

THE PUDUCHERRY INDUSTRIAL ESTABLISHMENTS (NATIONAL AND FESTIVAL HOLIDAYS) ACT, 1964

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The Puducherry Industrial Establishments (National and Festival Holidays) Act, 1964

(No. 8 of 1964)

30th April, 1964

AN ACT

to provide for the grant of National and Festival Holidays to persons employed in industrial establishments in the Union territory of Puducherry.

WHEREAS it is expedient to provide for the grant of National and Festival Holidays to persons employed in industrial establishments in the Union territory of Puducherry.

BE it enacted in the Fifteenth Year of the Republic of India as follows:

1. Short title extent and commencement

(1) This Act may be called the Puducherry Industrial Establishments (National and Festival Holidays) Act, 1964.

(2) It extends to the whole of the Union territory of Puducherry.

(3) ¹It shall come into force at once.

2. Definitions

In this Act, unless the context otherwise requires:

(a) "Administrator" means Administrator of the Union territory of Puducherry appointed by the President of India under Article 239 of the Constitution; (b) "Day" means a period of twenty-four hours beginning at midnight;

(c) "Employee" means:

- (i) any person (including an apprentice) employed in any industrial establishment to do any skilled or unskilled, manual, supervisory, technical or clerical work for hire or reward, whether the terms of employment be expressed or implied;
- (ii) any other person employed in any industrial establishment whom the administrator may, by notification, declare to be an employee for the purpose of this Act;

(d) "Employer" when used in relation to an industrial establishment means a person who has the ultimate control over the affairs of the industrial establishment, and where the affairs of any industrial establishment are entrusted to any other person (whether called a managing agent, manager, superintendent or by any other name), such other person;

(e) "industrial establishment" means:

- (i) a shop, commercial establishment, restaurant, eating house, residential hotel, theatre or any place of public amusements or entertainment and includes such establishment as the Administrator may, by notification, declare to be an establishment for the purposes of this Act;
- (ii) any factory as defined in clause (m) of section 2 of the Factories Act, 1948 (Central Act 63 of 1948) or any place which is deemed to be a factory under sub-section (2) of section 85 of that Act.
- (iii) any other establishment which the Administrator may, by notification, declare to be an industrial establishment for the purposes of this Act;

(f) "Inspector" means an inspector appointed under sub-section (1) of section 6;

(g) "Wages" means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, express or implied, were fulfilled, be payable to an employee in respect of his employment or of the work done by him in such employment, and includes:

- (i) such allowances (including dearness allowance) as the employee is for the time being entitled to;

- (ii) the value of any house accommodation; or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of food grains or other articles; but does not include:
 - (a) any bonus;
 - (b) any contribution paid or payable by the employer to any pension fund or provident fund, or for the benefit of the employee under any law for the time being in force;
 - (c) any gratuity payable on the termination of his service;
 - (d) any sum paid to the employee to defray special expenses entailed on him by the nature of his employment;
 - (e) any travelling concession.

3. Grant of National and Festival Holidays

Every employee shall be allowed in each calendar year a holiday of one whole day on the 26th January,²[1st May,] the 15th August, 16th August and the 2nd October and ³[three] other holidays each of one whole day for such festival as the Ins three] in consultation with the employer and the employees, specify in respect of any industrial establishment:

⁴[Provided that if in any calendar year the 26th January,⁵[1st, May] the 15th August, 16th August or the 2nd October falls on a weekly holiday, every employee shall, in addition to his normal wages, at his option and subject to the proviso to sub-section (3) of section 5, be entitled to:

- (i) an extra single day's wages, or
- (ii) avail himself of art additional holiday with wages on any other day.]

4. Employer to send statement to Inspector

Every employer shall send to the Inspector having jurisdiction over the area in which the industrial establishment is situated, and display in the premises of the industrial establishment, a statement showing the holidays allowed in each calendar year under section 3, in such form, within such time and in such manner as may be prescribed.

5. Wages

- (1) Notwithstanding any contract to the contrary, every employee shall be paid wages for each of the holidays allowed to him under section 3.
- (2)
 - (a) Notwithstanding anything contained in section 3, any employee may be required by the employer to work on any holiday allowed under that section if the employer has not less than twenty-four hours before such holiday:

- (i) served in the prescribed manner on the employee a notice in writing requiring him to work as aforesaid; and
 - (ii) sent to the Inspector having jurisdiction over the area in which the industrial establishment is situated and displayed in the premises of the industrial establishment a copy of such notice.
- (b) Where an employee works on any holiday allowed under section 3 he shall, at his option, be entitled to:
 - (i) twice the wages; or
 - (ii) wages for such day and to avail himself of a substituted holiday with wages on any other day.
- (3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an employee who is paid wages by the day or at piece rates shall be entitled to be paid wages for any holiday allowed under section 3:
 - (i) only at a rate equivalent to the daily average of his wages to be calculated in the prescribed manner.
 - (ii) where he works on any such holiday, only at twice the rate mentioned in clause (i), or in lieu thereof, at the rate mentioned in that clause and to avail himself of a substituted holiday with wages at that rate on any other day:

Provided that no such employee shall be entitled to be paid any wages for any of the holidays allowed under section 3 other than the 26th January⁶[1st, May,) the 15th August, the 16th August and the 2nd October, unless he has been in the service under the employer for a total period of thirty days within a continuous period of ninety days immediately preceding such holiday.

Explanation: For the purpose of this proviso a weekly or any other holiday or authorized leave availed of by an employee shall be included in computing the period of thirty days mentioned therein.

6. Inspectors

- (1) The Administrator may, by notification, appoint such persons or such class of persons as he thinks fit to be Inspectors for the purposes of this Act for such local limits as the Administrator may specify.
- (2) Every Inspector shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

7. Powers of Inspectors

Subject to any rules made by the Administrator in this behalf, an Inspector may, within the local limits for which he is appointed,

- (a) enter, at all reasonable times and with such assistants, if any, who are persons in the

service of the Government or of any local authority as he thinks, fit to take with him, any place which is, or which he has reason to believe is, an industrial establishment.

(b) make such examination of the premises and of any prescribed registers, records and notices and take on the spot or otherwise, the evidence of such person as he may deem necessary for carrying out the purposes of this Act;

(c) exercise such other powers as may necessary for carrying out the purposes of this Act:

Provided that no one shall be required under this section to answer any question or give any evidence tending to incriminate himself.

8. Penalties

Any employer who contravenes any of the provisions of section 3 or section 5 shall be punishable with fine which, for the first offence, may extend to twenty-five rupees and for a second and subsequent offences may extend to two hundred and fifty rupees.

9. Penalty for obstructing Inspector

Whoever wilfully obstructs an Inspector in the exercise of any power conferred on him, by or under this Act, or fails to produce on demand in writing by an Inspector any register, record or notice in his custody which may be required to be kept in pursuance of this Act, or of any rule made thereunder, shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

10. Exemptions

(1) Nothing contained in this Act shall apply to:

(a) any employee in a position of management;

(b) any employee whose work involves travelling;

(c) any industrial establishment under the control of the Central or any State Government, local authority, Reserve Bank of India, a railway administration operating any railway as defined in clause (20) of Article 366 of the Constitution or a contonment authority; or

(d) any mine or oil field.

(2) The administrator may, by notification, exempt either permanently or for any specified period any establishment or class of establishments, or person, or class of persons from all or any of the provisions of this Act, subject to such conditions as the Administrator may deem fit.

11. Rights and privileges under other laws, etc., not affected

Nothing contained in this Act shall affect any rights or privileges which any employee is entitled to, on the date on which this Act comes into force under any other law, contract,

custom or usage, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act; Provided that if in any industrial establishment the number of holidays for festivals which any employee is entitled to, on the date on which this Act comes into force, exceeds four, the employer may, subject to the provisions of section 3, curtail a holiday of one whole day for one such festival as the Inspector of May, in consultation with the employer and the employees, specify in the industrial establishment.

12. Power to make rules

- (1) The Administrator may make rules for the purpose of carrying into effect the provisions of this Act.
- (2) In making a rule under this Act, the Administrator may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.
- (3) All rules made under this Act shall be published in the Puducherry State Gazette and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.
- (4) Every rule made under this Act shall, as soon as possible, after it is made, be placed on the table of the Legislative Assembly and if, before the expiry of the session in which it is so placed or the next session, the Legislative Assembly agrees in making any modification in any such rule or the Legislative Assembly agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

¹ This Act came into force w.e.f. 09.06.1964.

² Amended vide Act No. 10 of 1971 w.e.f. 24-04-1971.

³ Amended vide Act No. 10 of 1971 w.e.f. 24-04-1971.

⁴ Ins. by Act 10 of 1970, section 2, w.e.f. 5-5-1970.

⁵ Amended vide Act No. 10 of 1971 w.e.f. 24-04-1971.

⁶ Amended vide Act No. 10 of 1971 w.e.f. 24-04-1971.