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Part IV—Section 2

Tamil Nadu Acts and Ordinances

The following Act of the Tamil Nadu Legislative Assembly received the assent of the President on the 26th June 2016 and is hereby published for general information:-

ACT No. 11 OF 2016.

An Act further to amend the Industrial Employment (Standing Orders) Act, 1946 in its application to the State of Tamil Nadu.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Fifty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Industrial Employment (Standing Orders) Tamil Nadu Amendment Act, 2008.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of the State of Tamil Nadu.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

Central Act XX
of 1946.

2. For the long title to the Industrial Employment (Standing Orders) Act, 1946 (hereinafter referred to as the principal Act), the following shall be substituted, namely:—

Amendment of
long title.

“An Act to provide for defining with sufficient precision certain conditions of employment in industrial establishments in the State of Tamil Nadu.”

Amendment of
preamble.

3. For the preamble to the principal Act, the following shall be substituted, namely:—

“Whereas it is expedient to provide for defining with sufficient precision certain conditions of employment in industrial establishments in the State of Tamil Nadu and for certain other matters.”.

Amendment of
section 2.

4. In section 2 of the principal Act,—

(1) for clause (a), the following clauses shall be substituted, namely:—

“(a) “amendments” means, in relation to the model standing orders, any amendments proposed to such orders under section 3 and includes any alterations, variations or additions proposed thereto;

(aa) “appellate authority” means an authority appointed by the appropriate Government by notification in the Official Gazette to exercise in such area as may be specified in the notification the functions of an appellate authority under this Act:

Provided that in relation to an appeal pending before an Industrial Court or other authority immediately before the commencement of the Industrial Employment (Standing Orders) Amendment Act, 1963, that Court or authority shall be deemed to be the appellate authority;”;

(2) in clause (d), for sub-clause (iii), the following sub-clause shall be substituted, namely:—

“(iii) in any other industrial establishment,—

(a) any person responsible to the owner for the supervision and control of the industrial establishment;

(b) where a person who, for the purpose of fulfilling a contract with the owner of the industrial establishment, employs workmen on the premises of the establishment for the execution of the whole or any part of any work which is ordinarily part of such establishment then, in relation to such workmen, the owner of the industrial establishment;”;

(3) in clause (e), sub-clause (iv) shall be omitted;

(4) after clause (e), the following clauses shall be inserted, namely:—

“(ee) “model standing orders” means standing orders made under section 15;

(eee) “modification” includes, in relation to a standing order, any alteration, variation, addition or deletion in, or to, such order;”.

Insertion of
new section
2-A.

5. After section 2 of the principal Act, the following section shall be inserted, namely:—

“2-A. Application of model standing order to every industrial establishment.—(1) Where this Act applies to an industrial establishment, the model standing order for every matter set out in the Schedule applicable to such establishment shall apply to such establishment from such date as the State Government may, by notification in the Official Gazette, appoint in this behalf:

Provided that nothing in this section shall be deemed to affect any standing orders which are finally certified under this Act and have come into operation under this Act in respect of any industrial establishment before the date of the coming into force of the Industrial Employment (Standing Orders)

Tamil Nadu Amendment Act, 2008 except those provisions which are inconsistent with the model standing orders:

Provided further that, notwithstanding anything contained in the proviso, any modification made to the model standing orders in respect of the existing matters in the Schedule or model standing orders made in respect of additional matters included in the Schedule after the coming into force of the Industrial Employment (Standing Orders) Tamil Nadu Amendment Act, 2008 shall, apply in relation to such workmen in the establishments referred to in the said proviso from such date as the State Government may, by notification in the Official Gazette, appoint in this behalf.”.

6. In section 3 of the principal Act,—

Amendment of
section 3

(1) for the marginal heading, the marginal heading “Submission of amendments” shall be substituted;

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

“(1) Within six months from the date on which the model standing orders apply to any industrial establishment under section 2-A, the employer or any workmen employed therein may submit to the Certifying Officer five copies of the draft amendments for adoption in such industrial establishment:

Provided that no amendment which provides for the deletion or omission of any rule in the model standing orders relating to any matter set out in the Schedule shall be submitted under this section.”;

(3) sub-section (2) shall be omitted;

(4) in sub-section (3), for the expression “draft standing orders”, the expression “draft amendments” shall be substituted;

(5) in sub-section (4), for the expression “draft of standing orders”, the expression “draft of amendments” shall be substituted.

7. Section 4 of the principal Act shall be omitted.

Omission of
section 4.

8. In section 5 of the principal Act,—

Amendment of
section 5.

(1) in the marginal heading, for the expression “standing orders”, the expression “amendments” shall be substituted;

(2) in sub-section (1), for the expression beginning with the words “to the workmen” and ending with the words “the draft standing orders”, the expression “to the workmen in such manner as may be prescribed or to the employer, as the case may be, together with a notice in the prescribed form requiring objections, if any, which the workmen or employer may desire to make to the draft amendments” shall be substituted;

(3) in sub-section (2),—

(a) for the expression “After giving the employer”, the expression “After giving the employer, the workmen submitting the amendments” shall be substituted;

(b) for the expression “or addition to the draft submitted by the employer is necessary to render the draft standing orders certifiable under this

Act”, the expression “the draft submitted under sub-section (1) of section 3 is necessary” shall be substituted;

(4) in sub-section (3),—

(a) for the expression “certify the draft standing orders”, the expression “certify the draft amendments” shall be substituted;

(b) for the expression “certified standing orders”, the expression “model standing orders together with copies of the certified amendments thereof” shall be substituted;

(c) for the expression “to the employer”, the expression “to the employer, the workmen who submitted the amendments” shall be substituted.

Amendment of
section 6.

9. In section 6 of the principal Act,—

(1) in sub-section (1), for the expression beginning with the words “confirm the standing orders” and ending with the words “certifiable under this Act”, the expression “confirm the amendments either in the form certified by the Certifying Officer or after further modifying the same as the appellate authority thinks necessary” shall be substituted;

(2) in sub-section (2),—

(a) for the expression “to the employer”, the expression “to the employer, the workmen” shall be substituted;

(b) for the expression “unless it has confirmed without amendment the standing orders as certified by the Certifying Officer, by copies of the standing orders”, the expression “unless it has confirmed without further modifications the amendments as certified by the Certifying Officer, by copies of the model standing orders together with the amendments” shall be substituted.

Amendment of
section 7.

10. In section 7 of the principal Act and in the marginal heading thereto, after the expression “standing orders”, the expression “or amendments” shall be inserted.

Amendment of
section 8.

11. In section 8 of the principal Act,—

(1) in the marginal heading, after the expression “standing orders”, the expression “and model standing orders together with all certified amendments” shall be inserted;

(2) after the expression “all standing orders”, the expression “or model standing orders together with all the amendments” shall be inserted.

Amendment of
section 9.

12. In section 9 of the principal Act,—

(1) in the marginal heading, after the expression “standing orders”, the expression “and model standing orders together with all certified amendments” shall be inserted;

(2) after the expression “The text of the standing orders”, the expression “or model standing orders together with all the amendments” shall be inserted.

Amendment of
section 10.

13. In section 10 of the principal Act,—

(1) in sub-section (1),—

(a) after the expression “standing orders” occurring in two places, the expression “or the amendments” shall be inserted;

(b) after the expression "came into operation", the following shall be added, namely:—

"and where model standing orders have not been amended as aforesaid, the model standing orders shall not be liable to such modification until the expiry of one year from the date on which they were applied under section 2-A";

(2) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) Subject to the provisions of sub-section (1), an employer, workmen or any prescribed representatives of workmen desiring to modify the standing orders or the model standing orders together with the amendments, as finally certified under this Act, or the model standing orders applied under section 2-A, as the case may be, shall make an application to the Certifying Officer in that behalf, and such application shall be accompanied by five copies of the standing orders, or the model standing orders, together with all amendments thereto as certified under this Act or model standing orders in which shall be indicated the modifications proposed to be made and where such modifications are proposed to be made by agreement between the employer and workmen, a certified copy of the agreement shall be filed along with the application.";

(3) in sub-section (3), for the expression "standing orders", the expression "amendments" shall be substituted.

14. In section 12 of the principal Act,—

Amendment of section 12.

(1) in the marginal heading, for the expression "standing orders", the expression "standing orders, etc.," shall be substituted;

(2) for the expression "standing orders as finally certified under this Act", the expression "standing orders or the model standing orders, or model standing orders with all the amendments as finally certified under this Act, as the case may be," shall be substituted.

15. In section 12-A of the principal Act, in sub-section (2), after the expression "or the Government of State of Maharashtra", the expression "or the Government of State of Tamil Nadu" shall be added.

Amendment of section 12-A.

16. In section 13 of the principal Act,—

Amendment of section 13.

(1) in sub-section (1), for the expression "who fails to submit draft standing orders as required by section 3, or who modifies his standing orders otherwise than in accordance with section 10, shall be punishable", the expression "who modifies the standing orders, model standing orders or amendments otherwise than in accordance with the provisions of this Act shall, on conviction, be punished" shall be substituted;

(2) in sub-section (2), for the expression "the standing orders finally certified under this Act for his industrial establishment shall be punishable", the expression "the standing orders, model standing orders or the amendments, as finally certified under this Act for his industrial establishment, as the case may be, shall, on conviction, be punished" shall be substituted;

(3) after sub-section (2), the following sub-sections shall be inserted, namely:—

"(2-A) Whoever contravenes the provisions of this Act or of any rule made thereunder in cases other than those falling under sub-section (1) or sub-section (2) shall, on conviction, be punished with fine which may extend to one hundred rupees and in the event of such person being previously

convicted of an offence under this Act, with fine which may extend to two hundred rupees and in the case of a continuing offence with a further fine which may extend to twenty-five rupees for every day during which the offence continues.

(2-B) The Court convicting an employer under sub-section (1) or sub-section (2) may direct such employer to pay such compensation as it may determine to any workman directly and adversely affected by the modifications or contravention of the standing orders, model standing orders or amendments, as the case may be.

(2-C) The compensation awarded under sub-section (2-B) may be recovered as if it were a fine and if it cannot be so recovered, the person by whom it is payable shall be sentenced to imprisonment of either description for a term not exceeding three months as the Court thinks fit.”.

Amendment of
section 13-A.

17. In section 13-A of the principal Act,—

(1) in the marginal heading, after the expression “standing orders”, the expression “model standing orders or amendments” shall be inserted;

(2) after the expression “standing order”, the expression “model standing order or amendment” shall be inserted.

Amendment of
section 15.

18. In section 15 of the principal Act, in sub-section (2),—

(1) in clause (a), after the expression “standing orders”, the expression “or amendments” shall be inserted;

(2) in clause (d), for the expression “copies of standing orders entered in the register of standing orders”, the expression “copies of standing orders or model standing orders together with all the amendments filed in the register under section 8” shall be substituted.

Amendment of
Schedule.

19. In the Schedule to the principal Act,—

(1) in the heading,—

(a) for the expression “sections 2 (g) and 3 (2)”, the expression “section 2-A” shall be substituted;

(b) for the expression “Standing Orders”, the expression “Standing Orders, model standing orders and amendments” shall be substituted;

(2) after item 10, the following items shall be inserted, namely:—

“10-A. Employment or re-employment of apprentices, probationers or badlies or temporary or casual workmen, and their conditions of service.

10-B. Fixation of number of percentage of apprentices, probationers or badlies or temporary or casual workmen employed with reference to the total number of workmen employed in that industrial establishment.”.

(By order of the Governor)

S.S. POOVALINGAM,

*Secretary to Government - in-charge,
Law Department.*