Chapter 3

THE PAYMENT OF WAGES ACT, 1936

Objectives:-

a) To eliminate all malpractices by laying down the time and mode of payment of wages.
b) Workers are paid their wages at regular intervals without any unauthorized deductions.
c) An Act to regulate the payment of wages to certain classes of employed persons.

Applicability:-

- It extends to the whole of India.

Definitions:-

i. **"Employed person"** includes the legal representative of a deceased employed person;

ii. **"Employer"** includes the legal representative of a deceased employer;

iii. **"Industrial or other establishment"** means :-

- tramway service, or motor transport service engaged in carrying passengers or goods or both by road for hire or reward;
- air transport service other than such service belonging to, or exclusively employed in the military, naval or air forces of the Union or the Civil Aviation Department of the Government of India.
- dock, wharf or jetty.
- inland vessel, mechanically propelled.
- mine, quarry or oilfield.
- Plantation.

iv. **"Wages"** means all remuneration (whether by way of salary, allowances or otherwise) expressed in terms of money or capable of being so expressed which would, if the terms of employment, express or implied, were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment, and **includes**—

- any remuneration payable under any **award** or settlement between the parties or order of a Court;
- any remuneration to which the person employed is entitled in respect of **overtime work** or holidays or any leave period;

- any **additional remuneration** payable under the terms of employment (whether called a bonus or by any other name);
- any sum which by reason of the **termination of employment** of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made;
- any sum to which the person employed is entitled under any scheme framed under any law for the time being in force;

but does not include –

- any **bonus** (whether under a scheme of profit sharing or otherwise) which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a Court;
- the value of any **house-accommodation**, or
- supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the State Government;
- any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon;
- any travelling allowance or the value of any travelling concession;
- any sum paid to the employed person to defray special expenses entailed on him by the nature of his employment; or
- any gratuity payable on the termination of employmen.

Responsibility for Payment of Wages:-

- Every employer shall be responsible for the payment to persons employed by him of all wages required to be paid under this Act:
- Provided that, in the case of persons employed (otherwise than by a contractor):-
  a) in factories, if a person has been named as the manager of the factory
  b) in industrial or other establishments, if there is a person responsible to the employer for the supervision and control of the industrial or other establishments;
  c) in railways (otherwise than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned; the person so named, the person so responsible to the employer, or the person so nominated, as the case may be, shall also be responsible for such payment.

Fixation of Wage-Periods:-

a) Every person responsible for the payment of wages shall fix periods in respect of which such wages shall be payable.

b) No wage-period shall exceed one month.

Time of Payment of Wages:-

The wages of every person employed upon or in –

a) any railway, factory or industrial or other establishment upon or **in which less than 1000 persons are employed**, shall be paid **before the expiry of the 7th day**,

b) any other railway, factory or industrial or other establishment, shall be paid **before the expiry of the 10th day**, after the last day of the wage-period in respect of which the wages are payable.

c) Where the employment of any person is terminated by or on behalf of the employer, the wages earned by him shall be paid **before the expiry of the 2nd working day** from the day on which his employment is terminated.

d) All payments] of wages shall be made on a working day.

Wages to be paid in Current Coin or Currency Notes:-

All wages shall be paid in current coin or currency notes or in both. Provided that the employer may, **after obtaining the written authorisation of the employed person,** pay him the wages either by cheque or by crediting the wages in his bank account.

Deductions which may be made from Wages:-

a) The wages of an employed person shall be paid to him ***without deductions of any kind*** EXCEPT those authorised by or under this Act.

Explanation:-

- Every payment made by the employed person to the employer or his agent shall, for the purposes of this Act, be deemed to be a deduction from wages.

- Any loss of wages resulting from the imposition, for good and sufficient cause, upon a person employed of any of the following penalties, namely:--

  i. the withholding of increment or promotion (including the stoppage of increment at an efficiency bar);

  ii. the reduction to a lower post or time scale or to a lower stage in a time scale; or

  iii. suspension;

shall not be deemed to be a deduction from wages in any case where the rules framed by the employer for the imposition of any such penalty are in conformity with the requirements, if any, which may be specified in this behalf by the State Government by notification in the Official Gazette.

b) Deductions from the wages of an employed person **shall be made** only in accordance with the provisions of this Act, and may be of the following kinds only, namely:-

- fines;
- deductions for absence from duty;
- deductions for **damage** to or loss of goods expressly entrusted to the employed person for custody, or for loss of money for which he is required to account, where such damage or loss is directly attributable to his neglect or default;

c) deductions for **house-accommodation** supplied by the employer or by Government or any housing board.

d) deductions for such **amenities** and services supplied by the employer as the State Government or any officer specified by it in this behalf may, by general or special order, authorise.

e) deductions for **recovery of advances** of whatever nature (including advances for travelling allowance or conveyance allowance), and the interest due in respect thereof, or for adjustment of over-payments of wages;

f) deductions for **recovery of loans** made from any fund constituted for the welfare of labour in accordance with the rules approved by the State Government, and the interest due in respect thereof;

g) deductions for recovery of loans granted for house building

h) deductions of income-tax payable by the employed person;

i) deductions required to be made by order of a Court or other authority competent to make such order;

j) deductions for subscriptions to, and for repayment of advances from any **provident fund** recognised provident fund, or any provident fund approved in this behalf by the State Government, during the continuance of such approval;

k) deductions for payments to **co-operative societies** approved by the State Government or to a **scheme of insurance** maintained by the Indian Post Office;

l) deductions, made with the written authorisation of the person employed for payment of any premium on his **life insurance policy** to the Life Insurance Corporation of India or for the purchase of securities of the Government of India or of any State Government or for being deposited in any Post Office Savings Bank in furtherance of any savings scheme of any such Government.

Amount of Deductions:-

The total amount of deductions which may be made in any wage period from the wages of any employed person shall not exceed –

i. in cases where such deductions are wholly or partly made for payments to co-operative societies **75%.** of such wages, and

ii. in any other case, **50%**. of such wages:

Fines:-

1) No fine shall be imposed on any employed person save in respect of such acts and omissions on his part as the employer, with the previous approval of the State Government or of the prescribed authority.

2) A notice specifying such acts and omissions **shall be exhibited** in the prescribed manner on the premises in which the employment is carried on or in the case of person employed upon a railway (otherwise than in a factory), at the prescribed place or places.

3) No fine shall be imposed on any employed person **until he has been given an opportunity** of showing cause against the fine, or otherwise than in accordance with such procedure as may be prescribed for the imposition of fines.

4) The total amount of fine which may be imposed in any one wage-period on any employed person **shall not exceed an amount equal to 3%** of the wages payable to him in respect of that wage-period.

5) No fine shall be imposed on any employed person who is **under the age of fifteen years**.

6) No fine imposed on any employed person shall be recovered from him **by installments** or **after the expiry of sixty days** from the day on which it was imposed.

7) Every fine shall be deemed to have been imposed on the day of the act or omission in respect of which it was imposed.

8) All fines and all realisations thereof shall be recorded in a register to be kept by the person responsible for the payment of wages in such form as may be prescribed; and all such realisations shall be applied only to such purposes beneficial to the persons employed in the factory or establishment as are approved by the prescribed authority.

Maintenance of Registers and Records:-

Every employer shall maintain such registers and records giving such particulars of persons employed by him, the work performed by them, the wages paid to them, the deductions made from their wages, the receipts given by them and such other particulars and in such form as may be prescribed. Every register and record required to be maintained ***shall be preserved for a period of three years*** after the date of the last entry made therein.

Claims arising out of deductions from wages or delay in payment of wages and penalty for malicious or vexatious claims:-

The appropriate government may, appoint:-

- Any Commissioner for Workmen's Compensation; or
- Any officer of the central government exercising functions as:-
  a) Regional labour commissioner;
  b) Assistant labour commissioner with at least 2 years experience.
- Any officer of the state government not below the rank of Assistant labour commissioner with at least 2 years experience
- Presiding officer of the labour court or industrial tribunal;
- other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate to be the authority to hear and decide for any specified area all claims arising out of deductions from the wages, or delay in payment of the wages, of persons employed or paid in that area, including all matters incidental to such claims.

Provided that where the State Government considers it necessary so to do, **it may appoint more than one authority** for any specified area and may, by general or special order, provide for the distribution or allocation of work to be performed by them under this Act.

Where contrary to the provisions of this Act any deduction has been made from the wages of an employed person, or any payment of wages has been delayed, such person himself, or any legal practitioner or any official of a registered trade union authorised in writing to act on his behalf, or any Inspector under this Act, or any other person acting with the permission of the authority appointed, may apply to such authority for a direction.

- Provided that every such application shall be **presented within twelve months** from the date on which the deduction from the wages was made or from the date on which the payment of the wages was due to be made, as the case may be.
- When any application is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages, or give them an opportunity of being heard, and, after such further inquiry (if any) as may be necessary, may, without prejudice to any other penalty to which such employer or other person is liable under this Act, direct the refund to the employed person of the amount deducted, or the payment of the delayed wages, together with the payment of such compensation as the authority may think fit, ***<u>not exceeding ten times the amount deducted</u>*** in the former case and **not exceeding Rs. 3000/- but not less than Rs. 1500/**- rupees in the latter, and even if the amount deducted or the delayed wages are paid before the disposal of the application, direct the payment of such compensation, as the authority may think fit, **not exceeding Rs. 2000/-.**
- A claim under this act shall be disposed of as far as practicable **within a period of 3 months** from the date of registration of the claim by the authority.
- No direction for the payment of compensation shall be made in the case of delayed wages if the authority is satisfied that the delay was due to:-

a) a bona fide error or bona fide dispute as to the amount payable to the employed person, or

b) the occurrence of an emergency, or the existence of exceptional circumstances, such that the person responsible for the payment of the wages was unable, though exercising reasonable diligence, to make prompt payment, or

c) the failure of the employed person to apply for or accept payment.

***Notes*:-**

If the authority hearing an application is satisfied that the application was either malicious or vexatious, the authority may direct that a penalty ***not exceeding Rs. 375/-*** be paid to the employer or other person responsible for the payment of wages by the person presenting the application.

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MCQs on Payment of Wages Act 1936

1. Which of the following is not included under the definition of wages given under the Payment of Wages Act, 1936?

(a) Basic Wage

(b) Dearness Allowance

(c) Incentive

(d) Gratuity

Answer - (d)

2. Under the Payment of Wages Act, 1936 the maximum limit on deductions should not ordinarily cross

(a) 50 percent generally and 65 percent in case of payments due to the cooperatives

(b) 60 percent generally and 75 percent in case of payments due to the cooperatives

(c) 50 percent generally and 75 percent in case of payments due to the cooperatives

(d) 40 percent generally and 75 percent in case of payments due to the cooperatives

Answer - (c)

3. If deduction is made contrary to the provisions of the Payment of Wages Act, 1936 the aggrieved employee can write to the inspector appointed under the Act within the time period given below from the date on which the deduction from wages was made or the date on which the payment of wages is due

(a) two years

(b) one year

(c) twelve weeks

(d) six weeks

Answer - (c)

4. Under which labour legislation in India the provision of check-off has been accepted?

(a) Industrial Disputes Act, 1947

(b) Trade Unions Act, 1926

(c) Payment of Wages Act, 1936

(d) Industrial Employment (Standing Orders) Act

Answer - (c)

5. The present wage ceiling per month for the purpose of the Payment of Wages Act, 1936 is

(a) Rs. 10. 000/-

(b) Rs. 15, 000/-

(c) Rs. 18, 000/-

(d) Rs. 20,000/-

Answer - (c)

6. As per Payment of Wages Act, 1936, in railway factory or industrial or other establishment upon or in which less than one thousand persons are employed, wages shall be paid before the expiry of the

(a) Seventh day of the month.

(b) Tenth Day of the months

(c) Third Day of the months

(d) None of the above

Answer - (c)

7. According to this Act, the maximum wage period or payment of wages to employees by employer should not exceed
(a) 45 days
(b) 15 days
(c) 30 days
(d) 60 days

Answer - (c)

8.If the employee is terminated or removed for the employment by the employer, the wage of that employee should be paid within -------- days from the day on which he was removed or terminated.
(a) 7 days
(b) 15 days
(c) 30 dyas
(d) 2 days

Answer - (d)

9.The total amount of deductions from wages of employees should not exceed -------- percentage.
(a) 50 %
(b) 70 %
(c) 25 %
(d) 40 %

Answer - (a)

10.Total amount of fine imposed by the employer on employees should not exceed -------- percentage of his wage
(a) 1 %
(b) 3 %
(c) 7 %
(d) 5 %

Answer - (b)

11. Fine should be recovered within ------- days from the date on which fine were imposed.
(a) 30 days
(b) 45 days
(c) 60 days
(d) 75 days

Answer - (c)

12. If 10 or more persons together absent for the duty without any notice and without reasonable cause, employer can make -------- days wages as deduction from their wage.
(a) 30 day
(b) 10 day
(c) 7 day
(d) 8 day

Answer - (d)

13.If wage period exceed one month, the employer may be punished with fine which shall not be less than -------- 1000/- rupees but which may extend to --------- 7500/- rupees.
(a) Rs.1000/- and Rs.7500/-
(b) Rs.1000/- and Rs.10,000/-
(c) Rs. 500/- and Rs. 5000/-
(d) Rs.750/- and Rs.6000/-

Answer - (a)

14. Whoever obstructs an Inspector in the discharge of his duties under this Act, he may be punished with fine which may extend --------- rupees
(a) Rs.5000/-
(b) Rs.3000/-
(c) Rs.7500/-
(d) Rs.3500/-

Answ er - (b)

15. Fine should not be imposed on any employee who is under the age of ------- years.
(a) 21 years
(b) 18 years
(c) 15 years
(d) 14 years

Answ er - (c)

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