

The Payment Of Wages (Procedure) Rules, 1937

UNION OF INDIA

India

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Rule THE-PAYMENT-OF-WAGES-PROCEDURE-RULES-1937 of 1937

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19.

/839In exercise of the powers conferred by sub-section (1) of section 26 of the Payment of Wages Act, 1936 (4 of 1936), read with section 22 of the General Clauses Act, 1897 (10 of 1897), the Governor-General-in-Council is pleased to make the following rules, the same having been previously published as required by sub-section (5) of section 26 of the first named Act, namely:

1. Short title

.-[(1)] [Rule 1 renumbered as sub-Rule (1) by the Payment of Wages (Procedure) (Amendment) Rules, 1951.] These rules may be called Thr Payment Of Wages (Procedure) Rules, 1937.(2)[They extend to the whole of India except the State of Jammu and Kashmir.] [Inserted by the Payment of Wages (Procedure) (Amendment) Rules, 1951.]

2. Definitions

.-In these rules, unless there is anything repugnant in the subject or context,(a)"the Act" means the Payment of Wages Act (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;(d)"the Court" means the Court mentioned in sub-section (1) of section 17;(e)"Employer" includes the persons responsible for the payment of wages under section 3;(f)"Section" means a section of the Act;(g)"Form" means a form appended to these rules;(gg)["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 15 or of a direction made under sub-section (3) or sub-section (4) of that section kept in Form F;] [Inserted

by the Payment of Wages (Procedure) (Amendment) Rules, 1959.](h)words and expressions defined in the Act shall be deemed to have the same meaning as in the Act.

3. Form of application.

-Applications 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 such Court-fee as maybe prescribed.

4. Authorisation

.-The authorisation to act on behalf of an employed person or persons, under section 15, shall be given by a certificate in Form D, shall be presented to the authority hearing the application and shall form part of the record.

5. Permission to appear.

-Any person desiring the permission of the Authority to act on behalf of any employed person or persons shall present to the Authority a brief written statement explaining his interest in the matter, and the Authority shall record an order on the statement which in the case of refusal shall include reasons for the order, and shall incorporate it in the record.

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 hours to be fixed by the Authority, or may be sent to him by registered post.(2)the Authority shall at once endorse, or cause to be endorsed, on each document the date of the presentation or receipt, as the case may be.

7. Refusal to entertain application.

--(l) the Authority may refuse to entertain an application presented under rule 6, if after giving the applicant an opportunity of being heard, the Authority is satisfied, for reason to be recorded in writing that:(a)the applicant is not entitled to present an application; or(b)the application is barred by reason of the provisions in the provisos to sub-section (2) of section 15; or(c)the appiicant 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 otherwise incomplete and, if he so refuses, shall return it at once with an indication of the defects. If the application is presented again, after the defects have been made good, the date of representation shall be deemed to be the date of presentation for the purpose of the proviso 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, notice being served on opposite party of the date fixed for rehearing.

9. Record of proceedings.-

(1) The Authority shall in all cases enter the particulars indicated in Form F and at the time of passing orders 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.] [Substituted by the Payment of Wages (Procedure) (Amendment) Rules, 1959.]

10. Signature on forms.

-Any form, other than [the record of order or direction] [Substituted by the Payment of Wages (Procedure) (Amendment) Rules, 1959.], 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 section 18 the Authority shall be guided in respect of procedure by relevant orders of the First Schedule of the Code of Civil Procedure, 1908 (5 of 1908), with such alterations as the Authority may find necessary, not affecting their substance, for adapting 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 sub-section (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.] [Substituted by the Payment of Wages (Procedure) (Amendment) Rules, 1959.] (2) When an appeal is lodged a notice shall be issued to the respondent in Form G. (3) The Court after hearing the parties and after such further inquiry, if

any, as it may deem necessary, may confirm, vary, or set aside the [order or direction] [Inserted by S.O. 2410, dated 6.7.1970.] from which the appeal is preferred, and shall make an order accordingly.[12-A. Order or direction when to be made.-The Authority or the Court, as the case may be, after the case has been heard, shall make the order or direction either at once or, as soon thereafter as may be practicable, on some future day; and when the order or direction is to be made on some future day, it shall fix a date -for the purpose of which due notice shall be given to the parties or their pleaders.] [Inserted by S.O. 2410, dated 6.7.1970.]

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 fees as may be prescribed. Form A (See sub-section (2) of section 15 of the Payment of Wages Act) Form Of Individual Application In the Court of the Authority appointed under the Payment of Wages Act, 1936 (4 of 1936) for area. Application No of 20..... Between A.B.C applicant (through a legal practitioner/an official of which is a registered trade union.) And X. Y. Z opposite party: The applicant states as follows:

1. A. B. C. is a person employed in the /on the factory/railway/industrial establishment entitled and resides at

.....

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

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

.....

3.

(1) The applicant's wages have not been paid for the following wage-period(s).....[give (dates)] Or A sum of Rs has been unlawfully deducted from his wages of amount for the wage-period(s) which ended on..... [give date(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 Rs

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

(a) Payment of 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 or thumb-impression of the employed person, or legal practitioner or official of a registered trade union duly authorised Form B (See sub-section (2) of sections 15 and 16 of Payment of Wages Act) Form Of Group Application In the Court of the Authority appointed under the Payment of Wages Act, 1936 (4 of 1936) for area. Application No of 20..... Between A. B. C. and (State the number) other Applicants (through a legal practitioner an official of which is a registered trade union). And X. Y. Z opposite party. The applicants state as follows:

1. [The applicants whose names and permanent addresses] [Substituted by S.O. 2334, dated 14.9.1960.] appear in the attached schedule are persons employed in the/on the factory/railway/industrial establishment entitled and resides at

The addresses of the applicants for service of all notices and processes is:.....

2. 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 wage-period(s):

.....

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

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 as estimated or 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] [Substituted by S.O. 2334, dated 14.9.1960.]

Sl. No. Name of Applicant Permanent address

1 2 3

Form C (See sub-section (2) of sections 15 and 16 of the Payment of Wages Act) Form of Application by an Inspector or Person Permitted by the Authority or Authorised to Act In the Court of the Authority appointed under the Payment of Wages Act, 1936 (4 of 1936) for area. Application No of 20..... Between A. B. C. [(designation) an Inspector under the permitted by the authority Payment of Wages Act] or a person authorised to act under sub-section (2) of section 15] applicant. And X.Y.Z the opposite party. The applicant states as follows:

1. X. Y. Z., the opposite party, is the person responsible under the Act for the payment of wages to the following [persons whose names and permanent addresses are given below] [Substituted by S.O. 2334, dated 14.9.1960.]:

(1)(2)(3)**

2. His address for the service of all notices and processes is:

3. The wages of the said person(s) due in respect of the following wage-period(s)

have not been paid have been subjected to the following illegal deductions:

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 1.5 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 Rs The applicant certifies that the statement of facts contained in this application is, to the best of his knowledge and belief, accurate. Signature Form DCertificate 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 17 of the Payment of Wages Act, 1936 (4 of 1936), in respect of the claim against on account of the {delay in payment of illegal deductions from}| my our| wages for.....

Witnesses(1) Signatures(1)

(2) (2)

(3) (3)

(4) (4)

* *

* *

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 material questions relating to the application, or who shall be accompanied by some person able to answer all such questions, on the day of 20..... at..... o'clock in the to answer the claim; {||-| and as the day fixed for your appearance is appointed for the| forenoon afternoon| final disposal|} of the application, you must be prepared to produce on that day all the witnesses upon whose evidence, and the documents upon which you intend to rely on 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 of

..... 20..... Authority Seal Form F [Record of Order or Direction] [Substituted by the Payment of Wages (Procedure) (Amendment) Rules, 1959.] (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 the 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] [Substituted by the Payment of Wages (Procedure) (Amendment) Rules, 1959.]: (8) Amounts awarded: (a) delayed wages Rs (b) deducted wages (9) Compensation awarded (10) Penalty imposed (11) Costs awarded to: (a) Court-fee

charges(b)Pleader's fee(c)Witnesses' expenses
(12)[Date by which the amounts awarded shall be paid.] [Inserted by S.O. 2410,
 dated 6.7.1970.]SignedDatedNote.-In case where an appeal lies, attach
 on a separate sheet the substance of the evidence.Form GNotice to Respondent of the Day Fixed for
 the Hearing of the Appeal Under Section 17 of the Payment of Wages Act, 1936Appeal from the
 decision of the Authority for thearea dated theday
 of.....20.....ToRespondentTake notice that an appeal of which a copy is enclosed from
 the decision of the Authority forarea has been presented by X.Y.Z. (and others), and
 registered in this Court, and that theday of.....20..... has been fixed by
 this Court for the hearing of the appeal.If no appearance is made on your behalf by yourself, or by
 someone 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, thisday of..... 20.....Seal of
 the courtJudge