

Payment Of Gratuity (Amendment) Act, 1987

22 of 1987

[12 August 1987]

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An Act further to amend the Payment of Gratuity Act, 1972. Be it enacted by Parliament in the Thirty-eighth Year of the Republic of India as follows:--

1. Short Title And Commencement :-

(1) This Act may be called the Payment of Gratuity (Amendment) Act, 1987.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

1. 1.10.1987 Vide Notification No. S.O. 873 (E), dated 1.10.1987 (in respect of sections 2, 3 clauses (b) and (c) of section 4, sections 6, 7, 8 and and 9).

2. Amendment Of Section 2 :-

In section 2 of the Payment of Gratuity Act, 1972 (hereinafter

referred to as the principal Act),--

(i) in clause (e),--

(a) for the words "one thousand and six hundred rupees per mensem", the words "two thousand and five hundred rupees per mensem, or such higher amount as the Central Government may, having regard to the general level of wages, by notification, specify" shall be substituted;

(b) in the Explanation,--

(i) for the words "one thousand and six hundred rupees per mensem", occurring for the first time, the words, brackets and letter "the amount for the time being specified by or under clause (e)" shall be substituted;

(ii) for the words "one thousand and six hundred rupees per mensem", occurring at the remaining two places, the words "that amount" shall be substituted:

(ii) in clause (h),--

(a) in sub-clause (i), for the words "and the widow", the words "and the dependent parents of his wife and the widow" shall be substituted,

(b) the proviso shall be omitted.

3. Amendment Of Section 2A :-

In section 2A of the principal Act,--

(a) in clause (1), the words "imposing a punishment or penalty or" shall be omitted;

(b) in clause (2), the following Explanation shall be added at the end, namely: --

"Explanation.--For the purposes of clause (2), the number of days on which an employee 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(20 of 1946), or under the Industrial Disputes Act, 1947(14 of 1947), or under any other law applicable to the establishment;

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

(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."

4. Amendment Of Section 4 :-

In section 4 of the principal Act,--

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

"Provided further that in the case of death of the employee, gratuity payable to him shall be paid to his nominee or, if no nomination has been made, to his heirs, and where any such nominee or heirs is a minor, the share of such minor, shall be deposited with the controlling authority who shall invest the same for the benefit of such minor in such bank or other financial institution, as may be prescribed, until such minor attains majority.";

(b) in sub-section (2), the following Explanation shall be inserted at the end, namely:--

"Explanation--In the case of a monthly rated employee, the fifteen days wages shall be calculated by dividing the monthly rate of wages last drawn by him by twenty-six and multiplying the quotient by fifteen.";

(c) in sub-section (3), for the words "twenty months wages", the words "fifty thousand rupees" shall be substituted.

5. Insertion Of New Section 4A :-

After section 4 of the principal Act, the following new section shall be inserted, namely:--

4A. Compulsory insurance.--

(1) With effect from such date as may be notified by the appropriate Government in this behalf, every employer, other than an employer or an establishment belonging to, or under the control of, the Central Government or a State Government, shall, subject to the provisions of sub-section (2), obtain an insurance in the manner prescribed, for his liability for payment towards the gratuity under this Act, from the Life Insurance Corporation of India established under the Life Insurance Corporation of India Act, 1956(31 of 1956) or any other prescribed insurer:

Provided that different dates may be appointed for different establishments or class of establishments or for different areas.

(2) The appropriate Government may, subject to such conditions as may be prescribed, exempt every employer who had already established an approved gratuity fund in respect of his employees

and who desires to continue such arrangement, and every employer employing five hundred or more persons who establishes an approved gratuity fund in the manner prescribed from the provisions of sub-section (1).

(3) For the purpose of effectively implementing the provisions of this section, every employer shall within such time as may be prescribed get his establishment registered with the controlling authority in the prescribed manner and no employer shall be registered under the provisions of this section unless he has taken an insurance referred to in sub-section (1) or has established an approved gratuity fund referred to in sub-section (2).

(4) The appropriate Government may, by notification, make rules to give effect to the provisions of this section and such rules may provide for the composition of the Board of Trustees of the approved gratuity fund and for the recovery by the controlling authority of the amount of the gratuity payable to an employee from the Life Insurance Corporation of India or any other insurer with whom an insurance has been taken under sub-section (1), or as the case may be, the Board of Trustees of the approved gratuity fund.

(5) Where an employer fails to make any payment by way of premium to the insurance referred to in sub-section (1) or by way of contribution to an approved gratuity fund referred to in sub-section (2), he shall be liable to pay the amount of gratuity due under this Act (including interest, if any, for delayed payments) forthwith to the controlling authority.

(6) Whoever contravenes the provisions of sub-section (5) shall be punishable with fine which may extend to ten thousand rupees and in the case of a continuing offence with a further fine which may extend to one thousand rupees for each day during which the offence continues.

Explanation.--In this section "approved gratuity fund" shall have the same meaning as in clause (5) of section 2 of the Income-tax Act, 1961(43 of 1961).

6. Amendment Of Section 5 :-

In section 5 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:--

"(3) A notification issued under sub-section (1) or sub-section (2) may be issued retrospectively a date not earlier than the date of commencement of this Act, but no such notification shall be issued

so as to prejudicially affect the interests of any person."

7. Amendment Of Section 7 :-

In section 7 of the principal Act, for sub-section (3), the following sub-sections shall be substituted, namely:--

"(3) The employer shall arrange to pay the amount of gratuity within thirty days from the date it becomes payable to the person to whom the gratuity is payable.

(3A) If the amount of gratuity payable under sub-section (3) is not paid by the employer within the period specified in sub-section (3), the employer shall pay, from the date on which the gratuity becomes payable to the date on which it is paid, simple interest at such rate, not exceeding the rate notified by the Central Government from time to time for repayment of long-term deposits, as that Government may, by notification specify:

Provided that no such interest shall be payable if the delay in the payment is due to the fault of the employee and the employer has obtained permission in writing from the controlling authority for the delayed payment on this ground."

8. Amendment Of Section 8 :-

In section 8 of the principal Act,--

(a) for the words "at the rate of nine per cent. per annum", the words "at such rate as the Central Government may, by notification, specify" shall be substituted;

(b.) the following provisos shall be added at the end, namely: --

"Provided that the controlling authority shall, before issuing a certificate under this section, give the employer a reasonable opportunity of showing cause against the issue of such certificate:

Provided further that the amount of interest payable under this section shall, in no case exceed the amount of gratuity payable under this Act:".

9. Amendment Of Section 9 :-

In section 9 of the principal Act,--

(a) in sub-section (1), for the words "one thousand rupees", the words "ten thousand rupees" shall be substituted;

(b) in sub-section (2),--

(i) for the words "which may extend to one year, or with fine which may extend to one thousand rupees, or with both", the following

shall be substituted, namely:--

"which shall not be less than three months but which may extend to one year, or with fine which shall not be less than ten thousand rupees but which may extend to twenty thousand rupees, or with both":

(ii) in the proviso, for the words "three months", the words "six months but which may extend to two years" shall be substituted.