

Fourteenth Kerala Legislative Assembly

Bill No. 211

**THE KERALA MOTOR TRANSPORT WORKERS'
PAYMENT OF FAIR WAGES (AMENDMENT)
BILL, 2019**

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Kerala Legislature Secretariat
2019

KERALA NIYAMASABHA PRINTING PRESS.

Published on 14-10-2019

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further to amend the Kerala Motor Transport Workers' Payment of Fair Wages Act, 1971.

Preamble.—WHEREAS it is expedient further to amend the Kerala Motor Transport Workers' Payment of Fair Wages Act, 1971, (23 of 1971) for the purposes hereinafter appearing;

BE it enacted in the Seventieth Year of the Republic of India as follows.—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Motor Transport Workers' Payment of Fair Wages (Amendment) Act, 2019.

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

2. *Amendment of section 2.*—In the Kerala Motor Transport Workers' Payment of Fair Wages Act, 1971 (23 of 1971), (hereinafter referred to as the principal Act) in section 2,—

(i) the existing clause (a) shall be re-lettered as clause (ac) and before clause (ac) as so re-lettered, the following clauses shall be inserted, namely:—

"(a) "authority" means the authority appointed under section 3A of the Act;

(aa) "Commissioner for Employee's Compensation" means the Commissioner for Employee's Compensation appointed under section 20 of the Employees Compensation Act, 1923 (Central Act 8 of 1923);

(ab) "Deputy Labour Commissioner" means the Deputy Labour Commissioner of the State having jurisdiction in the respective areas;"

(ii) after clause (ac), as so re-lettered, the following clauses shall be inserted, namely:—

(ad) "Inspector" means the Chief Inspector or any Inspector appointed under section 4 of the Motor Transport Workers Act, 1961 (Central Act 27 of 1961);

(ae) "Labour Commissioner" means the Labour Commissioner of the State of Kerala;"

(iii) after clause (d) the following clause shall be inserted, namely:—

(e) "Government" means Government of Kerala.

3. *Insertion of new section 3A.*—After section 3 of the principal Act, the following section shall be inserted, namely:—

"3A. *Claims arising out of non-payment of fair wages and penalty for malicious or vexatious claims.*—(1) The Government may, by notification in the Gazette, appoint any Commissioner for Employee's Compensation or an officer not below the rank of a Deputy Labour Commissioner of the State Government to hear and decide for any specified area, all claims arising out of payment of less than the fair wages to the motor transport workers employed or paid in that area, including all matters incidental to such claims.

(2) Where a motor transport worker has any such claim of the nature referred to in sub-section (1), he himself or any legal practitioner or any official of a registered trade union authorised in writing to act on behalf of such worker or any Inspector or any person acting with the permission of the authority appointed under sub-section (1) may apply to such authority for a direction under sub-section (3):

Provided that every such application shall be presented in such form as may be prescribed, within six months, from the date on which the fair wages become payable:

Provided further that any such application may be admitted after the said period of six months, if the applicant satisfies the authority that he had sufficient cause for not making the application within such period.

(3) When any application under sub-section (2) is entertained, the authority shall hear the applicant and the employer responsible for the payment of fair wages under section 3, or give them an opportunity of being heard, and after such further enquiry, if any, as it may deem necessary, the authority may, without prejudice to any other penalty to which the employer may be liable under this Act, direct that payment shall be made to the motor transport worker, of the amount by which the amount actually paid to him falls short of the fair wages actually payable to him, together with the payment of such compensation as the authority may think fit, not exceeding ten times the amount of such deficit.

(4) If the authority hearing an application under this section is satisfied that it was either malicious or vexatious, it may direct the payment of a penalty not exceeding one hundred rupees to the employer by the person presenting such application.

(5) If any amount directed to be paid under sub-section (3) or sub-section (4) is not paid by the person liable for the payment thereof, within the time limit fixed by the authority in this behalf, the authority shall, on application made to it by the person entitled thereto, either directly or by any person authorised by him in writing, issue a certificate for that amount to the Collector, who shall recover the same as arrears of public revenue due on land and pay the same to the person entitled thereto.

(6) Any person aggrieved by an order under sub-section (3) or sub-section (4), as the case may be, may, within sixty days from the date of receipt of the order, prefer an appeal to the Labour Commissioner (hereinafter referred to as the appellate authority):

Provided that no appeal shall be admitted unless, at the time of preferring the appeal, the appellant either produces a certificate issued by the authority to the effect that he has deposited with it an amount equal to the amount required to be paid under sub-section (3) or sub-section (4), as the case may be, or deposits such amount with the appellate authority.

(7) The appellate authority may, after giving the parties to the appeal, a reasonable opportunity of being heard, confirm, modify or revise the decision of the authority."

4. *Amendment of section 4*.—In section 4 of the principal Act, for the words "five hundred rupees", the words "five thousand rupees" shall be substituted.

5. *Amendment of section 6*.—In sub-section (1) of section 6 of the principal Act, for the word "authority", the word "Inspector" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The Kerala Motor Transport Worker's Payment of Fair Wages Act, 1971 does not contain any provision enabling a motor transport worker to prefer claims against non-payment of fair wages under the said Act. Therefore it is felt necessary to make suitable provisions in the Act enabling a motor transport worker to prefer claims for realising any money due to him under the said Act, appoint such authorities to hear and decide for any specified area all claims arising out of payment of less than the fair wages to the motor transport workers employed or paid in that area and also make provision enabling the Labour Commissioner to entertain appeals against the decisions of the authorities.

2. The Bill seeks to amend the Kerala Motor Transport Workers' Payment of Fair Wages Act, 1971 for the above purposes.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

(1) Sub-section (1) of section 3A proposed to be inserted by clause 3 of the Bill seeks to empower the Government by notification in the Gazette, to appoint any Commissioner for Employee's Compensation or an officer not below the rank of Deputy Labour Commissioner of the State Government to hear and decide for

any specified area, all claims arising out of payment of less than the fair wages to the motor transport workers employed or paid in that area.

(2) The first proviso to sub-section (2) of section 3A inserted by clause 3 of the Bill, inter alia, empowers the Government to prescribe the form of application to be presented before the authority.

(3) The matters in respect of which the notification may be issued and rules may be made are of a routine and administrative character. Further, such notification after they made, will be subject to scrutiny of the Legislative Assembly. The delegation of legislative power is therefore, of a normal character only.

T. P. RAMAKRISHNAN

**EXTRACT FROM THE KERALA MOTOR TRANSPORT WORKERS'
PAYMENT OF FAIR WAGES ACT, 1971
ACT 23 OF 1971**

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2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “employer” means in relation to any motor transport undertaking, the person who or the authority which, has the ultimate control over the affairs of the motor transport undertaking, and where the said affairs are entrusted to any other person whether called a manager, managing director, managing agent or by any other name, such other person ;

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(d) “fair wages” means the rate of wages payable to the motor transport workers specified in the Schedule to this Act or the agreed rate of wages whichever is higher.

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3. Fair wages payable to motor transport workers.—Notwithstanding anything contained in any other law, rule, order or notification having the force of law or contract, every employer shall pay to any motor transport worker under his employment fair wages in respect of his employment, or the work done in such employment:

Provided that the arrears of fair wages payable by an employer for any period prior to the date of publication of this Act in the Gazette shall be paid before the expiry of six months after the date of such publication in not more than six monthly installments.

Provided further that the arrears of fair wages payable by an employer by virtue of the Kerala Motor Transport Workers' Payment of Fair Wages (Amendment) Act, 1988 for any period prior to the date of publication of the said Act shall be paid before the expiry of three months after the date of such publication, in not more than three monthly installments.

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4. Penalty for non-payment of fair wages.—Any employer who refuses to pay fair wages as provided in this Act to any motor transport worker without reasonable cause shall, on conviction be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

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6. Cognizance of offences.—(1) No court shall take cognizance of an offence under this Act save on complaint made by such authority as the Government may, by notification in the Gazette, specify.

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