

Bill No. VI of 2009

THE INDUSTRIAL DISPUTES (AMENDMENT) BILL, 2009

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BILL

further to amend the Industrial Disputes Act, 1947.

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

1. (1) This Act may be called the Industrial Disputes (Amendment) Act, 2009.

Short title and commencement.

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

14 of 1947.

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

Amendment of section 2.

(i) in clause (a),—

(a) in sub-clause (i), for the words “major port, the Central Government, and”, the words “major port, any company in which not less than fifty-one per cent. of the paid-up share capital is held by the Central Government, or any corporation, not being a corporation referred to in this clause, established by or under any law made by Parliament, or the Central public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the Central Government, the Central Government, and” shall be substituted;

(b) for sub-clause (ii), the following sub-clause shall be substituted, namely:—

“(ii) in relation to any other industrial dispute, including the State public sector undertaking, subsidiary companies set up by the principal undertaking and autonomous bodies owned or controlled by the State Government, the State Government.”;

(ii) in clause (s), in sub-clause (iv), for the words “one thousand six hundred rupees”, the words “ten thousand rupees” shall be substituted.

Amendment of section 2A.

3. Section 2A of the principal Act shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-sections shall be inserted, namely:—

“(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of three months from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).”.

Amendment of section 7.

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

“(f) he is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department, having a degree in law and at least seven years’ experience in the labour department after having acquired degree in law including three years of experience as Conciliation Officer:

Provided that no such Deputy Chief Labour Commissioner or Joint Labour Commissioner shall be appointed unless he resigns from the service of the Central Government or State Government, as the case may be, before being appointed as the presiding officer; or

(g) he is an officer of Indian Legal Service in Grade III with three years’ experience in the grade.”.

Amendment of section 7A.

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

“(b) he is or has been a Deputy Chief Labour Commissioner (Central) or Joint Commissioner of the State Labour Department, having a degree in law and at least seven years’ experience in the labour department after having acquired degree in law including three years of experience as Conciliation Officer:

Provided that no such Deputy Chief Labour Commissioner or Joint Labour Commissioner shall be appointed unless he resigns from the service of the Central Government or State Government, as the case may be, before being appointed as the presiding officer; or

(c) he is an officer of Indian Legal Service in Grade III with three years’ experience in the grade.”.

Substitution of new chapter for chapter IIB.

6. After section 9B of the principal Act, for chapter IIB, the following Chapter shall be substituted, namely:—

“CHAPTER IIB

GRIEVANCE REDRESSAL MACHINERY

9C. (1) Every industrial establishment employing twenty or more workmen shall have one or more Grievance Redressal Committee for the resolution of disputes arising out of individual grievances.

Setting up of
Grievance
Redressal
Machinery.

(2) The Grievance Redressal Committee shall consist of equal number of members from the employer and the workmen.

(3) The chairperson of the Grievance Redressal Committee shall be selected from the employer and from among the workmen alternatively on rotation basis every year.

(4) The total number of members of the Grievance Redressal Committee shall not exceed more than six:

Provided that there shall be, as far as practicable, one woman member if the Grievance Redressal Committee has two members and in case the number of members are more than two, the number of women members may be increased proportionately.

(5) Notwithstanding anything contained in this section, the setting up of Grievance Redressal Committee shall not affect the right of the workman to raise industrial dispute on the same matter under the provisions of this Act.

(6) The Grievance Redressal Committee may complete its proceedings within forty-five days on receipt of a written application by or on behalf of the aggrieved party.

(7) The workman who is aggrieved of the decision of the Grievance Redressal Committee may prefer an appeal to the employer against the decision of Grievance Redressal Committee and the employer shall, within one month from the date of receipt of such appeal, dispose off the same and send a copy of his decision to the workman concerned.

(8) Nothing contained in this section shall apply to the workmen for whom there is an established Grievance Redressal Mechanism in the establishment concerned.”.

7. In section 11 of the principal Act, after sub-section (8), the following sub-sections shall be inserted, namely:—

Amendment of
section 11.

“(9) Every award made, order issued or settlement arrived at by or before Labour Court or Tribunal or National Tribunal shall be executed in accordance with the procedure laid down for execution of orders and decree of a Civil Court under order 21 of the Code of Civil Procedure, 1908.

5 of 1908.

(10) The Labour Court or Tribunal or National Tribunal, as the case may be, shall transmit any award, order or settlement to a Civil Court having jurisdiction and such Civil Court shall execute the award, order or settlement as if it were a decree passed by it.”.

8. In section 38 of the principal Act, in sub-section (2),—

Amendment of
section 38.

(i) clause (ab) shall be omitted;

(ii) for clause (c), the following clause shall be substituted, namely:—

“(c) the salaries and allowances and the terms and conditions for appointment of the presiding officers of the Labour Court, Tribunal and the National Tribunal including the allowances admissible to members of Courts, Boards and to assessors and witnesses;”.

STATEMENT OF OBJECTS AND REASONS

The Industrial Disputes Act, 1947 provides the machinery and procedure for the investigation and settlement of industrial disputes. The provisions of the Act had been amended from time to time in the light of experience gained in its actual working, case laws and industrial relations policy of the Government.

2. At present the workman, whose services have been discharged, dismissed, retrenched, or otherwise terminated under section 2A of the Act, is unable to approach the Labour Court or Tribunal in the absence of a reference of industrial dispute by the appropriate Government to Labour Court or Tribunal. This causes delay and untold suffering to the workmen. The Industrial Disputes (Amendment) Act, 1982 provided for an in-house Grievance Settlement Authority for the settlement of industrial disputes connected with an individual workman employed in the Industrial establishment, but it does not permit the workman to approach Labour Court or Tribunal until such dispute has been decided by the Grievance Settlement Authority. The Labour Courts and Tribunals have no power under the Act to enforce the awards published by the appropriate Government.

3. In view of the above, it is considered necessary to provide for workman a direct access to Labour Court or Tribunal in case of disputes arising due to discharge, dismissal, retrenchment or termination of service of workman. It is also proposed to establish a Grievance Redressal Machinery as an in-house mechanism in an Industrial establishment with twenty or more workmen without affecting the right of workman to raise an industrial dispute on the same matter under the provisions of the Act.

4. Accordingly, the Industrial Disputes (Amendment) Bill, 2009, *inter alia*, seeks to provide for—

(i) amendment of the term “appropriate Government” defined under section 2(a) of the Act to amplify the existing definition;

(ii) enhancement of wage ceiling of a workman from one thousand six hundred rupees per month to ten thousand rupees per month under section 2(s) of the Act;

(iii) direct access for the workman to the Labour Court or Tribunal in case of disputes arising out of section 2A of the Act;

(iv) expanding the scope of qualifications of Presiding Officers of Labour Courts or Tribunals under sections 7 and 7A of the Act;

(v) establishment of Grievance Redressal Machinery in every Industrial establishment employing twenty or more workmen for the resolution of disputes arising out of individual grievances;

(vi) empowering the Labour Court or Tribunal to execute the awards, orders or settlements arrived at by Labour Court or Tribunal.

5. The Bill seeks to achieve the above objectives.

NEW DELHI;
The 19th February, 2009.

OSCAR FERNANDES.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill confers power upon the Central Government to make rules relating to the salaries, the terms and conditions for appointment of the Presiding Officers of the Labour Court, Tribunal or National Tribunal.

2. The rules made by the Central Government shall be laid as soon as may be, after they are made, before each House of the Parliament.

3. The matters in respect of which rules may be made are generally matters of procedure and administrative details. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE INDUSTRIAL DISPUTES ACT, 1947

(14 OF 1947)

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Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "appropriate Government" means—

(i) in relation to any industrial dispute concerning any industry carried on by or under the authority of the Central Government, or by a railway company for concerning any such controlled industry as may be specified in this behalf by the Central Government or in relation to an industrial dispute concerning a Dock Labour Broad established under section 5A of the Dock Workers (Regulation of Employment) Act, 1948 or the Industrial Finance Corporation of India Limited formed and registered under the Companies Act, 1956 or the Employees' State Insurance Corporation established under section 3 of the Employees' State Insurance Act, 1948 or the Board of Trustees constituted under section 3A of the Coal Mines Provident Fund and Miscellaneous Provisions Act, 1948 or the Central Board of Trustees and the State Boards of Trustees constituted under section 5A and section 5B, respectively, of the Employees' Provident Fund and Miscellaneous Provisions Act, 1952 or the Life Insurance Corporation of India established under section 3 of the Life Insurance Corporation Act, 1956, or the Oil and Natural Gas Corporation Limited registered under the Companies Act, 1956, or the Deposit Insurance and Credit Guarantee Corporation established under section 3 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961, or the Central Warehousing Corporation established under section 3 of the Warehousing Corporations Act, 1962, or the Unit Trust of India established under section 3 of the Unit Trust of India Act, 1963, or the Food Corporation of India established under section 3, or a Board of Management established for two or more contiguous States under section 16, of the Food Corporations Act, 1964 or the Airports Authority of India constituted under section 3 of the Airports Authority of India Act, 1994, or a Regional Rural Bank established under section 3 of the Regional Rural Banks Act, 1976, or the Export Credit and Guarantee Corporation Limited or the Industrial Reconstruction Bank of India, the National Housing Bank established under section 3 of the National Housing Bank Act, 1987, or an air transport service, or a banking or an insurance company, a mine, an oil field, a Cantonment Board, or a major port, the Central Government, and

(ii) in relation to any other industrial dispute, the State Government;

* * * * *

(s) "workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

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(iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six 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.

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* 7. (1) * * * * * Labour Courts.

(3) A person shall not be qualified for appointment as the presiding officer of a Labour Court, unless—

* * * * *
* 7A. (1) * * * * * Tribunals.

(3) A person shall not be qualified for appointment as the presiding officer of a Tribunal unless—

* * * * *
* 38. (1) * * * * * Power to make rules.

(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:—

* * * * *
(ab) the constitution of Grievance Settlement Authorities referred to in section 9C, the manner in which industrial disputes may be referred to such authorities for settlement, the procedure to be followed by such authorities in the proceedings in relation to disputes referred to them and the period within which such proceedings shall be completed;

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(c) the allowances admissible to members of Courts and Boards and presiding officers of Labour Courts, Tribunals and National Tribunals and to assessors and witnesses;

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RAJYA SABHA

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further to amend the Industrial Disputes Act, 1947.

(Shri Oscar Fernandes, Minister of Labour & Employment)