

*The Industrial Disputes (West Bengal Second
Amendment) Act, 1980*

West Bengal Act 57 of 1980

WB402

[30th November, 1981.]

Assent of the President first published in the *Calcutta Gazette, Extraordinary*, dated the 30th November, 1981.

An Act to amend the Industrial Disputes Act, 1947, in its application to West Bengal.

Whereas it is expedient to amend the Industrial Disputes Act, 1947, in its application to West Bengal, for the purposes and in the manner hereinafter appearing;

It is hereby enacted as follows :-

1. Short title. - This Act may be called the Industrial Disputes (West Bengal Second Amendment) Act, 1980.

2. Application of the Act. - The Industrial Disputes Act, 1947 (hereinafter referred to as the principal Act), shall, in its application to West Bengal, be amended in the manner hereinafter provided.

3. Amendment of section 2 of Act 14 of 1947. - In section 2 of the principal Act,-

(a) in clause (oo) -

(i) after the words "termination by the employer", the words "by notice or otherwise" shall be inserted,

(ii) sub-clause (c) shall be omitted;

(b) in clause (8), after the word "technical", the words ", sales promotion" shall be inserted.

4. Amendment of section 9A. - In clause (b) of section 9A of the principal Act, for the words "within twenty-one days", the words "within forty-two days" shall be substituted.

5. Insertion of new section 11B. - After section 11A of the principal Act, the following section shall be inserted :

"11B. Power of a Labour Court or Tribunal to execute its award by decree, etc. - A Labour Court or a Tribunal shall have the power of a Civil Court to execute its own award as a decree of a Civil Court and

also to execute any settlement as defined in clause (p) of section 2 as a decree."

6. Amendment of section 12. - In sub-section (6) of section 12 of the principal Act, -

- (i) for the words "within fourteen days", the words "after completion of the conciliation proceedings within sixty days" shall be substituted; and
- (ii) in the proviso, after the words "such period", the words "not exceeding six months" shall be inserted.

7. Amendment of section 15. - (1) Section 15 of the principal Act shall be renumbered as sub-section (1) of that section and in sub-section (1) as so re-numbered, the words "a Labour Court, Tribunal or" shall be omitted.

(2) After sub-section (1) as so re-numbered, the following sub-section shall be inserted :-

"(2) Where an industrial dispute has been referred to a Labour Court or Tribunal, it shall -

- (a) after filing of statements and taking of evidence, give day to day hearing and give its award, other determination or decision in the manner specified in section 17B without any delay,
- (b) upon hearing the parties to the dispute, determine, within a period of sixty days, from the date of reference under sub-section (1) of section 10 or within such shorter period as may be specified in the order of reference under sub-section (1) of section 10, the quantum of interim relief admissible, if any :

Provided that the quantum of interim relief relating to discharge, dismissal, retrenchment or termination of service of workmen shall be equivalent to subsistence allowance as may be admissible under the West Bengal Payment of Subsistence Allowance Act, 1969."

8. Insertion of new section 17B. - After section 17A of the principal Act, the following section shall be inserted :-

"17B. Pronouncement and commencement of award, etc. - Notwithstanding anything contained in sections 17 and 17A -

(1) every award, other determination or decision by an arbitrator or a Labour Court or a Tribunal shall be pronounced on a date notified for the purpose and shall be dated and signed by the person or persons pronouncing the award, determination or decision and such award,

determination or decision once signed and dated shall not be altered save in the manner provided in this Act;

(2) the award, determination or decision of an arbitrator shall be pronounced in his office and the award, determination or decision of a Labour Court or a Tribunal shall be pronounced in open Court;

(3) a copy of every award, other determination or decision referred to in clause (1) certified in such manner as may be prescribed, shall be given by the arbitrator, Labour Court or Tribunal, as the case may be, to each of the parties to the dispute free of cost and a copy of the award, determination or decision as so certified shall be sent by the arbitrator, Labour Court or Tribunal, as the case may be, to the appropriate Government;

(4) every award, other determination or decision referred to in clause (1) shall become enforceable on the expiry of thirty days from the date of its pronouncement :

Provided that if the appropriate Government is of opinion, in any case where the award, other determination or decision has been given by an arbitrator or a Labour Court or a Tribunal, in relation to an industrial dispute in which it is a party, that it will be inexpedient on public grounds affecting national economy or social justice to give effect to the whole or any part of the award, other determination or decision, the appropriate Government may, by notification, declare that such award, determination or decision shall not become enforceable on the expiry of the said period of thirty days;

(5) where any declaration has been made in relation to an award, other determination or decision under the proviso to clause (4), the appropriate Government may, within ninety days from the date of such award, determination or decision, by notification, make an order rejecting or modifying such award, determination or decision, and shall, on the first available opportunity, lay the same and a copy of such order (where any such order has been made) before the Legislature of the State;

(6) where any award, other determination or decision is rejected by the appropriate Government under clause (5) it shall not be enforceable;

(7) where any award, other determination or decision is modified by an order made under clause (5) such award, determination or decision as so modified shall become enforceable on the expiry of fifteen days from the date on which the Order making the modification is published in the *Official Gazette*;

(8) where a declaration under the proviso to clause (4) has been made but no order is made under clause (5), the award, determination or decision shall become enforceable on the expiry of the period of ninety days referred to in clause (5);

(9) subject to their provisions of clauses (6), (7) and (8) regarding the enforceability of an award, other determination or decision, the same shall come into operation with effect from such date as may be specified therein, and where no date is so specified it shall come into operation on the date when the same becomes enforceable under clause (4), clause (7) or clause (8), as the case may be;

(10) the award, other determination or decision pronounced under clause (1) shall, subject to the provisions of this section, be final and shall not be called in question by any Court in any manner whatsoever."

9. Amendment of section 19. - In sub-section (3) of section 19 of the principal Act, after the word, figures and letter "section 17A", the words, figures and letter "or section 17B" shall be inserted.

10. Amendment of section 20. - For sub-section (1) of section 20 of the principal Act, the following sub-section shall be substituted :-

'(1) A conciliation proceeding shall be deemed to have commenced -

(a) in the case of an industry declared as "public utility service", on the date on which a notice of strike or lockout under section 22 is received by the conciliation officer,

(b) in the case of any other industry, on the date the conciliation officer issues notices asking the parties concerned to attend a joint conference before him, and

(c) in the case where an industrial dispute is referred to a Board, on the date of the order referring the dispute to a Board.'

11. Amendment of section 25C. - In section 25C of the principal Act, the second proviso shall be omitted.

12. Amendment of section 25E. - In section 25E of the principal Act, after clause (ii), the following proviso shall be inserted :-

"Provided that where lay-off extends beyond seven days at a stretch the workman may be required to present himself only once in a week;"

13. Amendment of section 25FFF. - In section 25FFF of the principal Act, in sub-section (1), -

(1) before the existing proviso, the following proviso shall be inserted :-

"Provided that prior payment of compensation to the workmen shall be a condition precedent to the closure of any undertaking;"

(2) in the existing proviso, for the words "Provided that", the words "Provided further that" shall be substituted.

14. Amendment of section 25H. - Section 25H of the principal Act shall be renumbered as sub-section (1) of that section and after sub-section (1), as so re-numbered, the following sub-section shall be inserted :-

"(2) Where a closed unit is re-opened the workmen on the roll of the unit immediately before its closure shall be given an opportunity to offer themselves for re-employment in the manner provided in sub-section (1)."

15. Insertion of new section 25HH. - After section 25H of the principal Act, the following section shall be inserted :-

"25HH. Condition of reinstatement of workman by an award of a Labour Court or Tribunal. - Where a workman is reinstated in service by an award of a Labour Court or Tribunal, the workman shall be deemed to be in service from the date specified in the award whether or not the workman was earlier reinstated by the employer and his wages shall be recovered in the manner provided in section 33C."

16. Amendment of section 25K. - In sub-section (1) of section 25K of the principal Act, for the words "three hundred", the word "fifty" shall be substituted.

17. Amendment of section 25M. - In sub-section (4) of section 25M of the principal Act, for the words "two months", the words "three months" shall be substituted.

18. Amendment of section 33C. - In section 33C of the principal Act, in sub-section (1), for the words "to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue", the words "to the Chief Judicial Magistrate or the Chief Metropolitan Magistrate having jurisdiction and the Chief Judicial Magistrate or the Chief Metropolitan Magistrate, as the case may be, shall proceed to realise the money as if it were a fine imposed by such Magistrate" shall be substituted.