

The Cine-Workers And Cinema Theatre Workers (Regulation Of Employment) Act, 1981

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365.

Statement of Objects and Reasons.-Existing labour laws do not provide necessary safeguards to low paid artists and technicians engaged in the production of feature films with regard to their terms and conditions of employment, payment of wages and provision of other amenities. Employees of cinema theatres are generally not provided with facilities, such as, gratuity and provident fund. It is, therefore, proposed to make suitable provisions with respect to these matters. The following are the salient features of the Bill:-(i) The Bill would cover all Cine-Workers as defined therein, i.e., an individual who is employed directly or through any contractor or other person in, or in connection with, the production of a feature film to work as an artiste and whose remuneration with respect to such employment does not exceed, where such remuneration is by way of monthly wages, a sum of one thousand rupees per month and where such remuneration is by way of a lump sum, a sum of five thousand rupees.(ii) Every producer of a feature film before engaging Cine-Workers mentioned above, will be required to enter into a written agreement with each one of them in the prescribed form and the agreement shall be registered with the competent authority notified under the law and where the worker is entitled to the benefits of provident fund under the proposed legislation, a copy of such agreement should also be deposited with the Regional Provident Fund Commissioner concerned. Where the Cine-Workers are engaged through a contractor, or other person, the agreement will have to be executed by the producer and such contractor or other person.(iii) A dispute could be raised by the affected workman in case of breach of any of the terms and conditions of the agreement with the conciliation officer in the State. In the event of the parties failing to arrive at a settlement, the conciliation officer will report to the Central Government about the failure to

arrive at a settlement and the Central Government may refer the dispute to single member Cine-Workers Tribunals constituted under the law. Subject to revision by the High Court, the awards of the Tribunal will be final. If any settlement is arrived at before the conciliation officer, it shall be binding on the parties to the dispute. The above procedure for the raising of disputes closely follows the provisions of the Industrial Disputes Act, 1947.(iv) As the object of the legislation is to ensure that the Cine-Workers are protected from exploitation as regards the terms and conditions of employment without imposing on this creative industry too harsh a set of regulations, penalties are proposed only in cases where the producer of a feature film fails to register the agreement entered into with a worker or when he takes work from a worker without executing an agreement.(v) It is proposed to apply the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, to such Cine-Workers as have completed assignments in five feature films with one or more different producers. As regards employees of cinema theatres, it is proposed to make the provisions of the Payment of Gratuity Act, 1972, and the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, applicable to the employees of cinema theatres in which five or more persons are employed. Act 35 of 1988.- The Cine-workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981 (Cine-workers Act) came into force on the 1st October, 1984. Under the provisions of the Act, the Central Government has been given the power to do all such acts and things as are necessary for the administration of the Act, like the appointment of Conciliation Officers, Constitution of Tribunals, publication of the awards of the Tribunals, etc. 2. Under the Industrial Disputes Act, the appropriate Government in relation to establishments in the cinema industry is the State Government concerned. Further, such establishments are covered by the Shops and Establishment the Industrial Disputes Act in relation to the establishment in the cinema industry should be administering the Cine workers Act so that cohesion and efficiency in the enforcement of both the Acts are ensured. This is proposed to be achieved by including a suitable provision in the Cine-Workers Act to provide for the delegation of powers of the Central Government to the State Government or officer or authorities subordinate to them. [24th December, 1981] An Act to provide for the regulation of the conditions of employment of certain Cine-Workers and cinema theatre workers and for matters connected therewith. Be it enacted by Parliament in the Thirty-second Year of the Republic of India as follows:-

Brought into force on 1.10.1984 vide G.S.R. 176(E), dated 21.9.1984.

Chapter I

Preliminary

1. Short title, extent and commencement .-(1) This Act may be called The Cine-Workers and Cinema Theatre Workers (Regulation of Employment) Act, 1981.

(2) It extends to the whole of India. (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act and for different areas.

2. Definitions .-In this Act, unless the context otherwise requires,-

(a)"cinema theatre" means a place which is licensed under Part III of the Cinematograph Act, 1952 (37 of 1952), or under any other law for the time being in force in a State for the exhibition of a cinematograph film;(b)"cinematograph film" has the same meaning as in the Cinematograph Act, 1952 (37 of 1952);(c)"Cine-Worker" means an individual-(i)who is employed, directly or through any contractor or other person, in or in connection with the production of a feature film to work as an artiste (including actor, musician or dancer) or to do any work, skilled, unskilled, manual, supervisory, technical, artistic or otherwise; and(ii)whose remuneration with respect to such employment in or in connection with the production of such feature film does not exceed, where such remuneration is by way of monthly wages, a sum of one thousand six hundred rupees per month, and where such remuneration is by way of a lump sum, a sum of fifteen thousand rupees;(d)"competent authority" means any authority authorised by the Central Government by notification in the Official Gazette to perform all or any of the functions of the competent authority under this Act;(e)"contractor" means a person who furnishes or undertakes to furnish Cine-Workers for being employed in or in connection with the production of a feature film, and includes a sub-contractor or agent;(f)"feature film" means a full length cinematograph film produced wholly or partly in India with a format and a story woven around a number of characters where the plot is revealed mainly through dialogues and not wholly through narration, animation or cartoon depiction, and does not include an advertisement film;(g)"prescribed" means prescribed by rules made under this Act;(h)"producer", in relation to a feature film, means the person by whom the arrangements necessary for the making of such film (including the raising of finances and engaging Cine-Workers for the making of such film) are undertaken;(i)"production", in relation to a feature film, includes any of the activities in respect of the making thereof;(j)"Tribunal" means a Cine-Workers Tribunal constituted under section 7;(k)"wages" means all emoluments which are payable to a worker in accordance with the terms of the contract of employment in cash, but does not include-(i)the cash value of any food concession;(ii)any dearness allowance (that is to say, all cash payments, by whatever name called, paid to a worker on account of a rise in the cost of living or on account of his being required to work in a place other than the place where he is normally residing), house rent allowance, overtime allowance, bonus, commission or any other similar allowance payable to the worker in respect of his employment or of work done in such employment;(iii)any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the worker under any law for the time being in force;(iv)any gratuity payable on the termination of his contract.

Chapter II

Regulation Of Employment Of Cine-Workers

3. Prohibition of employment of Cine-Worker without agreement .-(1) No person shall be employed as a Cine-Worker in or in connection with the production of any feature film unless,-

(a)an agreement in writing is entered into with such person by the producer of such film; or, where such person is employed through a contractor or other person, by the producer of such film and such contractor or other person; and(b)such agreement is registered with the competent authority by the producer of such film.(2)Every agreement, referred to in sub-section (1) shall,-(a)be in the prescribed form;(b)specify the name of and such other particulars as may be prescribed with respect to, the person to whose employment it relates (hereafter in this sub-section referred to as the employee);(c)specify the nature of assignment of the employee, his hours of work, the wages and other benefits (including benefits by way of provident fund, if any), to which he is entitled; the mode of payment of such wages and contributions to such provident fund and all other terms and conditions of employment;(d)include, where such employee is employed through a contractor or other person, a specific condition to the effect that in the event of the contractor or other person failing to discharge his obligations under the agreement to the employee with respect to payment of wages or any other matter, the producer of the film concerned shall be liable to discharge such obligations and shall be entitled to be reimbursed with respect thereto by the contractor or other person.(3)A copy of the agreement referred to in sub-section (1) with respect to the employment of any person as a Cine-Worker shall, if such person is entitled to the benefits of provident fund under section 16, also be forwarded by the producer of the film to the Regional Provident Fund Commissioner concerned under the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952).

4. Conciliation officers .-The Central Government may, by notification in the Official Gazette, appoint such number of persons as it thinks fit, to be conciliation officers charged with the duty of mediating and promoting the settlement of any dispute (hereinafter referred to as the dispute) between a Cine-Worker and the producer of the film in, or in connection with, which he has been employed or the contractor or other person through whom he has been so employed, with respect to the terms and conditions or termination, of employment of such Cine-Worker.

5. Duties of conciliation officers .-(1) Where any dispute exists or is apprehended, the conciliation officer may hold conciliation proceedings in the prescribed manner.

(2)The conciliation officer shall, for the purpose of bringing about a settlement of the dispute, without delay, investigate the dispute and all matters affecting the merits and the right settlement thereof and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute.(3)If a settlement of the dispute or of any of the matters in dispute is arrived at in the course of the conciliation proceedings, the conciliation officer shall send a report thereof to the Central Government together with a memorandum of the settlement signed by the parties to the dispute.(4)If no such settlement is arrived at, the conciliation officer shall, as soon as practicable, after the close of the investigation, send to the Central Government a full report setting forth the steps taken by him for ascertaining the facts and

circumstances relating to the dispute and for bringing about a settlement thereof, together with a full statement of such facts and circumstances and the reasons on account of which, in his opinion, a settlement could not be arrived at.(5)If, on a consideration of the report referred to in sub-section (4), the Central Government is satisfied that there is a case for reference to a Tribunal, it may make such reference under section 11 and where that Government does not make such a reference, it shall record and communicate to the parties concerned its reasons therefor.(6)A report under this section shall be submitted within three months of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the Central Government:Provided that, subject to the approval of the conciliation officer, the time for the submission of the report may be extended by such period as may be agreed upon in writing by all the parties to the dispute.

6. Settlement to be binding and to be enforced by the competent authority
.-Every settlement arrived at in the course of a conciliation proceeding under this Chapter shall be binding on all the parties to the dispute and shall not be called in question in any Court and it shall be the duty of the competent authority to enforce the terms of the said settlement.

7. Constitution of Tribunals .-(1) The Central Government may, by notification in the Official Gazette, constitute one or more Tribunals, to be called the Cine-Workers Tribunals, with headquarters at such place as may be specified in the notification, for the adjudication of disputes relating to any matter specified in any agreement of the nature referred to in section 3.

(2)A Tribunal shall consist of one person only to be appointed by the Central Government.(3)A person shall not be qualified for appointment as the presiding officer of a Tribunal unless-(a)he is, or has been, or is qualified to be, a Judge of a High Court; or(b)he has, for a period of not less than three years, been a District Judge or an Additional District Judge; or(c)he has held the office of the presiding officer of an Industrial Tribunal constituted under the Industrial Disputes Act, 1947 (14 of 1947), for a period of not less than two years.(4)The Central Government may, if it so thinks fit, appoint two persons as assessors to advise the Tribunal in any proceedings before it.

8. Disqualification for the presiding officers of Tribunals .-No person shall be appointed to, or continue in, the office of the presiding officer of a Tribunal, if-

(a)he is not an independent person; or(b)he has attained the age of sixty-five years.

9. Filling of vacancies .-If, for any reason, a vacancy (other than a temporary absence) occurs in the office of the presiding officer of a Tribunal, the Central Government shall appoint another person in accordance with the provisions of this Act to fill the vacancy, and the proceeding may be

continued before the Tribunal from the stage at which the vacancy is filled.

10. Finality of orders constituting Tribunals, etc .-(1) No order of the Central Government appointing any person as the presiding officer of a Tribunal shall be called in question in any manner; and no act or proceeding before any Tribunal shall be called in question in any manner on the ground merely of any defect in the constitution of such Tribunal.

(2) No settlement arrived at in the course of a conciliation proceeding shall be invalid by reason only of the fact that such settlement was arrived at after the expiry of the period referred to in sub-section (6) of section 5.

11. Reference of disputes to Tribunals .-(1) Where, on a consideration of the report referred to in sub-section (4) of section 5, the Central Government is satisfied that it is necessary so to do, it may, by order in writing, refer the dispute or any matter appearing to be connected with, or relevant to, the dispute, to a Tribunal for adjudication.

(2) Where in an order referred to in sub-section (1) or in a subsequent order, the Central Government has specified the points of dispute for adjudication, the Tribunal shall confine its adjudication to those points and matters incidental thereto.

12. Procedure and powers of conciliation officers and Tribunals .-(1) Subject to any rules that may be made in this behalf, a conciliation officer or a Tribunal shall follow such procedure as the officer or Tribunal may think fit.

(2) A conciliation officer or a Tribunal may, for the purpose of inquiry into any existing or apprehended dispute, after giving reasonable notice, enter any premises in the occupation of any party to the dispute. (3) Every Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), when trying a suit, in respect of the following matters, namely:-(a) enforcing the attendance of any person and examining him on oath; (b) compelling the production of documents and material objects; (c) issuing commissions for the examination of witnesses; and (d) in respect of such other matters as may be prescribed, and every inquiry or investigation by a Tribunal shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and the Tribunal shall be deemed to be a Civil Court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974). (4) A conciliation officer may call for and inspect any document which he has ground for considering to be relevant to the dispute or to be necessary for the purpose of verifying the implementation of any award or carrying out any other duty imposed on him under this Chapter, and for the aforesaid purposes, the conciliation officer shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), in respect of

compelling the production of documents.(5)A Tribunal may, if it so thinks fit, appoint one or more persons having special knowledge of the matter under consideration as assessor or assessors to advise it in the proceeding before it.(6)A Tribunal may grant to any party to any proceeding before it, such interim or other reliefs (whether subject to any conditions or not), including stay of any order, issue of any injunction or direction in regard to payment of wages or other amounts payable under the agreement referred to in section 3, setting aside any unilateral termination of contract or the dismissal of a worker or reinstating a worker, as it deems just and proper in the circumstances of the case:Provided that the Tribunal shall not grant any such interim relief unless all the parties to the proceeding have been served with a notice on the application for such interim relief and have been given a reasonable opportunity of being heard:Provided further that the Tribunal may, having regard to the nature of the interim relief sought and the circumstances of the case, pass appropriate orders granting such interim relief as it deems just and proper in the circumstances of the case before the notice referred to in the preceding proviso is served on the parties to the proceeding:Provided also that where the Tribunal makes any order under the proviso immediately preceding, it shall record the reasons for making the order before complying with the requirements specified in the first proviso.(7)Subject to any rules that may be made in this behalf, the awarding of damages in, and the cost of, and incidental to, any proceeding before a Tribunal shall be in the discretion of that Tribunal and the Tribunal shall have full power to determine by and to whom and to what extent and subject to what conditions, if any, such damages or costs are to be paid, and to give all necessary directions for the purposes aforesaid and such damages or costs may, on an application made to the Central Government by the person entitled, be directed to be recovered by that Government in the same manner as an arrear of land revenue.

13. Duties of Tribunals .-Where a dispute has been referred to a Tribunal for adjudication, it shall hold its proceedings expeditiously and shall submit its award to the Central Government ordinarily within a period of three months from the date on which such industrial dispute is referred to it:

Provided that in computing the period of three months under this section, the period for which the proceedings before the Tribunal have been stayed by any injunction or order shall be excluded.

14. Publication of awards of Tribunals .-(1) Every award of a Tribunal shall, within a period of thirty days from the date of its receipt by the Central Government, be published in such manner as that Government thinks fit.

(2)Subject to the provisions of section 15, the award shall be final and binding on all the parties to the dispute and shall not be called in question in any Court in any manner whatsoever.(3)The award of a Tribunal shall be executed in the same manner as if it were a decree of a Civil Court.

15. Revision .-(1) The High Court may, on the application of any person aggrieved by the award of a Tribunal, call for and examine the record of the Tribunal, to satisfy itself as to the regularity of the proceeding before such

Tribunal or the correctness, legality or propriety of any award passed therein and if, in any case, it appears to the High Court that any such award should be modified, annulled or reversed, it may pass such orders accordingly:

Provided that where the presiding officer of the Tribunal is a Judge of a High Court, such application shall be heard and disposed of by not less than two Judges of the High Court: Provided further that where the award of the Tribunal provides for the payment by the producer of any film or, as the case may be, the contractor or other person of any amount either by way of compensation to the Cine-Worker or by way of damages, no such application by the producer, contractor or other person shall be entertained by the High Court unless the applicant deposits with the High Court or with such other authority as may be prescribed the amount ordered to be paid: Provided also that where, in any particular case, the High Court is of opinion that the deposit of any amount ordered to be paid would cause undue hardship to the applicant, the High Court may dispense with such deposit subject to such conditions as it may deem fit to impose so as to safeguard the interests of the Cine-Worker concerned. (2) Every application to the High Court under sub-section (1) shall be preferred within ninety days from the date on which the award was passed by the Tribunal: Provided that the High Court may, in its discretion, allow further time not exceeding one month for the filing of any such application, if it is satisfied that the applicant had sufficient cause for not preferring the application within the time specified in this sub-section. (3) In this section, "High Court" means the High Court within the local limits of whose jurisdiction, the headquarters of the Tribunal is situated.

16. Application of Act 19 of 1952 to Cine-Workers .-The Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), as in force for the time being, shall apply to every Cine-Worker who has worked in not less than three feature films with one or more producers, as if such Cine-Worker were an employee within the meaning of that Act.

17. Penalties .-(1) Whoever contravenes the provisions of section 3 shall be punishable with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees:

Provided that the Court may, for any adequate and special reasons to be mentioned in the judgment, impose a fine of less than ten thousand rupees. (2) Where any person convicted of an offence under sub-section (1) is again convicted of an offence under the same provision, he shall be punishable with fine which shall not be less than twenty thousand rupees but which may extend to one lakh rupees: Provided that the Court may, for any adequate and special reasons to be mentioned in the judgment, impose a fine of less than twenty thousand rupees.

18. 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.

19. Cognizance of offences .-No Court shall take cognizance of any offence under this Act except on a complaint made by, or with the permission in writing of, the Central Government or an officer empowered by it in this behalf and no Court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try an offence punishable under this Act.

20. Magistrate's power to impose enhanced penalties .-Notwithstanding anything contained in section 29 of the Code of Criminal Procedure, 1973 (2 of 1974), it shall be lawful for any Metropolitan Magistrate or any Judicial Magistrate of the first class to pass any sentence authorised by this Act.

21. Effect of laws and agreements inconsistent with this Chapter .-The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in the terms of any agreement or contract of service.

22. Protection of action taken under this Chapter .-(1) No suit, prosecution or other legal proceedings shall lie against any competent authority, conciliation officer, or any other employee of the Central Government or the presiding officer of a Tribunal, 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 Central 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.[22-A. Delegation of powers.-The Central Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or rules made thereunder (other than the powers conferred by this section and section 23) shall, in relation to such matters and subject to such conditions, if any, as may be specified in the notification be exercisable also by the State Government or by such officer or authority subordinate to the State Government as may be specified in the notification.]

23. Power to make rules .-(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Chapter.

(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 in which an agreement may be entered into by a producer with a Cine-Worker under section 3 and the other conditions of employment;(b)the manner in which proceedings may be held by a conciliation officer under sub-section (1) of section 5;(c)the procedure to be followed by a conciliation officer or Tribunal under section 12;(d)the matters referred to in clause (d) of sub-section (3) of section 12;(e)the damages or costs that may be awarded by a Tribunal under sub-section (7) of section 12;(f)any other matter which is required to be, or may be, prescribed.(3)Every rule made by the Central Government under this Chapter 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.

Chapter III

Regulation Of Employment Of Cinema Theatre Workers

24. Application of Act 19 of 1952.-The provisions of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), as in force for the time being, shall apply to every cinema theatre in which five or more workers are employed on any day, as if such cinema theatre were an establishment to which the aforesaid Act had been applied by a notification of the Central Government under the proviso to sub-section (3) of section 1 thereof, and as if each such worker were an employee within the meaning of that Act.

25. Application of Act 39 of 1972.-The provisions of the Payment of Gratuity Act, 1972 (39 of 1972), as in force for the time being, shall apply to or in relation to, every worker employed in a cinema theatre in which five or more workers are employed or were employed on any day of the preceding twelve months, as they apply to, or in relation to, employees within the meaning of that Act.