

VIDHAN SABHA SECRETARIAT, MADHYA PRADESH



REPORT
OF THE
SELECT COMMITTEE
ON
THE PAYMENT OF WAGES (MADHYA PRADESH AMEND-
MENT) BILL, 1962
(No. 28 OF 1962)

Together with the Bill as amended by the Select Committee

GOVERNMENT CENTRAL PRESS
1963

COMPOSITION OF THE SELECT COMMITTEE
ON
THE PAYMENT OF WAGES (MADHYA PRADESH AMENDMENT)
BILL, 1962 (No. 28 OF 1962)

CHAIRMAN

1. Shri Gangaram Tiwari.

MEMBERS

2. Shri Suryadev Sharma.
3. Shri Sukhendra Singh.
4. Shri Raghvendra Singh.
5. Shri Murlidhar Mishra.
6. Shri Chandrika Prasad Tripathi.
7. Shri Madanlal Tiwari.
8. Shri Umrao Singh.
9. Shri Shakir Ali Khan.
10. Shri Madanlal Agarwal.
11. Shri R. C. Jall.
12. Shri Fatehbhan Singh.
13. Shri Pratap Singh.
14. Dr. Shankar Dayal Sharma, Minister for Law.
15. Shri V. V. Dravid, Minister for Labour.

SECRETARIAT

1. Shri Madan Gopal, Secretary.
2. Shri R. R. Kanhai, Under Secretary.

REPORT OF THE SELECT COMMITTEE

1. The Chairman of the Select Committee to which the Payment of Wages (Madhya Pradesh Amendment) Bill, 1962 (No. 28 of 1962) was referred having been authorised to submit the Report on their behalf, present this their Report with the Bill, as amended by the Committee annexed thereto.

2. The Bill* was introduced in the Vidhan Sabha on the 2nd March, 1963. The motion for the reference of the Bill to the Select Committee was moved by Shri V. V. Dravid, Minister for Labour on the 2nd March, 1963 and was discussed in the House and adopted on the same day.

3. The Committee held six sittings in all.

4. The first sitting of the Committee was held on the 29th April, 1963 to draw up a programme of work. The Committee at this sitting decided to hear evidence from Associations, etc., desirous of presenting their suggestions or views before the Committee and to issue a Press Communique inviting memoranda for the purpose.

The Committee also discussed general principles of the Bill.

5. Five memoranda on the Bill were received by the Committee from different Association and Organizations as given in Appendix I.

6. At their second sitting held on the 10th June, 1963 the Committee considered the request of various Associations to tender oral evidence and decided to call them for this purpose at their next meeting.

The Committee also generally discussed the clauses of the Bill.

7. At their third and fourth sittings held on the 16th and 17th July, 1963 the Committee heard the evidence given by four Associations and Organizations specified in Appendix II.

8. At the fifth sitting held on the 28th August, 1963 the Committee considered the Bill clause by clause.

9. At their sixth sitting held on the 9th September, 1963 the Committee considered the draft of the amendments to various clauses of the Bill and approved it. The Committee also considered and adopted the Report.

10. The observations of the Committee with regard to the principal changes proposed in the Bill are detailed in the succeeding paragraphs.

11. Clause 4 (v).—The Committee feel that the payment made by the employer to the employed person or his legal representative under section 15 should be considered a full and complete discharge of the liability of the employer to make such payment and no further claim should lie against him in this respect.

New sub-clause (4-b) has been added accordingly.

* Published in English and Hindi in the "Madhya Pradesh Gazette" dated the 23rd and 26th July, 1962 respectively.

12. Clause 5(i)(b).—The Committee feel that Labour Inspectors should also be allowed to prefer appeal against an order dismissing an application made under sub-section (2) of section 15.

Sub-item (b) of item (i) has been amended accordingly.

13. New clause 8.—The Committee consider that as a consequence of the amendments proposed under clause 5(i) all appeals under section 17 of the principal Act pending before District Court immediately before the commencement of this Act should on its commencement stand transferred to Industrial Court.

New clause 8 has been added accordingly.

14. The Select Committee recommend that the Bill as amended be passed.

BHOPAL :
The 9th September, 1963.

GANGA RAM TIWARI,
Chairman,
Select Committee.

MINUTES OF DISSENT

I am constrained to record my dissenting note on the report of the Select Committee on the Payment of Wages (M. P. Amendment) Bill, 1962 on the following clauses :—

1. Clause 4(iii).—It is proposed by this amendment to empower the representative union to file claim on behalf of the employed person without his written authority or consent and even without his knowledge before the legal authority. I am opposed to the principle of the introduction of collective bargaining in matters like payment of wages which are not industrial disputes, but of individual nature and character. Moreover, such a provision will lead to many abuses and would create serious repercussions on small unit particularly. I feel the persons who are already empowered under the Act, to file claim on behalf of the employed persons are sufficient to safeguard his interests. The representative union of which an employed person may happen to be a member is already entitled to file a claim on his behalf in as much as it is also a registered Trade Union. It is difficult to comprehend why the representative union alone, to the discrimination of other unions, is being empowered to file a claim even without the employed person's consent. This would lead to various complications like the filing of several claims by different persons entitled under this clause to file claim in respect of the same matter. This principle of empowering of persons—may be a representative union—to file a claim of a civil nature such as the payment of wages without the consent or written authority of the person affected, is contrary to principles of justice. This would also lead to conflicting claims being filed by different persons to the detriment of the rivalry of the Unions *inter se*. Moreover, there is sufficient safeguards in the Act itself which empowers the Payment of Wages Inspectors to file a claim without the consent or authority of the employed person or persons, to meet the situation in view. It is only to cover such cases that power has been given to the Payment of Wages Inspectors who, I feel, are quite efficient in safeguarding the interests of the employed persons in situations like this. The proposed amendment is also unfair to other unions. I, therefore, very strongly oppose this amendment.

2. Clause 5(i) (b).—I am very strongly opposed to this amendment as it amounts to denial of the right of the employer to appeal. No restriction is placed on the Legal Authority not to pay the amount deposited by the employer to the employed person or his legal representative, before filing the appeal under this provision and before the decision becomes final, i.e., no appeals being preferred or pending. In my opinion such a safeguarding provision needs to be made in case it is decided to retain this amendment.

3. Clause 6.—I don't think there is any justification for increasing the penalty from Rs. 500 to Rs. 2,000. The present penalty provision is quite adequate.

(ii)

प्रवर समिति के प्रतिवेदन में, मैं श्रद्धापूर्वक शिष्टाचार-पत्र प्रेषित करता हूँ :-

1. खंड 3(क) के अंतर्गत प्रस्तावित आचार-पत्र, क. मुमुस्तु, जिला न्यायालयों के स्थापन पर औद्योगिक न्यायालय के समक्ष शील करने का प्रावधान अधिक प्रव्यवहारिक और खर्चीला है. राज्य के सभी प्रमुख जिलों में लगभग 50-60 न्यायाधीश हैं. जबकि औद्योगिक न्यायालय केवल एक है. शीघ्र प्रचारण निवटाने का लक्ष्य प्राप्त प्रस्तुत से सम्बन्धित महत्त्व होगा. वर्तमान प्रवर्धनाधिकारियों को प्रारंभिक उठाती पढ़ाई. इस प्रकार की प्रावधानों के लिए प्रस्ताव में अभी तक कोई भी उपाय

विशेषतः औद्योगिक न्यायालयों की संकल्पनाओं के नियन्त्रण में है जबकि जिला न्यायाधीश प्रारंभिक के अंतर्गत है. यदि वे सिद्धि में औद्योगिक न्यायालय के फंसलों के निष्कर्ष अभी तक, हाथकोट से करने की व्यवस्था कर्तव्य न्यायिकों

1. खंड 3(क) के अंतर्गत प्रचार-पत्र (क) में जो औद्योगिक न्यायालयों द्वारा प्रयोक्त व्यक्तियों के लिये उत्तरदायी होगा, उसी प्रकार अन्य न्यायालयों में भी नियोजक या उत्तरदायी व्यक्तियों के लिये उत्तरदायी नियुक्तियों को प्रारंभिक मन्त्र (क) अन्तर्गत (क) में वर्णित मन्त्र और नियोजक का संयुक्त रूप से व अलग-अलग उत्तरदायित्वों को उत्तरदायी प्रतीक प्रारंभिकी संस्था करने वाली होगी

खंड 3(क) (ख) - इसकी अंतर्गत प्रारंभिकी संस्था के लिये उत्तरदायी व्यक्तियों को 500, शास्त्र देने की प्रावधान है. इसकी प्रावधानों में नहीं संविदा के अंतर्गत इस प्रणाली के लिये मूल अधिनियम की धारा 3(क) में 500 संघर्षों तक प्रारंभिकी संस्था में ही दिखाया हुआ है. जिसे इस संशोधन विधेयक में पांच सौ से बढ़ाकर दो हजार प्रारंभिकी संस्था में ही रहे हैं. ऐसी स्थिति में इस व्यवस्था का रहना Double Penalty बनना हुआ :

दिनांक 15 सितम्बर 1953.

सुयदेव शर्मा.

APPENDIX I

(See paragraph 5)

Associations and organizations from whom memoranda of opinions/suggestions were received.

S. No.	From whom received	Action taken
1.	The Madhya Pradesh Organisation of Industries, Malviyanagar, Bhopal.	Circulated to Members' (Came to give evidence).
2.	The Madhya Pradesh Mill Owners Association, Indore.	Circulated to members (Came to give evidence).
3.	The Madhya Pradesh Chamber of Commerce and Industries, Gwalior.	Circulated to members.
4.	The All India Organisation of Industrial Employers, New Delhi.	Circulated to Members.
5.	Birla Group of Industries, Gwalior.	Circulated to Members. (Came to give evidence).

APPENDIX II

(See paragraph 7)

Names of members of the Associations and Organizations who tendered evidence before the Committee.

1. The Madhya Pradesh Mill Owners Association, Indore.
 - (1) Shri V. R. Trivedi, Secretary.
 - (2) Shri N. P. Mishra, Labour Officer.
2. Birla Group of Industries, Gwalior.
 - (1) Shri N. C. Goyal, Legal Adviser.
 - (2) Shri J. C. Dhariwal, Factory Manager, J. C. Mills Ltd., Birlanagar, Gwalior.
3. Central India Chamber of Commerce and Industry, Ujjain.
 - (1) Lala Devraj, Director.
 - (2) Shri Murlidhar Gupta, Secretary.
4. The Madhya Pradesh Trade Union Congress, Ujjain.
 - (1) Shri Hiralal Sharma, Secretary.
 - (2) Shri Premraj.
 - (3) Shri Govind Prasad Shrivastava.
 - (4) Shri Bhanwarlal Shrivastava.
 - (5) Shri Durgashankar Tiwari.
 - (6) Shri Sharan.
 - (7) Shri Shyam Sundar Patidar.

(As amended by the Select Committee)

MADHYA PRADESH BILL

No. 28 OF 1962.

**THE PAYMENT OF WAGES (MADHYA PRADESH
AMENDMENT) BILL, 1962.**

*[Additions made by the Select Committee are
sidelined or underlined and omissions made by them
are enclosed in square brackets].*

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(As amended by the Select Committee)

MADHYA PRADESH BILL

No. 28 OF 1962.

[Additions made by the Select Committee are sidelined or underlined and omissions made by them are enclosed in square brackets].

THE PAYMENT OF WAGES (MADHYA PRADESH AMENDMENT) BILL, 1962.

A Bill further to amend the Payment of wages Act, 1936, in its application to the State of Madhya Pradesh.

BE it enacted by the Madhya Pradesh Legislature in the [Thirteenth] Fourteenth Year of the Republic of India as follows :—

(1) This Act may be called the Payment of Wages (Madhya Pradesh Amendment) Act, [1962] 1963. Short title and commencement.

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

2. In section 2 of the Payment of Wages Act, 1936 (4 of 1936) (hereinafter referred to as the principal Act),— Amendment of section 20.

(a) after clause (i), the following clause shall be inserted, namely :—

“(i-a) ‘Industrial Court’ means the Industrial Court constituted under section 9 of the Madhya Pradesh Industrial Relations Act, 1960 (27 of 1960)”; and

(b) after clause (ii), the following clause shall be inserted, namely :—

“(ii-a) ‘Legal representative’ means the person who in law represents the estate of a deceased employed person.”.

3. For the proviso to section 3 of the principal Act, the following proviso shall be substituted, namely:— Amendment of section 3.

“Provided that, in the case of persons employed (otherwise than by a contractor)—

(a) in factories, if a person has been named as the manager of the factory under clause (f) of subsection (1) of section 7 of the Factories Act, 1948 (63 of 1948), then the person so named and the employer jointly and severally;

(b) in industrial establishments, if there is a person responsible to the employer for the supervision and control of the industrial establishment, then the person so responsible and the employer jointly and severally;

(c) upon railway (otherwise than in factories), if the employer is the railway administration and the railway administration has nominated a person in this behalf for the local area concerned then the person so nominated;

shall be responsible for such payment."

Amendment of section 15.

In section 15 of the principal Act,—

(i) in sub-section (1) for the words "any Commissioner for Workmen's Compensation or other officer with experience as a Judge of a Civil Court or as a stipendiary Magistrate to be the authority", the words "one or more persons to be the authority or authorities" shall be substituted;

(ii) after sub-section (1) the following sub-section shall be inserted, namely :—

"(1-A) A person shall not be qualified for appointment as an authority under this Act, unless, he is a Commissioner for Workmen's Compensation or any other officer with experience as a Judge of Civil Court or of a Labour Court constituted under the Madhya Pradesh Industrial Relations Act, 1960 (No. 27 of 1960).

(1-B) Where more than one person are appointed for any specified area as authorities under sub-section (1), the State Government may, by general or special order make arrangements as it thinks fit for the distribution of the work among the authorities so appointed."

(iii) in sub-section (2),—

(a) after the words "to act on his behalf" the words, figures and brackets "or a representative union recognised as such under the Madhya Pradesh Industrial Relations Act, 1960 (No. 27 of 1960)" shall be inserted;

(b) after the words, brackets and figure "sub-section (3), the words "and in case of death of the employed person, it shall be lawful for his legal representative to make an application for such direction"; shall be inserted;

(c) in both the provisos for the words "six months" the words "one year" shall be substituted;

(iv) in sub-section (3)—

(a) after the words "employed person" the words "or his legal representative, as the case may be" shall be inserted;

(b) for the words "ten rupees in the latter" the words "twenty-five rupees in the latter case and the authority may direct the payment of such compensation in cases, where the amount deducted

or the delayed wages are paid by the employer, to the employed person or his legal representative before the disposal of the application" shall be substituted;

(c) in the proviso, after the words "employed person" occurring twice the words "or his legal representative" shall be inserted; and

(v) for sub-section (4) the following sub-sections shall be substituted, namely :—

"(4) If the authority hearing any application under this section is satisfied,—

(i) that the application was either malicious or vexatious, the authority may direct that a penalty not exceeding fifty rupees be paid to the employer or other person responsible for the payment of wages by the person presenting the application; or

(ii) that, in any case in which compensation is directed to be paid under sub-section (3), the applicant ought not to have been compelled to seek redress under this section, the authority may direct that a penalty not exceeding fifty rupees be also paid by the employer or other person responsible for the payment of wages which shall when paid or recovered be credited to the State Government.

(4-a) Where a question arises as to whether person is or is not a legal representative of the deceased employed person, such question shall be determined by the authority appointed under sub-section (1) and his decision shall be final.

(4-b) The payment of the amount directed to be paid under this section to the employed person or his legal representative, as the case may be, shall be a full and complete discharge of the employer from the liability to make such payment under this Act, and no further claim shall lie against the employer in respect thereof.

5. In section 17 of the principal Act,—

Amendment of section 17.

(i) in sub-section (1)—

(a) for the words "in a Presidency-town before the Court of Small Causes and elsewhere before the District Court" the words "before the Industrial Court" shall be substituted;

(b) in clause (b), after the words "by an employed person" the words "or his legal representative or any Inspector under this Act" shall be inserted;

(c) after clause (c) the following proviso shall be inserted, namely :—

“Provided that no appeal by an employer or other person responsible for the payment of wages under clause (a) of proviso to section 3 shall lie unless the memorandum of appeal is accompanied by a certificate by the authority to the effect that the appellant has deposited with it, the amount payable under the order appealed against.”;

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

“(3) The provisions of section 5 of the Indian Limitation Act, 1908 (9 of 1908), shall be applicable to appeals under this section.”.

Amendment of section 20

6. In sub-section (1) of section 20 of the principal Act, for the words “five hundred rupees” the words “two thousand rupees” shall be substituted.

Amendment of section 21.

7. In sub-section (2) of section 21 of the principal Act—

(a) in clause (a) after the words “employed person” the words “or his legal representative” shall be inserted; and

(b) in clause (c) after the words “employed person”, the words “or his legal representative” shall be inserted.

Transfer of pending appeals.

8. Every appeal preferred under section 17 of the principal Act, and pending before the District Court immediately before the commencement of this Act, shall on such commencement stand transferred to the Industrial Court and that Court shall proceed to decide the same as if it had been pending in that Court.