

# THE KERALA HEADLOAD WORKERS RULES, 1981

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## **THE KERALA HEADLOAD WORKERS RULES, 1981\***

### **CHAPTER I**

#### **1. Short title and Commencement:—**

- (1) These rules may be called the Kerala Headload Workers Rules, 1981.
- (2) They shall come into force on such date as the Government may by notification in the Gazette, appoint and different dates may be appointed for different areas and for different provisions of the rules and for different establishments. \*\*

#### **2. Definitions:—**

In these rules, unless the context otherwise requires.—

- (a) “Act” means the Kerala Headload Workers Act, 1978 (20 of 1980).
- (b) ‘Executive Authority” means, the Executive Officers of Panchayat and Townships and Commissioners of Municipalities and Corporations.
- (c) “Form” means a Form appended to these rules.
- (d) “Prescribed wage” means, the rates of wage notified by Government from time to time after considering the advice of the Board in the matter.

<sup>1</sup>[(e) “Registering authority” for the purpose of this Act shall be Assistant Labour Officer, Grade II of the Labour Department of the Government of Kerala within his jurisdiction]

(f) “Section” means a section of the Act.

#### **3. Application for Direction for Payment of Wages:—**

- (1) The application under section 11 of the Act shall be in Form No.1 with as many additional copies as there are opposite parties, filed within thirty days from the date on which the wages become due.

<sup>2</sup>[Provided that the conciliation officer may admit an application even after expiry of the said period, if he is satisfied that the applicant has sufficient cause for not filing the application within the specified period.]

(2) On receipt of such application, the Conciliation Officer shall issue notice of hearing to the parties concerned in Form No.11.

## **CHAPTER II**

### **RULES PRESCRIBED UNDER CHAPTER V**

#### **4. Constitution:—**

The Board appointed under section 14 of the Act shall be called the Headload Workers Welfare Board and the Members to the Board shall be nominated as specified below:—

- (i) Five representatives of the employers in consultation with the interests concerned.
- (ii) Five representatives of the headload workers in consultation with the interests concerned.
- (iii) Five Officials to be nominated by Government. The Government shall appoint one of the 3[x x x] members as the Chairman of the Board.

#### **5. Term of office of Members:—**

(1) The term of office of the members of the Board other than official members shall be for a period of three years from the date of nomination.

4[Provided that the outgoing non-official members of the Board shall continue in office until their successors are nominated].

(2) The official members shall hold office during the pleasure of the Government.

#### **6. Resignation of Office by Member and Filling up of Casual Vacancies:—**

(1) Any member other than an official member may resign his office by given notice thereof in writing, to the Government, and on such resignation being accepted he shall be deemed to have vacated his office as a member of the Board. A non-official nominated as a member of the Board in the vacancy caused by resignation or death 5[or by removal under section 15] of such a member shall hold office for the period to which the original member would normally have continued, had his membership not been discontinued:

6[x x x x x]

#### **7. Travelling Allowance to Members:—**

(1) Travelling allowance of an official member shall be governed by the rules applicable to him for journeys performed on official duties and it shall be paid 7[to him directly from the funds of the Board].

(2) Every non-official member other than the members mentioned in sub-paragraph (3) and (4) shall be paid travelling allowance and daily allowance for attending meetings of the Board 8[and for such other journeys that may be authorised by the Board] at such rates as are admissible to Grade 1 officers of the Government.

(3) Every member who, being a Member of the State Legislative Assembly, attends a meeting of the Board, shall be entitled to such travelling 9[and daily allowance] as is admissible to him under the Provisions of the Payment of Salaries and Allowance Act, 1951.

(4) Every member who, being a member of either House of Parliament, attends a meeting of the Board, shall be entitled to 10[travelling allowance and daily allowance as are admissible] to the Member of Parliament.

#### **8. Meetings of the Board:—**

The Board shall meet at such place and time as may be specified by the Chairman. A notice in writing containing the date, time and venue of meeting along with a list of business to be transacted at the meeting shall be sent to each member at least 10 days prior to the date fixed for such meetings;

Provided that in the case of an emergency meeting, notice of at least three days should be given to each member.

#### **11[8A. Sub-Committee of the Board:—**

(1) The Board may constitute such sub-committees for the purpose or purposes as it may think fit.

(2) While constituting a sub-committee, the Board may nominate one of its members to be the Chairman of that Committee.

(3) The Committee shall meet at such times and places as the chairman of the said subcommittee may decide.

(4) The provisions of rule 8,9,10 and 11 shall apply to the committee for transaction of business at its meeting as they apply to the Board, subject to the modification that the quorum specified in rule 10 that at least one representative of the employers and the workers are present shall not be insisted upon;

(5) The provisions of rule 7 shall apply to the members of the sub-committee for attending the meeting of the Committee as they apply to the members of the Board.]

#### **9. Chairman:—**

The Chairman shall preside at every meeting of the Board. In the absence of the Chairman at any meeting, the members present shall elect, from amongst themselves one member, by a majority of votes, who shall preside at such meeting.

#### **10. Quorum:—**

12[(1) No business shall be transacted at any meeting unless at least one third of the members and at least one representative each of the employers and the workers are present.]

12[Provided that if, at any meeting there is no quorum the Chairman shall adjourn the meeting to a date not later than 15 days from the date of original meeting and it shall, thereupon be lawful to dispose of the business at the adjourned meeting even if there is no quorum.]

(2) In the adjourned meeting, the business shall be confined to the agenda circulated for the original meeting. Notice of such meeting shall be given to all members.]

#### **11. Disposal of Business:—**

Every question considered at a meeting of the Board shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the Chairman shall have and exercise a casting vote.

#### **12. Minutes of the Meeting:—**

Every decision taken at a meeting of the Board shall be recorded in a Minutes Book at the same meeting and signed by the Chairman. The minutes Book shall be a permanent record. The minutes of every meeting of the Board showing, inter alia, the names of members present there at shall be circulated to all the members

present (in the State) not later than <sup>13</sup>[twenty one] days from the date of the meeting.

**<sup>14</sup>[13. Powers and Functions of the Board:—**

(1) In addition to and without derogation of the powers conferred on the Board under the Act, Rules and the scheme, the Board shall have the following powers and shall be responsible for,—

(a) Dealing with all matters connected with the administration of the fund as specified in the scheme or schemes.

(b) Laying down general policies regarding welfare of the Headload workers.

(c) The submission of annual budget of the Board to Government for approval;

(d) The submission of annual report to Government on the working of the schemes;

(e) The annual audit of accounts of the fund in accordance with Government instructions;

(f) The collection of contribution from the Headload Workers and local committees and remittance thereof to the respective funds including such other charges under the scheme or schemes:

(g) The proper maintenance of account and speedy settlement of claims; the sanction of advances and timely recovery of the advances.

(2) The Board shall render necessary advice to Government on the general welfare of the Headload workers and shall furnish information on such matters as the Government may refer to it from time to time.

(3) The Board may, from time to time, subject to such conditions as it may deem fit, delegate its administrative and financial powers to any officer under its control or superintendence to the extent considered necessary by it for the administration of the scheme or schemes.

(4) The Board shall also specify the powers and duties of the officers of the committee constituted under section 18 and delegate such administrative and financial powers to them from time to time, subject to the limits and conditions, as it may deem fit.]

**14. <sup>15</sup>[Powers to Supervise the Committees]:—**

The Board shall co-ordinate and supervises all activities of the Committees appointed under Section 18 of the Act and for this purpose issue such directions as it may deem necessary and the Committees shall comply with such directions.

**15. Appointment and Powers of Chief Executive:—**

(1) The Government may appoint an officer of the Labour Department not below the rank of a Joint Labour Commissioner who shall be the Chief Executive.

(2) The Chief Executive shall be a member of the Board Ex-Officio and he shall be nominated by the Government under item (iii) of rule 4.

(3) <sup>16</sup>[ (a) The Board shall be represented by the Chief Executive and he shall sue and be sued in its name. The Board shall authorise any of its officers from time to time to represent it in any such proceedings or exercise the powers which are specifically conferred;

(b) The Chief Executive shall be the Authority for issuing orders of transfer and postings of the officers appointed under sections 16 and 19 up to the grade of Junior Superintendent and shall have the power to take disciplinary action against them whenever necessary, subject to the rules in force from time to time;

(c) The Chief Executive shall be the competent authority to sanction increment, pay fixation, pay advance, travelling-advance, travelling allowance, leave, surrender of earned leave and such other entitlements due as per General Government Orders to all officers of the Board and committee from time to time;

(d) The Chief Executive may sanction expenditure for contingencies, supplies and services and purchases required for administering the Fund and the scheme subject to the limits up to which he may be authorised from time to time by the Board.]

(4) The Chief Executive may also exercise such administrative and financial powers other than those specified in sub-rule (3) above as may be delegated to him by the Board.

(5) The Chief Executive may delegate from time to time his administrative and financial powers to any of the officers under his control and superintendence to the extent considered desirable by him.

(6) A statement of any such delegation of powers made by the Chief Executive shall be placed by him for the information of the Board at its next meeting and shall also be reported to Government.

#### **16. Finance Officer:—**

(1) The Government shall appoint an Officer not below the rank of a Deputy Secretary to Government in the Finance Department as Finance Officer of the Board.

(2) The Finance Officer shall be responsible for all financial and accounting matters of the Board subject to the supervision and control of the Chief Executive and shall prepare the budget to the Board from time to time.

(3) The Finance Officer shall pre-audit all the expenditure of the Board and shall report to the Chief Executive any irregularity that may come to his notice.

(4) The officers and staff of the Board and the Committees shall be under the general supervision and control of the Chief Executive of the Board.

#### **17. Constitution of the Fund:—**

(1) A fund shall be created called the “Headload workers General Fund”.

<sup>17</sup>[(2) the fund shall vest in the Board and shall be administered by it. The fund shall be operated by the Chief Executive according to the directions of the Board and shall be utilized only for the purposes provided for in the Act, Rules and Schemes formulated from time to time].

#### **18. Advances by Government:—**

The Government may from time to time advance loans to the Board for the purposes of the Act on such terms and conditions as the Government may, in each case, determine.

#### **19. Deposit and Investment of Money belonging to the Headload Workers General Fund:—**

(1) All money belonging to the Fund shall be invested in such manner as may be specified by the Government from time to time.

(2) All expenses incurred in respect of and loss, if any, arising from any investment shall be charged to the Fund.

**20. Annual Report on the Working of Scheme:—**

The Board shall approve before the 15th day of June each year and submit to the Government before the 31st of July each year a report on the working of the scheme during the previous financial year.

**<sup>18</sup>[21. Submission of Annual Report before the Legislature:—**

On receipt of the annual report on the working of the Scheme, the report shall be laid by the Government before the Legislative Assembly at the earliest possible occasion].

**22. Audit:—**

(1) The accounts of the Fund including the administration account shall be <sup>18</sup>[got audited before the 30th September every year] in accordance with the instructions issued by the Government from time to time.

<sup>19</sup>[(1A) Any defect pointed out in the Audit report shall be rectified by the Board and necessary rectification report thereof shall be sent to Government within three months, from the date of receipt of audit report in the Board Office.]

(2) The Charges on account of audit shall be paid out of the administration account.

**23. Budget:—**

(1) The Chief Executive shall place before the Board each year in the first fortnight of January, a budget showing the probable receipts and expenditure during the next financial year.

(2) The budget as approved by the Board shall be submitted for the approval of the Government within a month of its being placed before the Board.

<sup>20</sup>[(3) The Government may make such modifications in the budget as they consider necessary and the approved budget shall be returned to the Board before 31st March every year].

(4) The Chief Executive may, at any time during the year make budgetary re-appropriation of funds approved in the budget.

Provided that:

(a) The total amount sanctioned in the budget by Government is not <sup>21</sup>[exceeded and no re-appropriation is made in any of the sub heads where the Government have reduced budget provision without prior sanction of Government]: and

(b) The funds so re-appropriated are utilized only for meeting the expenses of administration.

(5) Every re-appropriation made shall be reported by the Chief Executive to the Government and to the Board.

**CHAPTER III**

**<sup>22</sup>[24. Functions and procedure of the Committee:—**

(1) The functions of the committee shall be those specified and assigned by the Board from time to time and those that are specifically provided for in the Act, Scheme or Schemes made under section 13.

(2) The term of every non-official member of the Committee appointed under section 18 shall be two years from the date of nomination.

Provided that the Committee may continue to function after expiry of the term till a new committee is appointed or constituted;

Provided further that the official members of the Committee shall hold office during the pleasure of the Government.

(3) Casual vacancies of the members arising out any reason shall be filled up in the same manner as specified in rule 6.

(4) The Committee shall meet at such place and time within its area of jurisdiction as may be specified by the chairman. The Convener shall, at least seven days prior to the date fixed for the meeting, send notice in writing and under certificate of posting or by messenger to all members specifying the date, venue and time of the meeting along with a list of items of business to be transacted in the meeting.

Provided that in the case of an emergency meeting notice of at least 24 hours may be given to each member.

(5) For the purpose of presiding over of meeting, Quorum, disposal of business, minutes of the meeting etc. rules 9, 10, 11 and 12 shall apply mutatis mutandis to the Committee as well

(6) The copies of the minutes of every Committee meeting shall be sent to the Chief Executive of the Board, within seven days from the date of the meeting under the signature of the Chairman.]

## **CHAPTER VII**

### **RULES PRESCRIBED UNDER**

#### **<sup>23</sup>[25. Settlement of Disputes:—**

(1) The Settlement arrived at as per sub-section (3) of section 21 shall be in Form No.111.

(2) The decision referred to in sub-section (4) of section 21 shall be communicated to the parties by registered post acknowledgment due.]

#### **<sup>24</sup>[25A. Appeal:—**

(1) Any person aggrieved by any decision of the Conciliation Officer under sub-section (4) of Section 21 of the Act may file an appeal against such decision to the appellate authority within 60 days of receipt of the decision of the Conciliation Officer. The appeal shall be accompanied with a copy of the decision of the Conciliation Officer.

Provided that the appellate authority may admit an appeal filed after the expiration of the said period if he is satisfied that the appellant had sufficient cause for not filing the appeal within the said period.

Provided further that no such appeal shall be admitted after a period of six months from the date of decision appealed against.

(2) The procedure to be followed by the appellate authority while hearing appeals preferred to him shall be summary. He shall record briefly the evidence adduced before him and pass orders



giving his reasons there for. The orders of the appeal shall be communicated to the parties as soon as possible. Copies of the order shall be furnished to the parties if required by them.

(3) Any party to the dispute appeal may be represented by a duly authorised representative with the permission of the conciliation officer Appellate Authority. Assistance of legal pensioners, however, may be availed of only with the consent of the other parties and leave of the Presiding Officer)

## **CHAPTER IV**

### **REGISTERS AND RECORDS**

#### **RULES PRESCRIBED UNDER CHAPTER IX**

##### **26. Preparation of Registers:—**

The Assistant Labour Officer shall be the authority to prepare a Register of Headload workers working in the area within his jurisdiction and the Register shall be in Form No. IV.

##### **25[26A. Registration of Headload Workers:—**

(1) <sup>26</sup>[Any headload worker may) submit his application for registration in Form IX to the Registering Authority concerned, with as many additional copies as there are employers or contractors from whom he claims to work.

(2) On receipt of such application the Registering Authority shall issue notice in Form X to the employers or contractors from whom the headload worker claims work, with copy of the application inviting objections, if any, on such application.

(3) After considering the objections, if any, received and after giving an opportunity of being heard, the Registering Authority shall register the name of the headload worker in the Register of Headload Workers, on being satisfied that the headload worker is eligible for registration and communicate the fact to the parties within two weeks of such registration. The Registering Authority shall also issue identity card to the registered headload worker <sup>27</sup>[in form XI]. If the name is not registered, the Registering Authority shall communicate the fact to the applicant with reasons therefor.

<sup>27A</sup>[(3A) Where the Identity Card of registration granted to a headload worker under sub-rule (3) is defaced or accidentally lost or irrecoverably destroyed, he shall apply for a duplicate identity card along with two copies of recent photograph and a fine of Rs.25 (Rupees twenty-five only) to the Registering authority concerned. The Registering authority may after making necessary enquiries and satisfying himself of the genuines, issue a duplicate identity card.]

<sup>28</sup>[(4) The Registration of a person as headload worker may be cancelled by <sup>28A</sup> [the deputy Labour Officer of the District Labour office concerned or where there is no post of Deputy Labour Officer in that District Labour Office, by. the Assistant Labour Officer Grade I] after satisfying himself on a report from Registering Authority that the Registration has been obtained by fraud or mistake:

Provided that not less than one month's previous notice in writing specifying the ground on which the registration is proposed to be cancelled shall be given by the authority empowered to cancel the registration to the headload worker, before the registration is cancelled.]

## **NOTES**

R.26A, 25 & 26:- The registration contemplated by the Scheme is not applicable to permanent headload workers employed in an establishment either directly by the employer or through a contractor. But that does not mean that such permanent workers cannot get registered as per the provisions contained under R.26A. The Act and the Rules are made applicable for the whole of the State and the requirement of registration under R.26A is effective throughout the State whether it is an area to which the Scheme is made applicable or not. Therefore, all headload workers whether permanently employed in an establishment or not are to get registration under R.26A. Raghavan v. Superintendent of Police, 1998 (2) KLT 732 (FB.): 1998(2) KLJ 459.

**29[26B. Registration of dependents of workers dying-in-harness:—**

(1) Notwithstanding anything contained in these rules, if a headload worker in the rolls of the committee dies while in service, that dependent of the deceased headload worker who has been registered in the committee under

the scheme as per paragraph 6C or 6E of the Kerala Headload Workers (RE&W) Scheme shall be registered under these rules by the Registering Authority. In doing so, the Registering Authority shall be guided by the communication received from the committee as per paragraph 6C of the scheme.

(2) The granting of such registration shall be intimated to the committee and to the dependent worker concerned.

**26C. Appeal:—**

(1) Any person aggrieved by an order of the Registering Authority under 30[sub-rules (3) or (4)] of Rule 26A may file an appeal within 60 days from the date of receipt of such order before an officer not below the rank of District Labour Officer notified by Government as Appellate Authority in this behalf;

Provided that the Appellate Authority may admit an appeal filed after the expiry of the said period if he is satisfied that the appellant has sufficient cause for not filing the appeal within the said period;

Provided further that no such appeal shall be admitted after a period of six months from the date of the order of the Registering Authority appealed against.

(2) On receipt of an appeal, the appellate authority may make such enquiries as he deems fit and after giving the employer if any and headload worker an opportunity of being heard and decide the appeal within a period of 30 days from the date of receipt of the appeal. The decision of the appellate authority shall be final.]

**27. Maintenance of Registers and Records by Employers:—**

(1) Every employer shall maintain a Register of Employment and Wages in Form No. V.

(2) Every employer shall supply to every headload worker wage in Form No. VI on every Saturday, containing particulars for the week ending on that day.

30A[(3) the Registers and records maintained under these rules shall be made available and produced or caused to be produced for inspection at all reasonable hours by an Inspector

(4) The registers and records required to be maintained under these rules shall be kept at the work-spot or <sup>31</sup>[in the office of the employer] and the entries therein relating to each day shall be made on the same day.

(5) The employer shall obtain the signature or thumb impression of every headload worker in the Register of Employment and Wages and on the wage card at the time of the disbursement of wages.

<sup>32</sup>[28 x x x] :—

## **CHAPTER V**

### **MISCELLANEOUS**

#### **RULES PRESCRIBED UNDER CHAPTER XI**

##### **29. Recovery of Money due from the Employer:—**

The application for recovery of money due to a headload worker from the employer shall be in Form No. VII <sup>33</sup>[x x x]

##### **30. Recovery of Money due from Headload Workers:—**

The Application for recovery of money due from a headload worker to an employer under section 38 shall be in Form No. VIII and shall be accompanied by sufficient number of additional copies as there are opposite parties.

