

Industrial Disputes (Rajasthan Amendment) Act, 2014

RAJASTHAN

India

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Act 21 of 2014

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Industrial Disputes (Rajasthan Amendment) Act, 2014(Rajasthan Act No. 21 of 2014)Statement of Objects and Reasons. - In the Industrial Disputes Act, 1947 (hereinafter referred to as the Act), as amended in its application-to the State of Rajasthan, vide Section 2 thereof, various terms have been defined. Vide State Amendment of 1958 sub-clause (iii) was added in Section 2(g) by which provision-'was made to consider owner of the establishment (principal employer) as "employer" for contract workers. Similar amendment was also made, in definition of workman" under clause (s). Since a separate Act, The Contract Labour (Regulation and Abolition) Act, 1970 was enacted by the Parliament for regulating the employment of contract workers in certain establishments and for its abolition of certain circumstances, therefore, sub-clause (iii) of clause (g) and the expression added in clause (s) vide State Amendment of 1958 has become irrelevant and ineffective. Hence, these need to be deleted.Under Section 2-A of the Act no time limit is prescribed for raising disputes connected with or arising out of discharge, dismissal, retrenchment or termination of an individual workman and sometimes such disputes are raised after a lapse of many years which cause difficulties in settlement of disputes. It is, therefore, proposed that a time limit of three years be provided for raising the industrial disputes covered under Section 2-A and the time limit so prescribed could be extended by the competent authority on sufficient grounds.By the Industrial Disputes (Rajasthan Amendment) Act, 1958 a new Chapter II-B containing Section. 9-C to 9-J was inserted in the Industrial Disputes Act, 1947. Further, by the Industrial Disputes (Rajasthan Amendment) Act, 1970 the existing Section. 9-D, 9-E, 9-F and 9-G of Chapter II-B were amended. The Parliament has enacted the Industrial Disputes (Amendment) Act, 1982 vide which Chapter IIB containing Section 9-C was inserted. Further, the Parliament has enacted the Industrial Disputes (Amendment) Act, 2010 vide which Chapter IIB containing Section 9-C was substituted. Consequent to the said Central enactments reference to Chapter II-B containing Section 9-C vide State Amendment is proposed to be renumbered as "CHAPTER IIC" and "9CC".Under Section 9-D, as inserted by the Rajasthan Act No. 34 of 1958, it is provided that any union having a membership of not less than fifteen per cent of the total number of workmen employed in any industry may apply for registration as a representative union. Because of existing limit, many unions may become eligible for making application for registration as representative union which may possibly increase inter union conflicts and also multiplicity of unions in an industry. To minimize this possibility it is proposed to

increase membership from "fifteen per cent" to "thirty per cent".Section 25-K provides for applicability of Chapter VB of the Act and this Chapter is applicable to such industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than "one hundred" workmen were employed on an average per working day for the preceding twelve months. In such establishments, prior permission of the State Government is to be required for the employer before effecting lay off, retrenchment or closure. It is proposed vide this amendment to increase the number of workmen from one hundred to three hundred, which would help and encourage the employers to employ more number of workers in the establishment. However, if State Government is satisfied that maintenance of industrial peace or for prevention of victimization of workmen so requires, it could apply the provisions of the Chapter VB to an industrial establishment in which less than three hundred but not less than one hundred workmen are employed.Existing Section 25-N provides for conditions precedent to retrenchment of workmen. Under clause (a) of sub-section (1) it is required that three months' notice or in lieu of notice wages for notice period is to be given to the workers before retrenchment. To ensure that the employer shall only give notice of three months to such workmen, provision to give wages for notice period in lieu of notice is proposed to be deleted. Further, to provide additional financial security to the workmen affected by such retrenchment, it is proposed to amend sub-section (9) to the effect that in addition of the. compensation, as prescribed in the sub-section, the workman is paid an amount equivalent to his three months average pay. Similar provision is proposed to be added in sub-section (8) of Section 25-O providing for payment of an amount equivalent to three month's average pay, along with compensation on prescribed rates, must also be paid to the workers who are being affected by the closure of the establishment.Term "go slow" is included in paragraph 5 of Part II of the Fifth Schedule of the Act but the same has not been defined, which causes difficulty in disposal of matters relating to "go slow". Therefore, for the purpose of removing this difficulty, an explanation after the existing paragraph 5 of Part II of the Fifth Schedule is proposed to be added to define the term "go slow".The Bill seeks to achieve the aforesaid objectives.Hence the Bill.[Dated 12.11.2014.][Received the assent of the President on the 30th day of October, 2014]An Act further to amend the Industrial Disputes Act, 1947 in its application to the State of Rajasthan.Be it enacted by the Rajasthan State Legislature in the Sixty-fifth Year of the Republic of India, as follow: -

1. Short title, extent and commencement.

(1)This Act may be called the Industrial Disputes (Rajasthan Amendment) Act, 2014.(2)It shall extend to the whole of the State of Rajasthan.(3)It shall come into force at once.

2. Amendment of Section 2, Central Act No. 14 of 1947.

- In the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947), in its application to the State of Rajasthan, hereinafter referred to as the principal Act, in Section 2, -(a)the existing sub-clause (iii) of clause (g) shall be deleted; and(b)in clause (s), the existing expression "by an employer or by a contractor in relation to the execution of his contract with such employer" shall be deleted.

3. Amendment of Section 2-A, Central Act No. 14 of 1947.

- In Section 2-A of the principal Act, after the existing sub-section (3), the following new sub-section shall be added, namely: - "(4) Notwithstanding anything in sub-section. (1), (2) and (3), no such dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute if such dispute is not raised in conciliation proceeding within a period of three years from the date of such discharge, dismissal, retrenchment or termination: Provided that an authority, as may be specified by the State Government, may consider to extend the said period of three years when the applicant workman satisfies the authority that he had sufficient cause for not raising the dispute within the period of three years."

4. Amendment of Chapter II-B, Central Act No. 14 of 1947.

- Chapter II-B of the principal Act, as inserted by the Rajasthan Act No. 34 of 1958, shall be renumbered as "Chapter IIC".

5. Amendment of Section 9-C, Central Act No. 14 of 1947.

- Section 9-C of the principal Act, as inserted by the Rajasthan Act No. 34 of 1958, shall be renumbered as "9CC".

6. Amendment of Section 9-D, Central Act No. 14 of 1947.

- In Section 9-D of the principal Act, as inserted by the Rajasthan Act No. 34 of 1958, the existing expression "fifteen per cent" shall be substituted by the expression "thirty per cent".

7. Amendment of Section 25-K, Central Act No. 14 of 1947.

- For the existing Section 25-K of the principal Act, the following shall be substituted, namely: - "25K. Application of Chapter VB. - (1) The provisions of this Chapter shall apply to an industrial establishment (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than three hundred workmen were employed on an average per working day for the preceding twelve months. (2) Without prejudice to the provisions of sub-section (1), the State Government may, if satisfied that maintenance of industrial peace or prevention of victimization of workmen so requires, by notification in the Official Gazette apply the provisions of this Chapter to an industrial establishment, (not being an establishment of a seasonal character or in which work is performed only intermittently) in which such number of workmen which may be less than three hundred but not less than one hundred, as may be specified in the notification, were employed on an average per working day for the preceding twelve months. (3) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final."

8. Amendment of Section 25-N, Central Act No. 14 of 1947.

- In Section 25-N of the principal Act, -(a)in clause (a) of sub-section (1), the existing expression ", or the workman has been paid in lieu of such notice, wages for the period of the notice" shall be deleted; and(b)in sub-section (9), after the existing expression "six months" and before the existing punctuation mark appearing at the end, the expression "and an amount equivalent to his three months average pay" shall be inserted.

9. Amendment of Section 25-O, Central Act No. 14 of 1947.

- In sub-section (8) of Section 25-O of the principal Act, after the existing expression "six months" and before the existing punctuation mark appearing at the end, the expression "and an amount equivalent to his three months average pay" shall be inserted.

10. Amendment of Fifth Schedule, Central Act No. 14 of 1947.

- After the existing paragraph 5 of Part II to the Fifth Schedule of the principal Act, the following shall be added, namely: -"Explanation. - For the purpose of this paragraph, 'go slow' means any such activity by any number of persons, employed in any industry, acting in combination or with common understanding, to slow down or to delay the process of production or work purposely whether called by work to rule or by any other name, so as the fixed or average or normal level of production or work or output of workman or workmen of the establishment is not achieved:Provided that all necessary ingredients or inputs for standard quality production or work are made available in time and in sufficient quantity."