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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY OF PAKISTAN

Islamabad, the 9th February, 1973

The following Acts of the National Assembly received the assent of the President on the 9th February, 1973, and are hereby published for general information :—

ACT No. XXIII OF 1973

An Act further to amend the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968.

WHEREAS it is expedient further to amend the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (*West Pakistan Ordinance No. VI of 1968*), for the purposes hereinafter appearing ;

It is hereby enacted as follows :—

1. **Short title and commencement.**—(1) This Act may be called the West Pakistan Industrial and Commercial Employment (Standing Orders) (Amendment) Act, 1973.

(2) It shall come into force at once.

2. **Amendment of section 1, W.P. Ordinance No. VI of 1968.**—In the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (*W.P. Ordinance No. VI of 1968*), hereinafter referred to as the said Ordinance in section 1, in sub-section (4),—

(a) for clauses (a) and (b) the following shall be substituted, namely :—

“(a) every industrial establishment or commercial establishment wherein twenty or more workmen are employed, directly or through any

other person whether on behalf of himself or any other person, or were so employed on any day during the preceding twelve months:" ; and

- (b) in the proviso, for the full stop at the end a colon shall be substituted and thereafter the following further proviso shall be added, namely :—

" Provided further that the provisions of Standing Orders 10B and 11, clauses (6) and (8) of Standing Order 12 and Standing Order 15 shall not apply, in the first instance, to any industrial establishment wherein not more than forty-nine persons were employed on any day during the preceding twelve months but Government may, by notification in the official Gazette, extend all or any of the said provisions to any such industrial establishment or any class of such establishment."

3. Amendment of section 2, W.P. Ordinance VI of 1968.—In the said Ordinance, in section 2,—

- (a) after clause (b), the following new clause (bb) shall be added, namely :—

"(bb) "construction industry" means an industry engaged in the construction, reconstruction, maintenance, repair, alteration or demolition of any building, railway, tramway, harbour, dock pier, canal, inland waterway, road, tunnel, bridge, dam, viaduct, sewer, drain, water work, well, telegraphic or telephonic installation, electrical undertaking, gas work, or other work of construction as well as the preparation for, or laying the foundations of, any such work or structure ;" ;

- (b) in clause (f), in sub-clause (iv), after the semi-colon at the end the word "or" shall be added and thereafter the following new sub-clause shall be added, namely :—

"(v) the establishment of a person who, directly or indirectly employs workmen in connection with any construction industry ;" ;

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

"(h) "trade union" means a trade union for the time being registered under the Industrial Relations Ordinance, 1969 (XXIII of 1969) ;" ; and

- (d) in clause (i), for the word "labour" the word "work" shall be substituted.

4. Amendment of section 6, W.P. Ordinance VI of 1968.—In section 6, in sub-section (1), for the words, comma and figure "conciliation officers appointed under the West Pakistan Industrial Disputes Ordinance, 1968" the words, comma, figures and brackets "conciliators appointed under the Industrial Relations Ordinance, 1969 (XXIII of 1969)" shall be substituted.

5. Omission of section 7A, W.P. Ordinance VI of 1968.—In the said Ordinance, section 7A shall be omitted.

6. Amendment of Schedule, W.P. Ordinance VI of 1968.—In the said Ordinance in the Schedule,—

- (a) in Standing Order 1,—

(i) in clause (b), after the word 'establishment' at the end, the words "and includes a *badli* who has been employed for a continuous

period of three months or for one hundred and eighty-three days during any period of twelve consecutive months " shall be added ;

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

" (f) An " apprentice " is a person who is an apprentice within the meaning of the Apprenticeship Ordinance, 1962 (*LVI of 1962*) ; "

(b) after Standing Order 2, the following new Standing Order 2A shall be inserted, namely :—

" 2A. Terms and conditions of service to be given in writing :—

Every workman at the time of his appointment, transfer or promotion shall be provided with an order in writing, showing the terms and conditions of his service." ;

(c) in Standing Order 8,—

(i) for clause (1) the following shall be substituted, namely :—

" (1) Holidays and leave with pay shall be allowed as hereinafter specified :—

(a) Annual holidays, festival holidays, casual leave and sick leave as provided for in Chapter IVA of the Factories Act, 1934 (*XXV of 1934*) ; and

(b) other holidays in accordance with the law, contract, custom and usage" ; and

(ii) clauses (3) and (4) shall be omitted.

(d) Standing Order 9 shall be omitted.

(e) in Standing Order 10C,—

(i) in clause (1), for the word " in " occurring for the second time the words " for that year within three months of the closing of " shall be substituted ; and

(ii) in clause (2), after sub-clause (a), the following illustrations shall be inserted, namely :—

" *Illustration 1.*—If the profit is Rs. 1,20,000.00 and the aggregate of one month's wages of the workmen is Rs. 30,000.00 the amount of bonus payable shall be not less than the aggregate of one month's wages, that is to say Rs. 30,000.00.

Illustration 2.—If the profit is Rs. 30,000.00 and the aggregate of one month's wages of the workmen is also Rs. 30,000.00, the amount of bonus payable shall be not less than thirty per cent of the profit, that is to say Rs. 9,000.00." ;

(f) in Standing Order 11, for clause (3) the following shall be substituted, namely :—

" (3) In cases where workmen are laid-off on account of failure of plant, a temporary curtailment of production or any stoppage of work for reasons mentioned in clause (1), they shall be paid by the employer an amount equal to one-half of their daily wages during the first fourteen days of lay-off as compensation. When,

however, the workmen have to be laid-off for an indefinite period beyond the above mentioned fourteen days, their services may be terminated after giving them due notice or pay in lieu thereof”;

- (g) after Standing Order 11 amended as aforesaid, the following new Standing Order 11A shall be inserted, namely :—

“ 11A. *Closure of establishment.*—Notwithstanding anything contained in Standing Order 11, no employer shall close down the whole of the establishment without prior permission of the Labour Court in this behalf, except in the event of fire, catastrophe, stoppage of power supply, epidemics of civil commotion.

Explanation.—‘Close down’ in this Standing Order includes lay-off of workmen beyond fourteen days where such lay-off results in closure of an establishment but does not include lock-out declared, commenced or continued in accordance with the provisions of the Industrial Relations Ordinance, 1969 (*XXIII of 1969*).”;

- (h) in Standing Order 12,—

(i) in clause (3), for the words “bring his grievance to the notice of his employer in the manner laid down in” the words “take action in accordance with the provisions of” shall be substituted;

(ii) in clause (6),—

(A) for the word “fifteen” the word “twenty” shall be substituted and for the words “average wages earned by him during the last three months” the words “wages admissible to him in the last month of service if he is a fixed-rated workman or the highest pay drawn by him during the last twelve months if he is a piece-rated workman” shall be substituted; and

(B) in the proviso, the words “and this clause shall have effect as if reference therein to “the last three months” where a reference to the three months immediately preceding the establishment of the Provident Fund” shall be omitted;

- (iii) after clause (7) the following new clauses (8) and (9) shall be added, namely :—

“(8) Where workman dies while in service of the employer, his dependant shall be paid gratuity in accordance with the provisions of clause (6):

Provided that no payment of gratuity in such cases shall be made otherwise than by a deposit with the Commissioner, who shall proceed with the allocation of the deposit to the dependant of the deceased in accordance with the provisions of section 8 of the Workmen’s Compensation Act, 1923 (*VIII of 1923*).

(9) If the employer fails to deposit the amount of the gratuity under clause (8), the dependant of the deceased may make an application to the Commissioner for the recovery of the amount thereof.

Explanation.—“Commissioner” and “dependant” in this Standing Order shall have the same meanings as are respectively assigned to them in the Workmen’s Compensation Act, 1923 (*VIII of 1923*);

- (i) after Standing Order 14, the following new Standing Order 14A shall be inserted, namely :—

“14A. *Special provision for construction workers.*—Where any workman is retrenched or discharged by a contractor or any employer engaged in the construction industry due to completion, cessation or discontinuance of work, he shall be given preference for employment in any other similar work undertaken by the contractor or employer within a period of one year from the date of such retrenchment or discharge :

Provided that where a workman is re-employed within one month of his retrenchment or discharge, he shall be deemed to have been in continuous service of the contractor or employer notwithstanding the interruption caused by his retrenchment or discharge but no wages shall be paid to him for the period of interruption.” ; and

- (j) in Standing Order 15, in clause (4),—

- (i) for the commas and words “ , when the circumstances appear to warrant it, the employer may ” the words “ the employer shall ” shall be substituted ; and
- (ii) for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

“ Provided that the workman proceeded gainst may, if he so desires for his assistance in the enquiry, nominate any workman employed in that establishment and the employer shall allow the workman so nominated to be present in the enquiry to assist the workman proceeded against and shall not deduct his wages if the enquiry is held during his duty hours ”.

7. **Repeal.**—The West Pakistan Industrial and Commercial Employment (Standing Orders) (Amendment) Ordinance, 1972 (*LI of 1972*), is hereby repealed.
