

THE NEWSPAPER EMPLOYEES (CONDITIONS OF SERVICE) ACT, 1973

Act No. LVIII of 1973

[11th August 1973]

An Act to repeal and, with certain amendments, reenact the Working Journalists (Conditions of Service) Ordinance, 1960.

WHEREAS it is expedient to repeal and, with certain amendments, reenact the Working Journalists (Conditions of Service) Ordinance, 1960.

It is hereby enacted as follows: -

1, - (1) This Act may be called the Newspaper Employees, (Conditions of Service) Act, 1973.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. In this Act, unless there is anything repugnant in the subject or context,-

(a) "Board" means the Wage Board constituted under section 9;

(b) "Commission" means the National Industrial Relations Commission constituted under section 22A of the Ordinance ;

(c) "newspaper" means any printed periodical work containing public news or comments on public news and includes such other class of printed periodical work as may, from time to time, be notified in this behalf by the Federal Government in the official Gazette ;

(d) "newspaper employee" means any person employed to do any work in, or in relation to, any newspaper establishment and includes—

(i) a whole-time journalist, including an editor, a leader writer, news editor, feature writer, reporter, correspondent, copy tester, cartoonist, news photographer, calligraphist and proof-reader ; and

(j) a whole-time non-journalist, including a manager, clerk, stenotypist, printing engineer, linotype operator, composer, type-seller, photo studio attendant, printing worker, an accountant and an office peon ;

(e) "newspaper establishment" means an establishment under the control of any person or body of persons, whether incorporated or not, for the production, printing or publication of one or more newspapers or for conducting ;any news agency or syndicate ;

(f) "Ordinance" means the Industrial Relations Ordinance, 1969 (XXIII of 1969); (g) "prescribed" means prescribed by rules made under this Act;

(g) " Tribunal" means a Tribunal constituted under section 12A;]

(h) "wages" means wages as defined in the Payment of Wages Act, 1936 (IV of 1936), and includes any gratuity or other payment declared as wages by the Board ; and

(i) all words and expressions used but not defined in this Act and defined in the Ordinance shall have the meanings respectively assigned to them in the Ordinance.

3. A newspaper establishment employing a newspaper employee shall, at the time of his appointment ,transfer or promotion , furnish to him an order in writing showing the terms and conditions of his service

4. The services or a newspaper employee shall not be of employ- terminated by a newspaper establishment without good cause shown, through a notice, in writing, of such termination-

- (a) of one month, if the total period of continuous service of the newspaper employee with the newspaper establishment is not less than three months but less than two years ;
- (b) of two months, if the total period or such service is not less than two years but less than three years ; and
- (c) or three months, if the total period of such service is not less than three years;

Provided that, if the order or appointment of the newspaper employee provides notice of a longer period, notice shall be given in accordance with the terms of such order;

Provided further that the services of a newspaper employee may be terminated at any time on payment or wages in lieu of the requisite notice.

5. (1) Every newspaper establishment shall constitute, for the benefit of its newspaper employees, a Provident Fund in such manner as may be prescribed.

(2) The Provident Fund shall be held and administered by a Board of Trustees consisting of an equal number of representatives of the newspaper establishment constituting the Fund and of the newspaper employees employed in it, chosen and appointed in such manner as may be prescribed.

(3) Every newspaper employee shall, after the completion of the first two years of his service with any newspaper establishment, subscribe to the Provident Fund, every month, a sum not less than $6\frac{1}{4}$ per cent and not more than 10 per cent of his monthly wages, and the employer in relation to that establishment shall contribute to it an equal amount.

(4) During the first three months of his service, the newspaper employee may or may not, at his option, subscribe to the Provident Fund and, if he so subscribes, the employer in relation to the newspaper establishment shall subscribe to it an equal amount.

(5) A newspaper establishment shall be deemed to be a public institution for the purposes of the Provident Funds Act, 1925 (XIX of 1925).

6. Subject to the Factories Act, 1934 (XXV of 1934), and of any rules that may be made, or deemed to have been made under this Act, no newspaper employee shall be required to work in any newspaper establishment for more than forty-two hours in a week, exclusive of the time for meals.

Explanation.- For the purposes of this section, 'week' means a period of seven days beginning at mid-night on Saturday.

7. Without prejudice to such holidays as, may be prescribed, every newspaper employee shall be entitled to –

- (a) earned leave on full wages, for not less than one-eleventh of the period spent on duty ;
- (b) leave on medical certificate on one-half of the wages, for not less than one –eighteenth of the period of service subject to a minimum period of ten days in a calendar year ; and
- (c) Fifteen days' casual leave of absence with wages in a calendar year.

8. (1) A newspaper employee shall be entitled, together with his dependants, to medical care at the cost of the newspaper establishment in, or in relation to, which he is employed.

(2) Medical care shall, subject to rules made under this Act, include –

(a) treatment by a medical practitioner registered under the Medical Council Ordinance, 1962 (XXXII of 1962), both at the clinic of such practitioner and at the residence of the newspaper employee ;

(b) treatment by specialists in hospitals and by such specialists as may be available outside hospitals ;

(c) essential pharmaceutical supplies as prescribed by a medical practitioner under clause (a) or by a specialist under clause (b) ; and

(d) hospitalization, where necessary.

(3) The manner in which and the scale on which medical care shall be supplied shall be such as may be prescribed.

Explanation—For the purpose of this section, "dependants" means the spouse, widowed mother and legitimate sons and daughters, including step-sons and step-daughters, or a newspaper employee, residing with and wholly dependant upon him.

9. (1) The Federal Government may, whenever it so considers necessary, by notification in the official Gazette, constitute a Wage Board for fixing rates of wages in respect of newspaper employees in accordance with the provisions of this Act.

(2) The Board shall consist of a Chairman appointed by the Federal Government, who shall be a person who has been, or is qualified to be a Judge of a High Court, and as many members to advise the Chairman as may be appointed by the Federal Government so, however, that one half or the members shall be persons representing the newspaper employees and the other half the employers in relation to newspaper establishments.

(3) The Board shall give its decision within a period one hundred and eighty days from the day of its constitution.

10. (1) In fixing rates of wages in respect of newspaper employees, the Board may take into consideration the cost of living, the prevalent rates of wages of comparable employments, the circumstances relating to the newspaper industry in different regions of the country, and any other circumstances, which to the Board may seem relevant.

(2) The Board may fix rates of wages for timework and for piecework.

(3) The decision of the Board fixing rates of wages shall be communicated as soon as practicable to the Federal Government.

11. (1) The decision of the Board shall, within a period of one month from the date of its receipt by the Federal Government be published in such manner as may be prescribed.

(2) The decision of the Board published under subsection (1) shall come into operation on such date as maybe specified in the decision , and where no date is so specified , it shall come into operation on the date of its publication , and shall remain in force until it is modified or varied by a later decision of the Board published in the manner provided in subsection (1).

12. A decision of the Board published under section 11 shall be deemed to be an award of the Full Bench of the Commission and, subject to the provisions of this Act, all the provisions of the Ordinance applicable to such award, including the provisions of sections 51 and 55 thereof, so far as may be and with the necessary modifications, shall apply to the decision of the Board.

Explanation-. For the avoidance of doubt, it is hereby declared that the decision of the Second Wage Board For Working Journalists published in the Extraordinary issue of the *Gazette of West Pakistan*,

dated the 7th January, 1970 shall be deemed to have been published as required by the Ordinance.

12A. (1) The Federal Government may, by notification in the official Gazette; constitute a Tribunal consisting of one or more members to implement the decision of the Board under section 11.

(2) The Chairman and members of the Tribunal shall be appointed by the Federal Government on such terms and conditions as it may determine.

(3) Where the Tribunal consists of one member only, that member, and, where the Tribunal consists of more members than one, the member designated by the Federal Government, shall be the Chairman of the Tribunal.

(4) The Chairman of the Tribunal shall be a person who has been, or is, qualified to be, a Judge of a High Court.

(5) The qualifications for the appointment as a member of the Tribunal shall be determined by the Federal Government.

13. (1) Notwithstanding anything contained in section 64 of the Ordinance, the Tribunal shall have power-

a) to try an offence punishable under section 55 of the Ordinance, if the offence relates to failure to implement any decision of the Board;

b) of its own motion, or on the application of a party, to withdraw from any court (except the Supreme Court or a High Court) any application, proceeding or appeal relating to such an offence and dispose of it; and

c) refer any such application, proceeding or appeal to any such competent court for disposal.

(2) Any court to which any application, proceeding or appeal is referred under clause (c) of sub-section (1) shall enquire into it and dispose, of the case as if the application or appeal had originally been made to it or, as the case may be, the proceeding had originally commenced before it.

(3) For the trial of an offence referred to in sub-section (1), the [Tribunal] shall follow the same procedure and exercise the same powers as the Commission follows and exercises for the trial of an offence under the Ordinance, and the provisions of the Ordinance, other than the provisions of sub-section (9) of section 22A, thereof, shall so far as may be and with the necessary modifications, apply to such trial.

(4) The Tribunal shall have the power to issue a direction, which a Labour Court has under sub-section (1) of section 51 of the Ordinance.

(5) Subject to any rules of procedure which may be prescribed, the Tribunal may, for the purpose of determining the category of a newspaper establishment or the grade of a newspaper employ or otherwise holding an inquiry for the purpose of implementing the decision of the Board, exercise the same powers and follow the same procedure, so far as may be and with the necessary modifications, as the Commission may exercise or follow for the purpose of adjudicating an industrial dispute under the Ordinance.

(6) The Tribunal may require a newspaper establishment to file a declaration in such form and give such information as the Tribunal may determine or require.

13A. Any person convicted and sentenced by the Tribunal under section 55 of the Ordinance to imprisonment for any period not less than six months may, with the leave of the Supreme Court, prefer an appeal to that Court.

13B. (1) The Chairman of the Tribunal shall exercise general superintendence over its affairs.

(2) Where the Tribunal consist of more members than one, -

(a) The Chairman shall constitute as many benches of the Tribunal consisting of one or more members of the Tribunal as he may deem fit; and

(b) If any member of the Tribunal who constitutes a bench, or is a member of a bench, is absent from, or otherwise unable to attend, any sitting of a bench, the Chairman of the Tribunal may take over the case himself, or transfer it to another bench, for disposal; and the Chairman, or, as the case may be, the other bench, may continue the proceedings from the stage they had reached.

14. Subject to any rules of procedure which may be prescribed, the Board may, for the purpose of fixing rates of wages, exercise the same powers and follow the same procedure, so far as may be and with the necessary modifications, as the Commission may exercise or follow for the purpose of adjudicating an industrial dispute under the Ordinance.

15. The decision of the Board shall be binding on all employers in relation to newspaper establishments, and every newspaper employee shall be entitled to be paid wages at a rate which shall, in no case, be less than the rate of wages fixed by the Board.

16.—(1) Notwithstanding anything contained in this Act, where the Board is of the opinion that it is necessary so to do, it may, by notification in the official Gazette, fix interim rates of wages in respect of newspaper employees.

(2) Any interim rate of wages so fixed shall be binding on all employers in relation to newspaper establishments, and every newspaper employee shall be entitled to be paid wages at a rate which shall, in no case, be less than the interim rate of wages fixed under sub-section (1).

(3) Any interim rate of wages fixed under sub-section (1) shall remain in force until the decision of the Board comes into operation under sub-section (2) of section 11.

16A. —The Board and the Tribunal shall have the same power to punish their respective contempts as the Commission has under section 22C of the Ordinance.

17. The provisions of the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (W. P. Ordinance No. VI of 1968) , as in force for the time being, other than those contained in Standing Order 2 and clauses (1) and (2) of Standing Order 12 thereof, shall, subject to the other provisions of this Act, apply to every newspaper establishment wherein ten or more newspaper employees are employed or were employed on any day of the twelve months proceeding the coming into force of this Act as, if such newspaper establishment were an industrial establishment to which the aforesaid Ordinance has been applied by a notification under clause (c) of sub-section (4) of section 1 thereof, and as if a newspaper employee were a workman within the meaning of that Ordinance.

[Provided that the provisions of this Section shall apply to a person who is employed as the editor of a newspaper.]

Explanation. —For the avoidance of doubt, it is hereby declared that provisions of Standing Orders, 10B and 11, clauses (6) and (8) of Standing Order 12 and Standing Order 15 of the aforesaid

Ordinance shall apply only to a newspaper establishment, which fulfils the conditions laid down therein.

18. Subject to the other provisions [this Act] the provisions of the Ordinance shall apply to, or in relation to, newspaper employees, as they apply to, or in relation to, workmen within the meaning of the Ordinance:

Provided that nothing in this section applies to a newspaper employee---

- i) who is employed mainly in a managerial or administrative capacity, [or is the editor of a newspaper] or
- ii) who, being employed in a supervisory capacity, performs, either because of the nature of duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature.

19. (1) The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law or in the terms of any award, agreement or contract of service, whether made before or after the coming into force of this Act:

Provided that, subject to the provisions of section 73 of the West Pakistan Employees' Social Security Ordinance, 1965 (W. P. Ordinance No. X of 1965), where under any such award, agreement, contract of service or otherwise, a newspaper employee is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act, the newspaper employee shall continue to be entitled to the more favourable benefits in respect of that matter notwithstanding that he receives benefits in respect of other matters under this Act.

(2) Nothing contained in this Act shall be construed to preclude any newspaper employee from entering into an agreement with an employer for granting him rights or privileges in respect of any matter, which are more favourable to him than those to which he would be entitled under this Act.

20. -(1) The Federal Government may, by notification in the official Gazette, appoint such person as it thinks fit to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively.

(2) An Inspector shall perform within the local limits assigned to him such functions in relation to the implementation of the decision of the Board published under section 11 as may be prescribed.

(3) An Inspector may—

- a) at all reasonable hours enter on the premises of any newspaper establishment and make such examination of any register or document relating to the implementation of the decision of the Board published under section 11 and take on the spot or otherwise evidence of any person relevant to such implementation as he may deem necessary ;
- b) exercise such other powers of inspection as he may be deemed necessary for carrying out the purposes of this Act.

21. (1) Whoever contravenes the provisions of section 6 shall be punishable with fine which may extend to two thousands rupees.

(2) Whoever contravenes any of the provisions of this Act or any rule made, or deemed to have been made, thereunder shall, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine, which may extend to one thousand rupees.

(3) Where the person guilty of an offence under this Act is a company or other body corporate, every director, manager, secretary and other officer thereof shall, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent its commission, also be guilty of the same offence and liable to the same punishment.

(4) No court shall take cognizance of an offence under this Act unless the complaint thereof is made

within six months of the date on which the offence is alleged to have been committed.

21A --The Chairman of the Board and the Chairman and members of the Tribunal shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860)

22. No suit, prosecution or other legal proceedings shall lie against any person or authority for anything which is in good faith done or intended to be done in pursuance of this Act or any rule made, or deemed to have been made, thereunder.

23. (1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

a) hours of work of newspaper employees ;

b) holidays, earned leave, leave on medical certificate, casual leave or any other kind of leave admissible to newspaper employees ;

c) the constitution of Provident Fund ;

d) the constitution of Board of Trustees for the administration of Provident Fund ;

e) the procedure for regulating the management and administration of Provident Fund and the conditions subject to which such Fund shall operate ;

f) the procedure to be followed by the Board in fixing rates of wages ;

g) the manner in which the decision of the Board may be published ;

[gg) the procedure to be followed by the Tribunal in determining the categories of newspaper establishments or grades of newspaper employees or holding an inquiry for the purpose or implementing the decision of the Board; and]

h) any other matter which is to be or may be prescribed.

23-A. —The powers conferred by this Act on the Federal Government shall, as from the fourteenth day of August, 1973, continue to be exercised by the Federal Government.

24 -(1) The Working Journalists (Conditions of Service) Ordinance, 1960(XVI of 1960), is hereby repealed.

(2) Notwithstanding the repeal of the said Ordinance, and without prejudice to the provisions of section 24 of the General Clauses Act, 1897 (X of 1897), anything done, appointment made, notification order or rule issued, form prescribed, proceedings commenced, or action taken under that Ordinance shall, so far as it is not inconsistent with the provisions of this Act, continue in force and be deemed to have been made, issued or taken under the provisions of this Act.