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THE PAYMENT OF WAGES (AMENDMENT) ACT, 2005

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NO. 41 OF 2005

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[5th September, 2005.]

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An Act further to amend the Payment of Wages Act, 1936.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

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Short title and commencement.

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1. Short title and commencement.- (1) This Act may be called the Payment of Wages (Amendment) Act, 2005.

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

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Amendment of section 1.

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2. Amendment of section 1.- In section 1 of the Payment of Wages Act, 1936 (4 of 1936) (hereinafter referred to as the principal Act), for sub-section (6), the following sub-section shall be substituted, namely:-

"(6) This Act applies to wages payable to an employed person in respect of a wage period if such wages for that wage period do not exceed six thousand five hundred rupees per month or such other higher sum which, on the basis of figures of the Consumer Expenditure Survey published by the National Sample Survey Organisation, the Central Government may, after every five years, by notification in the Official Gazette, specify."

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Substitution of references to certain expressions by other expression.

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3. Substitution of references to certain expressions by other expression.-Throughout the principal Act, unless otherwise expressly provided for, the expressions "the Central Government or a State Government" and "the State Government", wherever they occur, the expression "appropriate Government" shall be substituted and such other consequential amendments as the rules of grammar may require shall also be made.

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Amendment of section 2.

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4. Amendment of section 2.-In section 2 of the principal Act,-

(a) clauses (i), (ia) and (ib) shall be re-numbered as clauses (ia), (ib) and (ic), respectively, and before clause (ia) as so re-numbered, the following clause shall be inserted, namely:-

'(i) "appropriate Government" means, in relation to railways, air transport services, mines and oilfields, the Central Government and, in relation to all other cases, the State Government;'

(b) for clause (v), the following clause shall be substituted, namely:-

'(v) " railway administration" has the meaning assigned to it in clause (32) of section 2 of the Railways Act, 1989 (24 of 1989);'.

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Substitution of new section for section 3.

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5. Substitution of new section for section 3.-For section 3 of the principal Act, the following section shall be substituted, namely:-

"3. Responsibility for payment of wages.--(1) Every employer shall be responsible for the payment of all wages required to be paid under this Act to persons employed by him and in case of persons employed,-

(a) in factories, if a person has been named as the manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948 (63 of 1948);

(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) upon railways (other 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;

(d) in the case of contractor, a person designated by such contractor who is directly under his charge; and

(e) in any other case, a person designated by the employer as a person responsible for complying with the provisions of the Act,

the person so named, the person responsible to the employer, the person so nominated or the person so designated, as the case may be, shall be responsible for such payment.

(2) Notwithstanding anything contained in sub-section (1), it shall be the responsibility of the employer to make payment of all wages required to be made under this Act in case the contractor or the person designated by the employer fails to make such payment."

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Amendment of section 7.

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6. Amendment of section 7.-In section 7 of the principal Act,-

(a) in sub-section (1), for the words, brackets and figures "sub-section (2) of section 47 of the Indian Railways Act, 1890 (9 of 1890)", the words and figures "the Railways Act, 1989 (24 of 1989)" shall be substituted;

(b) in sub-section (2), in clause (i), for the words, figures and letter "in section 58A of the Indian Income-tax Act, 1922 (11 of 1922)", the words, brackets and figures "in clause (38) of section 2 of the Income-tax Act, 1961 (43 of 1961)" shall be substituted;

(c) in sub-section (4), for the words and figures "the Indian Railways Act, 1890 (9 of 1890)", the words and figures "the Railways Act, 1989 (24 of 1989)" shall be substituted.

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Amendment of section 8.

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7. Amendment of section 8.-In section 8 of the principal Act, in sub-section (6), for the words "sixty days", the words "ninety days" shall be substituted.

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Amendment of section 15.

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8. Amendment of section 15.-In section 15 of the principal Act,-

(i) for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) The appropriate Government may, by notification in the Official Gazette, appoint-

(a) any Commissioner for Workmen's Compensation; or

(b) any officer of the Central Government exercising functions as,-

(i) Regional Labour Commissioner; or

(ii) Assistant Labour Commissioner with at least two years' experience; or

(c) any officer of the State Government not below the rank of Assistant Labour Commissioner with at least two years' experience; or

(d) a presiding officer of any Labour Court or Industrial Tribunal, constituted under the Industrial Disputes Act, 1947 (14 of 1947) or under any corresponding law relating to the investigation and settlement of industrial disputes in force in the State; or

(e) any other officer with experience as a Judge of a Civil Court or a Judicial Magistrate,

as 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 appropriate 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.";

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

"(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer or other person responsible for the payment of wages under section 3, or give them an opportunity of being heard, and, after such further enquiry, 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, not exceeding ten times the amount deducted in the former case and not exceeding three thousand rupees but not less than one thousand five hundred rupees in the latter, and even if the amount deducted or delayed wages are paid before the disposal of the application, direct the payment of such compensation, as the authority may think fit, not exceeding two thousand rupees:

Provided that a claim under this Act shall be disposed of as far as practicable within a period of three months from the date of registration of the claim by the authority:

Provided further that the period of three months may be extended if both parties to the dispute agree for any bona fide reason to be recorded by the authority that the said period of three months may be extended to such period as may be necessary to dispose of the application in a just manner:

Provided also that 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, the person responsible for the payment of the wages was unable, in spite of exercising reasonable diligence; or

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

(iii) in sub-section (4), for the words "not exceeding fifty rupees" wherever they occur, the words "not exceeding three hundred seventy-five rupees" shall be substituted.

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Amendment of section 20.

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9. Amendment of section 20.-In section 20 of the principal Act,-

(a) in sub-section (1), for the words "with fine which shall not be less than two hundred rupees but which may extend to one thousand rupees", the words "with fine which shall not be less than one thousand five hundred rupees but which may extend to seven thousand five hundred rupees" shall be substituted;

(b) in sub-section (2), for the words "with fine which may extend to five hundred rupees", the words "with fine which may extend to three thousand seven hundred fifty rupees" shall be substituted;

(c) after sub-section (2), the following sub-section shall be inserted, namely:-

"(2A) Whoever being required to nominate or designate a person under section 3 fails to do so, such person shall be punishable with fine which may extend to three thousand rupees.";

(d) in sub-section (3), for the words "with fine which shall not be less than two hundred rupees but which may extend to one thousand rupees", the words "with fine which shall not be less than one thousand five hundred rupees but which may extend to seven thousand five hundred rupees" shall be substituted;

(e) in sub-section (4), for the words "with fine which shall not be less than two hundred rupees but which may extend to one thousand rupees", the words "with fine which shall not be less than one thousand five hundred rupees but which may extend to seven thousand five hundred rupees" shall be substituted;

(f) in sub-section (5), for the words "with fine which shall not be less than five hundred rupees but which may extend to three thousand rupees", the words "with fine which shall not be less than three thousand seven hundred fifty rupees but which may extend to twenty-two thousand five hundred rupees" shall be substituted;

(g) in sub-section (6), for the words "one hundred rupees", the words "seven hundred fifty rupees" shall be substituted.

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Substitution of new section for section 24.

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10. Substitution of new section for section 24.-For section 24 of the principal Act, the following section shall be substituted, namely:-

"24. Delegation of powers.-The appropriate Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be also exercisable-

(a) where the appropriate Government is the Central Government, by such officer or authority subordinate to the Central Government or by the State Government or by such officer or authority subordinate to the State Government, as may be specified in the notification;

(b) where the appropriate Government is a State Government, by such officer or authority subordinate to the State Government as may be specified in the notification."

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Amendment of section 26.

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11. Amendment of section 26.-In section 26 of the principal Act,-

(a) in sub-section (4), for the words "which may extend to two hundred rupees", the words "which shall not be less than seven hundred fifty rupees but which may extend to one thousand five hundred rupees" shall be substituted;

(b) after sub-section (6), the following sub-section shall be inserted, namely:-

"(7) All rules made under this section by the State Government shall, as soon as possible after they are made, be laid before the State Legislature."

T. K. VISWANATHAN,

Secy. to the Govt. of India.

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