

PAYMENT OF WAGES (RAILWAYS) RULES, 1938

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PAYMENT OF WAGES (RAILWAYS) RULES, 1938

No.L 3070(1), dated the 5th May, 19381.- In exercise of the powers conferred by sub-sections (2), (3) and (4) of Section 26, read with Sec. 24 of the Payment of Wages Act. 1936 (4 of 1936), and in supersession of the Payment of Wages (Railways) Rules, 1937, In so far as they relate to 2[* * *] Railways within the meaning of Government of India Act, 1935, the Central Government is pleased to make the following rules, the same having been previously published as required by sub-section (5) of

Section 26 of the first named Act, namely :

1. Title and application :-

(1) The rules may be called the payment of Wages ¹[* * *) (Railways) Rules, 1938.

²[(1-A) They extend to the whole of India ³[***].

(2) These rules apply In respect of the payment of wages to persons employed upon any ¹[* * *) railway (Including factories) by or under a Railway Administration⁵or by a contractor ⁶ [***].

1. The word "Federal" deleted by S.R.O. 429, dated the 4th March, 1952.

2. Ins. by The word "Federal" deleted by S.R.O. 429, dated the 4th March, 1952..

3. The words "except the State of Jammu and Kashmir" deleted by G.S.R. 443, dated 25th May, 1938.

5. Subs. by S.O. 359. dated 6th February, 1961.

6. Deleted by G.S.R. 443. dated 25th May, 1983. for certain words.

2. Definitions :-

In these rules, unless there is anything repugnant in the subject or context,-

(a) "the Act" means the Payment of Wages Act (IV of 1936) :

(b) "the authority" means the authority appointed under sub-section (1) of Section 15 of the Act:

(c) "the Court" means the Court mentioned in sub- section (1) of Section 17 of the Act;

(d) "deduction for breach of contract" means a deduction made In accordance with the provisions of the proviso to sub-section (2) of Section 9 ;

(e) 'deduction for damage or loss" means a deduction made In accordance with the provisions of C1. (c) of sub-section (2) of Section 7 ; ¹[* * *)

²[(ff)

(i) 'Family' means-

(a) spouse, and

(b) children whether married or unmarried of railway servant In

that order of precedence.

(ii) 'Dependent relative' means-

(a) dependent parents:

(b) his/her deceased sons' widows and children ;

(c) unmarried or widowed sister, brother/stepbrother provided residing with and wholly dependent on the railway servant.]

(g) "Form" means a form appended to these rules;

(h) "Inspector" means an Inspector authorised by or under Section 14 of the Act;

(i) "person employed" does not include any person to the payment of whose wages the Act does not apply;

(j) "section" means a section of the Act;

(k) "paymaster" means the Railway administration or other person or persons who may be nominated as such by the railway administration under Cl. (c) of Section 3 and in the case of a person employed by a contractor, the contractor;

3 (l) "Regional Labour Commissioner (Central)" means an officer appointed as such by the Central Government]

(m) "contractor" means a person fulfilling, either directly or through a sub-contractor, a contract with a Railway Administration;

(n) "employer" means the Railway Administration, and in the case of person employed by a contractor, the contractor;

(o) words and expressions defined in the Act shall be deemed to have the same meaning as in the Act.

1. Deleted by S.R.O. 429. dated 4th March, 1952, for Cl. (f).

2. Ins. by G.S.R. 1159 (E). dated 9th December, 1988 (w.e.f. 9th August. 1988).

3. Subs. by G.S.R. 443, dated 25th May. 1983.

2A. Nominations :-

The nomination form given by a railway servant In respect of payment of provident fund deposits shall be treated as the nomination form for the purpose of disbursement of unpaid wages.]

3. Register of Fines :-

(1) On any railway where the employer has obtained approval under sub-section (1) of Section 8 to a list of acts and omissions in respect of which fines may be imposed, the paymaster shall maintain a Register of Fines in Form 1.

(2) At the beginning of the Register of Fines there shall be entered serially numbered the approved purpose or purposes on which the fines realized are to be expended.

(3) When any disbursements are made from the fines realized, a deduct entry of the amount so expended shall be made in the Register of Fines, and a voucher or receipt in respect of the amount shall be affixed to the Register. If more than one purpose has been approved the entry of the disbursement shall also indicate the purpose for which it is made.

¹ [(4) Where no fine has been imposed on any employee in a wage period, a "nil" entry shall be made across the body of the register at the end of the wage period indicating also in precise terms the wage period to which the "nil" entry relates.]

1. . Ins. by G.S.R. 443, dated 25th May. 1983.

4. Register of deductions for damage or loss :-

(1) On every railway in which deductions for damage or loss are made the paymaster shall maintain the Register required by sub-section (2) of Section 10 of Form II.

¹ [(2) Where no deduction has been made from the wages of any employee in a wage period, a "nil" entry shall be made across the body of the register at the end of the wage period, indicating also in precise terms the wage period to which the "nil" entry relates].

1. . Ins. by G.S.R. 443, dated 25th May. 1983.

5. Register of Wages :-

A Register of Wages shall be maintained by every employer ¹ [** *] in such form as the paymaster finds convenient. The said register shall include the following particulars :

(a) the gross wages of each person employed for each wage period;

(b) all deductions made from those wages, with an indication. In each case, of the clause of sub-section (2) of Section 7 under which the deduction is made;

(c) the wages actually paid to each person employed for each wage period and the date of payment.

1. The words "and shall be kept at the workspot" deleted by 25th May, 1983..

5A. Combined Form of Register :-

Notwithstanding anything con- ed In these rules, where a combined (alternative) form is sought to be used by the employer to avoid duplication of work for compliance with the provisions of any other Act or the rules framed there rules may be used with the previous approval of the Chief Labour Commissioner ¹ [(Central)].

1. Ins. by G.S.R. 443, dated 25th May, 1983.

6. Maintenance of registers :-

The registers required by rule 3, Section 4 , ¹[Section 5 and Section 18(3)], ²[including registers maintained in lieu thereof in accordance with the provisions, of rule 5A] shall be ³[maintained upto date, kept and preserved for three years after the date of last entry made in them, at the workspot and be produced before the Inspector on demand at the workspot]: ⁴ [Provided further that In the event of closure of any establishment of Railway Administration or contractor, as the case may be, the payments shall produce the registers before the Inspectors on demand in the office of the Inspector or any other place specified by him.] The registers shall normally be maintained in English, but where they are maintained in any other language than English, a true translation thereof in English shall be available.

1. Subs. by S.R.O.711, dated 24th March, 1955 for the word and figure "and 5".

2. Ins. by S.O.3513, dated 4th November, 1965, published in the Gazette of India, Pt. II, Sec. 3 (ii). dated 13th November, 1965.

3. Subs. by G.S.R. 443, dated 25th May, 1983, for the words "preserved for twelve months after the date of the last entry made in them."

4. . Ins. by G.S.R. 443, dated 25th May, 1983.

7. Places for displaying notices :-

The ¹ [Regional Labour Commissioner (Central)] shall specify such place or places on the railway, other than factories, as he thinks fit (hereinafter referred to as "specified place" or "specified places") for the display of notices, lists and rules under rules 8, 12 and 16.

1. Subs. by O.S.R.443, dated the 25th May, 1983, for the word

"Supervisor."

8. Notice of wage period and dates of payment :-

(1) The paymaster shall display in a conspicuous place at every station or establishment, within his jurisdiction, a notice in English and Hindi or in the language (if that be not Hindi) of the majority of the persons employed at such stations or establishment, as the case may be, showing : (i) the wage period for which wages are payable; ¹[* * *] (ii) the days or dates on which wages are to be paid; ²[(iii) the days or dates on which unpaid wages are to be paid; and (iv) names and addresses of Inspectors having jurisdiction.]

(2) Every such notice shall be maintained in a clean and legible condition.

(3) A copy each of every such notice and of any alteration therein shall be sent to the Inspector not less than two weeks in advance of the day or date on which wages are to be paid. ³

1. The word "and" deleted by Subs. by O.S.R.443, dated the 25th May, 1983, for the word "Supervisor." ..

2. Ins-by The word "and" deleted by Subs. by O.S.R.443, dated the 25th May, 1983, for the word "Supervisor." ...

3. Dalchand v. Municipal Corporation, Bhopal. 1983 Cr. L.J. 448 at pp. 448-49 (S.C.) : see also M. Madhava Pillai v. S.N.M. College, Malinkara. 1992 Lab. I.C. SO at p. 55 (Ker.).

8A. Supervision of payment :-

On direction of the Inspector, the Paymaster or his representative at the workspot shall pay wages to the employed person under his supervision.]

9. Prescribed authority :-

(1) The ¹[Regional Labour Commissioner (Central)] shall be the authority competent to approve, under sub-section (1) of Section 8, acts and omission in respect of which fines may be imposed and, under sub-section (8) of Section 8, the purposes to which the proceeds of fines shall be applied.

² [(2) 'The Chairman of the Staff Benefit Fund Committee functioning in each zonal railway, production units of the railways and other railway organisations, independent of a zonal railway, shall be the prescribed authority with whom the amount required to be deposited under Cl. (b) of sub-section (1) of Section 25A of

the Act shall be deposited and who shall deal with the amount so deposited in the manner prescribed in Rule 18B.]

1. Subs by G.S.R. 443 dated 25th May. 1983.

2. Ins. by G.S.R. 1159 (E) dated 9th December, 1988 (w.e.f. 9th December, 1988).

10. Application in respect of fines :-

Every employer requiring the power to Impose fines In respect of any acts and omissions on the part of employed persons shall send to the ¹ Regional Labour Commissioner (Central)]-

(a) a list, in English, in duplicate, clearly defining such acts and omissions;

(b) in cases where the employer himself does not intend to be the sole authority empowered to impose fines, a list in duplicate, showing by virtue of office, such of his officers as may pass orders imposing fines and the class of establishment on which any such officer may impose fine.

1. Subs by G.S.R. 443 dated 25th May. 1983.

11. Approval of list of acts and omissions :-

The ¹ [Regional Labour Commissioner (Central)] may, on receipt of the list prescribed In sub-rule (a) of rule 10, and after such enquiry as he considers necessary, pass orders In respect of the list referred to in Cl. (a) of rule 10 either-

(a) disapproving the list,

(b) approving the list either in its original form or as amended by him, in which case such list shall be deemed to have been approved under sub- section (1) of Section 8 : Provided that no order disapproving or amending the list shall be passed unless the employer shall have been given an opportunity of showing cause orally or in writing against such order.

1. Subs by G.S.R. 443 dated 25th May. 1983.

12. Posting of list :-

The employer shall display at or near the main entrance of every factory, and at the specified place or specified places, a copy in English together with a literal translation thereof, in the language of the majority of the persons employed at such factory or place, of the list of acts and omissions approved by the authority prescribed under rule 9.

13. . Persons authorised to impose fines :-

(1) No fine may be imposed upon a person, employed by a Railway Administration, by any person other than the Railway Administration, or by a person holding an appointment named in the list referred to in Cl. (b) of rule 10.

(2) In the case of persons employed by a contractor, no fines may be imposed by any person other than the contractor : Provided that a contractor who runs more than one establishment in two or more localities and who employs not less than 50 persons in one locality may, with the approval of the Supervisor, delegate his power to fine to his representative in that locality.

14. Procedure for imposing fines and deductions for loss or damage :-

¹ [(1) No fine shall be imposed and no deduction for damage or loss under sub-section (1) of Section 10 of the Act, shall be made from a person employed by a Railway Administration except in accordance with the procedure laid down in the rules in force on the Railway and until the employed person has been given an opportunity of showing cause against such imposition or deduction.]

(2) No fine shall be imposed on and no deduction for damage or loss shall be made from the wages of a person employed by a contractor until the person authorised to impose the fine or made the deduction has explained personally to the said person that act or omission or damage or loss, in respect of which the fine or deduction is proposed to be imposed and the amount of the fine or deduction, which it is proposed to impose, and has heard his explanation in the presence of at least one other person.

1. Subs. by S.O. 890. dated 11th March. 1965, published in the Gazette of India. Pt. 11, Sec, 3 (II). dated 20th March, 1965.

15. Information to paymaster :-

The person imposing a fine or directing the making of a deduction for damage or loss shall (unless such person is the paymaster) at once inform the payment of all particulars necessary for the completion of the register prescribed in rule 3 or rule 4, as the case may be.

16. Deductions under the proviso to sub-section (2) of Sec. 9 :-

(1) No deduction under the proviso to sub-section (2) of Section 9 shall be made from the wages of an employed person who is under the age of fifteen years or is a woman.

(2) No such deduction shall be made from the wages of any employed person unless -

(a) there is provision in writing in the terms of the contract of employment requiring him to give notice of the termination of his employment; and

(i) the period of this notice does not exceed fifteen days or the wage-period, whichever is less; and

(ii) the period of this notice does not exceed the period of notice which the employer is required to give of the termination of that employment;

(b) this rule has been displayed in English and in the language of the majority of the employed persons at or near the main entrance of the factory, and at the specified place or specified places, concerned, and has been so displayed for not less than one month before the commencement of the absence in respect of which the deduction is made;

(c) a notice has been displayed at or near the main entrance of the factory, and at the specified place or specified places, concerned, giving the names of the persons from whom the deduction is proposed to be made, the number of days' wages to be deducted and the conditions (if any) on which the deduction will be remitted : Provided that where the deduction is proposed to be made from all the persons employed in any departments or sections or factories of the railway, it shall be sufficient, in lieu of giving the names of the persons in such departments, sections, or factories to specify the departments, sections, or factories affected.

(3) No such deductions shall exceed the wages of the person employed for the period by which the notice of termination of service given falls short of the period of such notice required by the contract of employment.

(4) If any conditions have been specified in the notice displayed under Cl. (c) of sub-rule (2), no such deduction shall be made from any person who has complied with such conditions.

17. Annual return :-

Every employer shall send a return in Form III so as to reach the ¹Regional Labour Commissioner (Central)] not later than the 15th of ² February) following the end of the year to which it relates.

1. Subs. by G.S.R. 443, dated 25th May, 1983 for the word "Supervisor".

2. Subs. by S.O. 2497, dated 31st July, 1962.

18. Advances to persons employed by a contractor :-

(1) An advance of wages not already earned shall not ordinarily exceed the amount equal to two calendar months' wages of the employed person. In exceptional cases the amount of such advance may, with the previous sanction of the ¹ [Regional Labour Commissioner (Central)], be made to the extent of four calendar months' wages.

(2) The advance may be recovered in instalments by deductions from wages spread over not more than 12 months in the case of ordinary advance and 20 months in the case of special advance. In no case shall the amount of instalment exceed 1/4th of the wages earned in one month.

(3) The amounts of all advances sanctioned and the repayments thereof shall be entered in a register in Form V.

1. Ins. by S.O. 3513, dated 4th November, 1965, published in the Gazette of India, Pt. II, Sec. 3 (ii), dated 13th November, 1965.

18A. Deposit of amount of undisbursed wages :-

(1) In respect of the staff on Indian Railways including Production Units and their sub-ordinate establishments, all amount of undisbursed wages remaining with the paymaster on account of death of an employee or on account of his whereabouts not being known, shall be transferred to the Staff Benefit Fund by the Accounts Officer after the expiry of three years.

(2) The amount referred to in sub-rule (1) shall be deposited by the paymaster together with relevant details in Form VI to the Chairman, Staff Benefit Fund.

18B. Manner of dealing with amounts :-

(1) The amounts deposited with the Chairman, Staff Benefit Fund under Rule 18A shall remain with the Chairman of the Fund for four years.

(2) As soon as possible the Railway Administration will publish In any two Newspapers circulated In the language commonly understood In the

(3) The prescribed authority shall release the money to the nominee or to that person who has claim to this money and which has been decided by the competent authority/court.

18C. 18C :-

The amount deposited under Rule 18A shall be applied by the Chairman of the Staff Benefit Fund to meet the expenditure for the purpose prescribed for Staff Benefit Fund.

18D. family members dependent relative of employed person to make claims :-

The spouse or children and where the employed person does not have spouse or children, the dependent relative in the order of precedence given In Cl. (ff) (ii) of Rule 2 can make claims of the amount at any time within seven years during which time the wages remain with the paymaster for a period of first three years, as specified In Rule 18A(1) and then credited to the Staff Benefit Fund. In such cases, only the principal amount as remaining with the paymaster deposited by the paymaster with the Chairman, Staff Benefit Fund Committee shall be payable to the claimant.]

19. Procedure, costs and court-fees :-

The procedure to be followed by the authorities appointed under sub-section (1) of Section 15 and the Courts mentioned in sub-section (1) of Section 15 and the Courts mentioned in sub-section (1) of Section 17 of the Act, the scales of costs which may be allowed in, and the amount of court-fees payable in respect of, proceedings under the Act to which these rules apply shall be such procedure, scales and amount as are from time to time prescribed by the Provincial Govern- ment in the exercise of Its powers under the Act in that behalf for the Authority or Court concerned.

20. Abstracts :-

The abstracts of the Act and of the rules made there- under to be displayed under Section 25 shall be in Form IV.

21. Penalties :-

Any breach of rule 3, Section 4 , Section 5 ,¹[Section 5A], Section 6 , Section 8 , Section 12 , Section 15 ,² [Section 17 and Section 18(3)] of these rules shall be punishable with fine which may

extend to two hundred rupees.

1. Ins. by S.O. 3513, dated 4th November, 1965 published In the Gazette of India, Pt. II, Sec. 3 (ii), dated 13th November, 1965.
2. Subs. by S.R.O. 711, dated 24th March, 1955.