

**Press Information Bureau
Government of India
Ministry of Labour & Employment**

07-October-2016 20:48 IST

Fixed Term Employment introduced for Apparel Manufacturing Sector- win-win situation for both Employer's and Employees

The Fixed Term Employment introduced in Apparel Manufacturing sector in Industrial Employment (Standing Order) Act vide Notification dated 7.10.2016 of Ministry of Labour and Employment. The decision would facilitate employment of workers in Apparel manufacturing on fixed term basis in the backdrop of seasonal nature of sector and would also ensure same working conditions, wages and other benefits for fixed term employee in the sector as a regular employee. It is thus win - win situation for both employer's and employees in Apparel manufacturing sector.

Fixed Term Employment in Apparel and Manufacturing Sector

Introduction

- The Industrial Employment (Standing Orders) Act, 1946 require employers to define conditions of employment in their industrial establishments. The item one of the schedule to the Act classifies the workman (a) Permanent (b) Temporary (c) Apprentice (d) Casual (e) Probationer (f) Badlis.
- The list in this schedule is not exhaustive. The nature of industrial establishments may be a factor to decide the classification of the workmen. Example:- a seasonal establishment, intermittent working establishment, work of the establishment.
- The Central Government can add any other matter in the schedule and in the rules under the powers given in section 15 of the Act.
- Central Government has presently proposed to introduce the concept of Fixed Term Employment for workers in Apparel Manufacturing Sector. The pre-publication notification for comments was issued on 04.08.2016 and was in public domain for 30 days i.e. 04.09.2016 followed by the consultations on 22-9-2016. The final notification is issued today on 7th October 2016.

- **Concept** - The concept of Fixed Term Employment define the tenure of employment as well as other associated conditions of service and remunerations, which are provided to regular employees under various labour laws. Fixed term employment was defined as a workman who is employed on a contract basis for a fixed period. Thus the services of workman will be automatically terminated as a result of non renewal of the contract between the employer and the workman concerned. Separation of service of a workman as a result of non renewal of the contract of employment between the employer and workman concerned shall not be construed as termination of employment.

- **Objective for permitting Fixed Term Employment in Apparel Manufacturing Sector**

- - 1) The seasonal nature of Textile sector results in fluctuation of demand and hence requires flexibility in employing worker.
 - 2) The working conditions in terms of working hours, wages, allowances and other statutory dues of a fixed term employee would be at par with permanent workmen.
 - 3) A fixed term worker will also be eligible for all statutory benefits available to a permanent workman proportionately according to the period of service rendered by him even though his period of employment does not extend to the qualifying period of employment required in the statute.
 - 4) The employer can directly hire a worker for a fixed term without mediation of any contractor.
 - 5) The worker employed for short period will get better working and service conditions as compared to a contract worker.

- 6) The flexibility would provide flexibility to textile sector in employing workers and hence strengthen and empower the Indian Textile and Apparel sector. **It is one of the measures of the approved Textile package for Textile sector on 22.06.2016.** . The measures assume significance due also to its potential for **social transformation through women empowerment**; since 70% of the workforce in the garment industry are women, **majority of the new jobs created are likely to go to women.**

· **Impact of inclusion of the term** - On the termination of fixed term employment of the workman the workman is not entitled to any notice or pay in lieu thereof. However, by proposed inclusion of the Fixed Term Workman as one of the category of workman in the classification of workman in the **Industrial Employment (Standing Orders) Act, 1946** , the Ministry intends to make such workman on fixed term employment eligible for all statutory benefits available to permanent workman proportionately accordingly to the period of service rendered by him. Even though his period of employment does not extend to the qualifying period of employment required in the statute.

· This step would ultimately benefit the workers as their working conditions would be at par with the regular employees including social security and other benefits. It would, on the one hand provide flexibility to the employers and on the other hand improve the working conditions of the workers already working for some fixed tenure only by way of contracts.

· It would also provide prescribed format of contract for engaging workers on fixed term employment, thereby avoiding any exploitation of such workers. The inclusion in the IE (SO) Act would define formally the conditions of employment on which the workman would be engaged for Fixed Term.

Conclusion

It is a “win win” situation for both worker and employer as at on the one side it provided flexibility for employing workers as per the demands of the market and on the other hand it ensures that worker hired gets equal benefits and working condition at par with the permanent employee.

Incorporation of Fixed Term Employment in Industrial Employment (Standing Orders) Act, 1946

· **Concept** - The concept fixed term employment define the tenure of employment as well as other associated conditions of service and remunerations, which are provided to regular employees under various labour laws. Fixed term employment was defined as a workman who is employed on a contract basis for a fixed period. Thus the services of workman will be automatically terminated as a result of non renewal of the contract between the employer and the workman concerned. Separation of service of a workman as a result of non renewal of the contract of employment between the employer and workman concerned shall not be construed as termination of employment.

Objectives of Inclusion of the term Fixed Term Employment –

· To provide flexibility to the employers in order to meet the challenges of globalization, new practices and methods of doing businesses. The demand is from those sectors where there is fluctuation in demand and hence variation in

demand of the labour accordingly. These seasonal demands have to be met with the flexibility in operation to meet the dynamics of the market and hence inclusion of the category of fixed term employment.

Presently, as per Section 2 (bb)(oo) of the ID Act, the workers could be employed on contract basis for some fixed time period and the removal of such workers on termination of contract is not considered as retrenchment. Hence they are not eligible for any notice period or retrenchment compensation as per the ID Act. This indicates that there is an indirect provision of employment of workers for a fixed term, however the service conditions of workers engaged for definite period is not stipulated leading to different treatment for workers on fixed term employment.

Impact of inclusion of the term - On the termination of fixed term employment of the workman the workman is not entitled to any notice or pay in lieu thereof. However, by proposed inclusion of the Fixed Term Workman as one of the category of workman in the classification of workman in the **Industrial Employment (Standing Orders) Act, 1946** , the Ministry intends to make such workman on fixed term employment eligible for all statutory benefits available to permanent workman proportionately accordingly to the period of service rendered by him. Even though his period of employment does not extend to the qualifying period of employment required in the statute.

This step would ultimately benefit the workers as their working conditions would be at par with the regular employees including social security and other benefits. It would, on the one hand provide flexibility to the employers and on the other hand improve the working conditions of the workers already working for some fixed tenure only by way of contracts.

It would also provide prescribed format of contract for engaging workers on fixed term employment, thereby avoiding any exploitation of such workers. The inclusion in the IE (SO) Act would define formally the conditions of employment on which the workman would be engaged for Fixed Term.

Inclusion of Fixed Term Workmen as classification of Workmen in IESO Act

The Industrial Employment (Standing Orders) Act, 1946 require employers to define conditions of employment in their industrial establishments. The item one of the schedule to the Act classifies the workman (a) Permanent (b) Temporary (c) Apprentice (d) Casual (e) Probationer (f) Badlis.

The list in this schedule is not exhaustive. The nature of industrial establishments may be a factor to decide the classification of the workmen. Example:- a seasonal establishment, intermittent working establishment, work of the establishment.

The Central Government can add any other matter in the schedule and in the rules under the powers given in section 15 of the Act. As per the powers under Section 15, Central Government has presently proposed to introduce the concept of Fixed Term Employment for workers in Apparel Manufacturing Sector. The draft notification for comments has been issued on 04.08.2016 and would be in public domain for 30 days i.e. 04.09.2016.

AT/HS