

THE KERALA FACTORIES (WELFARE OFFICERS) RULES, 1957

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***THE KERALA FACTORIES (WELFARE OFFICERS) RULES, 1957**

In exercise of the powers conferred by sections 49, 50 and 112 of the Factories Act, 1948 (Central Act LXIII of 1948) the Government of Kerala hereby make the following rules the same having been previously published as required by section 115 of the said Act, namely :-

1. Short title and commencement.- (1) These rules maybe called “The Kerala Factories (Welfare Officers) Rules, 1957.”(2) They shall come into force at once.

2. Definitions.- In these rules, unless the context otherwise requires-

(a) ‘Act’ means the Factories Act, 1948 (Central Act LXIII of 1948).

(b) The expressions ‘factory’ and ‘occupier’ have the meanings respectively assigned to them in the Act.

3. Number of Welfare Officers.- [1 The occupier of every factory where the number of workers ordinarily employed per day is between five hundred and two thousand, shall appoint one wholetime Welfare Officer and where the number of workers ordinarily employed per day exceeds two thousand shall appoint an additional wholetime welfare officer for every two thousand workers or fraction thereof over five hundred:

Provided that where the occupier of a factory has more than one factory situated, within reasonable distances from one another, the Chief Inspector of Factories may, subject to such conditions as he may consider necessary, permit the occupier of such factories to appoint one Welfare Officer for more than one factory and also fix the number of factories for each such Welfare Officer:

Provided further that in factories where 300 and more women workers are ordinarily employed per day and no Welfare Officer has been appointed before the date of commencement of these rules, the Welfare Office to be appointed shall be a woman:

Provided further that the Chief Inspector may exempt from the requirement of the above second proviso, any factory where there is no male Welfare Officer.]

(2) In a factory where there are more than one Welfare Officer, one of them drawing higher scale of pay shall be designated as Chief Welfare Officer and the others as Assistant Welfare Officers.

4. Qualifications.- A person shall not be eligible for appointment as a Welfare Officer unless he,

(a) possesses a degree of a University recognized by the State Government ;

[[2](b) has obtained a Degree or Diploma in Social Science or LLB Degree (With Labour Law as elective subject) of a recognized University or an institution recognized by or affiliated to such a University and.]

(c) has adequate knowledge of the language spoken by the majority of workers in the factory to which he is to be attached:

Provided the Welfare Officers in respect of whom all or any of the aforesaid qualification have been relaxed under the provisions of the Madras Factories (Welfare Officers) Rules, 1953 or under the Welfare Officers (Recruitment and Conditions of Service) Rules, 1952 or who were being governed by the aforesaid rules or who have before 1st July 1956 obtained a degree or diploma in Social Science recognized by the former Travancore-Cochin Government shall be deemed to possess the qualifications prescribed by this rule.

[3]Provided further that sub-rule(c) shall not be applicable in the case of persons whose appointments are made on all India basis.

5. Recruitment of Welfare Officers.- (1) The post of a Welfare Officer shall be advertised in any two prominent news papers of the State.

(2) The selection shall be made from among the candidates applying for the post by a Committee appointed by the occupier of the factory.

(3) The appointment when made shall be notified by the occupier to the [[4]Chief Inspector of Factories] giving full detail of the qualification, age, pay, previous experience and other relevant particulars of the officer appointed and the terms and conditions of his service.

[6. Conditions of service status etc. of the Welfare Officers.-(1) The scale of Pay, D.A. and other allowance and the grade and the status of a Welfare officer shall be equivalent to those of the head of a Department in the factory.

1. The marginal heading and sub-rule (1) and (2) substituted and sub-rule (3) to (6) renumbered as sub-rules (2) to (5) by SRO. No. 1683/93 dated 25-10-1993 in K.G. Ext. No. 1091 dated 28-10-1993.

Rule 6 : Rule 6 of Punjab Welfare officers Recruitment and Conditions of Service Rules, 1952 which imposes on the management the obligation to secure the concurrence of the Labor Commissioner before inflicting punishment on the Welfare Officer is not ultra vires of Section 49 (2) of the Act. ACC Ltd Vs P.N.Sharma, 1965 I LLJ 433(SC).

Rule 6 (6) of Punjab Welfare Officers recruitment and Conditions of Service Rules, 1952 enables a Welfare Officers to make an appeal to the State Government if punishment has been imposed upon him without obtaining the concurrence of the Labour Commissioner. When the order of termination of service of the Welfare Officer is an order of simple discharge and is not a punishment, the State Government was incompetent to entertain an appeal and the order of reinstatement was without jurisdiction : ACC Ltd Vs P.N.Sharma, AIR 1965 SC 1595, 1965 I LLJ 433(SC).

Welfare Officer appointed when U.P. Factories Welfare Officers Rules, 1949 was in

force Subsequently the State Government promulgated U.P. Factories Welfare Officers Rules, 1955 where in an age of superannuation was fixed which was not there in the 1949 Rules. Under section 21 of the General Clauses Act, the conditions of service are liable to be altered by the Rule making authority. An employee is bound by an subsequent alteration. Termination of service on superannuation cannot be challenged. H.L.Srivastava Vs Talsipur Co. Ltd. 1967 II LLJ 355(AII).

The claim made by the Welfare Officer for recovery of the difference between the wages actually paid to him and the wages which he claimed to be entitled to under the rule is maintainable under Payment or Wages Act, 1936. The meaning of term 'Wages' in the Payment of Wages Act includes a claim on the strength of the provision contained in the Rule. P.T.Lawrence Vs KSRTC 1965- II – LLJ 460(Ker).

The section confers on the State Government authority to prescribe the duties, qualifications and conditions of service of officers employed under sub-section (1). Therefore undoubtly the Government has power to make Rules which prescribe the conditions of service of Welfare Officers. The object of such a power on the State Government to frame Rules in that behalf obviously is to afford special protection to Welfare Officers appointed under the Section. ACC Ltd Vs P.N.Sharma, AIR 1965 SC 1595, 1965 I LLJ 433(SC).

The employee was originally appointed as a Labour Welfare Officer, whose terms and conditions of service were governed by the Factories Rule. The post was re-designated as Personnel Officer and subsequently his service was terminated. Since the re-designation of post and alternation of service conditions were without the concurrence of the Chief Inspector of Factories, the employee will continue to enjoy the protection afforded by the Factories Rules, the protection cannot be taken away by the management. Since the termination of the service is in violation of the statutory rule, the aggrieved person can seek the remedy under Article 226 of the Constitution. Electronic Corporation of India Vs Govt. of A.P. 1977 – II LLJ 86 (AP).

The officer was appointed as Assistant Personnel Officer of the Company and not as a Welfare Office, Simply because as a Personnel Officer he was also looking-after the welfare of the labourers, it cannot be held that he was infact appointed as a Labour Welfare Officer. His termination from service without following the statutory provisions for termination of service of Labour Welfare Officer is therefore not illegal. Shyam Vinayak Ltd Vs T.Prasad 1993 Supp(3) SCC 552: 1993 – II LLJ 650 (SC).

Provided that in a factory where there is more than one Welfare Officer appointed as per rule 3, the Chief Welfare Officer shall be given the above status, scale of pay etc., and the Assistant Welfare Officer shall be allowed the scale of pay and status etc., next below that of the head of a department in the factory. All other Welfare Officers also shall be given appropriate status, scale of pay etc., to enable them to discharge their functions of effectively.]

(2) The conditions of service of Welfare Officer shall be the same as those of other members of the staff of corresponding status in the factory.

[[5]Provided that the Welfare Officer shall be entitled to a minimum of seven days' sick leave, ten days' casual leave and one months' annual leave in a year with full pay and dearness allowance and other allowances:

Provided further that where the Leave Rules applicable to other members of the staff of corresponding status in the factory provide benefits which are more favourable than those provided in the preceding proviso the Welfare Officer shall be entitled to the benefits provided

by the said leave rules.

Explanation .- If any doubt arises as to whether the benefits provided by the leave rules applicable to other members of the staff of corresponding status in the factory are more favourable or not the matter shall be decided by the Chief Inspector of Factories.]

(3) No penalty shall be imposed upon a Welfare Officer by the management unless he has been first informed in writing of the grounds on which it is proposed to take action and has been afforded adequate opportunity of defending himself.

(4) If the management terminates the service of a Welfare Officer otherwise than under the terms of contract, the management shall forthwith report the reasons for the termination of service to the [Chief Inspector of Factories.]

(5) (a) If the service of a Welfare Officer is terminated otherwise than under the terms of contract, he shall have, within 30 days of such termination, a right of appeal to the [[6]Chief Inspector of Factories.]

Provided that the Chief Inspector of Factories, may on sufficient cause being shown for the delay, extend the aforesaid time limit to a period not exceeding six weeks.

(b) on being satisfied that a Welfare Officer intends to prefer an appeal under clause (a) of sub rule (6), the Chief Inspector of Factories, may stay the enforcement of the order of termination to be appealed against for such period and on such terms, if any, as he may think just and proper.

(c) The Chief Inspector of Factories, shall, after giving both the parties a reasonable opportunity of being heard, by an order for reasons to be recorded in writing, dispose of the appeal as early as possible. While disposing appeal , the Chief Inspector of Factories, may confirm, modify or set aside the order appealed against.

(d) The occupier or any Welfare Officer, being aggrieved by the decision of the Chief Inspector of Factories, may within thirty days of the communication of such order to him, prefer a second appeal to the State Government, and the decision of the State Government on such appeal shall be final and binding on both the parties.

(e) On being satisfied that the occupier or a Welfare Officer intends to the prefer and appeal under clause (d) of such rule (6), the State Government may stay the enforcement of the decision of the Chief Inspector of Factories, for such period and on such terms, if any, as the State Government may think just and proper.

7. Duties of Welfare Officers.- The duties of a Welfare Officer shall be –

(i) to establish contacts and hold consultations with a view to maintaining harmonious relations between the factory management and workers.

(ii) to bring the notice of the factory management the grievances of workers, individuals as well as collective, with a view to securing their expeditious redress and to act as a Liaison Officer between the management and labour.

(iii) to study and understand the point of view of labour in order to help the factory management to shape and formulate labour policies of the factory and to interpret these policies to the workers in a language they can understand.

(iv) to watch industrial relations with a view to using his influence in the event of a dispute arising between the factory management and workers and help to bring about a settlement by persuasive efforts; and to watch the working of collective agreement and the enforcement of industrial awards.

(v) to advise on fulfillment by the management and the concerned departments of the factory of their obligations, statutory or otherwise, concerning regulation of working hours, maternity benefit, medical care, compensation for injuries and sickness and other welfare and social benefit measures.

(v) (a) to advise and assist the management in the fulfillment of its obligations, statutory or otherwise, concerning prevention of personal injuries and maintaining a safe work environment, in such factories where a safety officer is not required to be appointed under the enabling provisions under section 40 B.

(vi) to promote relations between the concerned department of the factory and workers which will bring about productive efficiency as well as amelioration in the working conditions and to help workers to adjust and adapt themselves to their working environments.

(vii) to encourage the formation of works and Joint Production Committees, Co-operation Societies and Safety-First and Welfare Committees, and to supervise their work.

(viii) to encourage provision of amenities such as canteens, shelters for rest, crèches adequate latrine facilities, drinking water, sickness and benevolent scheme payments, pension funds, gratuity payments, granting of loans and legal advice to workers.

(ix) to help the factory management in regulating the grant of leave with wages and explain to the workers the provisions relating to leave with wages and other leave privileges and to guide the workers in the matter of submission of application for grant of leave for regulating authorised absence.

(x) to advise on provision of welfare facilities, such as housing facilities, foodstuffs, social and recreational facilities, sanitation , advice on individual personal problems and education of children.

(xi) to advise the factory management on questions relating to training of new starters, apprentices, workers on transfer and promotion instructors, and supervisors supervision and control of notice board and information bulletins to further education of workers and to encourage their attendance at Technical Institutes.

(xii) to suggest measures which will serve to raise the standard of living of workers and in general promote their well being.

(xiii) to study absenteeism and labour turnover and the measures to be adopted for their prevention.

[[7]7A. Welfare Officers not to deal with disciplinary cases or appear or behalf or the management against workers.- No Welfare Officer shall deal with any disciplinary case against a worker, or appear before a Conciliation Officer, Arbitrator or in a Court or Tribunal on behalf of the factory management against a worker or workers.

8. Power of exemption.- The State Government may by notification in the official Gazette exempt any factory or class or description of factories from the operation of all or any of the provisions of these Rules subject to such conditions as may be specified.

9. Repeals. – Welfare Officers (Recruitment and Conditions of Service) Rules, 1952, issued by the former Travancore- Cochin Government and the Madras Factories (Welfare Officers) Rules, 1953 in so far as they apply to the territories referred to in S.5 (2) of the S.R. Act, 1956 (Central Act 37 of 1956) are hereby repealed:

Provided that any order made or action taken under the Rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules.

* Published under Notn. No.D. Dis. 4668/57/K&LAD dated 18-12-57 in K.G. No. 35 dated 31-12-1957.

[1] Substituted by Notn. Dated 15-11-1965 in K.G. dated 30-11-1965.

[2] Substituted by SRO. No. 798/93 dated 1-3-1993 in K.G. Ext. No. 568 dated 19-5-1993.

[3] Inserted by SRO No. 1678/93 dated 25-10-1993 in K.G. Ext. No. 1086 dated 28-10-1993

[4] Substituted by Notn. Dated 7-5-1962 in K.G. dated 22-5-1962.

[5] Inserted by Notn. No. 18430/67/HLD dated 18-11-1967 in K.G. No. 47 dated 28-11-1967.

[6] Substituted by Notn. Dated 7-5-1962 in K.G. dated 22-5-1962.

[7] Inserted by Notn. dated 15-11-1965 in K.G. dated 30-11-1965.

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