



The Orissa Gazette

PUBLISHED BY AUTHORITY.

No. 21. CUTTACK, FRIDAY, SEPTEMBER 18, 1936.

 *Separate paging is given to this Part, in order that it may be filed as a separate compilation.*

PART IV.

Regulations, Orders, Notifications and Rules, of the Government of India, of the Government of Bihar, and of the High Court. Papers extracted from the *Gazette of India* and Provincial Gazettes. Orders of Commandants of Volunteers Corps.

HOME, REVENUE AND FINANCE DEPARTMENTS.

NOTIFICATION.

The 14th September 1936.

No. 4063—IIW-3/36-R.—The following resolution is republished from the *Gazette of India*, dated the 29th August 1936.

A. F. W. DIXON,

Offg. Chief Secretary to Government.

DEPARTMENT OF INDUSTRIES AND LABOUR;

RESOLUTION.

Simla, the 27th August 1936.

No. M.-1250.—The Governor-General in Council, with the sanction of His Majesty's Secretary of State for India in Council, is

pleased to direct that the following further amendment shall be made in the rules regulating the grant by local Governments of licences to prospect for minerals and of mining leases in British India, published with the Resolution of the Government of India in the Department of Commerce and Industry, No. 7552-7581-121, dated the 15th September 1913, as subsequently amended:—

To rule 1 of the said Rules the following proviso shall be added, namely:—

“Provided that the previous sanction of the Secretary of State for India in Council shall not be required to the grant of such licence or lease in accordance with rules made by an authority in India with his previous approval”.

A. G. CLOW,

Secy. to the Govt. of India.

LAW AND COMMERCE DEPARTMENT.

NOTIFICATIONS.

The 8th September 1936.

No. 3460-Com.—The following notification, issued by the Government of India in the Department of Industries and Labour, is republished for general information.

By order of the Governor,

C. G. NAIR,

Secretary to Government.

The 18th August 1936.

No. L-3067.—The following draft of certain rules which the Governor General in Council proposes to make in exercise of the powers conferred by sub-section (1) of section 26 of the Payment of Wages Act, 1936 (IV of 1936), read with section 22 of the General Clauses Act, 1897 (X of 1897), is published as required by sub-section (5) of section 26 of the first named Act for the information of all persons likely to be affected thereby, and notice is hereby given that the draft will be taken into consideration on or after the 22nd November 1936.

Any objection or suggestions which may be received in respect of the draft before the date specified will be considered by the Governor General in Council.

Draft Rules.

1. **Short Title.**—These rules may be called the Payment of Wages (Procedure) Rules, 1936.

2. **Definitions.**—In these rules, unless there is anything repugnant in the subject or context,—

- (a) "the Act" means the Payment of Wages Act (IV of 1936);
- (b) "appeal" means an appeal under section 17;
- (c) "the Authority" means the authority appointed under sub-section (1) of section 15;
- (d) "the Court" means the court mentioned in sub-section (1) of section 17;
- (e) "employer" includes the persons responsible for the payment of wages under section 3;
- (f) "section" means a section of the Act;
- (g) "Form" means a form appended to these rules;
- (h) words and expressions defined in the Act shall be deemed to have the same meaning as in the Act.

3. **Form of Application.**—Applications under sub-section (2) of section 15 by or on behalf of an employed person or group of employed persons shall be made in duplicate in Form A, Form B or Form C as the case may be, one copy of which shall bear the prescribed court-fee:

Provided that no application presented by an Inspector under the Act shall be required to bear a court-fee.

4. **Authorisations.**—The authorisation to act on behalf of an employed person or persons, under section 15, shall be given by a certificate in Form D and shall bear the prescribed court-fee, shall be presented to the Authority hearing the application and shall form part of the record.

5. **Permission to appear.**—Any person desiring the permission of the Authority to act on behalf of any employed person or persons shall present to the Authority a brief written statement explaining his interest in the matter, and the Authority shall record an order on the statement, which in the case of refusal shall include reasons for the order, and shall incorporate it in the record.

6. **Presentation of applications.**—Any application, or any other document relevant to an application may be presented in person to the Authority at any time during hours to be fixed by the Authority, or may be sent to him by registered post. The Authority shall at once endorse, or cause to be endorsed, on the document the date of the presentation or receipt, as the case may be.

7. **Rejection of application.**—(1) The Authority may refuse to entertain an application presented under rule 3, if after giving the applicant an opportunity of being heard, the Authority is satisfied, for reasons to be recorded in writing that—

- (a) the applicant is not entitled to present an application, or
- (b) the application is barred by reason of the provisions in the provisos to sub-section (2) of section 15, or
- (c) the applicant shows no sufficient cause for making a direction under section 15.

(2) The Authority shall refuse to entertain any application which bears an insufficient court-fee and shall return it at once for representation after the deficit has been made good. The date of such representation shall be taken to be the date of presentation for determining whether an application is presented within the time prescribed by sub-section (2) of section 15.

8. **Appearance of parties.**—(1) If the application is entertained, the Authority shall call upon the employer by a notice in Form E, delivered by registered post, to appear

before him on a specified date together with all relevant documents and witnesses, if any, and shall inform the applicant of the date so specified.

(2) If the employer or his representative fails to appear on the specified date, the Authority may proceed to hear and determine the application *ex parte*.

(3) If the applicant fails to appear on the specified date, the Authority may dismiss the application:

Provided that an order passed under sub-rule (2) or sub-rule (3) may be set aside and the application reheard on good cause being shown within one month of the date of the said order.

9. *Further inquiry*.—When the Authority considers that a further inquiry is necessary, he shall proceed to make such enquiry or depute such other person as he may deem fit to make the enquiry.

10. *Record of Proceedings*.—(i) In a case where no appeal lies, the Authority need not record the evidence, but shall enter the particulars in Form F.

(ii) In each case in which an appeal lies, the Authority shall enter the particulars in Form F and, before disposing of the case, shall embody in it the substance of the evidence.

11. *Appeals*.—(1) An appeal shall be preferred in duplicate in the form of a memorandum one copy of which shall bear the prescribed court-fee, setting forth concisely the grounds of objection to the direction and shall be accompanied by a certified copy of that direction.

(2) When an appeal is lodged a notice shall issue to the respondent in Form G.

(3) The Court after hearing the parties and after such further inquiry, if any, as it may deem necessary, may confirm, vary, or set aside the direction from which the appeal is preferred, and shall make an order accordingly.

12. *Inspection of documents*.—Any employed person, or any employer or his representative, or any person permitted under sub-section (2) of section 15 to apply for a direction, shall be entitled to inspect any application, memorandum of appeal, or any other document filed with the Authority or the Court, as the case may be, in a case to which he is a party, and may obtain copies thereof on the payment of such fees as may be prescribed.

FORM A.

Form of Individual Application.

[See sub-section (2) of section 15 of the Payment of Wages Act].

In the Court of the Authority appointed under the Payment of Wages Act (IV of 1936) for _____ area.

Application No. _____ of 193

Between A. B. C.

.....applicant.

(through

_____ a
an
legal practitioner,
official of _____
which is a registered
trade union).

And X. Y. Z. opposite party.

The applicant states as follows:—

1. A. B. C. is a person employed ⁱⁿ the
factory _____ on
railway _____ entitled _____
industrial establishment _____

and resides at _____

The address of the applicant for the service of all notices and processes is:—

2. X. Y. Z., the opposite party, is the person responsible for the payment of his wages under section 3 of the Act, and his address for the service of all notices and processes is:—

3. (1) The applicant's wages have not been paid for the following wage period (s)

(give dates)

Or A sum of Rs. _____ has been unlawfully deducted from his wages of (amount) for the wage period (s) which ended on [give date (s)].

(2) [Here give any further claim or explanation].

4. The applicant estimates the value of the relief sought by him at the sum of rupees _____

5. The applicant prays that a direction may be issued under sub-section (3) of section 15 for:—

(a) Payment of his delayed wages as estimated or such greater or lesser amount as the Authority may find to be due.

Or Refund of the amount illegally deducted.

(b) Compensation amounting to.....

The applicant certifies that the statement of facts contained in this application is to the best of his knowledge and belief accurate.

Signature _____ of the employed person, or
Thumb impression _____ legal practitioner, or official of a registered
trade union duly authorised.

FORM B.

Form of Group Application.

[See sub-section (2) of section 15 and section 16 of the Payment of Wages Act.]

In the Court of the Authority appointed under the Payment of Wages Act (IV of 1936) for _____ area,

Application No. _____ of 19 .

Between A. B. C. and † _____ others,
applicants;
(through _____ a legal practitioner
an official of _____

which is a registered trade union).

And X. Y. Z. _____, opposite party.

The applicants state as follows:—

1. The applicants whose names appear in the attached schedule are persons employed in _____
the _____ factory
_____ railway entitled
_____ industrial establishment

The address of the applicants for service of all notices and processes is _____

2. X. Y. Z., the opposite party, is the person responsible for the payment of wages under section 3 of the Act, and his address for the service of all notices and processes is:—

3. The applicants' wages have not been paid for the following wage period (s) _____

4. The applicants estimate the value of the relief sought by them at the sum of rupees _____

5. The applicants pray that a direction may be issued under sub-section (3) of section 15 for:—

(a) Payment of the applicants' delayed wages as estimated _____
or such greater or lesser amount as the Authority may find to be due.

(b) Compensation amounting to _____

The applicants certify that the statement of facts contained in this application is to the best of their knowledge and belief accurate.

Signature of thumb impression of two of the applicants or legal practitioner, or an official of a registered trade union duly authorised.

† State the number.

Schedule.

Names of applicants:—

1.

2.

3.

4.

*

*

*

FORM C.

Form of Application by an Inspector or person permitted by the Authority or authorised to act.

[See sub-section (2) of section 15 and section 16 of the Payment of Wages Act].

In the Court of the Authority appointed under the Payment of Wages Act, 1936, for _____ area.

Application No. _____ of 193 .

Between

A. B. C., [(designation), an Inspector under the Payment of Wages Act], [or a person permitted by the Authority _____ authorised _____ to act under sub-section (2) of section 15].....applicant.

And

X. Y. Z.....the opposite party.

The applicant states as follows:—

1. X. Y. Z., the opposite party, is the person responsible under the Act for the payment of wages to the following person (s):—

(1)

(2)

(3)

*

*

2. His address for the service of all notices and processes is:—

3. The wages of the said person (s) due in respect of the following wage periods.

_____ have not been paid.

_____ have been subjected to the following illegal deductions:—

4. The applicant estimates the value of relief sought for the person (s) employed at the sum of Rs. _____.

5. The applicant prays that a direction may be issued under sub-section (3) of section 15 for:—

(a) Payment of the delayed wages as estimated or such greater or lesser amount as the Authority may find to be due.

Or Refund of the amount illegally deducted.

(b) Compensation amounting to.....

The applicant certifies that the statement of facts contained in this application is to the best of his knowledge and belief accurate.

Signature.

FORM D.

Certificate of Authorisation.

I
We employed person (s) hereby authorise

a legal practitioner
an official of _____

which is a registered trade union
to act on my behalf under section 15, and
our section 17 of the Payment of Wages Act (IV of 1936).

Witnesses (1)	Signatures (1)
(2)	(2)
(3)	(3)
(4)	(4)
*	*
*	*
*	*

I accept the authorisation.

Signature.

Legal practitioner.
Official of a registered trade union.

FORM E.

Notice for the disposal of application.

To _____

Whereas under the Payment of Wages Act, 1936 (IV of 1936), a claim against you has been presented to me in the application of which a copy is enclosed, you are hereby called upon to appear before me either in person, or by any person duly instructed, and able to answer all material questions relating

to the application, or who shall be accompanied by some person able to answer all such questions, on the _____ day of _____ 19 at _____ o'clock in the fore _____ noon to answer the claim; and as the day fixed for your appearance is appointed for the final disposal of the application, you must be prepared to produce on that day all the witnesses upon whose evidence, and the documents upon which you intend to rely in support of your defence.

Take notice that, in default of your appearance on the day before mentioned, the application will be heard and determined in your absence.

Given under my hand and seal, this day of _____ 193 .

Seal.

Authority.

FORM F.

Record of Direction.

- (a) Serial number;
- (b) Date of the application;
- (c) Name or names, parentage, address, or addresses of the applicants, or some, or all of the applicants belonging to the same unpaid group;
- (d) Name and address of the employer;
- (e) Amount claimed as deducted from wages;
- (f) Amounts claimed as delayed wages;
- (g) Plea of the employer and his examination (if any);
- (h) Finding, and, in the case of a direction under sub-sections (3) or (4) of section 15, a brief statement of the reasons therefor;
- (i) Amounts awarded—
 - (1) Delayed wages.....
 - (2) Deducted wages.....
- (j) the compensation awarded;
- (k) the penalty imposed;
- (l) the date on which proceedings terminated.

FORM G.

Notice to respondent of the day fixed for the hearing of the appeal under section 17 of the Payment of Wages Act, 1936.

Appeal from the decision of the Authority for the _____ area, dated the _____ day of _____ 193 .

To

Respondent.

Take notice that an appeal of which a copy is enclosed, from the decision of the Authority for _____ area has been presented by X. Y. Z. (and others), and registered in this Court, and that the _____ day of _____ 193 , has been fixed by this Court for the hearing of this appeal.

If no appearance is made on your behalf by yourself, or by some one by law authorised to act for you in this appeal, it will be heard and decided in your absence.

Given under my hand and the seal of the Court, this _____ day of _____ 193 .

Judge.

Seal.

Seal of the Court.

A. G. CLOW,

*Secretary to the Govt. of India.**The 9th September 1936.*

No. 3497-Com.—The following notification, issued by the Government of India in the Finance Department (Central Revenues), is republished for general information.

By order of the Governor,

C. G. NAIR.

Secretary to Government,

CUSTOMS.

Simla, the 22nd August 1936.

No. 56.—In exercise of the powers conferred by section 19 of the Sea Customs Act, 1878 (VIII of 1878), the Governor General in Council is pleased to prohibit the bringing into British India of any copy of the book entitled "Old-Soldier Sahib" by Private Frank Richards, published by Faber and Faber Limited, London.

W. W. NIND,

*Joint Secy. to the Govt. of India.**The 15th September 1936.*

No. 3690-Com.—The following notification, issued by the Government of India in the Department of Industries and Labour, is republished for general information.

By order of the Governor,

C. G. NAIR,

*Secretary to Government.**Simla, the 29th August 1936.*

No. M.-1077.—In exercise of the powers conferred by section 29 of the Indian Mines Act, 1923 (IV of 1923), the Governor General in Council is pleased to direct that the

following further amendments shall be made in the Indian Coal Mines Regulations, 1926, the same having been previously published as required by sub-section (1) of section 31 of the said Act, namely:—

In the said Regulation—

I. In regulation 2 after clause (c), the following clause shall be inserted, namely:—

"(cc) "Permitted Explosive" means an explosive permitted by the Chief Inspector under such definition and subject to such conditions as he may from time to time lay down by notification in the Gazette of India."

II. After regulation 96, the following regulation shall be inserted, namely:—

"96 A. In every underground part of a mine in which inflammable gas has been found during the previous twelve months or in which there is a risk of inflammable gases entering the mine from an underground fire,—

- (1) main haulage and travelling roads shall, as far as practicable, be kept free from accumulations of fine coal dust;
- (2) all coal tubs shall be so constructed and maintained as to prevent, as far as practicable, coal dust escaping through their sides, ends or floors."

III. For regulation 107 the following regulation shall be substituted, namely:—

"107. The amount of every charge of explosive shall not be disproportionate to the work to be done. The charge shall be placed in a properly drilled and placed shot hole and shall have sufficient stemming. A sufficient supply of suitable non-inflammable stemming material shall be provided at places convenient to the shot-fiers."

IV. In regulation 111, for the words "clay or other non-inflammable substance" the words "suitable non-inflammable substances" shall be substituted.

V. (1) In regulation 116, for the words and figures "unless the explosive is one of the "Permitted Explosives" allowed to be used by any order under the Coal Mines Act, 1911" the words "unless the explosive is a Permitted Explosive" shall be substituted.

(2) in the margin to the said regulation the figures, word and letters "1 and 2 Geo. 5, Ch. 50" shall be omitted.

VI. After regulation 116, the following regulation shall be inserted, namely:—

"116-A. In any mine in which the use of "Permitted Explosives" is required by these regulations or by any bye-law or order made under the Act:—

- (a) where more shots than one are charged for firing, the shots shall be fired simultaneously;
- (b) the aggregate charge in any number of shots fired simultaneously in coal shall not exceed the permissible maximum charge laid down by the Chief Inspector for the kind of "Permitted Explosive" used;
- (c) no shot shall be fired in coal in any gallery unless—
 - (1) the coal has been undercut, overcut or sidecut; and

(2) the length of the shot hole is at least six inches less than the length of the cut."

VII. For regulation 124, the following regulation shall be substituted, namely:—

"124. In every mine in which inflammable gas has been found during the previous twelve months, safety lamps shall be used in all galleries driven to a distance greater than the length of two pillars ahead of the last connecting gallery and in all advance galleries less than five feet wide, and no such advance gallery shall be driven more than ten feet ahead of the widened gallery; in every such gallery the ventilating current shall be conducted as near to the working face as is practicable.

A. G. GLOW,

Secretary to the Government of India.