

Contract Labour (Regulation & Abolition) Act, 1970

Background

- Concern of the Govt. about the exploitation of workers under the contract labour system.
- Decisions of the Supreme Court, particularly in the case of Standard Vacuum Refining Company in 1960 (1960-II-ILJ page 233)

Object

This Act seeks to regulate the employment of contract labour in certain establishments and to provide for its abolition under certain circumstances

Appropriate Government

- The jurisdiction of the Central and State Government has been laid down by the definition of the ‘Appropriate Government’ in Section 2(1)(a) of the Act, as amended in 2010. The Appropriate Government, in respect of an establishment under the Contract Labour (Regulation and Abolition) Act, 1970 is the same as that in the Industrial Disputes Act, 1947.

Appropriate Government & ID (Amendment) Act, 2010

- Establishment mentioned by name
 - Industry carried on by or under the authority of the Central Govt.
 - Railway
 - Controlled Industry
 - Industry where 51% of share capital is held by Central Govt
- Central Govt. is the Appropriate Govt.

Appropriate Government

In all other cases the State Govt. in which the industry is situated

Ref:

Steel Authority of India Ltd. and others etc. etc.

Appellants

versus

**National Union Water Front Workers and Others
etc.etc. Respondents**

Date of Decision: 08/30/2001

**Also see Industrial Disputes (Amendment)
Act, 2010**

Contract Labour (Regulation & Abolition) Act, 1970

Section 1

It extends to the whole of India and applies to :

- a. every establishment in which twenty(10 in WB) or more persons are employed or were employed on any day of the preceding twelve months as contract labour

- b. to every contractor who employs or who employed on any day of the preceding twelve months twenty(10 in WB) or more workmen.
- The appropriate govt. can extend the provisions of the Act to any establishments or contractor employing less than the number specified above, by notification.
 - It shall not apply to establishments in which work is of intermittent (less than 120days), seasonal (less than 60 days) or casual in nature.

Sec.-2

Definition

Workman:

Any person employed in or in connection with the work of any establishment to do any skilled or semi-skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward whether the terms of the employment be expressed or implied but does not include:

Not Workman

1. Person employed mainly in a managerial or administrative capacity
2. Person being employed in a supervisory capacity draws wages exceeding Rs.500/ per month.
3. An out worker.[Section 2 (i)]

Contract Labour

- ‘Contract labour’ is hired for the work or in connection with the work of an establishment
- Engaged by or through a contractor
- Contract labour may be engaged with or without knowledge of the Principal Employer

Contractor

- "contractor", in relation to an establishment, means a person who undertakes to produce a given result for the establishment, other than a mere supply of goods of articles of manufacture to such establishment, through contract labour or who supplies contract labour for any work of the establishment and
- includes a sub-contractor;

Sec.2(h): Wages (1)

"wages" shall have the meaning assigned to it in clause (vi) of section 2 of the Payment of Wages Act, 1936 (4 of 1936);

(vi) "wages" means all remuneration (whether by way of salary, allowances or otherwise) and includes--

- (a) any remuneration payable under any award or settlement between the parties or order of a Court;

Wages

- (b) any remuneration to which the person employed is entitled in respect of overtime work or holidays or any leave period;
- (c) any additional remuneration payable under the terms of employment (whether called a bonus or by any other name);

Wages (2)

- (d) any sum which by reason of the termination of employment of the person employed is payable under any law, contract or instrument which provides for the payment of such sum, whether with or without deductions, but does not provide for the time within which the payment is to be made;

Wages (3)

(e) any sum to which the person employed is entitled under any scheme framed under any law for the time being in force;

but does not include--

Wages(4)

- (1) any bonus (whether under a scheme of profit sharing or otherwise) which does not form part of the remuneration payable under the terms of employment or which is not payable under any award or settlement between the parties or order of a Court;

Wages(5)

- (2) the value of any house-accommodation, or of the supply of light, water, medical attendance or other amenity or of any service excluded from the computation of wages by a general or special order of the State Government;
- (3) any contribution paid by the employer to any pension or provident fund, and the interest which may have accrued thereon

Wages(6)

(4) any travelling allowance or the value of any travelling concession;

(5) any sum paid to the employed person to defray special expenses entailed on him by

The nature of his employment; or

(6) any gratuity payable on the termination of employment in cases other than

those specified in sub-clause (d)

Sec.7 Registration of certain establishments

- Principal Employer shall apply in prescribed Form to the Registering Officer
- Deposit requisite fees
- If application is complete the RO shall register the establishment
- The RO shall issue a Certificate
- RC can be amended

Sec.8 Revocation of Registration

If obtained by

1. Misinterpretation
2. Suppression of fact
3. If the registration has become useless
4. Ineffective

The PE should be given an opportunity to be heard

Sec. 9 Effect of Non Registration

1. Work undertaken without obtaining RC
 2. Engagement of contractor who undertakes the work
 3. Work continuing after the expiry period
 4. Work continuing after the revocation
- (3 &4) punishable offence u/s 24 of the Act

10. Prohibition of employment of Contract Labour

Four Tests

1. Whether the work is incidental to or necessary for the work of an establishment.
2. Whether the work is of a perennial in nature
3. Whether the work is being done ordinarily through regular workman in that establishment or a similar establishment.
4. Whether the work is sufficient to employ a considerable number of whole-time workmen

Prohibition by Notification

- Govt. after consultation with the Central /State Board prohibits by notification employment of contract labour in any process/ operation/or other work in any establishment

Sec.12 & 13

Licensing of Contractors

- A Contractor has to apply for a licence to a Licencing Officer before the start of work
- Has to deposit requisite fees
- Has to deposit requisite security
- If the application is in order the LO shall issue a Lincence
- Licence is renuable
- It can be amended

Sec.14 Revocation of Licence

If obtained by

1. Misinterpretation
2. Suppression of fact
3. If the licence has become useless
4. Ineffective

The Contractor should be given an opportunity to be heard

LO may vary/amend a licence

Sec.15 Appeal against Revocation

1. Appeal may be made within 30 days by PE/Contractor
2. Dy. Labour Commissioner is the Appellate Officer
3. AO should hear and dispose of the case

Welfare and Health of Contract Labour

16. Canteens for 100 workres and above and work for 6 months or more
17. Rest Rooms (work for 3 months or more)- separate for male and female- also for night halt
18. Other facilities (latrines, urinals-separate for male and female) washing facilities- wholesome drinking water
19. First Aid Facilities

Sec.20

Liability of Principal Employer

- In case of failure on the part of the contractor to provide these facilities, the Principal Employer is liable to provide the same.
- PE may recover the expenses from the contractors

Sec.21

Responsibility for payment of wages

Contractor shall make payment of wages

- On time
- **In presence of an agent of PE**
- **PE should nominate an agent**
- **PE Agent will certify payment** and put his signature in the wages register of the contractor

If contractor fails to make payment the PE should pay *but PE may recover it from contractor*

Penalties

- Sec.22- for obstruction to an Inspector
 - wilfully not producing any document
- Sec.23- contravention of provisions regarding employment of contract labour
- Sec.24- for other offence

Inspector

- Power of an Inspector

Sec. 29

Records and Registers to be maintained by Contractor

Records registers maintained under MW Act and PW act will be treated sufficient compliance

- Muster Roll Register
- Register of Wages
- Register of Deductions
- Register of Fines
- Register of Over Times
- Register of Advances

About Licence

- The Licence is not transferable
- The number of workmen employed as contract labour in the establishment shall not, on any day, exceed the number mentioned in the licence
- Licence fees is not-refundable.

- The rates of wages payable to the workmen by the contractor shall not be less than the rates prescribed for the Schedule of employment under the Minimum Wages, Act, 1948, where applicable, and where the rate have been fixed by agreement, Settlement or award, not less than the rates fixed.

In cases where the workmen employed by the contractor perform the same or similar kind of work as the workmen directly employed by the principal employer of the establishment, the wage rates, holidays, hours of work and other conditions of service of the workmen of the contractor shall be the same as applicable to the workmen directly employed by the principal employer of the establishment on the same or similar kind of work provided that *in the case of any disagreement with regard to the type of work the same shall be decided by the Deputy Chief Labour Commissioner (Central), Labour Commissioner of West Bengal(in case of WB) whose decision shall be final.*

- In other cases the wage rates, holidays, hours of work and conditions of service of the workmen of the contractor shall be such as may be specified in this behalf by the Chief Labour Commissioner (Central) /State Labour Commissioner.
- A copy of the licence shall be displayed prominently at the premises where the contract work is being carried on.

Online services

- Apply for registration of the establishment
- Deposit fees through grips
- Apply for licences of the establishment
- Apply for renewal of licence

Validity of Licence

- Licence once issued shall remain valid for one year
- Published in The Calcutta Gazette Extraordinary dated 04.12.2015
- Notification No.919-LW/LW/4L-01/14 dated 27.09.2015

Obligations/Duties of the Principal Employer (I)

1. Apply for registration after depositing requisite fees to the local Treasury / RBI (Sec.7) and get the establishment registered
2. Issue Form –V to the Contractor (Engagement Certificate)
3. Unless an establishment of the Principal Employer is registered under the Act and Form-V is issued to a Contractor, a Licence cannot be issued to a Contractor

Obligations/Duties of the Principal Employer (2)

4. Nominate agent
5. Agent will certify payment made by contractor
6. Make payment of wages less paid/ not paid by contractor (may recover from contractor)
7. Ensure that contractor works with valid licence
8. Ensure payment of minimum wages
9. Provide amenities like health care, safety, sanitation, canteen, rest room etc.
10. Maintain a Register of Contractors (Rule 74)
11. Submit Annual Return [Rule 82(2)]

Duties of Contractor

1. To apply for licence to the Licensing Authority before the starting of the work:
 - With Form-V from the Principal employer
 - After depositing requisite fees to the local treasury
 - After depositing requisite security deposit to the local treasury
2. To pay wages to the workers regularly
3. To pay Minimum Wages fixed by the Government

Duties of Contractor....contd

1. To maintain the following Registers:
2. Register of workmen
3. Register of Wages – cum Muster Roll
4. Register of Wages – cum Muster Roll
5. Muster Roll
6. Wages Register
7. Register of Deduction for damage or Loss
8. Register of Fines
9. Register of Advances
10. Register of Overtime

Records and Registers by Contractor

- Register of persons employed
- Issue Employment Card
- Issue Service Certificate
- Issue Wage Slip
- Submit Half yearly Return

THANK YOU