

# THE BENGAL INDUSTRIAL EMPLOYMENT (STANDING ORDERS) RULES, 1946

## Contents

1. ....	3
2. In these rules— .....	3
2A. Matters relating to— .....	3
3. ....	3
4. ....	3
6. ....	4
7. ....	4
7A. ....	4
7B. ....	5
8. ....	5
9. ....	6
10. ....	6

## THE BENGAL INDUSTRIAL EMPLOYMENT (STANDING ORDERS) RULES, 1946

### 1.

These rules may be called "The Bengal Industrial Employment (Standing Orders) Rules, 1946.

### 2. In these rules—

- (a) "the Act" means the Industrial Employment (Standing Orders) Act, 1946 ;
- (b) "form" means a form appended to these rules ; and
- (c) "section" means a section of the Act.

### 2A. Matters relating to—

- (i) appointment—matters concerning service records, service cards, service tickets or tokens, certificates of service, medical examination and trade tests,
- (ii) inter-departmental or inter-sectional or inter-mill or inter-factory or inter-garden transfer or transfer from one shift to another and change of jobs,
- (iii) overtime, and
- (iv) superannuation,

shall be additional matters to be included in the Schedule to the Industrial Employment (Standing Orders) Act, 1946 and shall be treated as items Nos. 12 to 15, respectively of the said Schedule.

### 3.

The draft Standing Orders to be submitted by an employer under section 3 shall be, so far as is practicable, in conformity with the Model Standing Orders in Appendix A of these rules and shall show

the particulars of the workmen employed in the industrial establishments and their trade union or unions in Forms "A1" and "A2", respectively.

Statement in Form "A" showing the matters set out in the Schedule and additional matters to be included therein (i.e., matters required to be provided for in the Standing Orders) applicable to the industrial establishment and the reference to the paragraph or clause of the Standing Order where such matters have been provided shall also accompany the draft Standing Orders.

**4.**

A group of employers in similar industrial establishments desirous of submitting joint draft Standing Orders shall through a person authorised in this behalf by the group—

(a) submit a list of employers constituting the group with the name and address in full of each establishment ;

(b) submit a declaration that the establishments constituting the group will abide by the conditions laid down in the Standing Orders submitted by group.

(c) Submit statement in Forms "A1" and "A2" in respect of each establishment; and

(d) as soon as any particular establishment leaves the group the person so authorised shall notify the fact to the Certifying Officer within seven days from the date on which the establishment leaves the group. Such establishment shall continue to be governed by the group Standing Orders already certified until such time as it submits separate draft Standing Orders of its own and has it duly certified.

**5.** When a new establishment joins a group of establishments, it adopt the Standing Orders of the group it joins subject to such modification, if any, as it desires and shall notify the fact to the Certifying Officer and all the procedure for modification of standing orders shall be applicable to the modification of such Standing Orders and until such modification the previous certified Standing Orders in respect of the establishment shall be in force.

**6.**

(1) On receipt of the draft Standing Orders the Certifying Officer shall forward within seven days from its receipt a copy thereof by registering post together with notice in Form "B" to the trade union or unions which may be known to such Certifying Officer as concerned with the establishment or establishments to which the Standing Orders relate and where there is no such trade union shall cause a copy thereof to be affixed on the notice board at the office of the Certifying Officer and of the establishment or establishments concerned for the information of the workmen of such establishment or establishments.

(2) Any employee or any organisation or person acting on behalf of an employee may submit objection to the draft Standing Orders in Form "C" in triplicate. The Certifying Office shall besides following the procedure laid down in sub-section (2) of section 5 obtain the comments of the employer or employers to the objection and note the decision thereon. Copies of the form thus received and noted shall then be returned, one each to the objector and the employer, the objector and the employer, the third copy being retained by the Certifying Officer for his record.

**7.**

The employer shall within three days of the decision of the Certifying Officer on the objection, if any, submit to the Certifying Officer five copies of the Standing Order as finally settled written on one side of the paper only. These will be duly attested with the seal and signature of the Certifying Officer on each page of the Standing Orders. Any correction made therein shall be attested by the initial of the Certifying Officer. One such copy of the Standing Orders shall be returned to the employer within seven days of the date of such decision and to the trade union or unions of the workmen in the employment of the employer.

**7A.**

(1) Within sixty days of the receipt of an attested copy of the Standing Orders under rule 7, the employer shall submit to the certifying Officer a Bengali version thereof for his approval. In the case, however, of an undertaking where not less than 25 per cent of the workmen speak Hindi or Nepali, the employer shall also submit to the Certifying Officer a Hindi or Nepali version, as the case may be, of

such standing Orders for his approval. The Certifying Officer, shall, upon receipt of the aforesaid version or versions, as the case may be, approve the same after ensuring the correctness thereof.

(2) Every employer shall cause to be posted the version or versions of the Standing Orders as approved under sub-rule(1), along with the English text thereof in the manner provided in section 9.

#### **7B.**

(1) Any person desiring to prefer an appeal in pursuance of sub section (1) of section 6 shall draw up a memorandum of appeal setting out the grounds of appeal and forward it in quintuplicate to the appellate authority accompanied by one set of certified copies of the certified Standing Orders and of the order of the Certifying Officer under sub-section (2) of section 5.

(2) The appellate authority shall, after giving the appellant an opportunity of being heard, confirm the Standing Orders in the form certified by the Certifying Officer unless it considers that there are reasons for giving the other parties to the proceeding a hearing before a final decision is made in the appeal.

(3) Where the appellate authority does not confirm the Standing Orders under sub-rule (2) it shall fix a date for the hearing of the appeal and notice thereof to be given—

(a) where the appeal is filed by the employer or a workman, to the trade union or unions of the workmen named by the employer or the workman or to any other trade union or unions which may be known to such appellate authority as concerned with the establishment or establishments to which the Standing Orders relate, and where there is or are no such trade union or unions, to the workmen of such establishment or establishments by affixing it on the notice board at the office of the appellate authority and of the establishment or establishments concerned ;

(b) where the appeal is filed by a trade union, to the employer and all other trade unions of the workmen of the establishment or establishments concerned.

(4) The appellant shall furnish each of the respondents with a copy of the memorandum of appeal.

(5) The appellate authority may at any stage call for any evidence it considers necessary for the disposal of the appeal.

(6) On the date fixed under sub-rule (3) for the hearing of the appeal, the appellate authority shall take such evidence as it may have called for or considers to be relevant.

#### **8.**

The Certifying Officer shall maintain a register in Form "D" for noting particulars of all Standing Orders as finally certified under the Act. A copy of all such Standing Orders shall be recorded. He shall furnish a copy thereof to any person applying therefor on

payment of a fee of twelve annas for the first two hundred words (or less) and six annas for every additional hundred words or fractional part thereof.

#### **9.**

The Certifying Officer or any other officer authorised by him in this behalf shall be allowed to place his point of view before the Appellate Authority before he passes his order confirming the Standing Orders as certified by the Certifying Officer.

#### **10.**

A set of Model Standing Orders is set out in Appendix A to these rules.

#### **APPENDIX A**

## **MODEL STANDING ORDERS**

**(See Rule 10)**

### **1. Application**

These orders shall come into force in the manner indicated in section 7 of the Industrial Employment (Standing Orders) Act, 1946.

### **2. Definition and classification of workman**

(1) "Workman" means a workman as defined in clause (i) of section 2 of the Industrial Employment (Standing Orders) Act, 1946.

(2) Workman shall be classified as—

- (i) permanent,
- (ii) probationers,
- (iii) badlies,
- (iv) temporary,
- (v) casual, and
- (vi) apprentices,

(3) In these orders, unless there is anything repugnant in the subject or context :

(a) "permanent workman" means a workman who has been engaged on a permanent basis and includes any person, who has satisfactorily completed a probationary period of six months in the same or another occupation in the industrial establishment, including breaks due to sickness, accident, leave, lock-out, strike (not being an illegal strike) or involuntary unemployment:

Provided that the probationary period of any person may be extended up to a maximum period of nine months if his service is not considered satisfactory at the end of the initial probationary period of six months;

(b) "probationer" means a workman who is provisionally employed to fill a permanent vacancy in a post and has not completed six months'

service of the further extended period of service in that post as provided in the proviso to clause (a):

(c) "badli" means a workman who is appointed to act in the post of a temporarily absent permanent workman or a probationer who is temporarily absent ;

(d) "temporary workman" means a workman who has been engaged for a work which is essentially of a temporary character likely to be finished within a limited period or who is temporarily employed in connection with a temporary increase in work of a permanent nature;

(e) "casual workman" means a workman whose employment is of a casual nature ;

(f) "apprentice" means a learner who is paid an allowance during the period of his training.

Explanation:—No apprentice shall be engaged in any industrial establishment without payment of an allowance.

### **3. Appointment**

(1) The employer or any officer, authorised by him in this behalf, may require every applicant for employment to undergo-

- (a) A test of proficiency in the job he seeks for in the manner considered necessary for the purpose ; and
- (b) Medical test by a doctor of the company's choice.

(2) On selection every workmen shall be furnished with a letter of appointment orders :

Provided that it shall not be necessary for the employer to issue such a letter of appointment to workmen who has already been given a letter of appointment substantially containing the particulars specified in Form J:

Provided further a letter of appointment once issued to a temporary, casual or badli workman shall remain valid for his subsequent appointment in the same capacity in the industrial establishment unless there is any material change in the condition of service and if an endorsement is added in the letter of appointment indicating the dates of commencement and termination of each such appointment.

(3) Every change in the particulars mentioned in the letter of appointment given to a workman shall be immediately communicated to the workman concerned either by personal service with proper receipt or by registered post with acknowledgement due.

(4) Within three days of joining service a workman shall furnish to the employer or the officer authorised by him in this behalf, his full address where all communications meant for him shall be sent. Any change of address shall be immediately communicated to the employer or the officer authorised in this behalf.

#### **4. Verification of age**

(1) Every workman shall furnish his exact date of birth to the employer or the officer authorised by him in this behalf at the time of entering services of the establishment.

(2) The employer or the officer authorised by him in this behalf may, before the date of birth of a workman is entered in his service records, require him to furnish—

(a) his Matriculation/School Final or School Leaving Certificate granted by a University or Board of Secondary Education or similar educational authority, or

(b) a certified copy of the date of his birth as recorded in the registers of a Municipality or a local authority, and

(c) in the absence of either of the aforesaid two categories of certificates,—

(i) a certificate from a Government Medical Officer not below the rank of an Assistant Surgeon, provided the cost for obtaining such a certificate is borne by the employer, or else,

(ii) an Affidavit sworn either by his parents, or in their absence, by a near relative who is in a position to know about his birth, before a First Class Magistrate, as evidence in support of the date of birth given by him.

(3) The date of birth of a workman once entered in the service records of the establishment shall be the sole evidence of his age in relation to all matters pertaining to his service including fixation of the date of his retirement from the services of the establishment.

#### **5. Age of retirement**

A workman shall normally retire from the services of the establishment on attaining the age of fifty-eight years:

Provided that the Manager or any officer authorised by the employer in this behalf may require a workman, who has attained the age of fifty-five years, to undergo a medical test of physical fitness and, if he is found unfit may ask him to retire from the services of the establishment:

Provided further that the Manager or any officer authorised by the employer in this behalf may extend the services of any workman even after he attains the age of fifty eight years, subject to his medical fitness, in the interest of business or production of the establishment.

#### **6. Service records and tickets**

(a) The industrial establishment shall maintain service records of standard size as nearly as may be in Form J appended to these orders for the purpose wherein particulars of every workman, except a casual workman, shall be recorded:

Provided, however, of the industrial establishment is already maintaining service record cards containing all the particulars required in Form I the use of such service records cards in their present form may continue.

(b) Every workman shall be provided with a token, or badge or other means of identification, which shall be carried by him on his person and shall, on being required to do so, be produced to any person authorised by the Manager to inspect it or, as the case may be, surrendered to anybody authorised by the Manager in this behalf.

(c) Loss of the departmental ticket shall immediately be notified to the Manager. A duplicate shall be issued on payment of the actual cost of replacement by the workman concerned.

### **7. Overtime**

Subject to the provisions of the Factories Act, 1948 (63 of 1948), or any other Act for the time being in force, any workman may be required to work overtime in connection with the business or production carried on in the establishment and the payment for such overtime work shall be regulated in accordance with the provisions of the said Factories Act, 1948, or any other Act applicable to the establishment, or any award, agreement, contract custom or usage.

### **8. Publication of working time**

The period and hours of work for all classes of workmen shall be exhibited on notice boards.

### **9. Publication of holidays and pay days**

Notices specifying –

- (a) the days observed by establishment as holidays, and
- (b) pay days,

shall be posted on notice boards.

### **10. Publication of wage rates**

Notices specifying the rates of wages payable to all classes of workmen and all classes of work shall be displayed on the notice boards.

### **11. Shift working**

(1) Subject to the provisions of Factories Act, 1948 (Act 63 of 1948), more than one shift may be worked in any department or departments section or sections of the establishment at the discretion of the employer.

(2) Every workman shall be liable to be transferred from one shift to another if and when more than one shift is worked in the Establishment.

(3) A notice of seven days shall be given for starting shift system of work or a new shift.

(4) Unless otherwise contracted a notice of twenty-one days shall be given before any shift working is discontinued.

(5) In case any workman is required to be discharged for discontinuance of any shift to work, he shall be discharged according to the provisions of the Industrial Disputes Act, 1947 (14 of 1947), and the workman so discharged shall, if he present himself at the time of the restarting of the shift be given preference for re-employment, having regard to the length of his previous service in the establishment. Those who have the longest term of service will be ordinarily re-employed first.

Explanation:—Notice to be given under this paragraph shall be exhibited in the notice boards.

### **12. Attendance and late coming**

(1) All workmen shall join work at the establishment punctually at the time fixed and notified in terms of paragraph 8 of these orders.

(2) A grace period up to five minutes on any day may be allowed for attendance to any individual workman, subject to a maximum limit of fifteen minutes per week. No workman shall be allowed access inside the workshop or place of work after the expiry of half an hour from the scheduled time for starting work, except with the permission of the Manager or the officer authorised by the employer in this behalf.

(3) The wages of any workman attending late shall be liable to the deduction provided for in the Payment of Wages Act, 1936 (4 of 1936).

(4) No workman shall leave the premises of the establishment during his working hours without special permission of the Manager or the officer authorised by the employer in this behalf, and any workman who, after checking in, is found absent from his proper place of work during working hours without permission or without sufficient reason, shall be liable to be treated as absent without leave.

### **13. Leave and holidays**

Leave and holidays of the workmen shall be governed by the Factories Act, 1948 (63 of 1948), or any other Act applicable to the establishment subject to the condition that this will not affect the workmen's right to have better facilities in this regards under any award, contract, agreement, custom or usage.

### **14. List of festival holidays**

At the end of every calendar year a list of festival holidays for the next year shall be prepared in consultation with the workmen concerned and posted in the notice boards:

Provided that no such consultation shall be necessary in case there is an agreement or award governing the grant of festival holidays.

### **15. Application for leave**

Subject to the provisions of the Factories Act, 1948 (65 of 1948), or any other Act applicable to the establishment any workman desiring to avail of any leave which is due to him, shall make an application in writing for the purpose to the Manager or the Officer authorised by the employer in this behalf, at least fifteen days

prior to the date of the intended commencement of such leave and the Manager or the officer concerned shall pass orders on the application within a week of its submission:

Provided that when leave is required for urgent purposes, the period of fifteen days' notice ordinarily required may be waived and in that case an application may be submitted as early as possible and the Manager or the authorised officer concerned shall pass orders on the application on the date of its submission, if the leave is to commence on that day, or at least 24 hours before the actual commencement of the leave.

### **16. Leave pass**

(1) If any leave, other than casual leave, is granted; a leave pass showing the nature and period of leave granted shall be issued to the applicant.

(2) Every workman praying for leave shall intimate to the Manager or the officer authorised by the employer in this behalf, his address during the period of leave, and if there is any change in the leave address, the Manager or the officer authorised in this behalf shall be informed within three days of such change.

### **17. Refusal of leave**

(1) Leave due and prayed for in accordance with paragraph 15 of these orders shall not ordinarily be refused and no part of the privilege leave or annual leave earned by a workman shall be allowed to lapse by the refusal of the Manager or any officer authorised in this behalf to grant such leave :

Provided that the Manager or the officer authorised in this behalf may regulate the grant of privilege leave or annual leave according to convenience of the establishment in consultation with the representatives of the workmen.

(2) If the whole or any part of the leave prayed for is refused or postponed, the fact of such refusal or postponement and the reasons thereof shall be recorded in writing in a register to be maintained for the purpose, and if the workman concerned so desires, a copy of such entry in the register shall be supplied to him by the Manager or the officer authorised by the employer in this behalf.

#### **18. Extension of leave**

If a workman, after proceeding on leave desires an extension thereof, he shall apply in writing to the Manager or the officer authorised by the employer in this behalf, and the Manager or the officer concerned shall send a written reply either granting or refusing extension of leave prayed for to the applicant at the address given by him under clause (2) of paragraph 16 of these orders before proceeding on such leave.

#### **19. Unauthorised absence**

(1) If a workman remains absent without leave beyond the period of leave originally granted and subsequently extended, the Manager or the officer authorised by the employer in this behalf shall, before taking any

disciplinary action against the absentee, issue notice requiring him to explain in writing the reasons for his absence within ten days of the date of issue of the notice:

Provided that postal delay beyond three days, from the date of despatch of the letter of explanation shall be condoned in computing the time limit for its receipt.

(2) If on receipt of the notice, the absentee explains the reasons for his absence to the Manager or the officer authorised by the employer in this behalf, the Manager or the authorised officer concerned may, if the explanation is found satisfactory, regularise the period of unauthorised absence by grant of such leave as may be due to the workman, and treat the remaining period of absence, if any, as absence without wages.

(3) If the explanation given by the absentee workman is considered not satisfactory by the Manager or the officer authorised by the employer in this behalf, the Manager may either treat the period of unauthorised absence of the workman as absence without wages even though leave with wages may be due to him, or terminate his lien on his appointment, depending on the gravity of the case:

Provided that in case a workman loses lien on his appointment his name shall be kept on the "badly" or "waiting" list.

(4) If the absentee workman does not submit any explanation to the Manager or the officer authorised by the employer in this behalf within the time limit given in the notice, the Manager may terminate the lien of the workman on his appointment forthwith.

(5) The notice referred to in sub-paragraph (1) shall be served by registered post with acknowledgment due to the address given by the workman concerned under paragraph 16, or in its absence, to the address last given by him to the Manager or the officer authorised by the employer in this behalf.

#### **20. Casual Leave**

(1) A workman may be granted casual leave of absence with or without pay, not exceeding ten days in a calendar year.

(2) Ordinarily, casual leave of absence shall not be admissible for more than three days at a time, except in cases of sickness, and previous permission, the writing of the Manager, or the officer authorised by the employer in this behalf, shall be obtained before such leave is availed of:

Provided that when it is not possible so obtain such previous permission, the Manager or the authorised officer concerned shall, as soon as it may be practicable be informed in writing of the absence from duty and the probable duration of such absence with reasons therefor.

### **21. Requirements for entering premises by certain gates and liability to search**

(1) All workmen shall enter or leave the premises of the establishment by the gate or gates specified for the purpose by the Manager and these gate may be kept closed during the working hours at the discretion of the Manager.

(2) The workman intending to go out of the establishment during the working hours shall have to take permission of the Manager or any other person authorised in this behalf.

(3) The workman are liable to be searched at the time of entering and leaving the establishment or at other times whilst on duty by any person authorised by the Manager :

Provided that such searches shall be conducted in the presence of witnesses where practicable:

Provided further than no woman shall be searched except a woman and, where practicable, in the presence of another woman.

### **22. Payment and wages**

(1) Any wages due to a workman but not paid on the usual pay day on account of the wages being unclaimed, shall be paid on an unclaimed wages pay day in each week, shall be notified in the notice boards:

Provided that if a workman is unable to present himself at the pay counter for collection of his wages, the Manager or any other Officer authorised by the employer in this behalf shall send his due wages by money order after deducting the amount of postal commission therefor, if requested by the workman concerned to do so.

(2) Wages due shall be paid daily, weekly, fortnightly or monthly in accordance with the provisions of the Payment of Wages Act, 1936 (4 of 1936).

### **23. Stoppage of work**

(1) Subject to the provisions of Chapter VA of the Industrial Disputes Act, 1947 (14 of 1947), the employer may at any time, in the event of fire, catastrophe, breakdown of the machinery or stoppage of power supply epidemics, civil commotion or other cause beyond his control whether of a serious nature or not, stop any section or sections of the establishment, wholly or partially for any period or periods without notice.

(2) In the event of such stoppage during working hours, the workmen affected shall be notified by notices put upon the notice boards in the departments concerned and at the office of the Manager as soon as practicable, when work will be resumed and whether they are to remain or leave their place of work. The workmen detained shall be entitled to receive wages for the whole of the time during which they are so detained. The workman not detained will receive wages up to the time they are told to leave the establishment. Such wages in the case of piece-rate workers shall be the average daily earnings for the previous month, wherever practicable, reasonable notices shall be given for resumption of normal work.

(3) The procedure and payment in the event of workmen being laid off as a result of any stoppage referred to in sub-paragraphs (1) and (2) shall be regulated in accordance with the provisions of the Industrial Disputes Act, 1947 (14 of 1947).

(4) The employer may in the event of a strike affecting either wholly or partially and section or department of the establishment close down either wholly or partially such section or department and any other section or department affected by such closing down. The fact of such closure shall be notified by notices put on the notice boards in the section or department or departments concerned and in the time keeper's office, if any, as soon as practicable. The workmen concerned shall also be notified by general notice prior to resumption of work, as to when work will be resumed. A copy of such notice shall be sent to the registered trade union/unions, if any, functioning in the establishment.

#### **24. Transfer of workmen**

Any workman be transferred from one job to another or from one section or department to another in the interest of production or efficiency of the establishment:

Provided that any such transfer shall not adversely affect the total emoluments or the basic conditions of service of the workman concerned.

#### **25. Termination of employment**

(1) For termination of employment of any workman in the categories of permanent and probationer, the employer or the workman concerned, as the case may be, shall give notice in writing—

- (i) in the case of any such workman paid monthly, of not less than one month,
- (ii) in the case of any such workman paid on any other basis, of not less than two weeks:

Provided that no such notice shall be necessary where the termination of employment is affected as a measure of punishment:

Provided further that no such notice shall be necessary if the termination of employment is under an agreement which specifies a date for such termination.

Explanation:—

(1) It will be optional for the employer or the workman concerned to pay an amount equivalent to the workman's wages for the stipulated period of notice in lieu of notice.

(2) No notice shall be necessary for termination of employment of any temporary, casual or badli workman :

Provided that notice of one month shall be given for termination of employment of any workman including an apprentice who has been in continuous service for at less than one year in the establishment.

(3) When the employment of any workman is terminated, all wages earned and unpaid shall be paid him at the time of such termination, if convenient, or in any case, within the period of time specified under the Payment of Wages Act, 1936 (4 of 1936).

#### **26. Lien on permanent post**

If a permanent workman is promoted to a higher post on temporary or probationary basis, he shall continue to hold lien on his permanent post till he is permanently absorbed in such higher post.

#### **27. List of acts and omissions to be treated as misconduct**

The following acts and omissions shall be treated as misconduct—

- (i) wilful insubordination or disobedience, whether alone or in combination with others, to any lawful or reasonable order of a superior, including the order to work overtime in accordance with the provisions of the Factories Act, 1948 (63 of 1948), or any other law ;

- (ii) theft, fraud or dishonesty in connection with the employer's business or property ;
- (iii) wilful damage to or loss of the employer's goods or property ;
- (iv) taking, giving, offering or asking for bribes or any illegal gratifications whatsoever ;
- (v) habitual absence without leave or absence without leave for more than ten days ;
- (vi) habitual late attendance ;
- (vii) habitual breach of any law or Standing Orders applicable to the establishment ;
- (viii) drunkenness, intoxication, riotous or disorderly behaviour during working hours at the establishment or any act subversive of discipline ;
- (ix) negligence or habitual neglect of work ;
- (x) frequent repetition of any act or omission for which a fine may be imposed;
- (xi) striking work or inciting others to strike work in contravention of the provisions of any law or rule having the force of law or of any contract ;
- (xii) engaging in trade within the factory premises without the permission of the management ;
- (xiii) disclosing to any person information in regard to process or secrets of work without authority ;
- (xiv) habitual breach of rules or instructions for the maintenance or running of any department or the maintenance of the cleanliness of any portion or the factory premises or factory compound ;
- (xv) allowing an unauthorised person to operate his machine ;
- (xvi) collection of money within the factory premises during working hours for purposes not sanctioned by the management ;
- (xvii) Smoking in the factory or godown premises where smoking has been specifically prohibited by a notice to that effect ;
- (xviii) holding meetings or aiding or abetting in holding meetings inside the premises of the industrial establishment without the previous sanction of the employer ;
- (xix) conviction in any court of law for a criminal offence involving moral turpitude ;
- (xx) refusal to accept a charge-sheet, order or other communication intended for service on any workman in accordance with these Standing Orders ;
- (xxi) sleeping while on duty ;
- (xxii) participation in slow-down strike or wilful go-slow tactics in the performance work ;
- (xxiii) gambling within the factory ;
- (xxiv) money lending or borrowing within the factory premises.

## **28. Disciplinary action for misconduct**

- (1) A fine may be imposed on any workman in respect of an act or omission on his part, in accordance with section 8 of the Payment of Wages Act, 1936 (4 of 1936).
- (2) A workman may be suspended for a period not exceeding four days at a time, or dismissed without notice or without any compensation in lieu of notice, or his annual increment may be stopped or be punished by reduction in rank, if he is found to be guilty of misconduct.
- (3) Without prejudice to the provision of clause (2), it shall always be optional to the management to impose a fine in accordance with the provisions of the Payment of Wages Act, 1936 (4 of 1936), instead of dismissing any workman.
- (4) No order of dismissal shall be made unless the workman concerned is informed in writing of the alleged misconduct and is given an opportunity to explain the circumstances alleged against him, and to adduce evidence, if any, in his favour at an enquiry to be held for this purpose. The workman shall have the option of having a fellow workman of the same establishment to represent him at the enquiry. The approval of the Manager of the establishment and, where there is no Manager, of the employer, is required in every case of dismissal, and when circumstances appear to warrant it, the Manager or the employer may, whether an

appeal has or has not been preferred, institute independent enquires before dealing with the charges against a workman.

(5)

(a) Where a disciplinary proceeding against a workman is contemplated or is pending or where criminal proceedings against him in respect of any offence are under investigation or trial and the Manager or the employer is satisfied that it is necessary or desirable to place the workman under suspension, he may, by order in writing. Suspend him with effect from such date as may be specified in the order. A statement setting out in details the reasons for such suspension shall be supplied to the workman within a week from the date of suspension.

(b) A workman who is placed under suspension under sub-clause (a) shall during the period of such suspension, be paid a subsistence allowance at the following rates, namely:

(i) Where the enquiry contemplated or pending is departmental, the subsistence allowance shall, for the first ninety days from the date of suspension be equal to one-half of the basic wages, dearness allowance and other, compensatory allowances to which the workman would have been entitled. if he were on leave with wages. If the departmental enquiry gets prolonged-and the workman continues to be under suspension for a period exceeding ninety days, the subsistence allowance shall for such period be equal to three-fourths of such basic wages, dearness allowance and other compensatory allowances:

Provided that where such enquiry is prolonged beyond the period of ninety day for reasons directly attributable to the workman, the subsistence allowance shall, for the period exceeding ninety days, be reduced to one-fourth of such basic wages, dearness allowance and other compensatory allowances.

(ii) Where the enquiry is by an outside agency or, as the case may be where criminal proceedings against the workman are under investigation or trial, the subsistence allowance shall, for the first one hundred and eighty days from the date of suspension be equal to one-half of his basic wages, dearness allowance and other compensatory allowances to which workman would have been entitled to if he were on leave. If such enquiry or criminal proceedings gets prolonged and the workman continues to be under suspension for a period exceeding one hundred and eighty days, the subsistence allowance shall for such period be equal to three-fourths of such wages :

Provided that were such enquiry or criminal proceedings is prolonged beyond a period of one hundred and eighty days for reasons directly attributable to the workman, the subsistence allowance shall, for the

period exceeding one hundred and eighty days, be reduced to one-fourth of such wages.

(c) If on the conclusion of the inquiry or, as the case may be, of the criminal proceedings, the workman has been found guilty of charges framed against him and that it is considered, after giving the workman concerned a reasonable opportunity of making representation on the penalty proposed, that an order of dismissal or suspension or fine or stoppage of annual increment or reduction in rank would meet the ends of justice, the employer shall an order accordingly:

provided that when an order of dismissal is passed under this sub-clause, the workman shall be deemed to have been absent from duty during the period of suspension and shall not be entitled to any remuneration for such period, and the subsistence allowance already paid to him not be recovered:

Provided further that where the period between the date on which the workman was suspended from duty pending the inquiry or trial and the date on which order of suspension was passed under this sub investigation or clause exceeds four days, the workman shall be deemed to have been suspended only for four days or for such shorter period as is specified in the said order of suspension and for the

remaining period he shall be entitled to the same wages as he would have received if he had not been placed under suspension. after deducting the subsistence allowance paid to him for such period:

Provided also that where an order imposing fine or stoppage of annual increment or reduction in rank is passed under this sub-clause, the workman shall be deemed to have been on duty during the period of suspension and shall be entitled the same wages as he would have received if he had not been placed under suspension, after deduction of the subsistence allowance paid to him for such period:

Provided also that in the case of a workman to whom the provision of clause (2) of article 311 of the Constitution of India applies, the provisions of that article shall be complied with.

(d) if on the conclusion of the inquiry or as the case may be, of the criminal proceedings, the workman has been found to be not guilty of any of the charges framed against him, he shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages as he would have received if he had not been placed under suspension, after deducting the subsistence allowance paid to him for such period.

(e) The payment of subsistence allowance under this paragraph shall be subject to the workmen concerned not taking up any employment during the period of suspension.

(6) In awarding punishment under this paragraph the Manager or the employer shall take into account the gravity of the misconduct, the previous record, if any, of the workmen and any other extenuating or aggravating circumstance that may exist. A copy of the order passed by the Manager or the employer shall be supplied to the workman concerned.

### **29. Complaints**

All complaints arising out of employment including those relating to unfair treatment or wrongful execution on the part the employer or his agent shall be submitted in writing to the Manager or other person specified in this behalf with the right of appeal to the employer.

### **30. Certificate on termination of service**

Every permanent workman shall be entitled to a service certificate at the time of his dismissal, discharge or retirement from service.

### **31. Liability of employer**

The Manager or in his absence the employer of the establishment \*shall personally be held responsible for the proper and faithful observance of these orders.

### **32. Method of posting**

(1) General notices required to be served on the workmen under these Standing Orders shall be deemed to have been properly served if posted on the notice board maintained for such purposes in the manner indicated in paragraph 33.

(2) Important notice concerning individual workmen notices conveying decisions to terminate the services of workmen or to lay them off shall be served on the workman or workmen concerned personally:

Provided that when it is not possible to serve such notice personally to the workman or workmen concerned, it shall be deemed to have been properly served if sent to the last known address of the workman or workmen concerned by registered post with acknowledgment due.

### **33. Exhibition of notices in notice boards**

All notices required to be given under these orders shall be exhibited in English and Bengali on notice board maintained at or near the main entrance of the establishment and at the timekeeper's office, if any:

Provided that in case the number of Hindi or Nepali speaking workmen employed in the industrial establishment reaches twenty five per centum of the total number of workmen employed in the industrial establishment, a Hindi or Nepali version of the notices, as the case may be, shall also be exhibited in the like manner.

#### **34. Exhibition of Standing Orders**

A copy of these orders in English and in Bengali shall be posted—

(i) at the Manager's office,

(ii) at the notice board maintained at or near the main entrance through which majority of the workmen enter the industrial establishment, and

(iii) at the notice boards maintained for the purpose in the different departments of the industrial establishment.

and shall be kept in legible condition:

Provided that in case the number of Hindi or Nepali speaking workmen employed in the industrial establishment reaches twenty-five per centum of the total number of workmen employed in the industrial establishment, a Hindi or Nepali version of these orders, as the case may be, shall also be posted in the like manner.

#### **35. Interpretation**

In all the disputes regarding the interpretation of these orders only the English text of the certified Standing Orders shall be considered as being authentic.

1 Notification No.5568 Com., dated 14th October, 1946.