

Industrial Employment (Standing Orders) Act: The Paradigm of Labour- Management Relations

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Abstract

In today's era, various employment laws at workplace have become vital not only from the workers' point of view but from the whole organizational point of view. Laws modulate the workplace by introducing justice, fairness and equality, help to put an end to unfair labour practices and provides for the rights, privileges, obligations and responsibilities of the workforce. Industrial legislation helps both workers and management to know exactly about their rights, duties and obligations and the liabilities. The industrial work in India has acquired special features with the introduction of large scale and modern industrialization. Keeping this in view, both central and state governments have enacted laws on labour and employment issues. in order to ensure sound working practices at industries across India. This research paper highlights one of the prominent laws, which have been introduced for defining the principal conditions of employment in order to ensure sound working practices in industries across India.

Keywords: Industries, Employment, Standing Orders

Introduction

The genesis of the Industrial Employment (Standing Orders) Act, 1946 goes to the year 1944, when the question of framing Standing Orders were considered by the sixth Indian Labour Conference. The textile mills of Bombay followed the S.O. as finally settled by the Industrial Court. The S.O. drawn up by the Employers' Association of North India was followed by the textile mills in Kanpur. Similarly, the S.O. drawn up by the South India Millowners' Association were followed by some mills there. The Jute Mills Association also drafted rules regarding the conditions of service for workers in the jute mills. Several individual mills had also their own S.O. TISCO, Jamshedpur, had service rules to regulate the conditions of employment. The Delhi Cotton Mill, the Bangalore Cotton, Woollen and Silk Mills, some engineering concerns in Bombay and Calcutta also had their own service rules. In seasonal and unregulated factories, mines and plantations, there were no S.O. Such was also the condition in rice mills, cigarette factories, mica mines and paper mills.

The Rege Committee strongly felt that the rules of employment must be framed, for an industrial worker had the right to know the terms and conditions of his employment and the rules of discipline he was expected to follow.

The main reason for the passage of the Industrial Employment (Standing Orders) Act on 23rd April 1946, was the feeling that "Experience has shown that 'Standing Orders' defining the conditions of recruitment, discharge, disciplinary action, holidays, leave, etc. goes a long way towards minimizing friction between the management and the workers in industrial undertaking." This act came into force from 1st April, 1947. Since then it has been amended in 1951 (Act No.3 of 1951); in 1956 (Act No. 36 of 1956); in 1961 (Act No.16 of 1961); in 1963 (Act No.39 of 1963); and in 1982.

The preamble of the Act clearly says that the "Standing Orders shall deal with the conditions of employment of workers in an industrial establishment. It is obligatory upon all employers/ covered by this Act to define precisely the employer and the employees and to make the said conditions known to the workmen employed by them." The Act provides uniformity of terms of employment in respect of all employees belonging to the same category and discharging the same work in an industrial establishment.

Standing Orders (S.O.) are intended to be the nature of "shop rules" promulgated by employers under statutory obligations. They may be described as the written "Code of Conduct" for employees, for, any act subversive of discipline is described as an act of misconduct.

In actual practice, they also represent a form of compulsory collective bargaining agreement with a built-in device for compulsory arbitration, if any dispute relating to the fairness and reasonableness of the rules, as also their application and interpretation arises.

Research Methodology

The study is based on secondary data, which is collected from books, websites, etc.

Discussion

The purpose of Standing Orders is to create an attitude of mind between both the parties so that industrial harmony is achieved in an industrial establishment. The Orders from part of the contract between management and everyone of its employees. This is a Central Act and extends to the whole of India. It applies to every industrial establishment wherein 100 or more workmen are employed or wherein 100 or more persons were employed on any day of the preceding 12 months and the establishment of a contractor who employs workmen in order to fulfil a contract with the owner of an industrial establishment.

Main Features of the Act -

The substance of the Act may be stated as:

- 1) Standing Orders cover all matters specified in the Schedule of the Act.
- 2) These are approved by the proper authority and published in such a way that all the workers can be familiar with them
- 3) All the principal terms and conditions of employment, except matters pertaining to wages and other forms of remuneration, are settled clearly under the Standing Orders.
- 4) Most of the mutual rights and duties of workers and management are clearly defined
- 5) The procedure to be followed whenever there is any dispute or disagreement over these mutual rights and duties are also specified. The procedure, which the management is to follow in disciplining the worker, and the procedure, which the worker has to follow when he has a grievance, are both given in clear language.

The Scheme of the Act

The Act has 15 sections in all and a schedule. Section 1 deals with the title and applicability of the Act. Section 2 defines various terms connected with industrial establishments, such as employer, workman, Certifying Officers, appellate authority, appropriate government, Standing Orders, etc. Section 3 casts upon the employer a duty of drafting within 6 months from the date on which the Act becomes applicable to an industrial establishment, the Standing Orders and submitting them to the Certifying Officer. Section 4 says that S.O. become certifiable if ever matter is included (as given in the schedule) and is found by the certifying officer to be in conformity with the provisions of the Act. Section 5 prescribes the procedure to be followed by the Certifying Officer before certification and the procedure is intended to provide an opportunity to both the employer and the workmen, to be heard before the final order is passed.

Section 6 provides for an appeal against the decision of the certifying officer. Section 7 lays down the date from which the Standing Order shall come into operation, and from that date, they are binding upon the employer and the employees.

Section 8 provides for the maintenance of a Register of all Standing Orders, which are finally certified by the Certifying Officer under the Act. Section 9 provides for their pasting in English and in a language understood by the majority of the workers on a notice board.

Section 10 deals with the duration and for the modification of the Standing Orders at the instance of either party after they have been in force for six months, or upon an agreement between the employer and the employee. Section 11 gives the Certifying Officers and the appellate authorities the powers of a civil court.

Section 12 specifies that no oral evidences can be admitted in any court. Section 13 provides for penalties and procedures to enforce them. Section 14 provides that the employer may specify therein, the acts and omission which will constitute misconduct and which entails the employer to take disciplinary action against an employee.

Section 15 confers upon the appropriate government the power to make rules to carry out the purposes of the Act. The Schedule to the Act contains 11 items regarding matters to be provided in the Standing Orders. Clauses 1 to 10 specify several topics in respect of which the Standing Orders have to make provisions. Clause 11 authorises the government to make addition of any matter it thinks necessary to do so.

A General Discussion on the Main Provisions of the Act

Submission of Draft Standing Orders by the Employers (Section 3)

The Industrial Employment (Standing Orders) Act requires every employer of an industrial establishment to submit draft standing orders, i.e. Rules relating to the matter set out in the schedule which it proposes to adopt for the workmen that are to be employed in its industrial establishment, the draft standing orders contain the matters like classification of employees, workmen's ticket and registers, shift working, attendance and late-coming, termination of employment, dismissal for misconduct, etc. The draft S.O. Is required to be submitted within six months of the commencement of business to the certifying officer.

Pre-requisites for Certification of Standing Orders (Section 4)

This section maintains that S.O. shall be certified under the Act if provision is made therein for every matter set but in the Schedule which is applicable to the industrial establishment; they are in conformity with the provisions of the Act and they are fair and reasonable.

Procedure for Certification of Standing Orders (Section 5)

On receipt of the draft S.O., the certifying officer shall send a copy of the same to the workmen concerned of the establishment with a notice inviting objections, if any, within 15 days of the receipt of the same. After giving both parties reasonable opportunity of being heard, the Certifying Officer shall decide whether or not any modification in the draft is essential and make an order in writing accordingly. The certifying officer shall then certify the S.O. with or without modifications.

Appeal against Certification (Section 6)

Any employer or other nominated representatives, aggravated by the order of the certifying officer, may appeal to the Appellate Authority within thirty days of the service of the S.O.

Operation of Standing Orders (Section 7)

The certified S.O. shall come into force on the expiry of thirty days from the date on which its authenticated copies are sent as required by law or where an appeal is preferred, on the expiry of seven days from the date on which the copies of the appellate orders are sent.

Register of Standing Order (Section 8)

A certified copy of the S.O. Shall be filed by the C.O. In the Register prescribed for the purpose.

Pasting of Certified Standing Order (Section 9)

It is compulsory on the part of the employer to paste the text of certified S.O. In English the language, which is known to the majority of workers.

Modification of Standing Orders (Section 10)

Both the employers and the employees are entitled to ask for modification of standing orders.

Certifying Officers: Their Appointment, Powers and Duties (Section 11)

The “certifying officer” under S.O. Act means Regional Labour Commissioner, Labour Commissioner or other officer appointed by the appropriate government by the notification in the official gazette, to perform all or any of the functions of certifying officer under Act. The duties of certifying officer is to verify that the draft S.O. Contains every matter as required by the Act which is applicable to any industrial establishment and also consider whether draft S.O. Are in conformity with the provisions of model S.O. If he notices any deviation in draft S.O., he may refuse to certify it.

Offences and Penalty (Section 13)

An employer, who fails to submit draft S.O. or modified his S.O., otherwise than in accordance with Section 10, shall be punishable with fine, which may extend to Rs 5,000.

Interpretation and Enforcement of Standing Orders (Section 14)

It provides that if any dispute arises regarding application or interpretation of the certified S.O., such matter shall be referred to a labour court by the employer or workmen or a trade union.

Delegation of Power (Section 14 A)

The appropriate government by a notification in the Official Gazette, can delegate the power necessary for the execution of the act.

Power to Make Rules (Section 15)

The appropriate government may, after previous publication, by notification in the Official Gazette, make rules to carry out the purposes of this act.

Conclusion

For developing and maintaining a healthy relationship among employers and wage-earners, it is necessary to have a satisfactory employment and working conditions in the form of standing orders. This will avoid industrial strike and lockout, quibble and bitterness. In today's corporate scenario also, the standing orders have been on the forefront as they specify the responsibilities on the part of both employer and employees. They make both aware of their own limits, for, on the one hand, employers have to follow the specified rules laid down regarding working hours, pay days, grant of leave to employees, temporary cessation of work, termination of employment, dismissal in certain condition; on the other hand, they require that employees should adhere to the norms mentioned in the Standing Orders and help each other in creating conditions that favor the advancement of industrial harmony. The need is to ensure the cooperation and compliance of employees and officials of unions for the enforcement of Standing Orders so that cordial industrial relations can be maintained between labour and management in the long-run.

References:

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