

**21. Certain matters to be kept confidential.**— There shall not be included in any report or award under this Act any information obtained by a Conciliation Officer, Board, Court, Labour Court, Tribunal, National Tribunal or an arbitrator in the course of any investigation or inquiry as to a trade union or as to any individual business (whether carried on by a person, firm or company) which is not available otherwise than through the evidence given before such Officer, Board, Court, Labour Court, Tribunal, National Tribunal or arbitrator if the trade union, person, firm or company, in question has made a request in writing to the Conciliation Officer, Board, Court, Labour Court, Tribunal, National Tribunal, or arbitrator, as the case may be, that such information shall be treated as confidential; nor shall such Conciliation Officer or any individual member of the Board or Court or the presiding officer of the Labour Court, Tribunal or National Tribunal or the arbitrator or any person present at or concerned in the proceedings disclose any such information without the consent in writing of the secretary of the trade union or the person, firm or company in question, as the case may be :

Provided that nothing contained in this section shall apply to disclosure of any such information for the purposes of a prosecution under section 193 of the Indian Penal Code (XLV of 1860).

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## CHAPTER V

### STRIKES AND LOCK-OUTS

**22. Prohibition of strikes and lock-outs.**— (1) No person employed in a public utility service shall go on strike in breach of contract—

- (a) without giving to the employer notice of strike, as hereinafter provided, within six weeks before striking; or
- (b) within fourteen days of giving such notice; or
- (c) before the expiry of the date of strike specified in any such notice as aforesaid; or
- (d) during the pendency of any conciliation proceedings before a Conciliation Officer and seven days after the conclusion of such proceedings.

(2) No employer carrying on any public utility service shall lock-out any of his workmen—

- (a) without giving them notice of lock-out as hereinafter provided, within six weeks before locking-out; or
- (b) within fourteen days of giving such notice; or
- (c) before the expiry of the date of lock-out specified in any such notice as aforesaid; or
- (d) during the pendency of any conciliation proceedings before a Conciliation Officer and seven days after the conclusion of such proceedings.

(3) The notice of lock-out or strike under this section shall not be necessary where there is already in existence a strike or, as the case may be, lock-out in the public utility service, but the employer shall send intimation of such lock-out or strike on the day on which it is declared, to such authority as may be specified by the appropriate Government either generally or for a particular area or for a particular class of public utility services.

(4) The notice of strike referred to in sub-section (1) shall be given by such number of persons to such person or persons and in such manner as may be prescribed.

(5) The notice of lock-out referred to in sub-section (2) shall be given in such manner as may be prescribed.

(6) If on any day an employer receives from any persons employed by him any such notices as are referred to in sub-section (1) or gives to any persons employed by him any such notices as are referred to in sub-section (2), he shall within five days thereof report to the appropriate Government or to such authority as that Government may prescribe the number of such notices received or given on that day.

**23. General prohibition of strikes and lock-outs.**—No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lock-out—

- (a) during the pendency of conciliation proceeding before a Board and seven days after the conclusion of such proceedings ;
- (b) during the pendency of proceedings before a Labour Court, Tribunal or National Tribunal and two months after the conclusion of such proceedings ; <sup>1</sup>[ \* \* ]
- <sup>2</sup>[(bb). during the pendency of arbitration proceedings before an arbitration and two months after the conclusion of such proceedings, where a notification has been issued under sub-section (3-A) of section 10-A ; or .
- (c) during any period in which a settlement or award is in operation in respect of any of the matters covered by the settlement or award.

**24. Illegal strikes and lock-outs.**—(1) A strike or a lock-out shall be illegal if—

- (i) it is commenced or declared in contravention of section 22 or section 23 ; or
- (ii) it is continued in contravention of an order made under sub-section (3) of section 10 <sup>3</sup>[or sub-section (4-A) of section 10 A].

(2) Where a strike or lock-out in pursuance of an industrial dispute has already commenced and is in existence at the time of the reference of the dispute to a Board, <sup>3</sup>[an arbitrator, a] Labour Court, Tribunal or National Tribunal, the continuance of such strike or lock-out shall not be deemed to be illegal, provided that such strike or lock-out was not at its commencement in contravention of the provisions of this Act or the continuance thereof was not prohibited under sub-section (3) of section 10 <sup>3</sup>[or sub-section (4-A) of section 10-A].

(3) A lock-out declared in consequence of an illegal strike or a strike declared in consequence of an illegal lock-out shall not be deemed to be illegal.

**25. Prohibition of financial aid to illegal strikes and lock-outs.**— No person shall knowingly expend or apply any money in direct furtherance or support of any illegal strike or lock-out.

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1. The word "or" omitted by Act 36 of 1964.

2. Ins. by *ibid.*

3. Ins. by Act 36 of 1964.

## CHAPTER V-A

## LAY-OFF AND RETRENCHMENT

**25-A. Application of sections 25-C to 25-E**—(1) Sections 25-C to 25-E inclusive shall not apply—

- (a) to industrial establishments in which less than fifty workmen on an average per working day have been employed in the preceding calendar month ; or
- (b) to industrial establishments which are of a seasonal character or in which work is performed only intermittently.

(2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently, the decision of the appropriate Government thereon shall be final.

*Explanation.*—In this section and in sections 25-C, 25-D and 25-E ‘industrial establishment’ means—

- (i) a factory as defined in clause (m) of section 2 of the Factories Act, 1948 (63 of 1948) ; or
- (ii) a mine as defined in clause (j) of section 2 of the Mines Act, 1952 (35 of 1952) ; or
- (iii) a plantation as defined in clause (f) of section 2 of the Plantations Labour Act, 1951 (69 of 1951).

**25-B. Definition of continuous service.**—For the purposes of this chapter—

(1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not illegal, or a lock-out or a cessation of work which is not due to any fault on the part of the workman ;

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1. Chapter V-A containing sections 25-A to 25-J inserted by Act 43 of 1953.
  2. Subs. by Act 36 of 1964.

(2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months, he shall be deemed to be in continuous service under an employer,—

(a) for a period of one year, if the workman, during a period of twelve calendar months proceeding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

(ii) two hundred and forty days, in any other case;

(b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—

(i) ninety-five days, in the case of a workman employed below ground in a mine; and

(ii) one hundred and twenty days, in any other case.

*Explanation.*—For the purposes of clause (2), the number of days in which a workman has actually worked under an employer shall include the days on which—

- (i) he has been laid off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), or under this Act or under any other law applicable to the industrial establishment;
- (ii) he has been on leave with full wages, earned in the previous years;
- (iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and
- (iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave, does not exceed twelve weeks.]

**1[25-C. Right of workmen laid-off for compensation.—**(1) Whenever a workman (other than a *badli* workman or a casual workman) whose name is borne on the muster-rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid-off, whether continuously or intermittently, he shall be paid by the employer for all days during which he is so laid-off, except for such weekly holidays as may intervene, compensation which shall be equal to fifty per cent. of the total of his basic wages and dearness allowance that would have been payable to him had he not been so laid-off :

Provided that if during any period of twelve months, a workman is so laid-off for more than forty-five days, no such compensation shall be payable in respect of any period of the lay-off after the expiry of the first forty-five days, if there is an agreement to that effect between the workman and the employer :

Provided further that it shall be lawful for the employer in any case falling within the foregoing proviso to retrench the workman in accordance with the provisions contained in section 25-F at any time after the expiry of the first forty-five days of the lay-off and when he does so, any compensation paid to the workman for having been laid-off during the preceding twelve months may be set off against the compensation payable for retrenchment.

*Explanation.*—“*Badli* workman” means a workman who is employed in an industrial establishment in the place of another workman whose name is borne on the muster-rolls of the establishment, but shall cease to be regarded as such for the purposes of this section, if he has completed one year of continuous service in the establishment.]

**25-D. Duty of an employer to maintain muster-rolls of Workman.—** Notwithstanding that workmen in any industrial establishment have been laid-off, it shall be the duty of every employer to maintain for the purposes of this Chapter a muster-roll, and to provide for the making of entries therein by workmen who may present themselves for work at the establishment at the appointed time during normal working hours.

**25-E. Workmen not entitled to compensation in certain cases.—** No compensation shall be paid to a workman who has been laid-off—

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1. Subs. by Act 35 of 1965.

- (i) if he refuses to accept any alternative employment in the same establishment from which he has been laid-off, or in any other establishment belonging to the same employer situate in the same town or village or situate within a radius of five miles from the establishment to which he belongs, if, in the opinion of the employer, such alternative employment does not call for any special skill or previous experience can be done by the workman, provided that the wages which would normally have been paid to the workman are offered for the alternative employment also;
- (ii) if he does not present himself for work at the establishment at the appointed time during normal working hours at least once a day;
- (iii) if such laying-off is due to a strike or slowing down of production on the part of workmen in another part of the establishment.

25F-. Conditions precedent to retrenchment of workmen.—No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice :

Provided that no such notice shall be necessary if the retrenchment is under an agreement which specifies a date for the termination of service ;

- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay <sup>1</sup>[for every completed year of continuous service] or any part thereof in excess of six months ; and
- (c) notice in the prescribed manner is served on the appropriate Government, <sup>2</sup>[for such authority as may be specified by the appropriate Government by notification in the *Official Gazette*].

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1. Suba. by Act 36 of 1964.

2. Ins. by *ibid*.

**1[25-FF Compensation to workmen in case of transfer of undertaking.**— Where the ownership or management of an undertaking is transferred, whether by agreement or by operation of law, from the employer in relation to that undertaking a new employer, every workman who has been in continuous service for not less than one year in that undertaking immediately before such transfer shall be entitled to notice and compensation in accordance with the provisions of section 25-F as if the workman had been retrenched :

Provided that nothing in this section shall apply to a workman in any case where there has been a change of employers by reason of the transfer, if—

- (a) the service of the workman has not been interrupted by such transfer ;
- (b) the terms and conditions of service applicable to the workman after such transfer are not in any way less favourable to the workman than those applicable to him immediately before the transfer ; and
- (c) the new employer is, under the terms of such transfer or otherwise legally liable to pay to the workman, in the event of his retrenchment, compensation on the basis that his service has been continuous and has not been interrupted by the transfer.

**25-FFF. Compensation to workmen in case of closing down of undertakings.** (1) Where an undertaking is closed down for any reason whatsoever, every workman who has been in continuous service for not less than one year in that undertaking immediately before such closure shall, subject to the provisions of sub-section (2) be entitled to notice and compensation in accordance with the provisions of section 25-F as if the workman has been retrenched :

Provided that where the undertaking is closed down on account of unavoidable circumstances beyond the control of the employer, the compensation to be paid to the workman under clause (b) of section 25-F shall not exceed his average pay for three months.

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1. Sections 25-FF and 25-FFF were substituted for former section 25-FF by Act 18 of 1957.



*Explanation.*—An undertaking which is closed down by reason merely of financial difficulties (including financial losses) or accumulation of undisposed of stocks <sup>1</sup>[or the expiry of the period of the lease or the licence granted to it where the period of the lease or the licence expires on or after the 1st day of April, 1967] shall not be deemed to have been closed down on account of unavoidable circumstances beyond the control of the employer within the meaning of the proviso to this sub-section.

(2) Where any undertaking set up for the construction of buildings, bridges, roads, canals, dams or other construction work is closed down on account of the completion of the work within two years from the date on which the undertaking had been set up, no workman employed therein shall be entitled to any compensation under clause (b) of section 25F, but if the construction work is not so completed within two years, he shall be entitled to notice and compensation under that section <sup>2</sup>[for every completed year of continuous service] or any part thereof in excess of six months.]

**25-G. Procedure for retrenchment.**— Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.

**25-H. Re-employment of retrenched workman.**— Where an workmen are retrenched, and the employer purposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity <sup>2</sup>[to the retrenched workmen who are citizens of India to offer themselves for re-employment and such retrenched workmen] who offer themselves for re-employment shall have preference over other persons.

**25.I** [Omitted by the Industrial Disputes (Amendment) Act, 1956.]

**25.J Effect of laws inconsistent with this Chapter.**— (1) The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (XX of 1946) :

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1. Ins. by Act 36 of 1964.

2' Subs. by *ibid.*

<sup>1</sup>[Provided that where under the provisions of any other Act or rules, orders or notifications issued thereunder or under any standing orders or under any award, contract of service or otherwise, a workman is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act, the workman shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.]

(2) For the removal of doubts, it is hereby declared that nothing contained in this Chapter shall be deemed to affect the provisions of any other law for the time being in force in any State in so far as that law provides for the settlement of industrial disputes, but the rights and liabilities of employers and workmen in so far as they relate to lay off and retrenchment shall be determined in accordance with the provisions of this Chapter.

## CHAPTER VI

### PENALTIES

**26. Penalty for illegal strikes and lock-outs.**—(1) Any workman who commences, continues or otherwise acts in furtherance of, a strike which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both.

(2) Any employer who commences, continues, or otherwise acts in furtherance of a lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to one month, or with fine which may extend to one thousand rupees, or with both.

**27. Penalty for instigation, etc**—Any person who instigates or incites others to take part in, or otherwise acts in furtherance of, a strike or lock-out which is illegal under this Act, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**28. Penalty for giving financial aid to illegal strikes and lock-outs.**—Any person who knowingly expends or applies any money in direct furtherance or support of any illegal strike or lock-out shall be punish-

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1. Subs. by Act 36 of 1964.