

THE WORKING JOURNALISTS (AMENDMENT)
ACT, 1962

No. 65 OF 1962

[19th December, 1962]

An Act further to amend the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 and the Working Journalists (Fixation of Rates of Wages) Act, 1958.

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:—

Short title
and com-
mence-
ment.

1. (1) This Act may be called the Working Journalists (Amendment) Act, 1962.

(2) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
section 2.

2. In section 2 of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 (hereinafter referred to as the principal Act), in clause (a), for the word and figure "section 8", the word and figure "section 9" shall be substituted.

45 of 1955.

Substitu-
tion of new
sections
for section
5.

3. For section 5 of the principal Act, the following sections shall be substituted, namely:—

Payment
of gratuity.

5. (1) Where—

(a) any working journalist has been in continuous service, whether before or after the commencement of this Act, for not less than three years in any newspaper establishment, and—

(i) his services are terminated by the employer in relation to that newspaper establishment for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action; or

¹15th January, 1963; vide Notification No. S.O. 91, dated 2-1-1963, Gazette of India, Pt. II, Sec. 3(ii), p. 159.

(ii) he retires from service on reaching the age of superannuation; or

(b) any working journalist has been in continuous service, whether before or after the commencement of this Act, for not less than ten years in any newspaper establishment, and he voluntarily resigns on or after the 1st day of July, 1961, from service in that newspaper establishment on any ground whatsoever other than on the ground of conscience; or

(c) any working journalist has been in continuous service, whether before or after the commencement of this Act, for not less than three years in any newspaper establishment, and he voluntarily resigns on or after the 1st day of July, 1961, from service in that establishment on the ground of conscience; or

(d) any working journalist dies while he is in service in any newspaper establishment,

the working journalist or, in the case of his death, his nominee or nominees or, if there is no nomination in force at the time of the death of the working journalist, his family, as the case may be, shall, without prejudice to any benefits or rights accruing under the Industrial Disputes Act, 1947, be paid, on such termination, retirement, resignation or death, by the employer in relation to that establishment gratuity which shall be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months:

14 of 1947.

Provided that in the case of a working journalist referred to in clause (b), the total amount of gratuity that shall be payable to him shall not exceed twelve and half months' average pay:

Provided further that where a working journalist is employed in any newspaper establishment wherein not more than six working journalists were employed on any day of the twelve months immediately preceding the commencement of this Act, the gratuity payable to a working journalist employed in any such newspaper establishment for any period of service before such commencement shall not be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months but shall be equivalent to—

(a) three days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service does not exceed five years;

(b) five days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service exceeds five years but does not exceed ten years; and

(c) seven days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service exceeds ten years.

Explanation.—For the purposes of this sub-section and sub-section (1) of section 17, "family" means—

(i) in the case of a male working journalist, his widow, children, whether married or unmarried, and his dependent parents and the widow and children of his deceased son:

Provided that a widow shall not be deemed to be a member of the family of the working journalist if at the time of his death she was not legally entitled to be maintained by him;

(ii) in the case of a female working journalist, her husband, children, whether married or unmarried, and the dependent parents of the working journalist or of her husband, and the widow and children of her deceased son:

Provided that if the working journalist has expressed her desire to exclude her husband from the family, the husband and his dependent parents shall not be deemed to be a part of the working journalist's family,

and in either of the above two cases, if the child of a working journalist or of a deceased son of a working journalist has been adopted by another person and if under the personal law of the adopter, adoption is legally recognised, such a child shall not be considered as a member of the family of the working journalist.

(2) Any dispute whether a working journalist has voluntarily resigned from service in any newspaper establishment on the ground of conscience shall be deemed to be an industrial dispute within the meaning of the Industrial Disputes Act, 1947 or any corresponding law relating to investigation and settlement of industrial disputes in force in any State. 14 of 1947.

(3) Where a nominee is a minor and the gratuity under sub-section (1) has become payable during his minority, it shall be paid to a person appointed under sub-section (3) of section 5A:

Provided that where there is no such person, payment shall be made to any guardian of the property of the minor appointed by a competent court or where no such guardian has been appointed, to either parent of the minor, or where neither parent is alive, to any other guardian of the minor:

Provided further that where the gratuity is payable to two or more nominees, and either or any of them dies, the gratuity shall be paid to the surviving nominee or nominees.

5A. (1) Notwithstanding anything contained in any law for the time being in force, or in any disposition, testamentary or otherwise in respect of any gratuity payable to a working journalist, where a nomination made in the prescribed manner purports to confer on any person the right to receive payment of the gratuity for the time being due to the working journalist, the nominee shall, on the death of the working journalist, become entitled to the gratuity and to be paid the sum due in respect thereof to the exclusion of all other persons, unless the nomination is varied or cancelled in the prescribed manner.

Nomina-
tion by
working
journalist.

(2) Any nomination referred to in sub-section (1) shall become void if the nominee predeceases, or where there are two or more nominees, all the nominees predecease, the working journalist making the nomination.

(3) Where the nominee is a minor, it shall be lawful for the working journalist making the nomination to appoint any person in the prescribed manner to receive the gratuity in the event of his death during the minority of the nominee.

4. For sections 8, 9, 10, 11, 12 and 13 of the principal Act, the following sections shall be substituted, namely:—

Substitu-
tion of new
sections for
sections 8,
9, 10, 11,
12 and 13.

“8. (1) The Central Government may, in the manner hereinafter provided,—

Fixation
or revision
of rates of
wages.

(a) fix rates of wages in respect of working journalists;

(b) revise, from time to time, at such intervals as it may think fit, the rates of wages fixed under this section or specified in the order made under section 6 of the Working Journalists (Fixation of Rates of Wages) Act, 1958.

(2) The rates of wages may be fixed or revised by the Central Government in respect of working journalists for time work and for piece work.

Procedure for fixing and revising rates of wages.

9. For the purpose of fixing or revising rates of wages in respect of working journalists under this Act, the Central Government shall, as and when necessary, constitute a Wage Board which shall consist of—

(a) two persons representing employers in relation to newspaper establishments;

(b) two persons representing working journalists;

(c) three independent persons, one of whom shall be a person who is, or has been, a Judge of a High Court or the Supreme Court and who shall be appointed by that Government as the Chairman thereof.

Recommendation by Board.

10. (1) The Board shall, by notice published in such manner as it thinks fit, call upon newspaper establishments and working journalists and other persons interested in the fixation or revision of rates of wages of working journalists to make such representations as they may think fit as respects the rates of wages which may be fixed or revised under this Act in respect of working journalists.

(2) Every such representation shall be in writing and shall be made within such period as the Board may specify in the notice and shall state the rates of wages which, in the opinion of the person making the representation, would be reasonable, having regard to the capacity of the employer to pay the same or to any other circumstance, whichever may seem relevant to the person making the representation in relation to his representation.

(3) The Board shall take into account the representations aforesaid, if any, and after examining the materials placed before it make such recommendations as it thinks fit to the Central Government for the fixation or revision of rates of wages in respect of working journalists; and any such recommendation may specify, whether prospectively or retrospectively, the date from which the rates of wages should take effect.

(4) In making any recommendations to the Central Government, the Board shall have regard to the cost of living, the prevalent rates of wages for comparable employment, the circumstances relating to the newspaper industry in different regions of the country and to any other circumstances which to the Board may seem relevant.

14 of 1947.

11. (1) Subject to the provisions contained in sub-section (2), the Board may exercise all or any of the powers which an Industrial Tribunal constituted under the Industrial Disputes Act, 1947, exercises for the adjudication of an industrial dispute referred to it and shall, subject to the provisions contained in this Act, and the rules, if any, made thereunder, have power to regulate its own procedure.

Powers and procedure of the Board.

(2) Any representations made to the Board and any documents furnished to it by way of evidence shall be open to inspection on payment of such fee as may be prescribed, by any person interested in the matter.

(3) If, for any reason, a vacancy occurs in the office of Chairman or any other member of the Board, the Central Government shall fill the vacancy by appointing another person thereto in accordance with the provisions of section 9 and any proceeding may be continued before the Board so reconstituted from the stage at which the vacancy occurred.

12. (1) As soon as may be, after the receipt of the recommendations of the Board, the Central Government shall make an order in terms of the recommendations or subject to such modifications, if any, as it thinks fit, being modifications which, in the opinion of the Central Government, do not effect important alterations in the character of the recommendations.

Powers of Central Government to enforce recommendations of the Wage Board.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may, if it thinks fit,—

(a) make such modifications in the recommendations, not being modifications of the nature referred to in sub-section (1), as it thinks fit:

Provided that before making any such modifications, the Central Government shall cause notice to be given to all persons likely to be affected thereby in such manner as may be prescribed, and shall take into account any representations which they may make in this behalf in writing; or

(b) refer the recommendations or any part thereof to the Board, in which case, the Central Government shall consider its further recommendations and make an order either in terms of the recommendations or with such modifications of the nature referred to in sub-section (1) as it thinks fit.

(3) Every order made by the Central Government under this section shall be published in the Official Gazette together

with the recommendations of the Board relating to the order and the order shall come into operation on the date of publication or on such date, whether prospectively or retrospectively, as may be specified in the order.

Working journalists entitled to wages at rates not less than those specified in the order.

Power of Government to fix interim rates of wages.

13. On the coming into operation of an order of the Central Government under section 12, every working journalist shall be entitled to be paid by his employer wages at the rate which shall in no case be less than the rate of wages specified in the order.

13A. (1) Notwithstanding anything contained in this Act, where the Central Government is of opinion that it is necessary so to do, it may, after consultation with the Board, by notification in the Official Gazette, fix interim rates of wages in respect of working journalists.

(2) Any interim rates of wages so fixed shall be binding on all employers in relation to newspaper establishments and every working journalist shall be entitled to be paid wages at a rate which shall, in no case, be less than the interim rates of wages fixed under sub-section (1).

(3) Any interim rates of wages fixed under sub-section (1) shall remain in force until the order of the Central Government under section 12 comes into operation."

Substitution of new sections for section 17.

Recovery of money due from an employer.

5. For section 17 of the principal Act, the following sections shall be substituted, namely:—

"17. (1) Where any amount is due under this Act to a newspaper employee from an employer, the newspaper employee himself, or any person authorised by him in writing in this behalf, or in the case of the death of the employee, any member of his family may, without prejudice to any other mode of recovery, make an application to the State Government for the recovery of the amount due to him, and if the State Government, or such authority, as the State Government may specify in this behalf, is satisfied that any amount is so due, it shall issue a certificate for that amount to the Collector, and the Collector shall proceed to recover that amount in the same manner as an arrear of land revenue.

(2) If any question arises as to the amount due under this Act to a newspaper employee from his employer, the State Government may, on its own motion or upon application made to it refer the question to any Labour Court constituted by it under

14 of 1947.

the Industrial Disputes Act, 1947 or under any corresponding law relating to investigation and settlement of industrial disputes in force in the State and the said Act or law shall have effect in relation to the Labour Court as if the question so referred were a matter referred to the Labour Court for adjudication under that Act or law.

(3) The decision of the Labour Court shall be forwarded by it to the State Government which made the reference and any amount found due by the Labour Court may be recovered in the manner provided in sub-section (1).

17A. Every employer in relation to a newspaper establishment shall prepare and maintain such registers, records and muster-rolls and in such manner as may be prescribed.

Maintenance of registers, records, and muster-rolls.

17B. (1) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act and may define the local limits within which they shall exercise their functions.

Inspectors.

(2) Any Inspector appointed under sub-section (1) may for the purpose of ascertaining whether any of the provisions of this Act or of the Working Journalists (Fixation of Rates of Wages) Act, 1958 have been complied with in respect of a newspaper establishment—

29 of 1958.

(a) require an employer to furnish such information as he may consider necessary;

(b) at any reasonable time enter any newspaper establishment or any premises connected therewith and require any one found in charge thereof to produce before him for examination any accounts, books, registers and other documents relating to the employment of persons or the payment of wages in the establishment;

(c) examine with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the newspaper establishment or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be or to have been an employee in the establishment;

(d) make copies of or take extracts from any book, register or other documents maintained in relation to the newspaper establishment;

(e) exercise such other powers as may be prescribed.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code.

45 of 1868.

(4) Any person required to produce any document or thing or to give information by an Inspector under sub-section (2) shall be legally bound to do so."

Amend-
ment of
section 18.

6. In section 18 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

(1) If any employer contravenes any of the provisions of this Act or any rule or order made thereunder, he shall be punishable with fine which may extend to two hundred rupees.

(1A) Whoever, having been convicted of any offence under this Act, is again convicted of an offence involving the contravention of the same provision, shall be punishable with fine which may extend to five hundred rupees.

(1B) Where an offence has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this section, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(1C) Notwithstanding anything contained in sub-section (1B), where an offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to, any gross negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall

also be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly.

(1D) For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.’.

7. In section 19 of the principal Act, after the words “member of the Board”, the words “or an Inspector appointed under this Act” shall be inserted. Amendment of section 19.

8. After section 19 of the principal Act, the following sections shall be inserted, namely:— Insertion of new sections 19A and 19B.

“19A. No act or proceeding of the Board shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of the Board. Defects in appointments not to invalidate acts.

19B. Nothing in this Act or the Working Journalists (Fixation of Rates of Wages) Act, 1958 shall apply to any working Saving.

20 of 1958.

journalist who is an employee of the Government 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 Central Government in the Official Gazette, apply.”.

9. In section 20 of the principal Act,—

(i) in sub-section (2), for clauses (d), (e) and (f), the following clauses shall be substituted, namely:— Amendment of section 20.

“(d) the procedure to be followed by the Board in the discharge of its functions under this Act;

(e) the form of nominations, and the manner in which nominations may be made;

(f) the manner in which any person may be appointed for the purposes of sub-section (3) of section 5A;

(g) the variation or cancellation of nominations;

(h) the manner of giving notice under clause (a) of sub-section (2) of section 12;

(i) the registers, records and muster-rolls to be prepared and maintained by newspaper establishments, the forms in which they should be prepared and maintained and the particulars to be entered therein;

(j) the powers that may be exercised by an Inspector;

(k) any other matter which has to be, or may be, prescribed.”;

(ii) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”

Amend-
ment of
Act 29 of
1958.

10. The Working Journalists (Fixation of Rates of Wages) Act, 1958 shall be amended in the manner hereinafter specified, namely:—

(a) section 8 shall be omitted;

(b) in section 9—

(i) in sub-section (1), for the words “the working journalist may”, the words “the working journalist himself, or any other person authorised by him in writing in this behalf or in the case of the death of the working journalist, any member of his family may” shall be substituted;

(ii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) If any question arises as to the amount due under this Act to a working journalist from his employer, the State Government may, on its own motion or upon application made to it, refer the question to any Labour Court constituted by it under the Industrial Disputes Act, 1947 or under any corresponding law relating to investigation and settlement of industrial disputes in force in the State and the said Act or law shall have effect in relation to the Labour Court as if the question so referred were a matter referred to the Labour Court for adjudication under that Act or law.”;

14 of 1947.

(c) after section 12, the following section shall be inserted, namely:—

‘12A. (1) Any employer who contravenes the provisions of section 7 shall be punishable with fine which may extend to two hundred rupees. Penalty

(2) Whoever, having been convicted of any offence under sub-section (1), is again convicted of an offence under that sub-section, shall be punishable with fine which may extend to five hundred rupees.

(3) Where an offence has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this section if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(4) Notwithstanding anything contained in sub-section (3), where an offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable, to any gross negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly.

(5) For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.
