

The Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955

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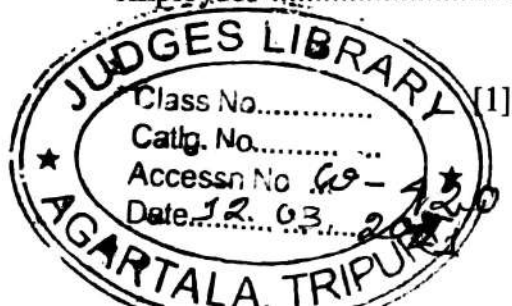
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The Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955

[Act 45 of 1955]

[20th December, 1955]

*An Act to regulate certain conditions of service of working journalists
and other persons employed in newspaper establishments*

Be it enacted by Parliament in the Sixth Year of the Republic of India as follows:

Statement of Objects and Reasons.—"The Press Commission which was constituted by Government to inquire, among other things, into the conditions of employment of working journalists have made certain recommendations for improvement and regulation of such service conditions by means of legislation. These recommendations cover minimum period of notice gratuity, provident fund settlement of industrial disputes, leave with pay, hours of work and minimum wages. All these aspects are covered in the Bill which generally follows the lines indicated by the Press Commission; the determination of minimum wages has, however, for various reasons, been left to a Board to be constituted for this purpose.

2. The Commission also suggested the application of the Industrial Employment (Standing Orders) Act, 1946, and the Employees' Provident Funds Act, 1952, to the industry, and such application is also provided for in the Bill in respect of establishments exceeding a certain minimum size.

3. In order to provide a longer period of notice in certain cases of retrenchment necessary legislative provision in respect of the application of Industrial Disputes Act, 1947, has been included in the Bill.

4. A transitional clause is also included to cover cases of retrenchment which had occurred after the Press Commission signed their report but before the application of the Industrial Disputes Act, 1947, to working journalists."

Statement of Objects and Reasons Amending Act 65 of 1952.—In the case of *Express Newspapers v. Union of India*, the Supreme Court in its judgment dated the 19th March, 1958 declared that Section 5(1)(a)(iii) of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955, was illegal and void as it contravened the fundamental rights guaranteed to citizens under Article 19(1)(g) of the Constitution. The Supreme Court observed that there would be no justification for awarding gratuity when an employee voluntarily resigns except in exceptional circumstances like the operation of a 'conscience clause' and a longer period of continuous service.

2. Section 5(1)(a)(iii) inter alia provides for payment of gratuity of a working journalist when he voluntarily resigns from service from any newspaper establishment after rendering a continuous service of not less than three years, it is accordingly proposed to amend the Act to provide for payment of gratuity to a working journalist if he voluntarily resigns on any ground whatsoever after the total service of ten years and also on the ground of conscience if his total service is not less than three years but less than ten years. Provision is also being made for enabling a working journalist to appoint nominee or nominees for receiving gratuity in case of his death.

3. The Central Government is also being empowered to fix and revise rates of wages payable to working journalists. For this purpose provision is now being made to set up Wage Boards from time

to time which will make necessary recommendations to the Central Government as regards the rates of such wages.

4. For the purpose of effective implementation of the provisions of the Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955 and the Working Journalists (Fixation of Rates of Wages) Act, 1958, opportunity is being taken to provide for appointment of Inspectors and for requiring newspaper establishments to maintain registers, muster rolls and other records.

5. The Notes on Clauses explain in detail the various provisions of the Bill.

Statement of Objects and Reasons Amending Act 60 of 1974.—The Working Journalists (Conditions of Service) and Miscellaneous Provisions Act, 1955, inter alia, empowers the Central Government to fix and revise from time to time rates of wages in respect of working journalists and to constitute a Wage Board for the purpose of fixing or revising such rates. It is proposed to make similar provisions in respect of non-journalist employees of newspaper establishments.

Statement of Objects and Reasons Amending Act 6 of 1979.—The Central Government constituted, under the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955, two Wage Boards, one for non-journalist newspaper employees and the other for working journalists, on the 11th June, 1975 and 6th February, 1976 respectively. On the 1st April, 1977, the Central Government, on the recommendations of the Wage Boards, notified interim wage rates for these employees under Section 13-A, read with Section 13-D, of the Act. Soon after this, some newspaper managements filed writ petitions in various High Courts challenging the fixation of interim wage rates on various grounds. The constitution of the Wage Boards was also challenged on the ground that the two independent members on the Wage Boards were not really independent. Later, in December 1977, the employers' representatives wrote to the Central Government that they were withdrawing from the Wage Boards because their respective organisations desired them to do so. Under the circumstances, further sittings of the Wage Boards had to be postponed.

2. The Government made several efforts to resolve the deadlock. The employees' representative put forward some concrete proposals for ending the stalemate, but these proposals were not acceptable to the employers' organisations. No other alternative proposals acceptable to both sides and within the framework of existing Boards and the Act under which the Boards have been set up, emerged. The Wage Boards were therefore advised to proceed with their work. On 28th August, 1978, writ petitions were filed by the Indian and Eastern Newspaper Society and others in the High Court at Bombay, challenging the constitution of the Wage Boards and praying that the members of the Wage Boards (other than the employers' representatives) be restrained from holding or proceeding with any meetings of the Wage Boards. An interim injunction order was passed by the Bombay High Court on 9th September, 1978, allowing the prayer of the petitioners. This was confirmed on 10th October, 1978. Around this time, the employers' representatives on the two Wage Boards sent in their resignations to the Government. As a result the Wage Boards could not, proceed with their work.

3. As no other solution except making alternative arrangements for disposal of the work entrusted to the Boards could be found and as it became urgently necessary to make such alternative arrangements so as to secure speedily just conditions of work to non-journalist newspaper employees and working journalists, the President promulgated on the 31st January, 1979, The Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions (Amendment) Ordinance, 1979. This Ordinance provided for the constitution of a Tribunal consisting of a person who is or has been a Judge of a High Court or the Supreme Court in place of each such Board and the abolition of such Boards upon the constitution of such Tribunals and for the continuance of the interim wages notified by the Government after taking into account the recommendations of such Boards. The Ordinance also empowered each Tribunal to regulate its own procedure and to act in its discretion on the evidence recorded by the Board in place of which such Tribunal had been created.

Statement of Objects and Reasons Amending Act 36 of 1981.—The Tribunal for Working Journalists constituted under Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955, recommended that every part-time correspondent should be paid not less than one third of the basic wage (Basic pay + D.A.) applicable to full-time correspondents at similar level. In addition, the Tribunal recommended that the part-time correspondents of newspapers should be paid on column basis and that the rate should be settled by mutual negotiations. The recommendations of the Tribunal relating to part-time correspondents were accepted by Government and notified on the 26th December, 1980.

Government had received representations that part-time correspondents are being retrenched by newspaper establishments as well as news agencies with a view to avoid the liability for payment in terms of the recommendations of the Tribunal and immediate steps should be taken to prevent such retrenchments. Further, although part-time correspondents, employed by newspaper establishments, whose principal avocation is journalism would be regarded as working journalists under the Act and they could avail the remedies available under the existing laws in the event of retrenchments, it was felt necessary to amend the Act suitably to remove all doubts in this regard. The Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions (Amendment) Ordinance, 1981, was accordingly promulgated by the President on the 26 July, 1981, to amend the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955, with retrospective effect from the 13th August, 1980, being the date on which the Tribunal submitted its recommendations. The Ordinance amplified the definition of "Working Journalist" in the Act to include part-time correspondents. It also inserted a new section in the Act to provide for the protection of newspaper employees, including part-time correspondents, from being discharged or dismissed or retrenched by any employer with a view to avoid financial and other liabilities arising out of any order issued under Section 12 or under Section 12 read with Section 13-AA or Section 13-DD of the said Act.

Statement of Objects and Reasons Act 31 of 1989.—The Wage Boards appointed under Section 10 of the Working Journalists and other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 have experienced difficulties in interpreting of certain terms used in the Act, and also of certain provisions of the Act. In order to remove doubts and varying interpretations, it is proposed to—

- (a) amplify the definition of "newspaper establishment" contained in clause (d) of Section 250 as to provide for clubbing of various establishments under the common control of any person or body of persons;
- (b) provide self-contained definition of "wages" instead of adopting the definition of reference to the Industrial Disputes Act, 1947;
- (c) make clear that the power to fix or revise rates of wages includes power to fix or revise allowances including new allowances; and
- (d) clarify that the Wage Boards are not prevented from fixing the wages on All India basis.

2. The Bill seeks to achieve the above objects.

CASE LAW ► Constitutional validity.—Constitutional validity of Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955, upheld, *ABP (P) Ltd. v. Union of India*, (2014) 3 SCC 327 : (2014) 1 SCC (L&S) 565.

► **Extension of benefit.**—Extension of benefit of 1955 Act vide the 1974 amendment to other newspaper employees (i.e. non-working journalists) employed in newspaper establishments, upheld, *ABP (P) Ltd. v. Union of India*, (2014) 3 SCC 327 : (2014) 1 SCC (L&S) 565.



CHAPTER I PRELIMINARY

1. Short title and extent.—(1) This Act may be called the ¹[Working Journalists and Other Newspaper Employees] (Conditions of Service) and Miscellaneous Provisions Act, 1955.

(2) It extends to the whole of India [* * *]².

NOTE ▶ For exemption from furnishing returns and maintaining registers by small and very small establishments, see Labour Laws (Simplification of Procedure for Furnishing Returns and Maintaining Registers by Certain Establishments) Act, 1988 (51 of 1988)

CASE LAW ▶ Construction of provisions.—The Act is a beneficent legislation. Where two views are possible, its provisions should be construed in favour of employees, *A.I.R. Karamchari Sangh v. A.I.R. Ltd.*, 1988 Supp SCC 472 : 1988 SCC (L&S) 854.

2. Definitions.—In this Act, unless the context otherwise requires,—

³[(a) “Board” means—

(i) in relation to working journalists, the Wage Board constituted under Section 9; and

(ii) in relation to non-journalist newspaper employees, the Wage Board constituted under Section 13-C];

(b) “newspaper” means any printed periodical work containing public news or comments on public news and includes such other class of printed periodical work as may, from time to time, be notified in this behalf by the Central Government in the Official Gazette;

(c) “newspaper employee” means any working journalist, and includes any other person employed to do any work in, or in relation to, any newspaper establishment;

STATE AMENDMENTS

DELHI.—In its application to the National Capital Territory of Delhi, after the words “other person employed”, the words “including contractual employees” shall be *inserted*. [*Vide* Delhi Act 4 of 2018, S. 2 (w.e.f. 7-5-2018)]

(d) “newspaper establishment” means an establishment under the control of any person or body of persons, whether incorporated or not, for the production or publication of one or more newspapers or for conducting any news agency or syndicate; ⁴[and includes newspaper establishments specified as one establishment under the Schedule.

Explanation.—For the purposes of this clause,—

(a) different departments, branches and centres of newspaper establishments shall be treated as parts thereof;

1. Subs. by Act 60 of 1974.

2. Omitted by Act 51 of 1970.

3. Subs. by Act 60 of 1974.

4. Ins. by Act 31 of 1989 and shall be deemed always to have been inserted.

(b) a printing press shall be deemed to be a newspaper establishment if the principal business thereof is to print newspaper;]

⁵[(dd) “non-journalist newspaper employee” means a person employed to do any work in, or in relation to, any newspaper establishment, but does not include any such person who—

- (i) is a working journalist, or
- (ii) is employed mainly in a managerial or administrative capacity, or
- (iii) being employed in a supervisory capacity, performs, either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature;]

(e) “prescribed” means prescribed by rules made under this Act;

⁶[(ee) ‘Tribunal’ means,—

- (i) in relation to working journalists, the Tribunal constituted under Section 13-AA; and
- (ii) in relation to non-journalist newspaper employees, the Tribunal constituted under Section 13-DD;]

⁷[(eee) “wages” means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, expressed or implied, were fulfilled, be payable to a newspaper employee in respect of his employment or of work done in such employment, and includes—

- (i) such allowances (including dearness allowance) as the newspaper employee is for the time being entitled to;
 - (ii) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of food-grains or other articles;
 - (iii) any travelling concession,
- but does not include—

- (a) any bonus;
- (b) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the newspaper employee under any law for the time being in force;
- (c) any gratuity payable on the termination of his service.

Explanation.—In this clause, the term “wages” shall also include new allowances, if any, of any description fixed from time to time.

(f) “working journalist” means a person whose principal avocation is that of a journalist and ⁸[who is employed as such, either whole time or part-time, in, or in relation to, one or more newspaper establishments], and includes an editor, a leader-writer, news-editor, sub-editor, feature-writer, copy-tester, reporter, correspondent, cartoonist,

5. *Ins.* by Act 60 of 1974.

6. *Ins.* by Act 6 of 1979 (w.e.f. 31-1-1979).

7. *Ins.* by Act 31 of 1989 and shall be deemed always to have been inserted.

8. *Subs.* by Act 36 of 1981, S. 2 (w.e.f. 13-8-1980).

news-photographer and proof-reader, but does not include any such person who—

- (i) is employed mainly in a managerial or administrative capacity, or
- (ii) being employed in a supervisory capacity, performs, either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature;
- (g) all words and expressions used but not defined in this Act and defined in the Industrial Disputes Act, 1947 (14 of 1947), shall have the meaning respectively assigned to them in that Act.

CASE LAW ▶ Public news, what are.—‘Public news’ must ordinarily mean news concerning or of interest to the public generally or any section of the public. Film news can be said to be ‘public news’, *T.V. Ramnath v. Union of India*, 1975 Lab IC 488 (Mad).

▶ **Law reports.**—Law reports are newspapers, *A.I.R Karamchari Sangh v. A.I.R. Ltd.*, 1988 Supp SCC 472 : 1988 SCC (L&S) 854.

Persons employed for production and publication of law reports are entitled to the benefits of Palekar Award, *A.I.R. Karamchari Sangh v. A.I.R. Ltd.*, 1988 Supp SCC 472 : 1988 SCC (L&S) 854.

▶ **Avocation, meaning.**—Word ‘avocation’ means one’s vocation, calling or profession, *Express Newspapers Ltd. v. B. Somayajulu*, AIR 1964 SC 279 : (1964) 3 SCR 100 : (1963) 2 LLJ 385.

▶ **Working journalists, who are.**—Ex-employees also come within the expression ‘working journalists’, *Bennett, Coleman & Co. v. P.P. Das Gupta*, (1969) 2 SCC 1. ‘Katibs’ are calligraphists and as such are ‘working journalists’, *Daily Pratap v. Katibs*, (1972) 2 SCC 342 : 1973 SCC (L&S) 105. But see *Workmen of Sadakat v. Presiding Officer, Industrial Tribunal*, (1999) 1 LLN 548 (Pat). Editor performing managerial and administrative functions besides his work as Editor, held, is a working journalist, *Rashtradoot v. Journalists Union*, (1971) 3 SCC 96. An advocate though on rolls of Bar Council can be a working journalist if his principal avocation is of a stringer which is included in the definition, *Manager, United News of India v. Labour Commissioner*, (1999) 82 FLR 743 (MP).

A part-time photographer failed to prove that respondent employer was his only or sole employer and that as such he cannot be said to be working journalist, *Ballubhai Javerbhai Panchal v. Sandesh Ltd.*, (1998) 1 Cur LR 933 : (1998) 79 FLR (Sum) 22 (Bom).

A proof reader employed by one company can be considered to be a working journalist, although that company is not a newspaper establishment, if his work is in relation to the business of newspaper publication carried on by the other company, *Malayala Rajram (P) Ltd. v. Bala Krishna Pillai*, 1977 Lab IC 1784 (Ker).

CHAPTER II

WORKING JOURNALISTS

3. Act 14 of 1947 to apply to working journalists.—(1) The provisions of the Industrial Disputes Act, 1947 (14 of 1947), as in force for the time being, shall, subject to the modification specified in sub-section (2), apply to, or in relation to, working journalists as they apply to, or in relation to workmen within the meaning of that Act.

(2) Section 25-F of the aforesaid Act, in its application to working journalists, shall be construed as if in clause (a) thereof, for the period of notice, referred to therein in relation to the retrenchment of a workman, the following periods of notice in relation to the retrenchment of a working journalist had been substituted, namely —

- (a) six months, in the case of an editor, and
- (b) three months, in the case of any other working journalist.

CASE LAW ► Expression “for the time being”, meaning.—The expression “for the time being”, occurring in Section 3 refers to the general sense and not to a single point of time. Hence, Section 33-C of the Industrial Disputes Act, though not on the statute book at the time of enactment of Section 3, can nonetheless be resorted to by a working journalist, *Editor, Samaj v. Presiding Officer, Labour Court*, 1994 Lab IC 913 : (1994) 2 LLN 346 (Ori)(DB).

► **Working journalists.**—The working journalists are fully entitled to take advantage of the provisions of the Industrial Disputes Act like any other workman without their being labelled workman as such, *Statesman Ltd. v. Lt. Governor, Delhi*, (1975) 2 LLJ 33 (Del).

Provision in Section 3(1) making the Industrial Disputes Act applicable to working journalists does not imply that the benefit of the Industrial Disputes Act would not be available to other newspaper employees even if they be workmen within the meaning of that Act, *Pratap Chandra Mohanty v. General Manager, United News of India*, 1993 Lab IC 919 : (1993) 2 LLN 455 (Ori)(DB).

► **Retrenchment of working journalist.**—A dispute relating to retrenchment of working journalist can be decided by Labour Court for compliance with Section 25-F of Industrial Disputes Act, 1947. The contention that Board constituted under Working Journalists Act alone could entertain the matter, rejected, *Awaz Prakashan (P) Ltd. v. Pramod Kumar Pujari*, (2003) 6 SCC 104.

4. Special provisions in respect of certain cases of retrenchment.—Where at any time between the 14th day of July, 1954, and the 12th day of March, 1955, any working journalist had been retrenched, he shall be entitled to receive from the employer—

- (a) wages for one month at the rate to which he was entitled immediately before his retrenchment, unless he had been given one month's notice in writing before such retrenchment; and
- (b) compensation which shall be equivalent to fifteen days' average pay for every completed year of service under that employer or any part thereof in excess of six months.

⁹[5. **Payment of gratuity.**—(1) Where—

- (a) any working journalist has been in continuous service, whether before or after the commencement of this Act, for not less than three years in any newspaper establishment, and—
 - (i) his services are terminated by the employer in relation to that newspaper establishment for any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, or

9. Ss. 5 and 5-A subs. for S. 5 by Act 65 of 1962.

- (ii) he retires from service on reaching the age of superannuation; or
- (b) any working journalist has been in continuous service, whether before or after the commencement of this Act, for not less than ten years in any newspaper establishment, and he voluntarily resigns on or after the 1st day of July, 1961, from service in that newspaper establishment on any ground whatsoever other than on the ground of conscience; or
- (c) any working journalist has been in continuous service, whether before or after the commencement of this Act, for not less than three years in any newspaper establishment, and he voluntarily resigns on or after the 1st day of July, 1961, from service in that establishment on the ground of conscience; or
- (d) any working journalist dies while he is in service in any newspaper establishment,

the working journalist or, in the case of his death, his nominee or nominees or, if there is no nomination in force at the time of the death of the working journalist, his family, as the case may be, shall, without prejudice to any benefits or rights accruing under the Industrial Disputes Act, 1947 (14 of 1947), be paid, on such termination, retirement, resignation or death, by the employer in relation to that establishment gratuity which shall be equivalent to 'fifteen days' average pay for every completed year of service or any part thereof in excess of six months:

Provided that in the case of a working journalist referred to in clause (b), the total amount of gratuity that shall be payable to him shall not exceed twelve and half months' average pay:

Provided further that where a working journalist is employed in any newspaper establishment wherein not more than six working journalists were employed on any day of the twelve months immediately preceding the commencement of this Act, the gratuity payable to a working journalist employed in any such newspaper establishment for any period of service before such commencement shall not be equivalent to fifteen days' average pay for every completed year of service or any part thereof in excess of six months but shall be equivalent to—

- (a) three days' average pay of every completed year of service or any part thereof in excess of six months, if the period of such past service does not exceed five years;
- (b) five days' average pay for every completed year of service or any part thereof in excess of six months. If the period of such past service exceeds five years but does not exceed ten years; and
- (c) seven days' average pay for every completed year of service or any part thereof in excess of six months, if the period of such past service exceeds ten years.

Explanation.—For the purposes of this sub-section and sub-section (1) of Section 17, "family" means—

- (i) in the case of a male working journalist, his widow, children, whether married or unmarried, 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 working journalist if at the time of his death she was not legally entitled to be maintained by him;

- (ii) in the case of a female working journalist, her husband, children whether married or unmarried, and the dependent parents of the working journalist or of her husband, and the widow and children of her deceased son:

Provided that if the working journalist has expressed her desire to exclude her husband from the family, the husband and his dependent parents shall not be deemed to be a part of the working journalist's family,

and in either of the above two cases, if the child of a working journalist or of a deceased son of a working journalist has been adopted by another person and if under the personal law of the adopter, adoption is legally recognised, such a child shall not be considered as a member of the family of the working journalist.

(2) Any dispute whether a working journalist has voluntarily resigned from service in any newspaper establishment on the ground of conscience shall be deemed to be an industrial dispute within the meaning of the Industrial Disputes Act, 1947 (14 of 1947), or any corresponding law relating to investigation and settlement of industrial disputes in force in any State.

(3) Where a nominee is a minor and the gratuity under sub-section (1) has become payable during his minority, it shall be paid to a person appointed under sub-section (3) of Section 5-A:

Provided that where there is no such person, payment shall be made to any guardian of the property of the minor appointed by a competent court or where no such guardian has been appointed to either parent of the minor, or where neither parent is alive, to any guardian of the minor:

Provided further that where the gratuity is payable to two or more nominees, and either or any of them dies, the gratuity shall be paid to the surviving nominee or nominees.

STATE AMENDMENTS

GOA, DAMAN AND DIU.—In its application to the Union Territory of Goa, Daman and Diu, in sub-section (1) of Section 5, in clauses (b) and (c), *omit* on or after the 1st day of July, 1961. [Vide Regulation 11 of 1963, S. 3(1), dt. 19-12-1963].

CASE LAW ▶ Average pay.—Average pay includes facilities of free telephone, free supply of newspapers and car allowance, *Bennett, Coleman & Co. v. P.P. Das Gupta*, (1969) 2 SCC 1.

5-A. Nomination by working journalists.—(1) Notwithstanding anything contained in any law for the time being in force, or in any disposition, testamentary or otherwise in respect of any gratuity payable to a working journalist, where a nomination made in the prescribed manner purports to confer on any person the

right to receive payment for the gratuity for the time being due to the working journalist, the nominee shall, on the death of the working journalist, become entitled to the gratuity and to be paid the sum due in respect thereof to the exclusion of all other persons, unless the nomination is varied or cancelled 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 working journalist making the nomination.

(3) Where the nominee is a minor, it shall be lawful for the working journalist making the nomination to appoint any person in the prescribed manner to receive the gratuity in the event of his death during the minority of the nominee.]

6. Hours of work.—(1) Subject to any rules that may be made under this Act, no working journalist shall be required or allowed to work in any newspaper establishment for more than one hundred and forty-four hours during any period of four consecutive weeks, exclusive of the time for meals.

(2) Every working journalist shall be allowed during any period of seven consecutive days rest for a period of not less than twenty-four consecutive hours, the period between 10 p.m. and 6 a.m. being included therein.

Explanation.—For the purposes of this section, “week” means a period of seven days beginning at midnight on Saturday.

7. Leave.—Without prejudice to such holidays, casual leave or other kinds of leave as may be prescribed, every working journalist shall be entitled to—

- (a) earned leave on full wages for not less than one-eleventh of the period spent on duty;
- (b) leave on medical certificate on one-half of the wages for not less than one-eighteenth of the period of service.

¹⁰**[8. Fixation or revision of rates of wages.**—(1) The Central Government may, in the manner hereinafter provided,—

- (a) fix rates of wages in respect of working journalists;
- (b) revise, from time to time, at such intervals as it may think fit, the rates of wages fixed under this section or specified in the order made under Section 6 of the Working Journalists (Fixation of Rates of Wages) Act, 1958 (29 of 1958).

(2) The rates of wages may be fixed or revised by the Central Government in respect of working journalists for time work and for piece work.

9. Procedure for fixing and revising rates of wages.—For the purpose of fixing or revising rates of wages in respect of working journalists under this Act, the Central Government shall, as and when necessary, constitute a Wage Board which shall consist of—

10. Ss. 8, 9, 10, 11, 12, 13 and 13-A, *subs.* by Act 65 of 1962.

- (a) [three persons]¹¹ representing employers in relation to newspaper establishments;
- (b) [three persons]¹² representing working journalists;
- (c) [four independent persons]¹³, one of whom shall be a person who is, or has been, a Judge of a High Court or the Supreme Court and who shall be appointed by that Government as the Chairman thereof.

CASE LAW ► Composition of Wages Boards.—Merely because a person was in the employment of the Government, he does not cease to be “independent” for the purposes of being an independent member of the committee to recommend the fixing of wages, *ABP (P) Ltd. v. Union of India*, (2014) 3 SCC 327 : (2014) 1 SCC (L&S) 565.

► **Allegation of bias against member of Board.**—Alleging bias against independent members of the Wage Boards based merely on their past status is entirely baseless in law and amounts to imputing motives. Mere apprehension of bias is not enough and there must be cogent evidence available on record to come to the conclusion, *ABP (P) Ltd. v. Union of India*, (2014) 3 SCC 327 : (2014) 1 SCC (L&S) 565.

► **Representatives of Wage Boards.**—Having common representatives of employers on the two Wage Boards for working journalists and non-journalists are expected to be favourable to the employers as they can make a fair assessment of the requirements of the working journalists and non-journalist newspaper employees of the newspaper industry as a whole. However, as the two Wage Boards have separate entities meant for working journalists and non-journalist newspaper employees, therefore, members representing working journalists were nominated to the Wage Board for the working journalists and members representing non-journalist newspaper employees were nominated to the Wage Boards for non-journalist newspaper employees. Hence, for administrative convenience, four independent members, including the Chairman were common for both the Wage Boards. This arrangement in no way affects the interest of the employers, *ABP (P) Ltd. v. Union of India*, (2014) 3 SCC 327 : (2014) 1 SCC (L&S) 565.

► **Determination of wages by Board.**—Considering purpose sought to be achieved by Act i.e. to provide minimum if not fair wage to newspaper employees, wages determined by the Majithia Wage Board are non-negotiable. Hence, the Majithia Wage Board Award which was approved by the Supreme Court *ABP (P) Ltd. case* must be implemented in full, *Avishek Raja v. Sanjay Gupta*, (2017) 8 SCC 435.

10. Recommendation by Board.—(1) The Board shall, by notice published in such manner as it thinks fit, call upon newspaper establishments and working journalists and other persons interested in the fixation or revision of rates of wages of working journalists to make such representations as they may think fit as respects the rates of wages which may be fixed or revised under this Act in respect of working journalists.

(2) Every such representation shall be in writing and shall be made within such period as the Board may specify in the notice and shall state the rates of wages which, in the opinion of the person making the representation, would be reasonable, having regard to the capacity of the employer to pay the same or to

11. Subs. for “two persons” by Act 34 of 1996, S. 2.

12. Subs. for “two persons” by Act 34 of 1996, S. 2.

13. Subs. for “three independent persons” by Act 34 of 1996, S. 2.

any other circumstance, whichever may seem relevant to the person making the representation in relation to his representation.

(3) The Board shall take into account the representations aforesaid, if any, and after examining the materials placed before it make such recommendations as it thinks fit to the Central Government for the fixation or revision of rates of wages in respect of working journalists; and any such recommendation may specify, whether prospectively or retrospectively, the date from which the rates of wages should take effect.

(4) In making any recommendations to the Central Government, the Board shall have regard to the cost of living, the prevalent rates of wages for comparable employment, the circumstances relating to the newspaper industry in different regions of the country and to any other circumstances which to the Board may seem relevant.

¹⁴[*Explanation*.—For the removal of doubts, it is hereby declared that nothing in this sub-section shall prevent the Board from making recommendations for fixation or revision of rates of wages on all-India basis.]

CASE LAW ► Judicial review.—Acceptance by Government of the Wage Board recommendations, held, open to judicial review under Article 136 and open to attack under Articles 32 and 226, *Press Trust of India v. Union of India*, (1974) 4 SCC 638 : 1974 SCC (L&S) 421. The Wage Board can recommend with retrospective effect, *Express Newspapers (I) Ltd. v. Union of India*, AIR 1958 SC 578 : 1959 SCR 12 : (1961) 1 LLJ 339.

Wage Board is bound to consider capacity of the industry to pay, *Press Trust of India v. Union of India*, (1974) 4 SCC 638 : 1974 SCC (L&S) 421.

► **Recommendations made by Wage Board.**—Recommendations made by Wage Board under Section 10 are not award under Section 2(b) of ID Act, 1947, *Bennett Coleman & Co. Ltd. v. State of Bihar*, (2015) 11 SCC 204.

Complaint for Non-implementation or improper implementation of recommendations, under provisions of ID Act, 1947, not maintainable, *Bennett Coleman & Co. Ltd. v. State of Bihar*, (2015) 11 SCC 204.

11. Powers and procedure of the Board.—(1) Subject to the provisions contained in sub-section (2), the Board may exercise all or any of the powers which an Industrial Tribunal constituted under the Industrial Disputes Act, 1947 (14 of 1947), exercises for the adjudication of an industrial dispute referred to it and shall, subject to the provisions contained in this Act, and the rules, if any, made thereunder, have power to regulate its own procedure.

(2) Any representations made to the Board and any documents furnished to it by way of evidence shall be open to inspection on payment of such fee as may be prescribed, by any person interested in the matter.

(3) If, for any reason, a vacancy occurs in the office of Chairman or any other member of the Board, the Central Government shall fill the vacancy by appointing another person thereto in accordance with the provisions of Section 9 and any

14. *Ins.* by Act 31 of 1989.

proceeding may be continued before the Board so reconstituted from the stage at which the vacancy occurred.

CASE LAW ▶ Wage board recommendations — Judicial review.—Court has limited jurisdiction to question the decision of the specialised Board on merits especially when the Board was constituted for this sole purpose, *ABP (P) Ltd. v. Union of India*, (2014) 3 SCC 327 : (2014) 1 SCC (L&S) 565.

▶ **Functions and powers of Wage Board.**—Wage Board established under 1955 Act, not an Industrial Tribunal under ID Act, 1947, *Bennett Coleman & Co. Ltd. v. State of Bihar*, (2015) 11 SCC 204.

▶ **Wage fixation/revision.**—Wage Board has special powers to regulate its own procedure as long as it follows principles of natural justice and fairness, *ABP (P) Ltd. v. Union of India*, (2014) 3 SCC 327 : (2014) 1 SCC (L&S) 565.

12. Powers of Central Government to enforce recommendations of the Wage Board.—(1) As soon as may be, after the receipt of the recommendations of the Board, the Central Government shall make an order in terms of the recommendations or subject to such modifications, if any, as it thinks fit, being modifications which, in the opinion of the Central Government, do not effect important alterations in the character of the recommendations.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may, if it thinks fit,—

(a) make such modifications in the recommendations, not being modifications of the nature referred to in sub-section (1), as it thinks fit: Provided that before making any such modifications, the Central Government shall cause notice to be given to all persons likely to be affected thereby in such manner as may be prescribed, and shall take into account any representations which they may make in this behalf in writing; or

(b) refer the recommendations or any part thereof to the Board, in which case, the Central Government shall consider its further recommendations and make an order either in terms of the recommendations or with such modifications of the nature referred to in sub-section (1) as it thinks fit.

(3) Every order made by the Central Government under this section shall be published in the Official Gazette, together with the recommendations of the Board relating to the order and the order shall come into operation on the date of publication or on such date, whether prospectively, or retrospectively, as may be specified in the order.

CASE LAW ▶ Power of Government to enforce Wage Board recommendations — Scope.—It is the prerogative of the Central Government to accept or reject recommendations of Wage Boards. There is no scope for hearing the parties once again by the Central Government while accepting or modifying the recommendations, except if modifications are of such nature which alter the character of the recommendations and such modification is likely to affect the parties. Mere fact that Government has not accepted a few recommendations will not automatically affect the validity of the entire Report, *ABP (P) Ltd. v. Union of India*, (2014) 3 SCC 327 : (2014) 1 SCC (L&S) 565.

► **Wilful disobedience/Contumacious conduct.**—Part-implementation/non-implementation of Majithia Wage Board Award by newspaper establishments concerned was on account of what said establishments perceived to be scope and ambit of award, and hence, newspaper establishments not guilty of contempt, *Avishek Raja v. Sanjay Gupta*, (2017) 8 SCC 435.

13. Working journalists entitled to wages at rates not less than those specified in the order.—On the coming into operation of an order of the Central Government under Section 12, every working journalist shall be entitled to be paid by his employer wages at the rate which shall in no case be less than the rate of wages specified in the order.

STATE AMENDMENTS

DELHI.—In its application to the National Capital Territory of Delhi, after the words “every working journalist”, the words “including contractual employees” shall be *inserted*. [Vide Delhi Act 4 of 2018, S. 3 (w.e.f. 7-5-2018)]

13-A. Power of Government to fix interim rates of wages.—(1) Notwithstanding anything contained in this Act, where the Central Government is of opinion that it is necessary so to do, it may, after consultation with the Board, by notification in the Official Gazette, fix interim rates of wages in respect of working journalists.

(2) Any interim rates of wages so fixed shall be binding on all employers in relation to newspaper establishments and every working journalist shall be entitled to be paid wages at a rate which shall, in no case, be less than interim rates of wages fixed under sub-section (1).

(3) Any interim rates of wages fixed under sub-section (1) shall remain in force until the order of the Central Government under Section 12 comes into operation.]

CASE LAW ► Fixation of interim rates of wages.—At the stage of fixation of interim rates of wages it is not necessary to hear the parties or to conform to the procedure prescribed in Section 12, *Ananda Bazar Patrika Ltd. v. Union of India*, (1989) 2 LLN 187 : 1989 Lab IC 281 (Cal).

¹⁵[**13-AA. Constitution of Tribunal for fixing or revising rates of wages in respect of working journalists.**—(1) Notwithstanding anything contained in this Act, where the Central Government is of opinion that the Board constituted under Section 9 for the purpose of fixing or revising rates of wages in respect of working journalists under this Act has not been able to function (for any reason whatsoever) effectively, and in the circumstances, it is necessary so to do, it may, by notification in the Official Gazette, constitute a Tribunal, which shall consist of a person who is, or has been, a Judge of a High Court or the Supreme Court for the purpose of fixing or revising rates of wages in respect of working journalists under this Act.

(2) The provisions of Sections 10 to 13-A shall apply to, and in relation to, the Tribunal constituted under sub-section (1) of this section, the Central Government and working journalists, subject to the modifications that—

(a) the references to the Board therein, wherever they occur, shall be construed as references to the Tribunal;

15. Ins. by Act 6 of 1979 (w.e.f. 31-1-1979).

(b) in sub-section (3) of Section 11,—

(i) the reference to the office of Chairman or any other member of the Board shall be construed as a reference to the office of the person constituting the Tribunal; and

(ii) the reference to Section 9 shall be construed as a reference to sub-section (1) of this section; and

(c) the references in Section 13 and Section 13-A to Section 12 shall be construed as references to Section 12 read with this section.

(3) The Tribunal, in discharging its functions under this Act, may act on the evidence recorded by the Wage Board or partly recorded by the Wage Board and partly recorded by itself:

Provided that if the Tribunal is of opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, it may re-summon any such witness, and after such further examination, cross-examination and re-examination, if any, as it may permit, the witness shall be discharged.

(4) On the constitution of a Tribunal under sub-section (1), the Board constituted under Section 9 and functioning immediately before such constitution shall cease to exist and the members constituting that Board shall be deemed to have vacated their offices:

Provided that any interim rates of wages fixed by the Central Government under Section 13-A in respect of working journalists and in force immediately before the constitution of the Tribunal shall remain in force until the order of the Central Government under Section 12 read with this section comes into operation.]

¹⁶[CHAPTER II-A

NON-JOURNALIST NEWSPAPER EMPLOYEES

13-B. Fixation or revision of rates of wages of non-journalists newspaper employees.—(1) The Central Government may, in the manner hereinafter provided,—

(a) fix rates of wages in respect of non-journalist newspaper employees; and

(b) revise, from time to time, at such intervals as it may think fit, the rates of wages fixed under this section.

(2) The rates of wages may be fixed or revised by the Central Government in respect of non-journalist newspaper employees for time work and for piece work.

13-C. Wage Board for fixing or revising rates of wages in respect of non-journalist newspaper employees.—For the purpose of fixing or revising rates of wages in respect of non-journalist newspaper employees under this Act, the Central Government shall, as and when necessary, constitute a Wage Board which shall consist of—

16. *Ins.* by Act 60 of 1974.

- (a) [three persons]¹⁷ representing employers in relation to newspaper establishments;
- (b) [three persons]¹⁸ representing non-journalist newspaper employees; and
- (c) [four independent persons]¹⁹, one of whom shall be a person who is, or has been, a Judge of a High Court or the Supreme Court and who shall be appointed by that Government as the Chairman thereof.

13-D. Application of certain provisions.—The provisions of Sections 10 to 13-A shall apply to, and in relation to, the Board constituted under Section 13-C, the Central Government and non-journalist newspaper employees, subject to the modifications that—

- (a) the references to the Board and working journalists therein, wherever they occur, shall be construed respectively as references to the Board constituted under Section 13-C and to non-journalist newspaper employees;
- (b) the references in sub-section (3) of Section 11 to Section 9 shall be construed as a reference to Section 13-C; and
- (c) the references in Section 13 and Section 13-A to Section 12 shall be construed as references to Section 12 read with this section.]

²⁰[**13-DD. Constitution of Tribunal for fixing or revising rates of wages in respect of non-journalist newspaper employees.**—(1) Notwithstanding anything contained in this Act, where the Central Government is of opinion that the Board constituted under Section 13-C for the purpose of fixing or revising rates of wages in respect of non-journalist newspaper employees under this Act has not been able to function (for any reason whatsoever) effectively, and in the circumstances, it is necessary so to do, it may, by notification in the Official Gazette, constitute a Tribunal, which shall consist of a person who is, or has been, a Judge of a High Court or the Supreme Court, for the purpose of fixing or revising rates of wages in respect of non-journalist newspaper employees under this Act.

(2) The provisions of Sections 10 to 13-A shall apply to, and in relation to, the Tribunal constituted under sub-section (1) of this section, the Central Government and non-journalist newspaper employees, subject to the modifications that—

- (a) the references to the Board and working journalists therein, wherever they occur, shall be construed respectively as references to the Tribunal and to non-journalist newspaper employees;
- (b) in sub-section (3) of Section 11,—
 - (i) the reference to the office of Chairman or any other member of the Board shall be construed as a reference to the office of the person constituting the Tribunal; and

17. Subs. for "two persons" by Act 34 of 1996, S. 3.

18. Subs. for "two persons" by Act 34 of 1996, S. 3.

19. Subs. for "three independent persons" by Act 34 of 1996, S. 3.

20. Ins. by Act 6 of 1979 (w.e.f. 31-1-1979).

- (ii) the reference to Section 9 shall be construed as a reference to sub-section (1) of this section; and
- (c) the references in Section 13 and Section 13-A to Section 12 shall be construed as references to Section 12 read with this section.

(3) The Tribunal, in discharging its functions under this Act, may act on the evidence recorded by the Wage Board or partly recorded by the Wage Board and partly recorded by itself:

Provided that if the Tribunal is of opinion that further examination of any of the witnesses whose evidence has already been recorded is necessary in the interests of justice, it may re-summon any such witness, and after such further examination, cross-examination and re-examination, if any, as it may permit, the witness shall be discharged.

(4) On the constitution of a Tribunal under sub-section (1), the Board constituted under Section 13-C and functioning immediately before such constitution shall cease to exist and the members constituting that Board shall be deemed to have vacated their offices:

Provided that any interim rates of wages fixed by the Central Government under Section 13-A read with Section 13-D in respect of non-journalist newspaper employees and in force immediately before the constitution of the Tribunal shall remain in force until the order of the Central Government under Section 12 read with this section comes into operation.]

CHAPTER III

APPLICATION OF CERTAIN ACTS TO NEWSPAPER EMPLOYEES

14. Act 20 of 1946 to apply to newspaper establishments.—The provisions of the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946), as in force for the time being, shall apply to every newspaper establishment wherein twenty or more newspaper employees are employed or were employed on any day of the preceding twelve months as if such newspaper establishment were an industrial establishment to which the aforesaid Act has been applied by a notification under sub-section (3) of Section 1 thereof, and as if a newspaper employee were a workman within the meaning of that Act.

15. Act 19 of 1952 to apply to newspaper establishments.—The Employees' Provident Funds Act, 1952 (19 of 1952), as in force for the time being, shall apply to every newspaper establishment in which twenty or more persons are employed on any day, as if such newspaper establishment were a factory to which the aforesaid Act had been applied by a notification of the Central Government under sub-section (3) of Section 1 thereof, and as if a newspaper employee were an employee within the meaning of that Act.

CHAPTER IV

MISCELLANEOUS

16. Effect of laws and agreements inconsistent with this Act.—(1) The provisions of this Act shall have effect notwithstanding anything inconsistent

therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the commencement of this Act:

Provided that where under any such award, agreement, contract of service or otherwise, a newspaper employee is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act, the newspaper employee shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed to preclude any newspaper employee from entering into an agreement with an employer for granting him rights or privileges in respect of any matter which are more favourable to him than those to which he would be entitled under this Act.

CASE LAW ► Recommendation of the Wage Board.—Para 3.40 of the recommendation of the Wage Board accepted by the Government of India in Notification dated 12-11-1963, enabling continuance in service up to the age of sixty years, supersedes a contrary provision in the Standing Order, *Samaj v. State of Orissa*, 1990 Lab IC 1867 : (1992) 2 LLN 237 : (1992) 1 LLJ 606 (Ori)(DB).

► **Payment of Gratuity Act of 1972.**—Section 14 of the Gratuity Act of 1972 does not override the provisions of Section 16 of the Journalist Act, *Management of Indian Express Newspapers (Madurai) P. Ltd., Bangalore v. J.M. Jeshwant*, (1998) 2 LLJ 916 (Kant)(DB).

²¹[**16-A. Employer not to dismiss, discharge, etc., newspaper employees.**—No employer in relation to a newspaper establishment shall, by reason of his liability for payment of wages to newspaper employees at the rates specified in an order of the Central Government under Section 12, or under Section 12, read with Section 13-AA or Section 13-DD, dismiss, discharge or retrench any newspaper employee.]

²²[**17. Recovery of money due from an employer.**—(1) Where any amount is due under this Act to a newspaper employee from an employer, the newspaper employee himself, or any person authorised by him in writing in this behalf, or in the case of the death of the employee, any member of his family may, without prejudice to any other mode of recovery, make an application to the State Government, for the recovery of the amount due to him, and if the State Government, or such authority, as the State Government may specify in this behalf, is satisfied that any amount is so due, it shall issue a certificate for that amount to the Collector, and the Collector shall proceed to recover that amount in the same manner as an arrear of land revenue.

(2) If any question arises as to the amount due under this Act to a newspaper employee from his employer, the State Government may, on its own motion or upon application made to it, refer the question to any Labour Court constituted by it under the Industrial Disputes Act, 1947 (14 of 1947) or under any corresponding law relating to investigation and settlement of industrial disputes in force in the

21. *Ins.* by Act 36 of 1981, S. 3 (w.e.f. 13-8-1980).

22. Ss. 17, 17-A and 17-B *subs.* for S. 17 by Act 65 of 1962.

State and the said Act or law shall have effect in relation to the Labour Court as if the question so referred were a matter referred to the Labour Court for adjudication under that Act or law.

(3) The decision of the Labour Court shall be forwarded by it to the State Government which made the reference and any amount found due by the Labour Court may be recovered in the manner provided in sub-section (1).

STATE AMENDMENTS

DELHI.—In its application to the National Capital Territory of Delhi, after sub-section (1) of Section 17, sub-section (1-A) shall be *inserted*:—

“(1-A) Without prejudice to any other penalty to which the employer may be liable under this Act, the authority may direct the payment of compensation not exceeding five times of the amount of the wages due to the new paper employee.”. [Vide Delhi Act 4 of 2018, S. 4 (w.e.f. 7-5-2018)]

CASE LAW ▶ Applicability.—Section 17(1) can apply only when there is no dispute of any nature with regard to status of claimant or quantum of amount claimed, *Daily Navjyoti, Ajmer v. Appointed Authority under Section 17(1) of Working Journalists Act*, (1998) 2 Cur LR 1023 : (1998) 2 LLJ 705 (Raj)(DB).

In view of the provisions of Section 17 and Rule 36, an application can be made by the aggrieved journalist to the State Government where the central or branch office of the newspaper establishment is situated and the said State Government is competent to refer the matter to the Labour court irrespective of the fact that his conditions of service were being regulated from a place in another State, *Tribhuvannath v. Bennett, Coleman & Co.*, (1994) 1 LLN 236 : 69 FLR 611 (P&H).

▶ **Issue of jurisdiction.**—In a reference under Section 17(2), Labour Court has to decide first the issue as to jurisdiction as preliminary issue, *B.M. Jambunathan v. Presiding Officer*, (2001) 91 FLR 684 (Mad).

▶ **Jurisdiction under provisions.**—Jurisdiction under provisions of Section 17(1) can be invoked only by a working journalist as defined under Section 2(f) of the Act, *Indian Express Ltd. v. P.P. Kothari*, 2015 SCC OnLine Bom 8264 (Bom) : (2015) 6 Mah LJ 199 (Bom) : (2015) 4 AIR Bom R 672 (Bom).

▶ **Claim under this section.**—Ex-employees can also prefer claims under Section 17(1), the only requirement being that the claims must have arisen or accrued while the claimant was in employment, *Bennett, Coleman & Co. v. P.P. Das Gupta*, (1969) 2 SCC 1.

▶ **Status of the claimant.**—In a reference under Section 17(2), the Labour Court can decide the status of the claimant, *Samyuktha Karnataka v. M.L. Satyanarayana Rao*, (1985) 2 LLN 1009 (Kant) : 1986 Lab IC 626 : (1986) 2 LLJ 72. But see *Keshavlal M. Rao v. State of Gujarat*, (1993) 1 LLN 373 : (1993) 1 Cur LR 566 : (1993) 66 FLR 627 (Guj)(DB).

▶ **Other modes of recovery.**—The words without prejudice to any other mode of recovery “indicate that other modes of recovery, like civil suit, resort to Industrial Disputes Act or any other remedy that might be available, are not barred, *Tribune Trust v. Presiding Officer, Labour Court*, 1994 Lab IC 1385 (P&H).

▶ **Question for adjudication.**—Only that State Government, to which the application under Section 17(1) was made, could refer a question for adjudication under Section 17(2), even if subsequent to the making of the application the employee was transferred to a place in another State, *Samarjit Ghosh v. Bennett, Coleman & Co.*, (1987) 3 SCC 507 : 1987 SCC (L&S) 257: reversing *Samarjit Ghosh v. Bennett, Coleman & Co.*, 1985 Lab IC 953 (Cal)(DB).



17-A. Maintenance of registers, records and muster-rolls.—Every employer in relation to a newspaper establishment shall prepare and maintain such registers, records and muster-rolls and in such manner as may be prescribed.

17-B. Inspectors.—(1) The State Government may, by notification in the Official Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act and may define the local limits within which they shall exercise their functions.

(2) Any Inspector appointed under sub-section (1) may for the purpose of ascertaining whether any of the provisions of this Act or of the Working Journalists (Fixation of Rates of Wages) Act, 1958 (29 of 1958) have been complied with in respect of a newspaper establishment—

- (a) require an employer to furnish such information as he may consider necessary;
- (b) at any reasonable time enter any newspaper establishment or any premises connected therewith and require anyone found in charge thereof to produce before him for examination any accounts, books, registers and other documents relating to the employment of persons or the payment of wages in the establishment;
- (c) examine with respect to any matter relevant to any of the purposes aforesaid, the employer, his agent or servant or any other person found in charge of the newspaper establishment or any premises connected therewith or any person whom the Inspector has reasonable cause to believe to be or to have been an employee in the establishment;
- (d) make copies of or take extracts from any book, register or other documents maintained in relation to the newspaper establishment;
- (e) exercise such other powers as may be prescribed.

(3) Every Inspector shall be deemed to be a public servant within the meaning of the Indian Penal Code (45 of 1860).

(4) Any person required to produce any document or thing or to give information by an Inspector under sub-section (2) shall be legally bound to do so.]

18. Penalty.—²³[(1) If any employer contravenes any of the provisions of this Act or any rule or order made thereunder, he shall be punishable with fine which may extend to two hundred rupees.

(1-A) Whoever, having been convicted of any offence under this Act, is again convicted of an offence involving the contravention of the same provision, shall be punishable with fine which may extend to five hundred rupees.

(1-B) Where an offence has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

23. Sub-secs. (1), (1-A), (1-B), (1-C) and (1-D) *subs.* for sub-sec. (1) by Act 65 of 1962.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this section, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(1-C) Notwithstanding anything contained in sub-section (1-B) where an offence under this section has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to, any gross negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of such offence and shall be liable to be proceeded against and punished accordingly.

(1-D) For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” in relation to a firm means a partner in the firm.]

(2) No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence punishable under this section.

(3) No court shall take cognisance of an offence under this section, unless the complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

STATE AMENDMENTS

DELHI.—(1) In its application to the National Capital Territory of Delhi, in sub-section (1) of the Section 18, for the words “fine which may extend to two hundred rupees.”, shall be *substituted* by the words “imprisonment of either description which may extend to six months, or fine which may extend to 5,000 rupees or with both : Provided that in the case of non-payment of the due wages to an employee, the employer shall be punishable with imprisonment of either description which may extend to six months, or fine which may extend up to two hundred rupees per employee per day or with both, till the offence is continued.”. [Vide Delhi Act 4 of 2018, S. 5 (w.e.f. 7-5-2018)]

(2) In sub-section (1-A) of the Section 18, for the words “punishable with fine which may extend to five hundred rupee.”, shall be *substituted* by the words “punishable with imprisonment of either description for a term which may extend to one year, and shall also be liable to fine which may extend to 10,000 rupees : Provided that in the case of nonpayment of the due wages to an employee, the employer shall be punishable with imprisonment of either description which may extend to one year, or fine which may extend up to one thousand rupees per employee per day or with both till the offence is continued.”. [Vide Delhi Act 4 of 2018, S. 6 (w.e.f. 7-5-2018)]

19. Indemnity.—No suit, prosecution or other legal proceeding shall lie against the Chairman or any other member of the Board ²⁴[or the person constituting the Tribunal] ²⁵[or an Inspector appointed under this Act] for anything which is in good faith done or intended to be done.

24. Ins. by Act 6 of 1979 (w.e.f. 31-1-1979).

25. Ins. by Act 65 of 1962, S. 7.

²⁶[**19-A. Defects in appointments not to invalidate acts.**—No act or proceeding of the Board shall be questioned on the ground merely of the existence of any vacancy in, or defect in the constitution of the Board.]

19-B. Saving.—Nothing in this Act or the Working Journalists (Fixation of Rates of Wages) Act, 1958 (29 of 1958) shall apply to [any newspaper employee]²⁷ who is an employee of the Government to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Services (Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the Central Government in the Official Gazette, apply.]

20. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely—

- (a) payment of gratuity to working journalists;
- (b) hours of work of working journalists;
- (c) holidays, earned leave, leave on medical certificate, casual leave or any other kind of leave admissible to working journalists;
- ²⁸[(d) the procedure to be followed by the Board ²⁹[or, as the case may be, the Tribunal,] in the discharge of its functions under this Act;
- (e) the form of nominations, and the manner in which nominations may be made;
- (f) the manner in which any person may be appointed for the purposes of sub-section (3) of Section 5-A;
- (g) the variation or cancellation of nominations;
- (h) the manner of giving notice under clause (a) of sub-section (2) of Section 12;
- (i) the registers, records and muster-rolls to be prepared and maintained by newspaper establishments, the forms in which they should be prepared and maintained and the particulars to be entered therein;
- (j) the powers that may be exercised by an Inspector;
- (k) any other matter which has to be, or may be, prescribed.]

³⁰[(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session ³¹[or in two or more successive

26. Ss. 19-A and 19-B *ins.* by Act 65 of 1962, S. 8.

27. *Subs.* by Act 60 of 1974.

28. *Subs.* by Act 65 of 1962.

29. *Ins.* by Act 6 of 1979 (w.e.f. 31-1-1979).

30. *Subs.* by 65 of 1962, S. 9.

31. *Subs.* by Act 60 of 1974.

sessions], and if before the expiry of the session ³²[immediately following the session or the successive sessions aforesaid] both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

21. Repeal of Act 1 of 1955.—[Repealed by Act 58 of 1960].

³³[SCHEDULE

[See Section 2(d)]

1. For the purposes of clause (d) of Section 2,—

- (1) two or more newspaper establishments under common control shall be deemed to be one newspaper establishment;
- (2) two or more newspaper establishments owned by an individual and his or her spouse shall be deemed to be one newspaper establishment unless it is shown that such spouse is a sole proprietor or partner or a shareholder of a corporate body on the basis of his or her own individual funds;
- (3) two or more newspaper establishments publishing newspapers bearing the same or similar title and in the same language in any place in India or bearing the same or similar title but in different languages in the same State or Union territory shall be deemed to be one newspaper establishment.

2. For the purposes of paragraph 1(1), two or more establishments shall be deemed to be under common control—

- (a)(i) where the newspaper establishments are owned by a common individual or individuals;
- (ii) where the newspaper establishments are owned by firms, if such firms have a substantial number of common partners;
- (iii) where the newspaper establishments are owned by bodies corporate, if one body corporate is a subsidiary of the other body corporate, or both are subsidiaries of a common holding company or a substantial number of their equity shares are owned by the same person or group of persons, whether incorporated or not;
- (iv) where one establishment is owned by a body corporate and the other is owned by a firm, if a substantial number of partners of the firm together hold a substantial number of equity shares of the body corporate;
- (v) where one is owned by a body corporate and the other is owned by a firm having bodies corporate as its partners if a substantial number of equity shares of such bodies corporate are owned, directly or indirectly, by the same person or group of persons, whether incorporated or not, or
- (b) where there is functional integrality between concerned newspaper establishments.]

32. Subs. by Act 60 of 1974.

33. Ins. by Act 31 of 1989 and shall be deemed always to have been inserted.