

The West Bengal Factories (Safety Officers) Rules, 1978

WEST BENGAL

India

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Rule

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1. Short Title

- These rules may be called the West Bengal Factories (Safety Officers) Rules, 1978.

2. Commencement

- These Rules shall come into force at once.

3. Definitions.

- In these rules, unless the context otherwise requires -(a)"the Act" means the Factories Act, 1948 (63 of 1948);(b)"Safety Officer" means a Safety Officer appointed under section 40B of the Act and includes Chief Safety Officer,(c)"section" means a section of the Act.

4. Qualifications

- A person shall not be eligible for appointment as a Safety Officer unless he-(a)possesses a degree of a recognized University or its equivalent in any branch of engineering or technology with two years experience in a position of supervision or management in a factory in either the production or the maintenance or the safety department, ora degree of recognized University in Physics and

Chemistry with five years' experience in a position of supervision, or management in a factory in either the production or the maintenance or the safety department, or a diploma in any branch of engineering or technology recognized by the State Government with five years experience in a position of supervision or management in a factory in either the production or the maintenance or the safety department; (b) possesses a degree or diploma or certificate in industrial safety recognized by the State Government; (c) has thorough knowledge of Bengali acquired through an institution under a Board of Secondary Education or affiliated to a University or recognized by the State Government; (d) has qualified at a viva voce test conducted by a Board constituted by the Labour Department, Government of West Bengal, for the purpose; (e) can speak Hindi; and (f) is not less than 23 years of age : Provided that the Chief Inspector of Factories, West Bengal, may exempt from the requirement of clause (b) of this rule any person - (i) who has not less than five years' experience in a department of the Central or a State Government which deals with the administrations of the Factories Act, 1948 (63 of 1948), or the Indian Dock Labourers Act, 1934 (19 of 1934), or (ii) who has not less than five years' experience on a full-time basis in training or education or consultancy or research in the field of accident prevention in any industry or in any institution : Provided further that the Chief Inspector of Factories, West Bengal, may exempt from all or any of the prescribed qualification any person who has been working as a Safety Officer in any factory for a period of not less than three years on the date of commencement of these rules and who, in his opinion, possesses the requisite practical experience to serve as a Safety Officer.

5. Power to relax.

- The Chief Inspector of Factories, West Bengal, may relax, subject to such conditions as may be specified, the qualification prescribed in clause (c) of rule 4 in case of persons already in service on the date of commencement of these rules as Safety Officers in factories.

6. Notice of appointment and filling up of vacancy.

(1) The occupier of a factory shall notify the appointment of a Safety Officer, within seven days from the date of appointment, to the Chief Inspector of Factories, West Bengal, giving full details of qualification, age, terms and conditions of service. (2) Any vacancy in the post of a Safety Officer caused by the death, termination of service or resignation of a Safety Officer or by any other reason shall be filled up within three months of the occurrence of the vacancy.

7. Conditions of service.

(1) Where the number of Safety Officers to be appointed in a factory exceeds one, one of them shall be designated as the Chief Safety Officer and shall have a status higher than that of the others. The Chief Safety Officer shall be in overall charge of the safety functions as envisaged in rule 8, and all other Safety Officer shall work under his control. (2) The Chief Safety Officer, or the Safety Officer in the case of a factory where only one Safety Officer is required to be appointed, shall be given the same status as that of other departmental heads in the factory and he shall work directly under the control of the same executive of the factory under whom other departmental heads work. Every other Safety Officer holding a position next below other departmental heads in the factory. (3) The

Chief Safety Officer or a Safety Officer may be employed either on a tenure basis or on a permanent basis. Where he is appointed on a tenure basis, the term shall not be less than three years and the period of probation shall be six months and where the appointment is on a permanent basis, the period of probation shall not be less than one year or more than two years. Any such officer appointed on a tenure basis shall ordinarily be entitled to a renewal of such periodical contract. (4) The Occupier of a factory who proposes either to terminate the services of a Safety Officer or to withhold the renewal of contract as aforesaid shall give three months notice to such officer stating reasons thereof and giving a reasonable opportunity of making representation against such notice. The final decision shall be taken by the occupier of such factory only after giving due consideration to such representation. (5) (a) The occupier of a factory may impose upon any Safety Officer any one or more of the following penalties, namely :--(i) suspension, (ii) removal or dismissal from service, (iii) reduction in rank, (iv) withholding of increment (including stoppage at any efficiency bar), (v) censure, (vi) warning : Provided that no order imposing any such penalty on a Safety Officer shall be made except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of such charges, and where it is proposed, after such enquiry, to impose on him any such penalty, until he has been given a reasonable opportunity of making representation against the penalty proposed, but only on the basis of the evidence adduced during such inquiry. (b) Any Safety Officer on whom any penalty has been imposed under sub-rule (a) may, within thirty days of the communication of the order of imposition of the penalty to him, appeal against such order to the Chief Inspector of factories, West Bengal, whose decision thereon shall be final and binding on both the occupier of the factory and the Safety Officer. (c) On being satisfied that a Safety Officer intends to prefer an appeal under clause (b) of this sub-rule, the Chief Inspector of Factories, West Bengal, may stay the endorsement of the order to be appealed against, for such period and on such terms, if any, as he may think just and proper. (d) The Chief Inspector of Factories, West Bengal, shall by an order, after giving both the parties a reasonable opportunity of being heard and for reasons to be recorded in writing, dispose of the appeal as expeditiously as possible. While disposing of the appeal, the Chief Inspector of Factories, West Bengal, may confirm, modify or set aside the order appealed against. (6) An appeal shall lie to the State Government against the order of the occupier of the factory under sub-rule (4), or of the Chief Inspector of Factories, West Bengal, under clause (d) of sub-rule (5), of this rule within thirty days from the date of the order: Provided that on an application of the appellant assigning satisfactory reasons, the State Government may extend the above period of thirty days for preferring the appeal by a period not exceeding sixty days in any case. (7) The scale of pay and allowances to be granted to the Safety Officers including the Chief Safety Officer and other conditions of their service shall be the same as those of other officers of corresponding status in the factory. (8) Notwithstanding anything to the contrary contained in any contract of employment of any existing Safety Officers, the provisions of this rule shall apply.

8. Duties of Safety Officers.

(1) The duties of a Safety Officer shall be to advise and assist the factory management in the fulfillment of obligations, statutory or otherwise, concerning prevention of personal injuries and maintaining a safe working environment. (2) Without prejudice to the generality of the provisions of sub-rule (1), such duties may include -(i) to advise the concerned departments in planning and

organizing measures necessary for the effective control of personal injuries and industrial diseases,(ii)to advise on safety aspects of all jobs and to carry out detailed job safety analysis of selected jobs,(iii)to carry out safety inspections in order to identify unsafe plant or equipment and hazardous conditions of work, and carry out safety observation to identify unsafe work practices and procedures followed by workers, and to suggest measures to be adopted for remedying defects found,(iv)to advise and assist on matters relating to carrying out safety inspections and safety observations by concerned departments,(v)to design and conduct, either independently or in collaboration with the training department, suitable training and educational programmes for all levels in the organization and specifically for the supervisory staff for the prevention of personal injuries and industrial diseases,(vi)to check and evaluate the effectiveness of the action taken or proposed to be taken to prevent personal injuries and industrial diseases,(vii)to advise the purchasing and store departments on the availability and the specifications of any new machinery, plant, appliance or equipment including personal protective equipment, to be installed or used in the factory in order to ensure high standard of safety and protection of health of the employees,(viii)to advise concerned departments on matters relating to reporting and investigation of causes of industrial accidents and diseases,(ix)to investigate into causes and circumstances of every fatal, serious and select accident and dangerous occurrence,. compile necessary reports and tender advice to prevent their recurrence,(x)to investigate into the cases of every industrial diseases,(xi)to promote setting up of safety committees and act as adviser and catalyst to such committees,(xii)to organize in collaboration with the concerned department, campaigns, competitions, contests and other activities which will develop and maintain the interest of the workers in establishing and maintaining safe conditions of work and procedures.(xiii)to advise on the maintenance of records as are necessary relating to accidents, dangerous occurrences and industrial diseases, and present information in appropriate form for the use of management and others in assessing safety performance,(xiv)to maintain liaison with other departments in the factory, including medical and training departments, and with the Directorate of Factories, Fire Services, local authorities and other organizations engaged in the promotion of industrial safety.

9. Facilities to be provided to Safety Officers.

- The occupier of a factory shall provide each Safety Officer with such facilities, equipment and information as are necessary to enable him to discharge his duties effectively.

10. Prohibition of performance of other duties.

(1)No Safety Officer shall be required or allowed to do any work which is "inconsistent with, or detrimental, to the performance of the duties prescribed in rule 8.(2)If the Chief Inspector of Factories, West Bengal, is of opinion that a Safety Officer is being required or allowed by the occupier of a factory to do work which is inconsistent with, or detrimental, to the performance of his duties prescribed under rule 8, he may, by an order, for reasons to be recorded in writing, direct that such Safety Officer shall not be required or allowed to do such work.