

The Punjab Relief of Indebtedness (Deposit in Court) Rules, 1935

PUNJAB

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Rule

THE-PUNJAB-RELIEF-OF-INDEBTEDNESS-DEPOSIT-IN-COURT-RULE of 1935

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The Punjab Relief of Indebtedness (Deposit in Court) Rules, 1935Published vide Punjab Government Notification No. 28365-J, dated 24.8.1935With reference to Punjab Government Notification No. 28365-Judicial, dated the 24th August, 1935, and in exercise of the powers conferred by section 35 of the Punjab Relief of Indebtedness Act, 1934, the Governor-in-Council is pleased to make the following rules :-Rules

1.

These rules may be called the Punjab Relief of Indebtedness (Deposit in Court) Rules, 1935 and shall apply to all deposits to be made under section 31 of the Act.

2.

In these rules "the Act" means the Punjab Relief of Indebtedness Act, 1934.

3.

Sums less than one thousand rupees may be deposited in any stipendiary Civil Court having jurisdiction within the district in which the debtor resides :Provided that where there is more than one such Court in the same town, the deposit shall be made in the Court exercising the highest pecuniary jurisdiction.

4.

Sums of one thousand rupees or over shall be deposited only in the Court of the Senior Subordinate Judge of the district in which the debtor resides.

5.

Deposits may be made either by postal money-order or by the debtor in person.

6.

All sums deposited shall be accounted for and dealt with according to the ordinary rules for the time being in force in the Courts into which they are paid.

7.

Notices under sub-section (2) of section 31 of the Act shall be served upon the creditor by registered letter, acknowledgement due, at the expense of the debtor [Vide Punjab Government Notification No. 2461-J : 36-16796, dated the 16th May, 1936]. Rules for the appointment of Chairman and Members of Debt Conciliation Boards

1. Composition of the Board. - The Debt Conciliation Board will consist of two or more members and one Chairman, to be appointed by Government. Save in exceptional circumstances, they should be selected from the district in which the Board is to function.

2. Qualifications. - (i) Essential qualifications for the Chairman and the members are that :-

(a) they should have a sound education; (b) their integrity should be above suspicion; (c) they should be impartial and have the confidence of the public as such; (d) they should have a reputation for tact; (e) they should be financially sound; (f) their antecedents should be without reproach and they should, whenever possible, have some record of services to the general administration; (g) they should have adequate experience of rural conditions; (h) they should be physically strong enough to undertake continuous touring; (ii) A reputation for success as an unofficial arbitrator will be considered a favourable qualification. (iii) One member at least should represent the debtor classes; and one the creditor. (iv) The representative of the money-lending class should, if possible, be drawn from the same district, but not from the tahsil in which the Board functions; nor should he have any money-lending business in this tahsil. (v) The representative of the debtor class must not be in debt and must not be a money-lender. He should preferably be chosen from one of the leading tribes of the tahsil or district concerned; but should not ordinarily belong to the tahsil in which the Board is to exercise jurisdiction. In making the selection due weight should be given to education. (vi) The

Chairman must be a person who can understand and appreciate the difficulties and prejudices of the rural population; and be sufficiently versed in law both to avoid mistakes of procedure, and also fully to understand the provisions of the Punjab Relief of Indebtedness Act. Ex-officials can be considered; and also intelligent young lawyers belonging to any of the predominant agricultural tribes of the district.

3. Person ineligible for appointment. - (i) Members of the Provincial or Central Legislature are not eligible for appointment.

(ii) No body who is holding the office of a Sub-Registrar or Honorary Magistrate, or President or Vice-President of a local body should be recommended unless he gives an undertaking that he will resign his office immediately on being appointed to the Board.

4. Information to be furnished in submitting proposals. - In forwarding recommendations in regard to a Board's personnel, local officers should always furnish sufficient information to enable Government to judge whether the candidates possess the qualifications detailed in paragraph 2 or not. The age or approximate age of the person proposed should always be specified, and particular attention paid to the fact whether the candidate has an interest in any money-lending business in the area in which the Board is to exercise its jurisdiction and is himself free from debt. Deputy Commissioners should always send up a panel of names indicating their first choice but giving more names than are required to fill the vacancies.

5. Term of office. - (i) The Chairman and members of a Board are ordinarily appointed for a period of one year only, but are eligible for re- appointment on the expiry of this term.

(ii) The term of office will run in each case from the date specified in the notification of the appointment or re-appointment, as the case may be. The appointments or re-appointments may, however, be terminated or suspended by Government at any time. (iii) Proposals for the extension of the life of a Board should reach Government at least three months before the expiry of the present term of appointment.

6. Status of the Members. - (i) While the Chairman and members of the Boards are 'public servants' within the meaning of section 21 of the Indian Penal Code, they are not to be regarded as wholetime Government servants. They are private gentlemen who receive certain allowances for their work and to that extent only are treated as Gazetted Officers.

(ii) The Chairman and members of the Boards are to be regarded as Government servants of grade V for purposes of drawing travelling allowance under rule 2.18 of the Travelling Allowance rules in respect of journeys made outside their jurisdiction for recording evidence in this official capacity.

7. Suspension of Pleader Licences. - The licence of lawyer appointed to serve on a Board is likely to be suspended by the High Court.

8. Bar to take active part in elections and political affairs. - Candidates accepted as Chairman and members of the Debt conciliation Boards cannot stand for election either to the Legislature or any local bodies, nor can they be nominated by Government to local bodies nor can they take any active part in political affairs and electioneering. Sitting members of local bodies are, however, not required to resign their offices when appointed to a Debt Conciliation Board; but they must not hold office or seek office on a local body.

9. Leave. - (i) Members of the Board may be allowed a month's vacation in September provided that the state of work admits of this and the Deputy Commissioner approves. But if the Board does not avail itself of this vacation and a member applies for leave exceeding ten days during that month for medical or other imperative reasons, the leave may be sanctioned by Government with pay. The only other leave with pay which is admissible to the Chairman and members is casual leave, and the Deputy Commissioners are empowered to grant this up to a maximum of ten days, provided that the quorum required by rule 6 of the Punjab Debt Conciliation Rules, 1935, is maintained.

(ii) If it is necessary for medical or other imperative reasons to grant leave to a member for a period exceeding ten days, the leave will invariably be without pay and subject to the sanction of Government. It is intended that in such cases a substitute should be appointed and all proposals by the Deputy Commissioner for grant of extraordinary leave without pay should always include suggestions for the filling of the temporary vacancy.

10. Occupation of Rest House. - The Chairman and members of a Board are not entitled to occupy the Public Works Department and other rest-houses while on tour.

11. Location of office. - As soon as a Debt Conciliation Board is constituted, the Deputy Commissioner concerned should recommend through the Commissioner the place at which the Board shall have its office.

12. Re-employment Retired Officers. - When an ex-official is appointed to a Board, the Deputy Commissioner should at once submit his recommendations through the Commissioner, for the orders of Government under Article 520 and 521, Civil Service Regulations whether the ex-official's pension should be held in abeyance in whole or in part.

13. Change in personnel. - When the jurisdiction of a Board is changed, the Deputy Commissioner should report through the Commissioner, whether any changes in the personnel of the Board are advisable.

14. Half-yearly Reports. - Deputy Commissioners are required to submit to Commissioners reports in triplicate on the working of the Boards for each half-year ending 30th June and 31st December, respectively. The reports should be submitted by the 25th July and 25th January, respectively and Commissioners should forward them in duplicate to Government with their comments by the 10th August and 10th February.

(ii) Each report should be accompanied by the statement appended to these rules and in addition should contain the following particulars :- (a) The number of days on which the Board sat during the period under report; (b) The number of cases pending (i) over two months, and (ii) over four months at the end of the period under report; (c) The number of cases in which the Board exercised its powers of review under section 23 of the Act; (d) The average value of the debts covered by the applications newly instituted during the period under report. The above figures are essential to enable Government to judge the amount of work which is being handled by each Board. (iii) Deputy Commissioners should not confine themselves in their reports to a mere recital of the statistics, but should discuss generally the value of the work done by the Boards during the period and of the system which they represent. A point on which information is particularly desired is the effect which the Boards have had on litigation, more especially whether they have resulted in any appreciable diminution in the amount of civil litigation in the area of their jurisdiction. (iv) While submitting their reports Deputy Commissioners should bear in mind the instructions contained in paragraph 6(v) of the Punjab Government Consolidation Circular No. 3.

15. Publication of Notices in Newspapers. - (i) Boards are required to report to Government the full particulars in regard to the newspapers to which they send notices in Forms I and II appended to the Punjab Debt Conciliation Rules, 1935, for publication :-

(a)the name of the paper and the language in which it is published;(b)the place where it is published;(c)the name of the proprietor with his full address;(d)the name of the editor with his full address;(e)whether the paper is on the approval list of Government;(f)if on the approved list, whether the paper has any appreciable local circulation.(ii)In the event of any subsequent change in the above particulars, the Chairman of the Board should inform Government immediately.

16. Inspections. - Deputy Commissioners are required to inspect periodically the files of Debt Conciliation Boards with a view to finding out whether any serious irregularities of the procedure have been committed. If any such are brought to light, this should at once be reported to Government.

17. Use of mustajri mortgages. - Boards may make use of mustajri mortgages for ten years or less in settling old debts where owners can spare a few acres for the purposes without upsetting their means of living, provided the provisions of the Debtors' Protection Act are not contravened.

18. Bogus claims. - Boards should take all possible precautions to see that no bogus claims are considered. When the verification of an application to a Board is alleged by any party to be false, the Board should enquire into the fact.

19. Time limits for statement of debts. - If a creditor is allowed an extension of the time limit for the submission of the statement of debts owed to him the Board should give its reasons in writing.