

**STANDING COMMITTEE ON LABOUR AND WELFARE
(2002)**

(THIRTEENTH LOK SABHA)

MINISTRY OF LABOUR

THE PAYMENT OF WAGES (AMENDMENT) BILL, 2002

TWENTY-THIRD REPORT

**LOK SABHA SECRETARIAT
NEW DELHI**

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WELFARE (2002)**

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41. Shri Kanshi Ram
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SECRETARIAT

- | | | |
|-----------------------|---|----------------------|
| 1. Shri John Joseph | - | Additional Secretary |
| 2. Shri Ram Autar Ram | - | Joint Secretary |
| 3. Shri J.P. Sharma | - | Deputy Secretary |
| 4. Shri Bhupesh Kumar | - | Assistant Director |
| 5. Shri S.K. Saxena | - | Committee Officer |

INTRODUCTION

I, the Chairman of the Standing Committee on Labour and Welfare having been authorised by the Committee to submit the report on their behalf present this Twenty-third Report on the Payment of Wages (Amendment) Bill, 2002 of the Ministry of Labour.

2. The Bill was introduced in Rajya Sabha on 16 May, 2002 and was referred to the Committee by the Hon'ble Speaker, Lok Sabha on 1 June, 2002 under Rule 331E (b) of the Rules of Procedure and Conduct of Business in Lok Sabha for examination and report.

3. The Committee wish to express their thanks to the officers of the Ministry of Labour for placing before them detailed written notes on the subject and for furnishing the information the Committee desired in connection with the examination of the Bill.

4. The Committee considered the Bill clause-by-clause at their sitting held on_____. The Report was considered and adopted by the Committee at their sitting held on_____.

5. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in thick type in the body of the Report.

NEW DELHI:

September 30, 2002
Asvina 8, 1924 (Saka)

DR. SUSHIL KUMAR INDORA,
Chairman,
Standing Committee on Labour
and Welfare

REPORT

The Ministry have stated that the Payment of Wages Act, 1936 was enacted with a view to ensure that wages payable to employed persons covered under the Act are disbursed by the employers within the prescribed time limit and that no deductions other than those authorized by law are made by the employers. The last amendment in the Act was done in 1982 raising the wage ceiling from Rs.1000 to Rs.1600 p.m. Since then several developments have taken place and many provisions in the Act have become obsolete over the years. A number of proposals were received in the Ministry of Labour for amending various provisions which were creating practical difficulties in enforcement of the Act. Hence, in order to bring this law in conformity with other labour laws as also to make it more effective and practicable, the following changes have been proposed in the Act:-

(i) Enhancing the wage ceiling of Rs.1600/- per month to Rs.6500/-:

The existing wage ceiling of Rs.1600/- was fixed in 1982. Since then a large number of employed persons have gone out of the purview of the Act due to successive rise in wages resulting from rise in the cost of living. Hence in order to make the Act practicable and more effective, it has been proposed to extend the coverage of the Act by enhancing the existing ceiling to Rs.6500/-.

(ii) To substitute the expression “the Central Government” or “a State Government” by the expression “appropriate Government”:

In other labour laws where the enforcing authorities are both the Central Government and the State Governments depending upon the nature of industry the term “Appropriate Government” is used in the Acts. In order to make this law also in tune with the other labour laws, it is proposed to substitute the expression “Central Government” or “State Government” by the expression “Appropriate Government”.

(iii) Removing the ambiguities/weaknesses from provisions of the Act:

In the present Act, there are certain clauses which lead to misinterpretation. For instance, in the case of persons employed (other than by a contractor) in factories, in industrial or other establishments or in railways, the manager of the factory or persons representing the employer shall be responsible for making payments. The term “otherwise than by a contractor” leads to misinterpretation of the provision that the contractors are not responsible for making payments to employed persons. Hence, it is proposed to make contractors also responsible for payment of wages and designate a person or persons responsible for complying with provisions of the Acts.

(iv)Reduction of Government Control:

For authorizing deductions from the wages of employees, the Act provides that deductions are to be made in accordance with the rules approved by the State Government. In order to reduce the Government interference, it is proposed that the expression “in accordance with the rules approved by the State Government” shall be substituted by the expression “as agreed to between the employer and the employed person”.

(v)Strengthening compensation and penal provisions of the Act:

The penal provisions of the Act have become almost insignificant due to passage of time and decrease in money value since these provisions were last amended. It is, therefore, proposed to make the penal provisions more stringent by enhancing the quantum of penalties. It is also proposed to make the compensation payable adequate. Accordingly, the Bill proposes to amend concerned Sections of the Act.

2. On being asked about the basis of arriving at a figure of Rs.6500/- and whether the views of Trade Unions/interest groups have been ascertained in this regard the Ministry in their written reply furnished to the Committee have stated that the basis of arriving at the proposed figure of Rs. 6500/- p.m. is the recommendation of Group of Ministers (GOM) which has been made keeping in view the existing ceiling in Employees State Insurance (ESI) Act and the Employees Provident Fund & Miscellaneous Provisions (EPF&MP) Act. The views of the concerned Ministries/Departments and the State Governments have been obtained on the proposal. The Ministry have further stated that though the views of Trade Unions and other interest groups were not called for, various Unions have been demanding at various fora to delete/enhance the ceiling.

3. The Ministry of Labour have informed that initially the Ministry had proposed for deletion of the ceiling but the Group of Ministers (GOM) in its meeting held on 6.9.2000 did not accept it. Instead GOM directed to replace the same with the enhancement of existing ceiling and to arrive at corresponding figure. Accordingly, it was proposed that extant ceiling may be replaced by Rs.10,000/-. The basis of this proposal was directly related to the CPI (IW) which indicated 441 points at the time of proposal i.e. year 2000 (taking the base of 1982 as 100). The corresponding figure at that time worked out to be Rs.7100/-. However, taking into account the lead period for final enactment and visualizing long lasting efficacy of proposed ceiling, the future price escalation etc, it was proposed that ceiling be increased to Rs.10,000/-. However, GOM did not agree to this proposal as well. It was also proposed to insert an enabling provision in this regard but somehow this was also not agreed to.

Finally, GOM in its meeting held on 3.12.2001 agreed upon the figure of Rs.6500/- considering ceiling in ESI and EPF Act.

4. When asked whether wage ceiling can be raised by issuing notification in the Gazette instead of bringing amendment in the Act time and again in Parliament, the Ministry have stated that it can be done. In fact, the precedence of ESI Act and EPF&MP Act on the basis of which GOM recommended for ceiling of Rs.6500/- are the examples of this. These Acts have no provision for ceiling but only the enabling provisions on the basis of which ceiling are fixed/revised.

5. On being asked about the need to replace the terms “State Government” or “Central Government” by “Appropriate Government”, the Ministry have stated that this Act has been formulated way back during pre-independence era. In all the other labour related Acts, similar amendments have already been carried out like Industrial Disputes Act, 1947, Employees State Insurance Act, 1948, Equal Remuneration Act, 1976, Employees Provident Funds and Miscellaneous Provisions Act, 1952. The proposed substitution is, therefore, only of technical nature primarily to bring uniformity among different labour laws.

6. Regarding the control of the Central Government on the implementation of the Act in the State sphere, the Ministry have stated that enforcement of the Payment of Wages Act is primarily the responsibility of the State Governments. However, it is secured at two levels – in the central sphere, the enforcement by virtue of Section 24 is secured through the officers of the Central Industrial Relations Machinery (CIRM) and the compliance in the State sphere is ensured through the State Enforcement Machinery. The Central Government monitors the progress of enforcement of the provisions of the Act in the State sphere through periodical enforcement reports received from State Governments/U.T. Administrations.

7. Explaining the purport of bringing the amendment in Section 7(2), the Ministry have stated that as per the Act, fines for absence of duty, recovery of damages or losses occurred to employer, deductions on account of certain facilities viz. accommodation, amenities and services provided by the employer, deductions in respect of societies, insurance schemes and recovery of various loans, advances etc. are included in the definition of authorized deductions. The purport of this amendment is to give the employee his say in deciding the matter related to his affairs. After all, the deductions are to be made from his wages. Moreover, for such petty things if Government machinery shall be engaged, there will be unnecessary delay in deciding the issue. The intention of the Government was, therefore, to cut the delay and to give labour a greater say in deciding his matter and not to give benefit to the employer, as such.

8. Asking the view point of the Government in respect of para 6(b) of the Bill wherein it has been proposed that authorised deduction shall be made as

agreed to between the employer and employee which reduces the extant protection of the Government provided by the Act and hence, tilted in favour of employer, the Ministry have stated that the deduction which the employer can make from the wages of the workers are prescribed in the Act. The Ministry had proposed that deduction to be made should be as agreed to between the employer and employee and a registered trade union of which such employee is a member. However, subsequently, in accordance with the decision taken in the GOM meeting held on 11.8.2001, latter portion i.e. “and a registered Union...” was deleted from the proposal. The intention of the Government for making this amendment is to cut the delay and to give benefit to the employer.

9. When asked whether the proposed amendment regarding the term “other than contractor” be further clarified particularly when the contractor disappears, the Ministry have stated that this term leads to confusion that contractors are not responsible to abide by this Act. It was, therefore, decided by the Government to insert a new sub-clause 3(ii) clarifying that contractors shall also be responsible for payment of wages to workers employed through them. As regards safeguard in respect of a situation visualized in the meeting, though para 5(e) has already been incorporated in the Bill which states that in any case, a person designated by the employer as a person responsible for complying with the provisions of the Act.

10. Responding to the criterion for fixing the penalties for violation of the provisions of the Act, the Ministry have stated that the proposed penalties have been worked out by multiplying the extant penalties by five so as to make these realistic and practicable in consonance with the price variation during this period (CPI : 100 in 1982 and 441 in 2000).

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

12. Clause-2- Wage-ceiling

The Committee note with serious concern that the Government have brought the amendment Bill for raising the wage ceiling in the Payment of Wages Act from Rs.1600/- p.m. to Rs.6500/- p.m after a lapse of twenty years. The Committee also note that the Government have proposed the wage ceiling of Rs. 6500/- considering the ceiling in Employees State Insurance Act and Employees Provident Fund and Miscellaneous Provisions Act whereas the trade unions had demanded the ceiling to be abolished altogether or enhanced on the basis of Consumer Price Index. The Committee, therefore, recommend that the Central Government should be empowered to enhance the wage ceiling periodically on the basis of Consumer Price Index by issue of notification in the Gazette of India instead of bringing the Act for amendment in Parliament time and again.

13. Clause 5.- Responsibility for payment of wages

The Committee note that the responsibility for payment of wages to workers employed through a contractor or a person designated by the employer under new sub-sections (d) & (e) of Section 3 shall lie with them. The Committee feel that though there is a provision in the Contract Labour (Regulation and Abolition) Act that in case of disappearance of contractors, the principal employer shall be liable to make payment of wages but in the extant clause the principal employer has not been made liable to make the payment of wages to the workers so employed. The Committee, therefore, desire that the following sub-clause should be inserted to safeguard the interests of the workers employed through a contractor or a person designated by the employer:

“in case of disappearance of contractors or the persons designated by the employer, the principal employer shall be responsible for payment of wages as is the case under the Contract Labour (Regulation & Abolition) Act, 1970”

14. Clause 6.- Deductions which may be made from wages:

It has been provided in clause 6(b) of the Bill that authorized deductions from wages shall be made as agreed to between the employer and the employed person. The Committee feel that this proposal reduces the extant protection of the Government provided by the Act to the employed person and hence has tilted in favour of the employer. The Committee, therefore, desire that keeping in view the vulnerability and subordinate position of the employed person the proposed amendment in sub-section (2) of Section 7 may be deleted in order to protect the interests of employed persons particularly against the monopoly and dominant position of the employers.

15. Clauses 8 & 9.- Penalty/fines etc. for offences

The Committee note that the penal provisions of the Act have become almost insignificant due to passage of time as these were last revised in the year 1982. The Committee also note that the Government have now proposed to enhance the penal provisions five times so as to make these more realistic and practicable in consonance with the price variation during this period (Consumer Price Index : 100 in 1982 and 441 in 2000). The Committee desire that the penalties and fines should be made more stringent in order to have deterrent effect on those who violate the laws.

16. The Committee approve the remaining clauses of the Bill without any amendment.

NEW DELHI:

September 30, 2002
Asvina 8, 1924 (Saka)

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