

Bihar Payment of Wages (Procedure) Rules, 1965

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Rule BIHAR-PAYMENT-OF-WAGES-PROCEDURE-RULES-1965 of 1965

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Bihar Payment of Wages (Procedure) Rules, 1965 Published vide Notification No. II/W5-103/65-L & E, dated 16th August, 1965 Last Updated 28th December, 2019 Notification No. II/W5-103/65-L & E, dated the 16th August, 1965. - In exercise of the powers conferred by sub-section (1) of Section 26 of the Payment of Wages Act, 1936 (4 of 1936), the Governor of Bihar is pleased to make the following Rules thereunder the same having been previously published as required by sub-section (5) of the said Section of the said Act, namely -

1. Short title and application.

(1) These Rules may be called the Bihar Payment of Wages (Procedure) Rules, 1965. (2) These Rules shall apply to factories as defined in clause (m) of Section 2 of the Factories Act, 1948 (63 of 1948) and to the industrial establishments as defined in clause (ii) of Section 2 of the Act except railways, mines and oil-fields and shall come into force at once.

2. Definitions.

- In these Rules, unless, there is anything repugnant in the subject or context - (a) "The Act" means the Payment of Wages Act, 1936, (4 of 1936); (b) "Appeal" means an appeal under Section 17; (c) "The Authority" means the authority appointed under sub-section (1) of Section 15; (e) "employer" includes the person responsible for the payment of wages under Section 3; (f) "Section" means a Section of the Act; (g) "Form" means Form appended to these Rules; (h) "record of order or direction" means the record of an order dismissing either wholly or in part an application made under sub-section (2) of Section (4) of that section kept in Form "F"; (i) "establishment" means an "industrial establishment" as defined in clause (ii) of Section 2 except Railways, mines and oil-fields and includes a factory; (j) all words and expressions used in these Rules and not defined have the same meaning as are respectively assigned to them in the Act.

3. Form of application.

- Application under sub-section (2) of Section 15 by or on behalf of an employed person or group of employed persons shall be made in duplicate in Form A, Form B or Form C, as the case may be; one copy of which shall bear the court-fee as prescribed in Rule 14; Provided that no fees shall be payable in respect of an application presented by an Inspector.

4. Authorisation.

(1) The authorisation to act on behalf of an employed persons, under sub-section (2) of Section 15, shall be given by a certificate in Form D, and shall form a part of the record of the case. (2) Any employed person may authorise in Form H, a legal practitioner or an official of a registered Trade Union of which he is a member or an Inspector to receive any amount with compensation if any, directed to be paid to him under subsection (3) of Section 15. (3) On presentation of an authority specified in sub-rule (2) and on being satisfied the magistrate may order payment of the amount recovered to the authorised person. (4) (i) The amount received by the person authorised in sub-rule (2) shall be paid to the employed person and a receipt obtained from him in support of payment shall be submitted to the magistrate within 30 days of the date on which the amount was received. (ii) If on account of the employed persons not being available or for any other person, the amount remains unpaid the authorised person shall refund the said amount to the magistrate within the period specified in item (i) above.

5. Permission to appear.

- A person desiring to act on behalf of any employed person or persons shall apply to the Authority for his permission to do so stating his interest in the matter, and the Authority shall record an order on the application which in the case of refusal shall include the reason for such order. The application and the order thereon shall be incorporated in record of the case and a copy of the order shall be given immediately to the applicant without charging any cost in respect thereof.

6. Presentation of documents.

(1) Applications, or other documents relevant to an application may be presented in person to the Authority at any time during such hours as may be fixed by the authority, or may be sent to him by registered post. (2) The Authority shall endorse, or cause to be endorsed, on each document the date of its presentation or receipt, as the case may be.

7. Refusal to entertain application.

(1) The Authority may refuse to entertain an application presented under Rule 6, if after giving the applicant an opportunity of being heard, he is satisfied, for reasons to be recorded in writing that - (a) the applicant is not entitled to present an application; or (b) the application is barred by reason to provisions in the proviso to subsection (2) of Section 15; or (c) the applicant shows no sufficient cause

for making a direction under Section 15.(2)The Authority may refuse to entertain an application which is insufficiently stamped or is otherwise incomplete and. if he so refuses shall return it to the applicant pointing out the defects therein. If the application is presented again after the defects have been made good, the date of presentation for previous application shall be deemed to be the date of presentation for the provisos to sub-section (2) of Section 15.

8. Appearance of parties.

(1)If the application is entertained the Authority shall call upon the employer by a notice in Form 'E' to appear before him on a specified date together with all relevant documents and witnesses, if any, and shall inform the applicant of the date so specified.(2)If the employer or his representative fails to appear on the specified date, the Authority may proceed to hear and determine the application ex-parte.(3)If the applicant fails to appear on the specified date, the Authority may dismiss the application:Provided that an order passed under sub-rule (2) or sub-rule (3) may be set aside and the application re-heard on good cause being shown within one month of the date of the said order, in which case fresh notice shall be served on the parties specifying the date fixed for re-hearing.

9. Record of proceedings.

(1)The Authority shall in all cases enter the particulars indicated in Form 'F' and at the time of passing order shall sign and date the Form.(2)In a case where no appeal lies, no further record shall be necessary.(3)In a case where an appeal lies, the Authority, shall record the substance of the evidence and shall append it under his signature to the record of order or direction.

10. Signature on forms.

- Any form other than the record or order or direction, which is required by these Rules to be signed by the Authority, may be signed under his direction and on his behalf by any officer subordinate to him appointed by him in writing for this purpose.

11. Exercise of powers.

- In exercising the powers of a Civil Court conferred by the relevant orders of the first Schedule of the Code of Civil Procedure, 1908, with such alterations as the Authority may find necessary, not affecting their substance, for adopting them to the matter before him, and save where they conflict with the express provisions of the Act or these Rules.

12. Appeals.

(1)An appeal shall be preferred in duplicate in the form of a memorandum, one copy of which shall bear the prescribed court-fee, setting forth concisely the grounds of objection to the order dismissing either wholly or in part an application made under sub-section (2) of Section 15 or a direction made under subsection (3) or sub-section (4) of that section, as the case may be, and shall

be accompanied by a certified copy of the said order or direction.(2)When an appeal is lodged a notice shall be issued to the respondent in Form 'G'.

13. Inspection of documents.

- Any employed person, or any employer or his representative, or any person permitted under sub-section (2) of Section 15 to apply for a direction, shall be entitled to inspect any application, memorandum of appeal or any other document filed with the authority or the Court, as the case may be, in a case to which he is a party, and may obtain copies thereof on the payment of such fee as may be prescribed.

14. Fees.

- The fee payable in respect of proceedings under the Act shall be -(i)for every application to summon a witness - Twenty-five paise in respect of each witness;(ii)for every other application made by or on behalf of an individual person before the Authority - Fifty paise;(iii)for every other application made by or on behalf of an unpaid group before the Authority - Twenty-five paise for each member of the group subject to a maximum of five rupees;(iv)for every appeal lodged with the Court - Five rupees;(v)for obtaining a copy of any document - Five paise per typed page:Provided that the Authority or the Court may, in consideration of the poverty of the applicant, reduce or remit the fee:Provided further that no fee shall be chargeable in respect of an application presented by an Inspector.

15. Repeal and Saving.

(1)The Payment of Wages (Procedure) Rules, 1937, in its application to the State of Bihar are hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken in exercise of the powers conferred by or under the said Rules shall be deemed to have been done or taken in exercise of the powers conferred by or under these Rules as if these were in force on the day on which such thing or action was done or taken.

Form 'A'Form of individual Application[See sub-section (2) of Section 15 of the Payment of Wages Act]In the Court of the Authority appointed under the Payment of Wages Act (4 of 1936) for.....area.Application no.....of.....19.Between A.B.C.....applicant(ThroughLegal practitioner.....an official of.....which is a registered trade union)X.Y.Z.....opposite party.The applicant states as follows: -

1. A.B.C. is a person employed in/on the factory

industrial establishment and resides at

The address of the applicant for the service of all notices and processes is -

2. X.Y.Z., the opposite party, the person responsible for the payment of his wages under Section 3 of the Act, and his address for the service of all notice and processes is -

3.

(1)The applicant's wage have not been paid for the following wage period(s) (give dates).Or A sum of Rs.....has been unlawfully deducted from his wageof.....
(amount) for the wage period(s) which ended on [give dates(s)].(2)(Here give any further claim or explanation).

4. The applicant estimates the value of the relief sought by him at the sum of rupees.....

5. The applicant prays that a direction may be issued under sub-section (3) of Section 15 for -

(a)Payment of his delayed wages as estimated or such greater or lesser amount as the Authority may find to be due.Or refund of the amount illegally deducted.(b)Compensation amounting toThe applicant certificates that the statement of the facts contained in this application is to the best of his knowledge and belief accurate.Signature or thumb impression of the employed person, or legal practitioner or official of a registered trade union duly authorised.Form 'B'Form of Group Application(See sub-section (2) of Sections 15 and 16 of Payment of Wages Act.)In the Court of the Authority appointed under the Payment of Wages Act (4 of 1936) for.....area.Application no.....of 19.Between A.B.C. and (State the number).....others applicants.....a legal practitioner, (through.....an official of which is a registered trade union).And X.Y.Zopposite party,The applicants state as follows: -

1. The applicants whose names and permanent addresses appear in the attached schedule are persons employed in/on the

factory

industrial establishment

2. The address of the applicants for service of all notices and processes is...X.Y.Z. the opposite party, is the person responsible for the payment of wages under Section 3 of the Act, and his address for the service of all notices and processes is

3. The applicants, wages have not been paid for the following wages period (s).

4. The applicants estimate the value of the relief sought by them at the sum of rupees.....

5. The applicants pray that a direction may be issued under sub-section (3) of Section 15 for

(a)Payment of the applicants delayed wages is estimatedor such greater or lesser amount as the Authority may find to be due.(b)Compensation amounting to.....The applicants certify that the statement of facts contained in this application is to the best of their knowledge and belief accurate.Signature or thumb impression of two of the applicants, or legal practitioner, or an official of a registered trade union duly authorised.

Schedule

Serial No. Name of Applicant Permanent Address

1 2 3

Form 'C'Form of Application by an Inspector or person permitted by the Authority authorised to act(see sub-section (2) of Section 15 and Section 16 of the Payment of Wages Act).In the Court of the Authority appointed under the Payment of Wages Act for..... areaApplication no.....of 19.Between(designation).....an Inspector under the Payment of Wages Act) (or a person permitted by the Authority authorised to act under sub-section (2) of Section 15).....applicant. and XYZ..... the opposite party. Applicant states as follow: -

1. X.Y.Z. the opposite party is the person responsible under the Act for the payment of wages to the following persons (s): -

(1)(2)(3)(4)(5)

2. His address for the service of all notices and process is -

3. The wages of the said person (s) due in respect of the following wage period (s) have not been paid/have been subject to the following illegal deduction -

4. The applicant estimates the value of the relief sought for the person (s) employed at the sum of Rs.....

5. The applicant prays that a direction may be issued under sub-section (3) of Section 15 for: -

(a) Payment of the delayed wages as estimated or such greater or lesser amount as the Authority may find to be due. Or Refund of the amount illegally deducted. (b) Compensation amounting to..... The applicant certifies that the statement of facts contained in this application is to the best of his knowledge and belief accurate. Signature. Form 'D' Certificate of Authorisation I/We employed person (s) hereby authorise a..... legal practitioner/an official of..... which is a registered trade union to act on my/our behalf under Section 15, and Section 16 of the Payment of Wages Act (4 of 1936) in respect of the claim against..... on account of the delay in respect of the claim against..... on account of the delay in payment of/ illegal deduction from my/our wages for.....

Witness	(1) Signature	(1)
	(2)	(2)

I accept the authorisation

Signature

Legal practitioner

Official of a registered trade Union

Form 'E' Notice for the Disposal of Application To Whereas under the Payment of Wages Act, 1936 (4 of 1936) a claim against you has been presented to me in the application of which a copy is enclosed, you are hereby called upon to appear before me either in person, or by any person duly instructed and able to answer all material questions relating to the application, or who shall be accompanied by some person able to answer all such question, on the..... day of..... 19. at..... O' clock in the forenoon/ afternoon to answer the claim, and as the day fixed for your appearance is appointed for the final disposal of the application, you must be prepared to produce on that day all the witnesses upon whose evidence, and the document upon which you intend to rely in support of your defence. Take notice that in default of your appearance on the day before mentioned, the application will be heard and determined in your absence. Given under my hand and seal, this day..... 19. Authority Form 'F' Record of Order or Direction

1. Serial number.....

2. Date of the application.....

3. Name or names, parentage, address or addresses of the applicants, or some, or all of the applicants belonging to the same unpaid group: -

4. Name and address of employer, -

5. Amount claimed, -

(a)as delayed wages: Rs.....(b)as deducted from wages: Rs.....

6. Plea of the employer and his examination [if any]; -

7. Finding and a brief statement of the reasons therefor -

8. Amount awarded.....Rs.

(a)delayed wages(b)Deducted wages.....

9. Compensation awarded.....

10. Penalty imposed

11. Costs awarded to -

(i)Court-fee charges.....(ii)Pleader's fee(iii)Witnesses expenses.....Signed.....Dated.....Note. - In case where an appeal lies attach on a separate sheet the substance of the evidence. Form 'G' Notice to respondent of the day fixed for the hearing of the appeal under Section 17 of the Payment of Wages Act, 1936 Appeal from the decision of the Authority for the.....area, dated the.....day of.....19. To Respondent Take notice that an appeal of which a copy is enclosed, from the decision of the Authority for.....area has been presented by X.Y.Z. (and others) and registered in this Court, and that the.....day of.....19. has been fixed by this Court for the hearing of this appeal. If no appearance is made on your behalf, by yourself, or by some one by law authorised to act for you in this appeal, it will be heard and decided in your absence. Given under my hand and the seal of the court this.....day of.....19.

Seal Judge

Form 'H' Form of authority to receive payment on behalf of employed persons In connection with the application no of 19 dated..... filed under Section 15(2) of the Payment of Wages Act, 1936

by..... my/our behalf, I/we..... employed person (s) of..... (name of factory or establishment) hereby authorise..... (name of Legal practitioner) (name of an official of registered Trade Union) (name of the

Inspector).....(which is a registered Trade Union), to received payment of dues along with such compensation as awarded under sub-section (3) of Section 15 of the Payment of Wages Act, 1936) and recovered under sub-Section (5) of Section 15 of the said Act.

Applicant	(1)	Signature (1)
	(2)	(2)
	(3)	(3)

I accept the authorisation.

Signature

Legal practitioner

Official of a Registered Trade Union The Inspector.