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LABOUR & ESI DEPARTMENT NOTIFICATION

The 27th January, 2016

S.R.O. No.73/2016— In exercise of the powers conferred by Section 34 of the Odisha Labour Welfare Fund Act, 2005, (Odisha Act 14 of 2005), the Governor of Odisha do hereby make the following rules namely:—

1. Short title and commencement :—

- (a) These rules may be called the Odisha Labour Welfare Fund Rules, 2015.
- (b) They shall come into force on the date of their publication in the *Odisha Gazette*.

2. Definition:—

(1) In these rules, unless the context otherwise requires,—

- (a) "Act" means the Odisha Labour Welfare Fund Act, 2005 ;
- (b) "Board" means the Odisha Labour Welfare Board established under section 4 of the Act ;
- (c) "Form" means form appended to these rules ;
- (d) "notification" means a notification published in the official Gazette ; and
- (e) 'Register of establishment' means:—
 - (i) in relation to a factory, a register of adult workers or a register of child workers maintained under sections 62 and 73 respectively of the Factories Act, 1948 (LXIII of 1948);
 - (ii) in relation to a motor transport undertaking, a combined muster roll cum register of wages maintained under the Odisha Motor Transport Workers' Rules, 1966, and
 - (iii) in relation to any other establishment, the combined muster roll cum register of wages maintained under the Odisha Shops and Commercial Establishments Rules, 1958 ;

"Provided that where any establishment is not required to maintain such register, 'register of establishment' shall mean any other register in which names of the employees employed in the establishment every day or every month of the year are ordinarily shown."

(2) The words and expressions used but not defined herein shall have the same meaning as respectively assigned to them in the Act.

3. Notice of Applicability, Change of Particulars or closure:—

(1) Every employer of an establishment shall give a notice of opening in Form A to the Welfare Commissioner or to such other officer as may be authorized in this behalf within,—

(a) sixty days of commencement of these rules, in respect of establishments existing as on the date of commencement of these rules; and

(b) thirty days of commencement of other establishments;

(2) Every employer shall within thirty days of any change taking place in regard to any information furnished in Form – 'A', serve a notice of such change to the Welfare Commissioner, in Form B:

Provided that in case a particular type of information changes frequently in any establishment, the notice of such change may, with the approval of the Welfare Commissioner, be served within fifteen days from the closing of each half year ending the 30th June and the 31st December.

(3) Where an employer intends to close down his business for good and sufficient reasons, he shall serve a notice of such intended closure in Form C on the Welfare Commissioner at least, sixty days before the date on which the intended closure is effective :

Provided that any such closure shall be in accordance with the provisions of law.

(4) All notices served under this rule shall be served either personally on a person specified for the purpose by the Welfare Commissioner with receipt therefor or by registered post with acknowledgement due.

4. Maintenance of Registers by employers:—

(1) Every employer of an establishment shall maintain and preserve for a period of five years—

(a) a register of wages in Form D except in cases where a combined muster roll cum register of wages is maintained under any other law for the time being in force, and

(b) a consolidated register of unclaimed wages and fines in Form E :

Provided that in respect of any case pending before any appellate authority under any Law is in force such record or register shall be preserved till the case is finally disposed of.

(2) The employer of an establishment shall by the 31st January of every year forward to the Welfare Commissioner a copy of the extract from the register in Form E pertaining to the previous year.

5. Payment of unpaid accumulations and fines realized from employees by the employer,—

(1) Within 15 (fifteen) days from the date of commencement of these rules, every employer shall pay to the Welfare Commissioner or to such employee or employees of the Board as may be authorized-

(a) all fines realized from the employees of his establishments before the date of commencement of the Act and remaining unutilized on that date; and

(b) all unpaid accumulations held by the employer on the date of enforcement of the Act.

(2) Subsequent to the first payment as required under sub-rule (1), every employer shall pay to the Welfare Commissioner or to such employee or employees of the Board as may be authorized all fines realized from the employees of his establishment and unpaid accumulations during the quarters ending the 31st March, the 30th June, the 30th September and the 31st December within fifteen days from the closing of each quarter.

(3) The payments under sub-rules (1) and (2) shall, in each case, be accompanied by a statement giving full particulars of the amounts paid.

6. Payment of employer's and employee's contributions —

(1) Every employee shall contribute twenty rupees per year to the Fund and every employer shall, in respect of each employee, contribute forty rupees per year to the Fund.

(2) Every employer of an establishment operating for any length of period during the twelve months preceding the 31st December of every year, shall pay to the Welfare Commissioner or such officer as may be authorized in this behalf, the employer's contribution and also the employee's contribution before the 15th day of January and the 15th day of July of every year in respect of all employees whose names stand on the register of establishment preceding the 31st December and the 30th June respectively, along with a statement showing full particulars in Form F.

7. Submission of statement to the Government,—

The Welfare Commissioner shall submit to the Government by 31st March of each year, a statement of employer's and employee's contributions received by him by 31st January of the year in Form G.

8. Notice to employers for payment of dues,—

- (1) Where the employer does not pay the whole or any part of the amount, due from him in accordance with rules 5 and 6 within the stipulated time, the Welfare Commissioner may, after making such enquiries as he may deem fit and after calling for a report from the Inspector, if necessary, serve a notice on such employer to pay the amount due from him within fifteen days from the date of receipt of the notice and the employer shall comply with the same.
- (2) The notice under sub-rule (1) shall be served on the employer either in person after taking receipt or by registered post with acknowledgements due :

Provided that if an employer refuses to receive such a notice, it shall be deemed to have been served properly for the purpose of this rule, if a copy thereof is pasted on the outer door or some other conspicuous part of the establishment or where such notice was sent by post, if it was returned by the Postal Authorities with such remarks as would indicate that it could not be served owing to refusal to accept or negligence on the part of the employer concerned.

9. Particulars to be incorporated in Board's notice about unpaid accumulation —

The notice required to be published under sub- section (3) of Section 8 of the Act shall contain the following particulars, namely,—

- (a) name and address of the establishment in which the unpaid accumulation was earned ;
- (b) wage period during which the unpaid accumulation was earned ;
- (c) amount of unpaid accumulation ; and
- (d) the list of employees and the amount of unpaid accumulation in respect of each of them paid to the Board.

10. Mode of payment of dues by the employers', —

- (1) Any amount payable by an employer to the Welfare Commissioner may be paid either in cash or by Demand Draft or any other mode specified by the Welfare Commissioner from time to time. In case the amount payable is less than two hundred rupees and the establishment is situated at a distance of more than 15 (fifteen) k.ms from the office of the Welfare Commissioner the amount may be paid by Money Order.

(2) The Welfare Commissioner or such other officer as may be authorized by him in this behalf shall issue an appropriate receipt as a token of payment to each such employer –

(i) in case payment is made in the office of the Welfare Commissioner in cash or by Demand Draft, immediately, and

(ii) in case payment is made by Postal Money Order or by Demand Draft sent through postal service within fifteen days of the receipt of such money order or Demand Draft by post.

Provided that in case of payment by Money Order, the receipt issued by the post office shall be preserved by the employer as a token of payment till such time as the formal receipt from the Welfare Commissioner is received by him; and

(iii) in case of payment by Money Order, the postal commission shall be borne by the employer.

11. Committees of the Board:—

(1) The Board shall determine the term of office of the Committee or Committees constituted under-section 7 of the Act.

(2) The Committee shall meet at such time and at such place as the Chairman of the said Committee may decide and the Committee shall observe such rules of procedure in regard to the transaction of the business at its meeting as it may deem proper.

12. Procedure regarding Board meeting,—

(1) The Board shall meet as often as may be necessary but not less than once in every three months commencing from the first meeting convened.

(2) The Welfare Commissioner shall in consultation with the Chairman fix a date, time and place as well as agenda for, each meeting of the Board and give not less than seven days notice thereof to each member:

Provided that seven days notice shall not be necessary where in the opinion of the Chairman that the business to be transacted at the meeting is of a very urgent nature requiring immediate attention and the members are informed accordingly—

(3) The Chairman shall preside over all the meetings of the Board and no matter other than those included in the agenda shall be discussed at any meeting except with the permission of the Chairman:

Provided that if for any reason the Chairman is unable to attend a meeting, the Vice-Chairman and in the event both Chairman and Vice-Chairman are unable to attend the meeting, a member chosen from among the members present shall preside over and carry on the functions of the Chairman for that meeting.

- (4) No business shall be transacted in any meeting of the Board unless there is quorum of not less than one third of the number of members of the Board:

Provided that if a meeting is adjourned by the Chairman for lack of quorum even after waiting for not less than thirty minutes from the appointed time, the Welfare Commissioner may, with concurrence of the Chairman, convene another meeting with the same agenda as fixed for the original meeting, at a date not earlier than seven days from the date of that meeting and give notice in this behalf to all members, and it shall thereupon be lawful to dispose of the business included in such agenda in the meeting irrespective of the number of members present.

- (5) All matters at the meeting of the Board shall be decided by majority of votes of the members present and voting :

Provided that in case of equality of votes, the Chairman shall have a casting vote or a second vote—

- (6) Votes on any issue shall be taken by show of hands at the meeting of the Board and the names of the persons voting in favour and against on any proposal be recorded only if any member requests the Chairman to do so.

13. Minutes of the meeting:—

- (1) The Welfare Commissioner shall arrange for preparing the minutes of the proceedings of each meeting of the Board showing, *inter alia*, the names of the members present and shall forward a copy of such minutes to each member of the Board as soon after the meeting as possible.
- (2) The minutes of the proceedings of each meeting shall be confirmed with such modification, if any, as may be decided upon at the next meeting of the Board and signed by the Chairman at that meeting by way of authentication.
- (3) The minutes of the Proceedings of each meeting of the Board authenticated by the Chairman under sub-rule (2) shall be kept in a separate minutes book and the Welfare commissioner shall send a copy of such authenticated minutes of the proceedings of each meeting to the Government for information as early as possible.

- (4) The minutes book shall be kept in safe custody of the officer authorized by the Welfare Commissioner who shall be responsible for recording the minutes of the meetings.

14. Allowance of Members,—

- (1) Travelling allowance and daily-allowance of an official member shall be governed by the rules applicable for journey performed by him on official duties and shall be paid by the authority paying his salary.
- (2) Each non-official member of the Board shall be entitled to receive travelling and daily allowance for any journey performed by him in connection with the performance of his duties at the rate as decided by the Government from time-to-time.

15. Budget of the Board,—

The Welfare Commissioner shall cause the budget estimates of the fund for every financial year to be prepared and laid before the Board by 31st January of every year and the Board shall approve the budget before the 15th March of the year.

16. Additional Expenditure, —

If during the course of financial year it becomes necessary to incur expenditure over and above the provisions made in the budget, the Welfare Commissioner shall submit additional demands immediately to the Board for its approval.

17. Application for Grant from the Fund,—

- (1) The application for grant from the fund under sub-section (3) of Section 12 of the Act, shall be submitted to the Welfare Commissioner in triplicate with full details about the purposes for which such a grant is necessary.
- (2) Within thirty days of the receipt of an application under sub-section (3) of Section 12 of the Act, the Welfare Commission shall place it with his own views on the justifiability of the claim before the Board for consideration. The Board may call for such additional information from the applicant for consideration of the grant as it may deem necessary.
- (3) The Board may recommend with or without modification any application placed before it under sub-rule (2), and every such application recommended by the Board shall be sent to the Government for approval within fourteen days from the date of the decision of the Board.

18. Mode of payment from the Fund,—

Payment from the fund shall be made:—

- (1) Where the amount payable is less than one hundred rupees in cash;

- (2) Where the amount payable is one hundred rupees and more the payment shall be made either by cheque issued by Welfare Commissioner or such other officer as may be authorized in this behalf, or through direct credit to the specified bank account:

Provided that if the payee so desires, payment may be made in bank cheque or account transfer in respect of any amount not less than twenty rupees:

19. Maintenance and Audit of Accounts of the Fund: —

- (1) The Board shall maintain proper accounts and other relevant records and prepare annual statement of accounts including balance sheet.
- (2) The accounts of the Board shall be balanced on the 31st March of each year.
- (3) The Accounts of the fund shall be maintained by the Accounts officer of the Board and shall be audited by a Chartered Accountant's firm appointed by the Government.
- (4) The Government may, also at any time, order special audit of the accounts of the Board.

20. Appointment of officers and staff by the Board and their service conditions:—

- (1) With the previous approval of the State Government, the Board may create all posts and appoint such number of officers, executives, clerical and other staff as may be necessary for carrying out its functions under the Act. It shall also have disciplinary and administrative control over them.
- (2) The Board may make regulations specifying the terms and conditions of appointment, service and the scales of pay of officers and other staff of the Board including the payment of travelling and daily allowance in respect of journeys undertaken by the officers and other staff of the Board.
- (3) The total annual expenditure of the Board towards staff and other administrative expenses shall be subject to the provisions contained in Section 19 of the Act.

21. Duties and powers of Inspectors:—

- (1) An Inspector appointed under section 18 of the Act shall generally make such inspection as may appear to him necessary for satisfying himself that the provisions of the Act and rules and any orders issued by the Government under this Act are duly complied with.

(2) In addition to the powers conferred by clause (a) of sub-section (2) of Section 18 of the Act, an Inspector shall for the purpose of giving effect to the provisions of the Act, have power to:—

(a) prosecute, conduct or defend before a Court any complaint or other proceedings arising under the Act;

(b) require any employer to supply or send any return or true copy of any document or information relating to the provisions of the Act ;
and make inspection in such manner as he deems fit to satisfy himself that :—

(i) the provisions of the Act and Rules regarding the payment of contribution and unpaid accumulations and fines are observed;

(ii) the registers are properly maintained ; and

(iii) the returns and registers under these rules are properly maintained and duly sent to the appropriate authority.

(d) the defects or irregularities pointed out in the course of previous inspection have been removed and the orders issued have been complied with ; and

(e) point out and either to record on the establishment register or inform the employer through a letter all such defects or irregularities as he may have observed in course of an inspection and to give orders for their rectification in the manner he deems fit and proper :

Provided that the employer concerned shall have the right to prefer an appeal to the Government or such other authority as may be specified by the State Government in this behalf against an order given by an Inspector under clause (e) within thirty days of the receipt of such an order, assigning specific reasons thereof.

22. Financial Transactions:—

(1) The Board shall be free to undertake financial transactions within its budgetary limits for carrying out the purposes of the Act and for this purpose it may—

(a) dispose of by sale or exchange, any immovable property belonging to the Board or grant lease of any immovable property belonging to the Board of any term not exceeding twelve months;

(b) with the approval of the Government lease, sell or otherwise dispose of other movable or immovable property belonging to the Board:

Provided that no financial deal shall be transacted or executed without the prior approval of the Government if it involves anything of which the money value exceeds one lakh rupees.

- (2) The Board may enter into or execute all such contracts as it may consider necessary or expedient for bringing the provisions of the Act into effect:

Provided that prior approval of the Government shall be obtained in respect of any contract involving an expenditure exceeding one lakh rupees.

- (3) Every contract made under or for any purpose of the Act shall be made on behalf of the Board-

(a) by the Welfare Commissioner, or

(b) subject to such condition as the Board may specify by such member or Officer of the Board as it may authorize.

23. Publication of annual report of the Board:—

(1) The Board shall, within three months of the date of closing of each financial year, submit to the Government for approval an audited statement of receipts and expenditure together with an annual report giving the relevant details about its activities during the year.

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By order of the Governor

G. SRINIVAS

Principal Secretary to Government