

CHAPTER- X

Retrenchments.

83. Retrenchment of workers:-

No permanent worker, whose name is borne on the muster-roll at any place of work, for a period of more than twelve months immediately prior to the worker having put in 240 days of actual work (inclusive of paid permitted absences) during the said period, shall be retrenched by the employer, until--

- (a) the worker has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the worker has been paid in lieu of such notices, wages for the period of 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 worker has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days average pay (of the last three months of service) for every completed year of service or any part thereof in excess of six months; and
- (c) notice in the prescribed manner is served on the appropriate Board the Inspector and the Officer concerned of the said Board.

84. Compensation to workers in case of transfer of places of work.-

Where the ownership or management of a place of work is transferred, whether by agreement or by operation of law, from the employer in relation to that place of work to a new employer, every worker in that place of work immediately before such transfer shall be entitled to notice and compensation in accordance with and subject to the provisions of Section 92 as the worker had been retrenched;

85. Compensation to workers in case of closing down of place of work.-

(1) Where a place of work is permanently closed down for any reason whatsoever, every worker employed in that place of work immediately before such closure shall, subject to the provisions of sub-section (2) below, be entitled to notice and compensation in accordance with and subject to the provisions of section , as if the worker had been retrenched.

Provided that where the place of work is permanently closed down on account of unavoidable circumstances beyond the control of the employer, the compensation to be paid to the worker under clause (b) of section 92 shall not exceed his average pay for three months.

Explanation:- A place of work which is closed down by reason merely of financial difficulties (including financial losses) or the expiry of the period of the lease or the licence or the registration granted to it, 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 place of work is closed down on account of the completion of the work, within two years from the date on which the place of work had been set up, no worker employed thereat shall be entitled to any compensation under Clause (b) of section 69, but if the construction work is not so completed within two years, he shall be entitled to notice and compensation under that section, for every completed year of continuous service or any part thereof in excess of six months.

86. Retrenchment compensation in case of discharge.-

Notwithstanding any other remedy that a worker may have in this behalf, in case of discharge from service otherwise than as punished inflicted by way of disciplinary action, he shall be entitled to retrenchment compensation as prescribed in this Act as if he were retrenched

87. Procedure for retrenchment.-

1) Where a worker at a place of work, who is a citizen of India, is to be retrenched and he belongs to a particular category of workers at that place of work, in the absence of any agreement between employer and the worker, then in this behalf, the employer shall ordinarily retrench the worker who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other worker.

2) The employer shall prepare a list of all workers in the particular category from which retrenchment is contemplated, arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place at the place of work at least seven days before the actual date of retrenchment.

88. Nomination by a worker.-

(1) Notwithstanding anything contained in any law for the time being in force, or in any disposition, testimony or otherwise in respect of any amounts payable to a worker under this chapter, where a nomination has been made by a worker in the prescribed manner, purports to confer on any person the right to receive payment of the said amounts, for the time being due to the worker, the nominee shall, on the death of the worker, become entitled to the said amounts and to be paid the sum due in respect thereof to the exclusion of all other persons, unless the nomination is varied or cancelled by the worker in the prescribed manner.

(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

worker making the nomination.

(3) Where the nominee is a minor, it shall be lawful for the worker making the nomination to appoint any person, in the prescribed manner, to receive the amounts due in the event of his death during the minority of the nominee, on behalf of the said minor.

(4) A nomination made under sub-section (1), may, at any time, be modified by the worker, after giving a written notice of his intention to do so. If the nominee predeceases the worker, the latter may make a fresh nomination in accordance with these provisions.

(5) A nomination or its modification shall take effect, to the extent it is valid, on the date on which it is received by the employer.

89. Payment of amounts.-

The amounts due under this chapter shall be paid by the employer to a worker or, in the case of his death, to his nominee or nominees or, if there is no nomination, in force at the time of the death of the worker, to his family, as soon as possible after it becomes due and in any case not later than three months.

Explanation.- For the purpose of this section 'family' means the widow, children, whether married or unmarried of a worker 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 worker if, at the time of his death, she was not legally entitled to be maintained by him.

30. Deductions. -

The amounts due under this Chapter, other than lay-off compensation, will be subject to deductions on account of overpayments made to an employee by the employer liable to pay such amounts and monies borrowed by the worker from such employer.