

## **NOTE ON MINIMUM WAGES**

The Minimum Wages Act, 1948 is a Central legislation aimed at statutory fixation of minimum rates of wages in the employments where sweated labour is prevalent with possibility for exploitation of unorganized labour. The provisions of the Act are intended to achieve the object of doing social justice to workmen employed in the scheduled employments by prescribing minimum rates of wages for them. The Act aims at statutory fixation of minimum wages with a view to prevent exploitation of labour.

The Government of Andhra Pradesh have fixed minimum rates of wages in **(73) Scheduled employments (List enclosed)** so far under Minimum Wages Act, 1948 in which 65 employments (industry related) are covered under part-I and 8 (Agriculture related) Scheduled employments under part-II of the said Act. Presently, the wages have been fixed to each and every category under the above specific employments and as a result wages are fixed covering nearly for 20 to 40 categories of workers in each employment, creating confusion among the working class about their wages. Due to a large number of Scheduled Employments much time is being consumed for revision of wages without uniformity causing discrimination among the workers. It is becoming very difficult to the Inspectors notified under the Act for implementation of wages due to innumerable schedules. Moreover, in the existing G.Os, there is a variation in wages from employment to employment for similar category of worker. Variation in wages to similar categories of workers in various scheduled employments leads to anomalies and discontentment among the workers doing same and similar type of work.

In order to overcome this problem, it is considered necessary to simplify and rationalize the existing Scheduled employments under the Act and to fix uniform rates to the similar category of workers and simultaneously to reduce the categories as well as employments and the Government through G.O.Rt.No.654, dated 18/05/2010 of Labour, Employment, Training and Factories (Lab.II) Department, have constituted the Rationalization Committee for Simplification and Rationalization of the schedule of Employments under the Minimum Wages Act, 1948, with a term of 2 years to recommend to the government on simplification and rationalization of fixation and revision of minimum wages and the committee has given its recommendations and a proposal on the recommendations is being submitted to the government.

During the year 1989, Government of Andhra Pradesh have introduced for the first time the Cost of Living Allowance in addition to the notified basic wage in respect of the scheduled Employments covered under Part-I of the schedule. The Commissioner of Labour notifies the increase of average Consumer Price Index Numbers on 1<sup>st</sup> April and 1<sup>st</sup> October every year taking into account the CPI numbers of both Central and State series from 12 centers for the half year ending June & December.

Recently the Government took a decision to implement the Variable Dearness Allowance component to the scheduled employments covered under Part-II of the Schedule under Minimum Wages Act on par with the scheduled employments covered under Part-I. Recently, two new Scheduled Employments viz., 1. Sales Promotion 2. Contract labour have been added to Part-I of the Schedule by issuing preliminary notification under Section 27 of the Act. The issue of payment of appropriate statutory wages to contract labour, of late has become

disputed due to litigation by many employers where both minimum wages and contract labour wages notified under Contract Labour Act exist and fixation of minimum wages in respect of the contract labour employment, where minimum wages are not fixed is expected to resolve the above issue.

The process of revision of minimum rates of wages in the respective Scheduled Employments is being taken up for every 5 years against the Scheduled Employments where the VDA component is a part of wages and for every two years, where the VDA is not incorporated.

The procedure to be adopted for fixation/revision of minimum wages has been provided under Sections 3 and 5 of the Minimum Wages Act, 1948. Two methods are provided under Section 5 of the Act, for fixation/revision of minimum wages in any Scheduled Employment under the Minimum Wages Act, 1948, which are detailed below.

**Procedure for fixing and revising minimum wages.**—(1) In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act or in revising minimum rates of wages so fixed, the appropriate Government shall either—

- (a) appoint as many committees and sub-committees as it considers necessary to hold enquiries and advise it in respect of such fixation or revision, as the case may be, or
- (b) by notification in the Official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration.

In the State of Andhra Pradesh, Government have been adopting the notification method as provided under Section 5(1) (b) of the Act for fixation or revision of minimum wages in any scheduled employment

under Part-I or Part II of the Schedule of the Minimum Wages Act, 1948 for the last several years.

### **RECOMMENDATIONS AND SUGGESTIONS BY VARIOUS FORA REGARDING NORMS FOR FIXATION AND REVISION OF MINIMUM WAGES**

There are no norms prescribed for fixing/revising minimum rates of wages so far under Minimum Wages Act, 1948 and the Act is silent on the point of gradation of wages according to the Skill level.

### **INDIAN LABOUR CONFERENCE**

In the year 1957, the Indian Labour Conference has recommended to adopt the following 5 elements while fixing minimum wages:-

- 1) For the purpose of fixation of minimum wages, a family is taken, as a norm, to include three units (one earner, wife and children)
- 2) Dr. Aykrovd's prescription of the average of 2700 calories of nutrition may be taken as the standard for calculating the minimum nutritional requirements.
- 3) Provision of 72 yards of cloth by considering a family as four units in connection with the requirements of 18 yards of cloth per capita, per annum.
- 4) For the purposes of fixation of house rent, the rates of rent granted by Industrial Housing Plan may be considered.
- 5) 20 per cent of the minimum wages may be ear-marked for meeting the expense on fuel, light and other ancillaries.

### **REPTAKOS BRETT AND CO.LIMITED**

The Hon'ble Supreme Court in the case of Reptakos Brett and Co. Ltd., while affirming the use of the five above norms prescribed in the 15<sup>th</sup> Indian Labour conference for fixation of Wage has directed that keeping in view the Socio economic aspect **"25% of the Total minimum wages shall also be taken into account for Children education, medical requirement, minimum recreation including**

**festivals/ceremonies and provision for old age, marriage etc.,”** The above norms are only useful for arriving the wage for the lowest category worker.

### **GUIDELINES OF GOVERNMENT OF INDIA**

The Principal Advisor, Planning Commission, Government of India, New Delhi in his letter dated 18-09-2006 had informed that it is proposed to have the wage differential at 15 per cent between unskilled to Semi-Skilled and semi-skilled to Skilled. He has also stated that in the year 1999-2000 a study on the pay differences was carried out through job Evaluation Technique and it was proposed to have pay difference @ 19-20 percent between Unskilled to Semi-Skilled and 12-13 percent between Semi Skilled to Skilled.

### **(10) NATIONAL FLOOR LEVEL WAGE FIXED BY THE GOVERNMENT OF INDIA**

The Government of India vide letter No.P-11012/1/2009-WC (MW), dated 05.07.2013 has stated that while reviewing the movement of Consumer Price Index for Industrial Workers (CPI-IW) during October 2012 to March, 2013 over the period October 2010 to March 2011, it was observed that the National Floor Level Minimum Wage has been revised upwards from Rs.115/- to Rs.137/- per day w.e.f 01.07.2013. The minimum wage of the lowest categories in all scheduled employments reached the National Floor Level in Andhra Pradesh. It is, however, clarified that the National Floor Level Minimum Wage, is a non-statutory measure to ensure upward revision of minimum wages in different in States/UT's. Thus, the State Governments are persuaded to fix minimum wages such that in none of the scheduled employments, the minimum wage is less than National Floor Level Minimum Wage. This method has

helped in reducing disparity among different rates of minimum wages to some extent.

The Government of Andhra Pradesh appointed Assistant Labour Officers, Asst. Commissioners of Labour, Deputy Commissioners of Labour and Joint Commissioners of Labour as Inspectors under Section-19 in their respective jurisdictions. The inspector under the Act is responsible to ensure payment of minimum wages by conducting regular inspections. He should verify maintenance of certain registers like muster roll and wages register and to secure to every employee a wage slip every month. The Government of Andhra Pradesh issued a notification vide G.O.Ms.No.591, dated 31.3.2011 of LET & F Department under Payment of Wages Act, 1936 and the provisions of Payment of Wages Act have been extended vide G.O.Ms.No.590, dated 31.3.2011 of LET & F Department to all establishments engaged in scheduled employments, all factories, all industries and all shops and establishments. It is required to pay wages to every employee by remittance in the bank account of the employee in accordance with the said GO Ms No.591 and the inspectors under the Act should ensure the same towards simplification of enforcement.

### IMPORTANT provisions IN BRIEF:

#### **Section 3: Fixation of minimum rates of wages:**

Appropriate Government shall fix the minimum rates of wages in respect of the employment specified in Part-I or II of the Schedule and review at such intervals not exceeding (5) years, to revise the wages.

#### **Section 4: Minimum rate of wages:**

The Minimum rate of wage may consist of basic rate of wage and special allowance (cost of living allowance) to be notified by the commissioner of labour once in six months effective 1<sup>st</sup> April and 1<sup>st</sup> October.

### **Section 5: Minimum rate of wages:**

Procedure for fixing and revising minimum wages

- (a) appoint as many committees and sub-committees as it considers necessary to hold enquiries and advise it in respect of such fixation or revision, as the case may be, or
- (b) by notification in the Official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration.

### **Section 7: Advisory Board:**

Appropriate Government shall appoint an Advisory Board to advise the Government in the matters of fixing and revising of minimum wages and for coordinating the work of Committees and Sub Committees appointed under Section 5. The term of office of the non-official member is 2 years but continues till replaced.

The Committees/sub committees/Advisory Board shall consist of persons representing in equal number, the employers and the employees and independent persons not exceeding 1/3rd of the total members, one of them to be nominated as chairman.

### **Section 12: Payment of Minimum rates of wages:**

Wages paid in respect of scheduled employments shall not be less than the minimum rates of wages.

### **Section 13: Fixing hours for a normal working day etc:**

The number of hours of work should not exceed (9) per day including rest for half an hour and 48 per week and a day of rest in every (7) days normally on Sunday shall be allowed.

### **Section 18: Maintenance of Registers and Records:**

Registers like muster roll and wages register shall be maintained by the employer as per the prescribed forms under the Rules.

### **Section 19: Inspectors:**

Appropriate Government shall appoint Inspectors under the Act to enforce the provisions of the Act. Govt. of A.P. appointed ALOs, ACLs, DCLs, JCLs and COL and also officers of certain other departments as Inspectors.

### **Section 20: Claims:**

The appropriate Government shall appoint authorities to hear and decide claims for difference in wages and compensation up to ten times the amount of difference in wages. As per the pecuniary jurisdiction the ACL can hear claims up to 20,000/-, DCL above 20,000/ and up to 50,000/- and JCL above 50,000/-, which has been fixed in 1999 and requires revision.

### **Section 22: Penalties for certain offences:**

Imprisonment upto (6) months or fine upto Rs.500/- or both.

### **Section 25: Contracting out:**

Any contract of employment with terms for reduced wages shall be null and void to that extent.



**Section 27: Power of State Government to add to schedule:**

The appropriate Government by giving notification in the Official Gazette may add any employment to the Schedule under Part-I or II.