

(c) any gratuity payable on the termination of his service ;]

<sup>1</sup>[ (s) "workman" means any person (including an apprentice) employed in any industry to do any skilled or unskilled manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute or whose dismissal, discharge or retrenchment has led to that dispute; but does not include any such person—

- (i) who is subject to the Army Act, XLVI, of 1950, or the Air Force Act, XLV of 1950, or the Navy (Discipline) Act, XXXIV of 1934<sup>2</sup> ; or
- (ii) who is employed in the Police Service or as an officer or other employee of a prison; or
- (iii) who is employed mainly in a managerial or administrative capacity; or
- (iv) who being employed in a supervisory capacity, draws wages exceeding five hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature]

<sup>3</sup>[2-A. Dismissal etc., of an individual workman to be deemed to be an industrial dispute.— Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any 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 notwithstanding that no other workman nor any union of workmen is a party to the dispute.]

## CHAPTER II

### AUTHORITIES UNDER THIS ACT

3. **Works Committee**—(1) In the case of any industrial establishment in which one hundred or more workmen are employed or have been

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1. Subs. by Act 36 of 1956.
  2. See now the Navy Act, 1957 (62 of 1957).
  3. Ins. by Act 35 of 1965.

employed on any day in the preceding twelve months the appropriate Government may by general or special order require the employer to constitute in the prescribed manner a Works Committee consisting of representatives of employers and workmen engaged in the establishment so however that the number of representatives of workmen on the Committee shall not be less than the number of representatives of the employer. The representatives of the workmen shall be chosen in the prescribed manner from among the workmen engaged in the establishment and in consultation with their trade union, if any, registered under the Indian Trade Unions Act, 1926 (16 of 1926).

(2) It shall be the duty of the Works Committee to promote measures for securing the preserving amity and good relation between the employer and workmen and, to that end, to comment upon matters of their common interest concern and endeavour to compose any material difference of opinion in respect of such matters.

**4. Conciliation Officers.**—(1) The appropriate Government may by notification in the *Official Gazette*, appoint such number of persons as it thinks fit, to be Conciliation Officers, charged with the duty of mediating in and promoting the settlement of industrial disputes.

(2) A Conciliation Officer may be appointed for a specific area or for specified industries in a specified area or for one or more specified industries and either permanently or for a limited period.

**5. Boards of Conciliation.**—The appropriate Government may as occasion arises by notification in the *Official Gazette*, constitute a Board of Conciliation for promoting the settlement of an industrial dispute.

(2) A Board shall consist of a chairman and two or four other members, as the appropriate Government thinks fit.

(3) The chairman shall be an independent person and the other members shall be persons appointed in equal numbers to represent the parties to the dispute and any person appointed to represent a party shall be appointed on the recommendation of that party:

Provided that, if any party fails to make a recommendation as aforesaid within the prescribed time, the appropriate Government shall appoint such person as it thinks fit to represent that party

(4) A Board, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number:

Provided that if the appropriate Government notifies the Board that the services of the chairman or of any other member have ceased to be available, the Board shall not act until a new chairman or member, as the case may be, has been appointed.

**6. Courts of Inquiry.**—(1) The appropriate Government may as occasion arises by notification in the *Official Gazette*, constitute a Court of Inquiry for inquiring into any matter appearing to be connected with or relevant to an industrial dispute.

(2) A Court may consist of one independent person or of such number of independent persons as the appropriate Government may think fit and where a court consists of two or more members, one of them shall be appointed as the chairman.

(3) A Court, having the prescribed quorum, may act notwithstanding the absence of the chairman or any of its members or any vacancy in its number:

Provided that, if the appropriate Government notifies the Court that the services of the chairman have ceased to be available, the Court shall not act until a new chairman has been appointed.

**7. Labour Courts.**—(1) The appropriate Government may, by notification in the *Official Gazette*, constitute one or more Labour Courts for the adjudication of industrial disputes relating to any matter specified in the Second Schedule and for performing such other functions as may be assigned to them under this Act.

(2) A Labour Court shall consist of one person only to be appointed by the appropriate Government.

(3) A person shall not be qualified for appointment as the presiding officer of a Labour Court, unless—

<sup>2</sup>[(a) he is, or has been a Judge of a High Court; or

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1. Secs. 7, 7-A, 7-B and 7-C substituted for former Sec. 7 by Act 36 of 1956
  2. Isn. by Act 36 of 1964.

- (b) he has, for a period of not less than three years, been a District Judge or an Additional District Judge; or
- (c) he has held the office of the chairman or any other member of the Labour Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, 1950 (48 of 1950), or of any Tribunal, for a period of not less than two years; or] . . . . .
- <sup>1</sup>(d) he has held any judicial office in India for no less than seven years; or . . . . .
- <sup>1</sup>(e) he has been the presiding officer of a Labour Court constituted under any Provincial Act or State Act for not less than five years. . . . .

7-A. **Tribunals.**—(1) The appropriate Government may, by notification in the Official *Gazette*, constitute one or more Industrial Tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the Second Schedule or the Third Schedule.

(2) A Tribunal shall consist of one person only to be appointed by the appropriate Government.

(3) A person shall not be qualified for appointment as the presiding officer of a Tribunal unless—

(a) he is, or has been a Judge of High Court; or

<sup>2</sup>[(aa) he has, for a period of not less than three years, been a District Judge or an Additional District Judge; or]

(b) he has held office of the Chairman or any other member of the Labour Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, 48 of 1950, or of any Tribunal, for a period of not less than two years.

(4) The appropriate Government may, if it so thinks fit, appoint two persons as assessors to advise the Tribunal in the proceeding before it.

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1. Clauses (a) and (b) relettered as (d) and (e) by *ibid.*

pc 2. Ins. by Act 36 of 1964.

**7-B. National Tribunals.**—(1) The Central Government may, by notification in the Official *Gazette*, constitute one or more National Industrial Tribunals for the adjudication of industrial disputes which, in the opinion of the Central Government, involve questions of national importance or are of such a nature that industrial establishments situated in more than one State are likely to be interested in, or affected by, such disputes.

(2) A National Tribunal shall consist of one person only to be appointed by the Central Government.

(3) A person shall not be qualified for appointment as the presiding officer of a National Tribunal unless—

(a) he is, or has been, a Judge of a High Court; or

(b) he has held the office of the Chairman or any other member of the Labour Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, 48 of 1950, for a period of not less than two years.

(4) The Central Government may, if it so thinks fit, appoint two persons as assessors to advise the National Tribunal in the proceeding before it.

**7-C. Disqualifications for the presiding officers of Labour Courts, Tribunals and National Tribunals.**—No persons shall be appointed to, or continue in, the office of the presiding officer of a Labour Court, Tribunal or National Tribunal, if—

(a) he is not an independent person; or

(b) he has attained the age of sixty-five years.]

**1[8. Filling of vacancies.**—If, for any reason a vacancy (other than a temporary absence) occurs in the office of the presiding officer of a Labour Court, Tribunal or National Tribunal or in the office of the Chairman or any other member of a Board or Court, then in the case of a National Tribunal, the Central Government, and in any other case, the appropriate Government, shall appoint another person in accordance with the provisions of this Act to fill the vacancy, and the proceeding may be continued

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1. Sections 8 and 9 were substituted for original Secs. 8 and 9 by Act 36 of 1956.

before the Labour Court, Tribunal, National Tribunal, Board or Court, as the case may be, from the stage at which the vacancy is filled.

**9. Finality of orders constituting Boards, etc.**—(1) No order of the appropriate Government or of the Central Government appointing any person as the Chairman or any other member of a Board or Court or as the presiding officer of a Labour Court, Tribunal or National Tribunal shall be called in question in any manner; and no act or proceeding before any Board or Court shall be called in question in any manner on the ground merely of the existence of any vacancy in, or defect in the constitution of, such Board or Court.

(2) No settlement arrived at in the course of a conciliation proceeding shall be invalid by reason only of the fact that such settlement was arrived at after the expiry of the period referred to in sub-section (6) of section 12, or sub-section (5) of section 13, as the case may be.

(3) Where the report of any settlement arrived at in the course of conciliation proceeding before a Board is signed by the Chairman and all the other members of the Board, no such settlement shall be invalid by reason only of the casual or unforeseen absence of any of the members (including the Chairman) of the Board during any stage of the proceeding.]

## CHAPTER II-A

### NOTICE OF CHANGE

**9-A. Notice of change.**—No employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule shall effect such change—

- (a) without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or
- (b) within twenty-one days of giving such notice:

Provided that no notice shall be required for affecting any such change—

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1. Chapter II-A inserted by *ibid.*

- (a) where the change is effected in pursuance of any settlement, award or decision of the Appellate Tribunal constituted under the Industrial Disputes (Appellate Tribunal) Act, 48 of 1960; or
- (b) where the workmen likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the *Official Gazette*, apply.

**9-B. Power of Government to exempt.**—Where the appropriate Government is of opinion that the application of the provisions of section 9-A to any class of industrial establishment or to any class of workmen employed in any industrial establishments affect the employers in relation thereto so prejudicially that such application may cause serious repercussion on the industry concerned and that public interest so requires, the appropriate Government may, by notification in the *Official Gazette* direct that the provisions of the said section shall not apply, or shall apply, subject to such conditions as may be specified in the notification, to that class of industrial establishments or to that class of workmen employed in any industrial establishment.

### CHAPTER III

#### REFERENCE OF DISPUTES TO BOARDS, COURTS OR TRIBUNALS

**10. Reference of disputes to Boards, Courts or Tribunals.**—(1) Where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time, by order in writing—

- (a) refer the dispute to a Board for promoting a settlement thereof; or
- (b) refer any matter appearing to be connected with or relevant to the dispute to a Court for inquiry; or
- (c) refer the dispute or any matter appearing to be connected with or relevant to, the dispute, if it relates to any matter specified