.O. 4301, dated 18th December, 1964, See Gazette of India, Extraordinary, Pt. II, Sec. 3(ii), p. 1205.

(c) after the words "an oil-field", the words "a Cantonment Board," shall be inserted;

(ii) clause (aa) shall be re-lettered as clause (aaa) and before clause (aaa) as so re-lettered, the following clause shall be inserted, namely:—

'(aa) "arbitrator" includes an umpire;'

(iii) clause (eee) shall be omitted;

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

'(la) "major port" means a major port as defined in clause (8) of section 3 of the Indian Ports Act, 1908; 15 of 1908.

(lb) "mine" means a mine as defined in clause (j) of sub-section (1) of section 2 of the Mines Act, 1952; 35 of 1952.

(v) in clause (n),—

(i) in sub-clause (i), the words "or any transport service for the carriage of passengers or goods by air" shall be inserted at the end;

(ii) in sub-clause (vi), for the word "Schedule", the words "First Schedule" shall be substituted.

Amendment of section 7.

3. In section 7 of the principal Act, in sub-section (3), clauses (a) and (b) shall respectively be re-lettered as clauses (d) and (e) and before clause (d) as so re-lettered, the following clauses shall be inserted, namely:—

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

(b) he has, for a period of not less than three years, been a District Judge or an Additional District Judge; or

(c) 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 any Tribunal, for a period of not less than two years; or". 48 of 1950.

Amendment of section 7A.

4. In section 7A of the principal Act, in sub-section (3), after clause (a), the following clause shall be inserted, namely:—

"(aa) he has, for a period of not less than three years, been a District Judge or an Additional District Judge; or".

5. In section 10 of the principal Act, in sub-section (6), the following *Explanation* shall be inserted at the end, namely:—

Amend-
ment of
section 10.

Explanation.—In this sub-section, “Labour Court” or “Tribunal” includes any Court or Tribunal or other authority constituted under any law relating to investigation and settlement of industrial disputes in force in any State.”

6. In section 10A of the principal Act,—

Amend-
ment of
section
10A.

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

“(1A) Where an arbitration agreement provides for a reference of the dispute to an even number of arbitrators, the agreement shall provide for the appointment of another person as umpire who shall enter upon the reference, if the arbitrators are equally divided in their opinion, and the award of the umpire shall prevail and shall be deemed to be the arbitration award for the purposes of this Act.”;

(b) in sub-section (3), for the words “fourteen days”, the words “one month” shall be substituted;

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

“(3A) Where an industrial dispute has been referred to arbitration and the appropriate Government is satisfied that the persons making the reference represent the majority of each party, the appropriate Government may, within the time referred to in sub-section (3), issue a notification in such manner as may be prescribed; and when any such notification is issued, the employers and workmen who are not parties to the arbitration agreement but are concerned in the dispute, shall be given an opportunity of presenting their case before the arbitrator or arbitrators.”;

(d) after sub-section (4), the following sub-section shall be inserted, namely:—

“(4A) Where an industrial dispute has been referred to arbitration and a notification has been issued under sub-section (3A), the appropriate Government may, by order, prohibit the continuance of any strike or lock-out in connection with such dispute which may be in existence on the date of the reference.”.

7. In section 11 of the principal Act, in sub-section (8), for the word and figures “and 482”, the figures and word “482 and 484” shall be substituted.

Amend-
ment of
section 11.

Amend-
ment of
section 12.

8. In section 12 of the principal Act, in the proviso to sub-section (6), after the words "Provided that," the words "subject to the approval of the conciliation officer," shall be inserted.

Amend-
ment of
section 18.

9. In section 18 of the principal Act,—

(a) in sub-section (2), for the words "An arbitration award", the words, brackets and figure "Subject to the provisions of sub-section (3), an arbitration award" shall be substituted;

(b) in sub-section (3),—

(i) after the words "conciliation proceedings under this Act", the words, brackets, figures and letters "or an arbitration award in a case where a notification has been issued under sub-section (3A) of section 10A" shall be inserted;

(ii) in sub-clause (b), after the words "the Board," the word "arbitrator," shall be inserted.

Amend-
ment of
section 19.

10. In section 19 of the principal Act, after sub-section (6), the following sub-section shall be inserted, namely:—

"(7) No notice given under sub-section (2) or sub-section (6) shall have effect, unless it is given by a party representing the majority of persons bound by the settlement or award, as the case may be."

Amend-
ment of
section 23.

11. In section 23 of the principal Act,—

(i) in clause (b), the word "or" occurring at the end shall be omitted;

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

"(bb) during the pendency of arbitration proceedings before an arbitrator and two months after the conclusion of such proceedings, where a notification has been issued under sub-section (3A) of section 10A; or"

Amend-
ment of
section 24.

12. In section 24 of the principal Act,—

(i) in clause (ii) of sub-section (1), after the word and figures "section 10", the words, figures, letters and brackets "or sub-section (4A) of section 10A" shall be inserted;

(ii) in sub-section (2),—

(a) after the word "Board," the words "an arbitrator a" shall be inserted;

(b) after the word and figures "section 10", the words, figures, letters and brackets "or sub-section (4A) of section 10A" shall be inserted.

13. For section 25B of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 25B.

"25B. For the purposes of this Chapter,—

Definition of continuous service.

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman;

(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer—

(a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

(b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i) ninety-five days, in the case of a workman employed below ground in a mine; and

(ii) one hundred and twenty days, in any other case.

Explanation.—For the purposes of clause (2), the number of days on which a workman has actually worked under an employer shall include the days on which—

(i) he has been laid off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946, or under this

Act or under any other law applicable to the industrial establishment;

(ii) he has been on leave with full wages, earned in the previous years;

(iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and

(iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks."

Amendment of section 25F.

14. In section 25F of the principal Act,—

(i) in clause (b), for the words "for every completed year of service", the words "for every completed year of continuous service" shall be substituted;

(ii) in clause (c), the following words shall be inserted at the end, namely:—

"or such authority as may be specified by the appropriate Government by notification in the Official Gazette."

Amendment of section 25 FFF.

15. In section 25FFF of the principal Act,—

(i) in the *Explanation* to sub-section (1), after the words "or accumulation of undisposed of stocks", the words "or the expiry of the period of the lease or the licence granted to it where the period of the lease or the licence expires on or after the first day of April, 1967," shall be inserted;

(ii) in sub-section (2), for the words "completed year of service", the words "completed year of continuous service" shall be substituted.

Amendment of section 25H.

16. In section 25H of the principal Act, for the words "to the retrenched workmen to offer themselves for re-employment, and the retrenched workmen", the words "to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen" shall be substituted.

Amendment of section 25J.

17. In section 25J of the principal Act, for the proviso to sub-section (1), the following proviso shall be substituted, namely:—

"Provided that where under the provisions of any other Act or rules, orders or notifications issued thereunder or under any standing orders or under any award, contract of service or otherwise, a workman is entitled to benefits in respect of any matter

which are more favourable to him than those to which he would be entitled under this Act, the workman shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act."

18. In section 33 of the principal Act,—

Amend-
ment of
section 33.

(i) in sub-section (1), after the words "any proceeding before", the words "an arbitrator or" shall be inserted;

(ii) in sub-section (2), after the words "the standing orders applicable to a workman concerned in such dispute", the words "or, where there are no such standing orders, in accordance with the terms of the contract, whether express or implied, between him and the workman" shall be inserted;

(iii) in sub-section (5), after the word "Board", the words "an arbitrator, a" shall be inserted.

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

Substitu-
tion of
new sec-
tion for
section
33C.

"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 himself or any other person authorised by him in writing in this behalf, or, in the case of the death of the workman, his assignee or heirs 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 em-
ployer.

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

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

(2) Where any workman is entitled to receive from the employer any money or any benefit which is capable of being computed in terms of money and if any question arises as to the

amount of money due or as to the amount at which such benefit should be computed, then the question may, subject to any rules that may be made under this Act, be decided by such Labour Court as may be specified in this behalf by the appropriate Government.

(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.

(4) The decision of the Labour Court shall be forwarded by it to the appropriate Government and any amount found due by the Labour Court may be recovered in the manner provided for in sub-section (1).

(5) Where workmen employed under the same employer are entitled to receive from him any money or any benefit capable of being computed in terms of money, then, subject to such rules as may be made in this behalf, a single application for the recovery of the amount due may be made on behalf of or in respect of any number of such workmen.

Explanation.—In this section “Labour Court” includes any court constituted under any law relating to investigation and settlement of industrial disputes in force in any State.”

Amend-
ment of
section 38.

20. In section 38 of the principal Act,—

(a) in clause (aa) of sub-section (2), after the words “signed by the parties”, the following words, brackets, figures and letters shall be inserted, namely:—

“the manner in which a notification may be issued under sub-section (3A) of section 10A,”;

(b) after sub-section (4), the following sub-section shall be inserted, namely:—

“(5) 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 successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following both Houses agree

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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.”

21. For section 40 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 40.

“40. (1) The appropriate Government may, if it is of opinion that it is expedient or necessary in the public interest so to do, by notification in the Official Gazette, add to the First Schedule any industry, and on any such notification being issued, the First Schedule shall be deemed to be amended accordingly.

Power to amend Schedules.

(2) The Central Government may, by notification in the Official Gazette, add to or 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.

(3) Every such notification shall, as soon as possible after it is issued, be laid before the Legislature of the State, if the notification has been issued by a State Government, or before Parliament, if the notification has been issued by the Central Government.”

22. In the First Schedule to the principal Act, in Item 1, for the words “by land, water or air”, the words “by land or water” shall be substituted.

Amendment of First Schedule.

23. In the Fourth Schedule to the principal Act, in Item 11, for the words “not due to forced matters”, the words “not occasioned by circumstances over which the employer has no control” shall be substituted.

Amendment of Fourth Schedule

24. Notwithstanding anything contained in this Act, every person holding office as a presiding officer of a Labour Court or Tribunal immediately before the commencement of this Act shall continue to hold his office for such period as the appropriate Government may determine in this behalf from time to time.

Savings