

THE INTER-STATE MIGRANT WORKMEN (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 1979

INTRODUCTION

In Orissa and in some other States the system of employment of Inter-State migrant labour known as Dadan Labour is in vogue. In Orissa Dadan Labour is recruited from various parts of the State through contractors or agents called *Sardars* or *Khatadars* for work outside the State in large construction projects. At the time of recruitment *Sardars* or *Khatadars* promise that wages calculated in price-rate basis would be settled every months but usually this promise is never kept. Once the worker comes under the clutches of the contractor, he takes him to a far off place on payment of railway fare only. No working hours are fixed for these workers and they have to work on all the days in a week under extremely bad working conditions. The provisions of the various labour laws are not being observed in their case and they are subjected to various malpractices. The question of protection and welfare of Dadan Labour was considered by the Twenty-eighth Session of the Labour Ministers' Conference held on 26th October, 1976 at New Delhi. It was recommended to set up a Compact Committee to go into the whole question and to suggest measures for eliminating the abuses prevalent in the system. Accordingly in February, 1977 the Compact Committee was constituted and is recommended *inter alia*, that a separate Central legislation may be enacted to regulate the employment of inter-State migrant workmen as it was felt that the provisions of the Contract Labour (Regulation and Abolition) Act, 1970, even after necessary amendments, would not adequately take care of the variety of malpractices indulged in by the contractors, *Sardars* or *Khatadars*. The recommendations of the Compact Committee were examined in consultation with the State Government and the Ministries in the Government of India. Accordingly the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Bill was introduced in the Parliament.

STATEMENT OF OBJECTS AND REASONS

The system of employment of inter-State migrant labour (known in Orissa as Dadan Labour) is an exploitative system prevalent in Orissa and in some other State. In Orissa, Dadan Labour is recruited from various parts of the State through contractors or agents called *Sardars/Khatadars* for work outside the State in large construction projects. This system lends itself to various abuses. Though the *Sardars* promise at the time of recruitment that wages calculated on piece-rate basis would be settled every month, the promise is not usually kept. Once the worker comes under the clutches of the contractor, he takes him to a far-off place on payment of railway fare only. No working hours are fixed for these workers and they have to work on all the days in a week under extremely bad working conditions. The provisions of the various labour laws are not being observed in their case and they are subjected to various malpractices.

2. The Twenty-eighth Session of the Labour Ministers' Conference (New Delhi, October 26, 1976) which considered the question of protection and welfare of Dadan Labour recommended the setting up of a small Compact Committee to go into the whole question and to suggest measures for eliminating the abuses prevalent in this system. The inter-State migrant workmen are generally illiterate, unorganised and have normally to work under extremely adverse conditions and in view of these hardship, some administrative and legislative arrangements both in the State from where they are recruited and also in the State where they are engaged for work are necessary to secure effective protection against their exploitation. The Compact Committee which was constituted in February, 1977, therefore, recommended the enactment of a separate Central legislation to regulate the employment of inter-State migrant workmen as it was felt that the provisions of the Contract Labour (Regulation and Abolition) Act, 1970 even after necessary amendments would not adequately take care of the variety of malpractices indulged in by the contractors/*Sardars/Khatadars, etc.*, and the facilities required to be provided to these workmen in view of the peculiar circumstances in which they have to work.

3. The recommendations of the Compact Committee have been examined in consultation with the State Governments and the Ministries of the Government of India and the suggestions made by them have been taken into account in formulating the proposals for legislation. The main features of the Bill are as follows:—

- (i) The proposed legislation will apply to every establishment in which five or more inter-State migrant workmen are employed or were employed on any day of the preceding twelve months. It will also apply to every contractor who employs or employed five or more inter-State migrant workmen on any day of the preceding twelve months.
- (ii) The establishment proposing to employ inter-State migrant workmen will be required to be registered with registering officers appointed under the Central Government or the State Governments, as the case may be, depending on whether the establishment falls under the Central sphere or State sphere. Likewise, every contractor who proposes to recruit or employ inter-State migrant workmen will be required to obtain a licence from the specified authority both of the State to which the workman belongs (home State) and the State in which he is proposed to be employed (host State).
- (iii) The contractor will be required to furnish particulars regarding the workmen in the form to be prescribed by rules to the specified authority of both the home State and the host State. The contractor will also be required to issue to every workman employed by him, a pass book containing the details of the employment.
- (iv) Specific guidelines have been indicated regarding the wages payable to inter-State migrant workman and he is required to be paid wages from the date of his recruitment.

- (v) The inter-State migrant workman will be entitled to a displacement allowance and a journey allowance in addition to his wages.
- (vi) The amenities that are required to be provided to the workmen would include provision of suitable residential accommodation, adequate medical facilities, protective clothing to suit varying climatic conditions and suitable conditions of work taking into account that they have migrated from another State.
- (vii) Inspectors will be appointed by the appropriate Government to see that the provisions of the legislation are being complied with. In addition, power has been given to the State Government of the home State to appoint, after consultation with the Government of the host State, inspectors for visiting the establishments wherein workmen from the former State are employed to see whether the provisions of the legislation are being complied with in the case of such workmen.
- (viii) The inter-State migrant workman may raise an industrial dispute arising out of his employment either in the host State or in the home State after his return to that State after the completion of the contract of employment. He will also be permitted to apply for the transfer of proceedings in relation to an industrial dispute pending before an authority in the host State to the corresponding authority in the home State on the ground that he has returned to the State after the completion of his contract.
- (ix) Deterrent punishment have been proposed for the contravention of the provisions of the legislation.

ACT 30 OF 1979

The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Bill having been passed by both the Houses of Parliament received the assent of the President on 11th June, 1979. It came on the Statute Book as THE INTER STATE MIGRANT WORKMEN (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 1979 (30 of 1979) (Came into force on 2-10-1980).

THE INTER-STATE MIGRANT WORKMEN (REGULATION OF EMPLOYMENT AND CONDITIONS OF SERVICE) ACT, 1979

(30 of 1979)

[11th June, 1979]

An Act to regulate the employment of inter-State migrant workmen and to provide for their conditions of service and for matters connected therewith.

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

CHAPTER I PRELIMINARY

1. Short title, extent, commencement and application.—(1) This Act may be called the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.

(2) It extends to the whole of India.

(3) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint:

Provided that if the Central Government considers it necessary or expedient so to do in the public interest, it may postpone or relax, to such extent as may be specified in such notification, the operation of all or any of the provisions of this Act in any State or States for such period not extending beyond one year from the date on which this Act comes into force.

(4) It applies—

(a) to every establishment in which five or more inter-State migrant workmen (whether or not in addition to other workmen) are employed or who were employed on any day of the preceding twelve months;

(b) to every contractor who employs or who employed five or more inter-State migrant workmen (whether or not in addition to other workmen) on any day of the preceding twelve months.

2. Definitions.—(1) In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means,—

(i) in relation to—

(1) any establishment pertaining to any industry carried on by or under the authority of the Central Government or pertaining to any such controlled industry as may be specified in this behalf by the Central Government; or

(2) any establishment of any railway, Cantonment Board, major port, mine or oil-field; or

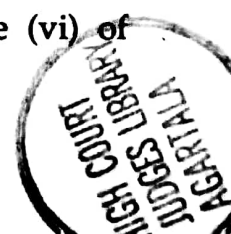
(3) any establishment of a banking or insurance company,

the Central Government;

1. Came into force on 2-10-1980, vide G.S.R. 513(E), dated 11th August, 1980, published in the Gazette of India, Extra., Pt. II, Sec. 3(i), p. 891.

- (ii) in relation to any other establishment, the Government of the State in which that other establishment is situated;
- (b) "contractor", in relation to an establishment, means a person who undertakes (whether as an independent contractor, agent, employee or otherwise) to produce a given result for the establishment, other than a mere supply of goods or articles of manufacture to such establishment, by the employment of workmen or to supply workmen to the establishment, and includes a sub-contractor, *Khatadar*, *Sardar*, agent or any other person, by whatever name called, who recruits or employs workmen;
- (c) "controlled industry" means any industry the control of which by the Union has been declared by any Central Act to be expedient in the public interest;
- (d) "establishment" means—
 - (i) any office or department of the Government or a local authority; or
 - (ii) any place where any industry, trade, business, manufacture or occupation is carried on;
- (e) "inter-State migrant workman" means any person who is recruited by or through a contractor in one State under an agreement or other arrangement for employment in an establishment in another State, whether with or without the knowledge of the principal employer in relation to such establishment;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "principal employer" means,—
 - (i) in relation to any office or department of the Government or a local authority, the head of that office, department or authority or such other officer as the Government or the local authority, as the case may be, may specify in this behalf;
 - (ii) in relation to a factory, the owner or occupier of the factory and where a person has been named as the manager of the factory under the Factories Act, 1948 (63 of 1948), the person so named;
 - (iii) in relation to a mine, the owner or agent of the mine and where a person has been named as the manager of the mine, the person so named;
 - (iv) in relation to any other establishment, any person responsible for the supervision and control of the establishment.

Explanation.—For the purposes of sub-clause (iii) of this clause, the expressions "mine", "owner" and "agent" shall have the meanings respectively assigned to them in clause (j), clause (e) and clause (c) of sub-section (1) of section 2 of the Mines Act, 1952 (35 of 1952);
- (h) "recruitment" includes entering into any agreement or other arrangement for recruitment and all its grammatical variations and cognate expressions shall be construed accordingly;
- (i) "wages" shall have the meaning assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936 (4 of 1936);



(j) "workman" means any person employed in or in connection with the work of any establishment to do any skilled, semi-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 employed mainly in a managerial or administrative capacity; or
- (ii) 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.

(2) Any reference in this Act to any law which is not in force in any area shall, in relation to that area, be construed as a reference to the corresponding law, if any, in force in that area.

COMMENTS

(i) The expressions "mine", "owner" and "agent" have the same meanings as respectively assigned to them in clause (j), clause (l) and clause (c) of sub-section (1) of section 2 of the Mines Act, 1952. Clauses (j), (l) and (c) of the Mines Act, 1952 are as under:

- (j) "Mine" means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on and includes,—
 - (i) all borings, bore holes, oil wells and accessory crude conditioning plants, including the pipe conveying mineral oil within the oil fields;
 - (ii) all shafts, in or adjacent to and belonging to a mine, whether in the course of being sunk or not;
 - (iii) all levels and inclined planes in the course of being driven;
 - (iv) all open cast workings;
 - (v) all conveyors or aerial ropeways provided for the bringing into or removal from a mine of minerals or other articles or for the removal of refuse therefrom;
 - (vi) all adits, levels, planes, machinery, works, railways, tramways and sidings in or adjacent to and belonging to a mine;
 - (vii) all protective works being carried out in or adjacent to a mine;
 - (viii) all workshops and stores situated within the precincts of a mine and under the same management and used primarily for the purposes connected with that mine or a number of mines under the same management;
 - (ix) all power stations, transformer sub-stations, convertor stations, rectifier stations and accumulator, storage stations for supplying electricity solely or mainly for the purpose of working the mine or a number of mines under the same management;
 - (x) any premises for the time being used for depositing sand or other material for use in a mine or for depositing refuse from a mine or in which any operations in connection with such sand, refuse or other material is being carried on, being premises exclusively occupied by the owner of the mine;
 - (xi) any premises in or adjacent to and belonging to a mine on which any process ancillary to the gettings dressing or preparations for sale of minerals or of coke is being carried on.

- (l) "Owner", when used in relation to a mine, means any person who is the immediate proprietor or lessee or occupier of the mine or of any part thereof and in the case of a mine the business whereof is being carried on by a liquidator or receiver, such liquidator or receiver but does not include a person who merely receives a royalty, rent or fine from the mine, or is merely the proprietor of the mine, subject it to any lease, grant or licence for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine; but any contractor or sub-lessee for the working of a mine or any part thereof shall be subject to this Act in like manner as if he were an owner, but not so as to exempt the owner from any liability;
- (c) "agent", when used in relation to a mine, means every person, whether appointed as such or not, who, acting or purporting to act on behalf of the owner, take part in the management, control, supervision or direction of the mine or of any part thereof;
- (ii) "Wages" have the same meaning as assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936. Clause (vi) of section 2 of the Payment of Wages Act, 1936 is as under:—
 - (vi) "wages" means all remuneration (whether by way of salary, allowances, or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and includes—
 - (a) any remuneration payable under any award or settlement between the parties or order of a court;
 - (b) any remuneration to which the person employed is entitled in respect of over-time work or holidays or any leave period;
 - (c) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);
 - (d) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made;
 - (e) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force, but does not include—
 - (1) any bonus (whether under a scheme of profit sharing or otherwise) which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a Court;
 - (2) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by general or special order of the State Government;
 - (3) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
 - (4) any travelling allowance or the value of any travelling concession;
 - (5) any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment; or
 - (6) any gratuity payable on the termination of employment in cases other than those specified in sub-clause (d).

CHAPTER II

REGISTRATION OF ESTABLISHMENTS EMPLOYING INTER-STATE MIGRANT WORKMEN

3. Appointment of registering officers.—The appropriate Government may, by order notified in the Official Gazette,—

- (a) appoint such person, being officers of Government, as it thinks fit to be registering officers for the purposes of this Chapter; and
- (b) define the limits, within which a registering officer shall exercise the powers conferred on him by or under this Act.

COMMENTS

The appropriate Government may, by notification in the Official Gazette appoint registering officers and define their respective limits of jurisdiction and powers under the Act.

4. Registration of certain establishments.—(1) Every principal employer of an establishment to which this Act applies shall, within such period as the appropriate Government may, by notification in the Official Gazette, fix in this behalf with respect to establishments generally or with respect to any class of them, make an application to the registering officer, in such form and manner and on payment of such fees as may be prescribed, for the registration of the establishment:

Provided that the registering officer may entertain any such application for registration after the expiry of the period fixed in that behalf, if the registering officer is satisfied that the applicant was prevented by sufficient cause from making the application in time.

(2) Within one month after the receipt of an application for registration under sub-section (1), the registering officer shall,—

- (a) if the application is complete in all respects, register the establishment and issue to the principal employer of the establishment a certificate of registration in the prescribed form; and
- (b) if the application is not so complete, return the application to the principal employer of the establishment.

(3) Where within a period of one month after the receipt of an application for registration of an establishment under sub-section (1), the registering officer does not grant under clause (a) of sub-section (2) the certificate of registration applied for and does not return the application under clause (b) of that sub-section, the registering officer shall, within fifteen days of the receipt of an application in this behalf, from the principal employer, register the establishment and issue to the principal employer a certificate of registration in the prescribed form.

COMMENTS

An application for registration of an establishment must be moved by the principal employer thereof within such period as the appropriate Government may, by notification in the Official Gazette, fix in that behalf, and in such form and manner and on payment of such fees as may be prescribed.

5. Revocation of registration in certain cases.—If the registering officer is satisfied, either on a reference made to him in this behalf or otherwise, that the

registration of any establishment has been obtained by misrepresentation or suppression of any material fact or that for any other reason, the registration has become useless or ineffective and, therefore, requires to be revoked, the registering officer may, after giving an opportunity to the principal employer of the establishment to be heard and with the previous approval of the appropriate Government, revoke by order in writing the registration and communicate the order to the principal employer:

Provided that where the registering officer considers it necessary so to do for any special reasons, he may, pending such revocation, by order suspend the operation of the certificate of registration for such period as may be specified in the order and serve, by registered post, such order along with a statement of the reasons on the principal employer and such order shall take effect on the date on which such service is effected.

COMMENTS

The registering officer may revoke the registration of any defaulting establishment after giving an opportunity to the principal employer thereof to be heard and with the prior approval of the appropriate Government.

6. Prohibition against employment of inter-State migrant workmen without registration.—No principal employer of an establishment to which this Act applied shall employ inter-State migrant workmen in the establishment unless a certificate of registration in respect of such establishment issued under this Act is in force:

Provided that nothing in this section shall apply to any establishment in respect of which an application for registration made within the period fixed, whether originally or on extension under sub-section (1) of section 4 is pending before a registering officer and for the purposes of this proviso, an application to which the provisions of sub-section (3) of section 4 apply shall be deemed to be pending before the registering officer concerned till the certificate of registration is issued in accordance with the provisions of that sub-section.

COMMENTS

Employment of inter-State migrant workmen in any establishment is prohibited unless it is duly registered under this Act.

CHAPTER III

LICENSING OF CONTRACTORS

7. Appointment of licensing officers.—The appropriate Government may, by order notified in the Official Gazette,—

- (a) appoint such persons, being officers of Government, as it thinks fit to be licensing officers for the purposes of this Chapter; and
- (b) define the limits, within which a licensing officer shall exercise the jurisdiction and powers conferred on licensing officers by or under this Act.

COMMENTS

The appropriate Government may, by notification in the Official Gazette appoint licensing officers and define their respective limits of jurisdiction and powers under this Act.

8. Licensing of contractors.—(1) With effect from such date¹ as the appropriate Government may, by notification in the Official Gazette, appoint, no contractor to whom this Act applies shall,—

- (a) recruit any person in a State for the purpose of employing him in any establishment situated in another State, except under and in accordance with a licence issued in that behalf,—
 - (i) if such establishment is an establishment referred to in sub-clause (i) of clause (a) of sub-section (1) of section 2, by the licensing officer appointed by the Central Government who has jurisdiction in relation to the area wherein the recruitment is made;
 - (ii) if such establishment is an establishment referred to in sub-clause (ii) of clause (a) of sub-section (1) of section 2, by the licensing officer appointed by the State Government who has jurisdiction in relation to the area wherein the recruitment is made.
- b) employ as workmen for the execution of any work in any establishment in any State, persons from another State (whether or not in addition to other workmen) except under and in accordance with a licence issued in that behalf,—
 - (i) if such establishment is an establishment referred to in sub-clause (i) of clause (a) of sub-section (1) of section 2, by the licensing officer appointed by the Central Government who has jurisdiction in relation to the area wherein the establishment is situated;
 - (ii) if such establishment is an establishment referred to in sub-clause (ii) of clause (a) of sub-section (1) of section 2, by the licensing officer appointed by the State Government who has jurisdiction in relation to the area wherein the establishment is situated.

(2) Subject to the provisions of this Act, a licence under sub-section (1) may contain such conditions including, in particular, the terms and conditions of the agreement or other arrangement under which the workmen will be recruited, the remuneration payable, hours of work, fixation of wages and other essential amenities in respect of the inter-State migrant workmen, as the appropriate Government may deem fit to impose in accordance with the rules, if any, made under section 35 and shall be issued on payment of such fees as may be prescribed:

Provided that if for any special reasons, the licensing officer is satisfied that it is necessary to require any person who has applied for, or who has been issued, a licence to furnish any security for the due performance of the conditions of the licence, he may, after communicating such reasons to such person and giving him an opportunity to represent his case, determine in accordance with the rules made in this behalf the security which shall be furnished by such person for obtaining or, as the case may be, for continuing to hold the licence.

1. 1st day of June, 1987, *vide* S.O. 630(E), dated 25th June, 1987.

(3) The security which may be required to be furnished under the proviso to sub-section (2) shall be reasonable and the rules for the purposes of the said proviso shall, on the basis of the number of workmen employed, the wages payable to them, the facilities which shall be afforded to them and other relevant factors provide for the norms with reference to which such security may be determined.

9. Grant of licences.—(1) Every application for the grant of a licence under sub-section (1) of section 8 shall be made in the prescribed form and shall contain the particulars regarding the location of the establishment, the nature of process, operation or work for which inter-State migrant workmen are to be employed and such other particulars as may be prescribed.

(2) The licensing officer may make such investigation in respect of the application received under sub-section (1) and in making any such investigation, the licensing officer shall follow such procedure as may be prescribed.

(3) A licence granted under section 8, shall be valid for the period specified therein and may be renewed from time to time for such period and on payment of such fees and on such conditions as may be prescribed.

COMMENTS

The licensing officer may investigate in respect of an application by following such procedure as may be prescribed.

10. Revocation, suspension and amendment of licences.—(1) If the licensing officer is satisfied, either on a reference made to him in this behalf or otherwise, that—

- (a) a licence granted under section 8 has been obtained by misrepresentation or suppression of any material fact, or
- (b) the holder of a licence has, without reasonable cause, failed to comply with the conditions subject to which the licence has been granted or has contravened any of the provisions of this Act or the rules made thereunder,

then, without prejudice to any other penalty to which the holder of the licence may be liable under this Act, the licensing officer may, after giving the holder of the licence an opportunity to be heard, by order in writing revoke the licence or forfeit the security furnished by him under the proviso to sub-section (2) of section 8 or any part thereof and communicate the order to the holder of the licence:

Provided that where the licensing officer considers it necessary so to do for any special reasons, he may, pending such revocation or forfeiture, by order, suspend the operation of the licence for such period as may be specified in the order and serve, by registered post, such order along with a statement of the reasons on the holder of the licence and such order shall take effect on the date on which such service is effected.

(2) Subject to any rules that may be made in this behalf, the licensing officer may vary or amend a licence granted under section 8.

COMMENTS

The licensing officer may revoke, suspend and amend the license after giving the licenced holder an opportunity to be heard.

11. Appeal.—(1) Any person aggrieved by an order made under section 4, section 5, section 8 or section 10 may, within thirty days from the date on which the order is communicated to him, prefer an appeal to an appellate officer who shall be a person nominated in this behalf by the appropriate Government:

Provided that the appellate officer may entertain the appeal after the expiry of the said period of thirty days, if he is satisfied that the appellate was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1), the appellate officer shall, after giving the appellate an opportunity of being heard, dispose of the appeal as expeditiously as possible.

COMMENTS

Any person aggrieved by an order made under sections 4, 5, 8 and 10 may within thirty days from the knowledge of such order, prefer an appeal to an appellate officer nominated by the appropriate Government in this behalf. Sufficient cause have to be given for condonation of delay in filing the appeal in statutory time under this Act.

CHAPTER IV

DUTIES AND OBLIGATIONS OF CONTRACTORS

12. Duties of contractors.—(1) It shall be the duty of every contractor—

- (a) to furnish such particulars and in such form as may be prescribed, to the specified authority in the State from which an inter-State migrant workman is recruited and in the State in which such workman is employed, within fifteen days from the date of recruitment, or, as the case may be, the date of employment, and where any change occurs in any of the particulars so furnished, such change shall be notified to the specified authorities of both the States;
- (b) to issue to every inter-State migrant workman, a pass book affixed with a passport size photograph of the workman and indicating in Hindi and English languages, and where the language of the workman is not Hindi or English, also in the language of the workman,—
 - (i) the name and place of the establishment wherein the workman is employed;
 - (ii) the period of employment;
 - (iii) the proposed rates and modes of payment of wages;
 - (iv) the displacement allowance payable;
 - (v) the return fare payable to the workman on the expiry of the period of his employment and in such contingencies as may be prescribed and in such other contingencies as may be specified in the contract of employment;
 - (vi) deductions made; and
 - (vii) such other particulars as may be prescribed.
- (c) to furnish in respect of every inter-State migrant workman who ceases to be employed, a return in such form and in such manner as may be prescribed, to the specified authority in the State from which

he is recruited and in the State in which he is employed, which shall include a declaration that all the wages and other dues payable to the workman and the fare for the return journey back to his State have been paid.

(2) The contractor shall maintain the pass book referred to in sub-section (1) up-to-date and cause it to be retained with the inter-State migrant workman concerned.

Explanation.—For the purposes of this section and section 16 “specified authority” means such authority as may be specified by the appropriate Government in this behalf.

CHAPTER V

WAGES WELFARE AND OTHER FACILITIES TO BE PROVIDED TO INTER-STATE MIGRANT WORKMEN

13. Wages rates and other conditions of service of inter-State migrant workmen.—(1) The wage rates, holidays, hours of work and other conditions of service of an inter-State migrant workman shall,—

- (a) in a case where such workman performs in any establishment, the same or similar kind of work as is being performed by any other workman in that establishment, be the same as those applicable to such other workman; and
- (b) in any other case, be such as may be prescribed by the appropriate Government:

Provided that an inter-State migrant workman shall in no case be paid less than the wages fixed under the Minimum Wages Act, 1948 (41 of 1948).

(2) Notwithstanding anything contained in any other law for the time being in force, wages payable to an inter-State migrant workmen under this section shall be paid in cash.

COMMENTS

Section 13 deals with the wage rates, holidays, hours of work and other conditions of service of inter-State migrant workmen. An inter-State migrant workmen shall in no case be paid less than the wages fixed under the Minimum Wages Act, 1948. Wages payable to an inter-State migrant workman, under this section shall be paid in ‘cash’ and not in any other manner form.

14. Displacement allowance.—(1) There shall be paid by the contractor to every inter-State migrant workman at the time of recruitment, a displacement allowance equal to fifty per cent. of the monthly wages payable to him or seventy-five rupees, whichever is higher.

(2) The amount paid to a workman as displacement allowance under sub-section (1) shall not be refundable and shall be in addition to the wages or other amount payable to him.

COMMENTS

Every inter-State migrant workman is entitled to a displacement allowance at the time of recruitment, which may be either seventy-five rupees or half of the monthly wages payable to him, whichever is higher.

15. Journey allowance etc.—A journey allowance of a sum not less than the fare from the place of residence of the inter-State migrant workman in his State to the place of work in the other State shall be payable by the contractor to the workman both for the outward and return journeys and such workman shall be entitled to payment of wages during the period of such journeys as if he were on duty.

COMMENTS

Every inter-State migrant workman is entitled to payment of wages during the period of journey's on duty and is also entitled to journey allowance for outward and return journeys from the place of residence in his State to the place of work in the other State.

16. Other facilities.—It shall be the duty of every contractor employing inter-State migrant workmen in connection with the work of an establishment to which this Act applies,—

- (a) to ensure regular payment of wages to such workmen;
- (b) to ensure equal pay for equal work irrespective of sex;
- (c) to ensure suitable conditions of work to such workmen having regard to the fact that they are required to work in a State different from their own State;
- (d) to provide and maintain suitable residential accommodation to such workmen during the period of their employment;
- (e) to provide the prescribed medical facilities to the workmen, free of charge;
- (f) to provide such protective clothing to the workmen as may be prescribed; and
- (g) in case of fatal accident or serious bodily injury to any such workman, to report to the specified authorities of both the States and also the next of kin of the workman.

17. Responsibility for payment of wages.—(1) A contractor shall be responsible for payment of wages to each inter-State migrant workman employed by him and such wages shall be paid before the expiry of such period as may be prescribed.

(2) Every principal employer shall nominate a representative duly authorised by him to be present at the time of disbursement of wages by the contractor and it shall be the duty of such representative to certify the amounts paid as wages in such manner as may be prescribed.

(3) It shall be the duty of the contractor to ensure the disbursement of wages in the presence of the authorised representative of the principal employer.

(4) In case the contractor fails to make payment of wages within the prescribed period or makes short payment, then the principal employer shall be liable to make payment of the wages in full or the unpaid balance due, as the case may be, to the inter-State migrant workman employed by the contractor and recover the amount so paid from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

18. Liability of principal employer in certain cases.—(1) If any allowance required to be paid under section 14 or section 15 to an inter-State migrant workman employed in an establishment to which this Act applies is not paid by the contractor or if any facility specified in section 16 is not provided for the benefit of such workman, such allowance shall be paid, or, as the case may be, the facility shall be provided, by the principal employer within such time as may be prescribed.

(2) All the allowances paid by the principal employer or all the expenses incurred by him in providing the facility referred to in sub-section (1) may be recovered by him from the contractor either by deduction from any amount payable to the contractor under any contract or as a debt payable by the contractor.

19. Past liabilities.—It shall be the duty of every contractor and every principal employer to ensure that any loan given by such contractor or principal employer to any inter State migrant workman does not remain outstanding after the completion of the period of employment of such workman under the said contractor or, as the case may be, in the establishment of such principal employer and accordingly every obligation of an inter-State migrant workman to re-pay any debt obtained by him during the period of his employment from the contractor or the principal employer and remaining unsatisfied before the completion of such period shall, on such completion, be deemed to have been extinguished and no suit or other proceeding shall lie in any court or before any authority for the recovery of such debt or any part thereof.

CHAPTER VI INSPECTING STAFF

20. Inspectors.—(1) The appropriate Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be inspectors for the purposes of this Act, and define the local limits within which they shall exercise their powers under this Act.

(2) Subject to any rules made in this behalf, within the local limits for which he is appointed, an inspector may—

- (a) if he has reason to believe that any inter-State migrant workmen are employed in any premises or place, enter, at all reasonable hours, with such assistants (if any), being persons in the service of the Government or any local or other public authority as he thinks fit, such premises or place for the purpose of—
 - (i) satisfying himself whether the provisions of this Act in relation to the payment of wages, conditions of service, or facilities to be provided to such workmen are being complied with;
 - (ii) examining any register or record or notices required to be kept or exhibited by the provisions of this Act or the rules made thereunder, and requiring the production thereof for inspection;
- (b) examine any person found in any such premises or place for the purpose of determining whether such person is an inter-State migrant workman;

- (c) require any person giving out work to any workman, to give any information which is in his power to give, with respect to the names and addresses of the persons to, for and from whom the work is given out or received, and with respect to the payments to be made for the work;
- (d) seize or take copies of such register, record of wages, or notices or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed by a principal employer or contractor, and
- (e) exercise such other powers as may be prescribed.

(3) Notwithstanding anything contained in sub-sections (1) and (2), if a State Government considers it necessary for the purpose of satisfying itself that the provisions of this Act are being complied with in respect of any workmen belonging to that State and employed in an establishment situated in another State, it may, by order in writing, appoint such persons, being persons in the service of that Government, for the exercise of such of the powers mentioned in sub-section (2), as may be specified in that order:

Provided that no such order shall be issued without the concurrence of the Government of the State in which such workmen are employed or where the establishment is an establishment referred to in sub-clause (i) of clause (a) of sub-section (1) of section 2, without the concurrence of the Central Government.

(4) Any person required to produce any document or thing, or to give any information required, by an inspector under sub-section (2), or by a person appointed under sub-section (3), shall be deemed to be legally bound to do so within the meaning of section 175 and section 176 of the Indian Penal Code (45 of 1860).

(5) The provisions of the Code of Criminal Procedure, 1973 (2 of 1974), shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code.

CHAPTER VII MISCELLANEOUS

21. Inter-State migrant workmen to be deemed to be in employment from date of recruitment for the purposes of certain enactments.—For the purposes of the enactments specified in the Schedule, an inter-State migrant workman shall, on and from the date of his recruitment, be deemed to be employed and actually worked in the establishment or, as the case may be, the first establishment in connection with the work of which he is employed.

22. Provisions regarding industrial disputes in relation to inter-State migrant workmen.—(1) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (14 of 1947), any dispute or difference in connection with the employment or non-employment or the terms of employment or the conditions of labour, of an inter-State migrant workman (hereafter in this section referred to as the industrial dispute), may,—

- (a) if the industrial dispute is relatable to an establishment referred to in sub-clause (i) of clause (a) of sub-section (1) of section 2, be referred under the provisions of the said Act, by the Central Government to any of the authorities referred to in Chapter II of that Act (hereafter in this section referred to as the said authorities),—
 - (i) in the State wherein the establishment is situated;
 - (ii) in the State wherein the recruitment of such workman was made if he makes an application in that behalf to that Government on the ground that he has returned to that State after the completion of his employment;
- (b) if the industrial dispute is relatable to an establishment referred to in sub-clause (ii) of clause (a) of sub-section (1) of section 2,—
 - (i) be referred under the provisions of the said Act, by the Government of the State wherein the establishment is situated, to any of the said authorities in that State; or
 - (ii) be referred under the provisions of the said Act, by the Government of the State wherein the recruitment of such workman was made to any of the said authorities in that State, if he makes an application in that behalf to that Government on the ground that he has returned to that State after the completion of his employment:

Provided that—

- (a) no application referred to in sub-clause (ii) of clause (a) or sub-clause (ii) of clause (b) shall be entertained after the expiry of a period of six months from the date of his return to the State wherein the recruitment was made after the completion of his employment, unless the Government concerned is satisfied that the applicant was prevented by sufficient cause from making the application within that period;
- (b) no reference under the said sub-clause (ii) of clause (b) shall be made except after obtaining the concurrence of the Government of the State wherein the establishment concerned is situated.

(2) Without prejudice to the provisions of section 33B of the Industrial Disputes Act, 1947 (14 of 1947), where during the pendency of any proceeding in respect of an industrial dispute under that Act before any of the said authorities in the State wherein the establishment is situated, an application is made to that authority by an inter-State migrant workman for the transfer of such proceeding to a corresponding authority in the State wherein his recruitment was made on the ground that he has returned to that State after the completion of his employment, that authority shall forward the application to the Central Government, or, as the case may be, to the Government of the State wherein such recruitment was made and transfer such proceeding in the prescribed manner to such authority as may be specified in this behalf by that Government:

Provided that in a case where no authority has been specified by the Government concerned within the prescribed period, the authority before which

the proceeding is pending shall, on a request being made by the inter-State migrant workman and after obtaining the previous approval of the Government which referred the dispute to that authority, forward such proceeding to the Government concerned for reference of such dispute to an authority in the State wherein such recruitment was made.

(3) Without prejudice to the provisions of sub-section (2), if the Central Government is satisfied that it is expedient in the interests of justice so to do, it may, by order in writing and for reasons to be stated therein, withdraw any proceeding in respect of any industrial dispute relating to an inter-State migrant workman pending before an authority in the State in which the establishment concerned is situated and transfer the same to such authority in the State wherein the recruitment of such workman was made as may be specified in the order.

(4) The authority to which any proceeding is transferred under this section may proceed either *de novo* or from the stage at which it was so transferred.

23. Registers and other records to be maintained.—(1) Every principal employer and every contractor shall maintain such registers and records giving such particulars of the inter-State migrant workmen employed, the nature of work performed by such workmen, the rates of wages paid to the workmen and such other particulars in such form as may be prescribed.

(2) Every principal employer and every contractor shall keep exhibited in such manner as may be prescribed within the premises of the establishment where the inter-State migrant workmen are employed, notices in the prescribed form containing particulars about the hours of work, nature of duty and such other information as may be prescribed.

24. Obstructions.—(1) Whoever obstructs an inspector or a person appointed under sub-section (3) of section 20 (hereinafter referred to as the authorised person) in the discharge of his duties under this Act or refuses or wilfully neglects to afford the inspector or authorised person any reasonable facility for making any inspection, examination, inquiry or investigation authorised by or under this Act in relation to an establishment to which, or a contractor to whom, this Act applies, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both

(2) Whoever wilfully refuses to produce on the demand of any inspector or authorised person any register or other document kept in pursuance of this Act or prevents or attempts to prevent or does anything which he has reason to believe is likely to prevent any person from appearing before or being examined by any inspector or authorised person acting in pursuance of his duties under this Act, shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

25. Contravention of provisions regarding employment of inter-State migrant workmen.—Whoever contravenes any provisions of this Act or of any rules made thereunder regulating the employment of inter-State migrant workmen, or contravenes any condition of a licence granted under this Act, shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees or with both, and in the

case of a continuing contravention, with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

26. Other offences.—If any person contravenes any of the provisions of this Act or of any rules made thereunder for which no other penalty is elsewhere provided, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees, or with both.

27. Offences by companies.—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director", in relation to a firm, means a partner in the firm.

28. Cognizance of offences.—No court shall take cognizance of any offence under this Act except on a complaint made by, or with the previous sanction in writing of, an inspector or authorised person and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

29. Limitation of prosecutions.—No court shall take cognizance of an offence punishable under this Act unless the complaint thereof is made within three months from the date on which the alleged commission of the offence came to the knowledge of the inspector or authorised person concerned:

Provided that where the offence consists of disobeying a written order made by an inspector or authorised person, complaint thereof may be made within six months of the date on which the offence is alleged to have been committed.

30. Effect of laws and agreements inconsistent with the Act.—(1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any agreement or contract of service, or in any standing orders applicable to the establishment whether made before or after the commencement of this Act:

Provided that where under any such law, agreement, contract of service or standing orders, the inter-State migrant workmen employed in the establishment are entitled to benefits in respect of any matter which are more favourable to them than those to which they would be entitled under this Act, the inter-State migrant workmen shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that they receive benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed as precluding any inter-State migrant workmen from entering into an agreement with the principal employer or the contractor, as the case may be, for granting them rights or privileges in respect of any matter which are more favourable to them than those to which they would be entitled under this Act.

31. Power to exempt in special cases.—The appropriate Government may, by notification in the Official Gazette and subject to such conditions and restrictions, if any, and for such period or periods as may be specified in the notification, direct that all or any of the provisions of this Act or the rules made thereunder shall not apply to or in relation to any establishment or class of establishments or any contractor or class of contractors or any inter-State migrant workmen in such establishment or class of such workmen, if that Government is satisfied that it is just and proper so to do having regard to the methods of recruitment and the conditions of employment in such establishment or class of establishments and all other relevant circumstances.

32. Protection of action taken under Act.—(1) No suit, prosecution or other legal proceedings shall lie against any registering officer, licensing officer or any other employee of the Government for anything which is in good faith done or intended to be done in pursuance of this Act or any rule or order made thereunder.

(2) No suit or other legal proceedings shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rule or notification or order made or issued thereunder.

33. Power to give directions.—The Central Government may give directions to the Government of any State as to the carrying into execution in the State of the provisions contained in this Act.

34. Power to remove difficulties.—(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of two years from the date on which this Act comes into force.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

35. Power to make rules.—(1) The appropriate Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the form and manner in which an application for the registration of an establishment may be made under section 4, the fees payable thereon and the form of a certificate of registration issued under that section;
- (b) the form in which an application for the grant or renewal of a licence may be made under section 9 and the particulars it may contain;
- (c) the manner in which an investigation is to be made in respect of an application for the grant of a licence and the matters to be taken into account in granting or refusing a licence;
- (d) the form of a licence which may be granted or renewed under this Act, the conditions subject to which the licence may be granted or renewed, the fees payable for the grant or renewal of a licence and the security, if any, required to be furnished for the due performance of the conditions of the licence;
- (e) the circumstances under which licences may be varied or amended under section 10;
- (f) the form and the manner in which appeals may be filed under section 11 and the procedure to be followed by appellate officers in disposing of the appeals;
- (g) the wage rates, holidays, hours of work and other conditions of service which an inter-State migrant workman is entitled under section 13;
- (h) the period within which wages payable to inter-State migrant workmen should be paid by the contractor under sub-section (1) of section 17 and the manner of certification of such payment under sub-section (2) thereof;
- (i) the time within which allowances or facilities required by this Act to be provided and maintained may be so provided by the contractor and in case of default on the part of the contractor, by the principal employer under section 18;
- (j) the powers that may be exercised by inspectors under section 20;
- (k) the form of registers and records to be maintained, and the particulars and information to be contained in notices to be exhibited, by the principal employers and contractors under section 23;
- (l) the manner of submission of returns, and the forms in which, and the authorities to which, such returns may be submitted;
- (m) legal aid to inter-State migrant workmen;
- (n) any other matter which is required to be, or may be, prescribed under this Act.

(3) Every rule made by the Central Government under this Act 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.

36. Repeals and saving.—(1) The Orissa Dadan Labour (Control and Regulation) Act, 1975 (Orissa Act 42 of 1975) and any law corresponding to this Act, in force in any State, shall stand repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the Act or law so repealed shall, in so far as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the provisions of this Act as if the said provisions were in force when such thing was done or such action was taken and shall continue to be in force accordingly until superseded by anything done or any action taken under this Act.

THE SCHEDULE

(See section 21)

1. The Workmen's Compensation Act, 1923 (8 of 1923).
 2. The Payment of Wages Act, 1936 (4 of 1936).
 3. The Industrial Disputes Act, 1947 (14 of 1947).
 4. The Employees' State Insurance Act, 1948 (34 of 1948).
 5. The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952).
 6. The Maternity Benefit Act, 1961 (53 of 1961).
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