

The
Bangladesh Labour Code

**First Edition
1988**

**Revised Edition
1997**

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The
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Preface

The preparation of the Bangladesh Labour Code undertaken by our late editor (Janab Obaidul Huq Chowdhury) has been spread for over period of three years. When the compilation of the book was completed by him, he suddenly fell ill and died in London in August, 1987. Picking up the threads left by him, the publishers undertook the printing of the book.

The compilation of the book being of stupendous nature, the task of printing is very daunting. We have spared no pains to make and present the book to the readers an eluctable one.

The Bangladesh Labour Code is the epitome of various labour legislations holding the field. The major laws namely, the Industrial Relations Ordinance, 1969 (XXIII of 1969) and The Employment of Labour (Standing Orders) Act 1965 (VIII of 1965) have been dealt with exhaustively and each chapter has been given a rate treatment with the uptodate case laws given at the end of each chapter and also given separately at pages 180-211 of the book.

The book is the first of its kind in Bangladesh. We also acknowledge our debt the the authors of the standard work on the subject available in market.

We shall consider our labour amply repaid if the book for whom it is intended is found useful to them.

Dhaka, 1988

Publisher

Publishers Note

The first edition of this book was published in 1988. Since then there have been amendments of the different laws and also additions of case-laws as reviewed upto June, 1996.

In this edition for the convenience of our readers we have presented the amendments and the case laws in the form of addenda at the beginning of the book instead of inserting them in the body of the book.

In spite of our best care and caution errors and omissions can creep in, for which our patrons will please bear with us and any discrepancy noticed may kindly be brought to our knowledge so that it is taken care of in the next edition which will improve our service.

We shall consider our labour amply rewarded if the book is found useful to our esteemed customers.

Publisher

Dhaka

March, 1997



**The
Bangladesh Labour Code
Contents
(Headings and sub-headings)**

Employment of Labour (Standing Orders) Act, 1965
(Act VIII of 1965)

1. Short title, extent, Commencement and application	1
2. Definition	2
3. Discharge	3
4. Dismissal	3
5. Go-slow	3
6. Labour Court	4
7. Case laws u/s 2 (j) (k) (l) (m) & (n)	4-6
8. Case Laws u/s 2 (v)	8
9. Conditions of employment in section.3	8
10. Classification of workers and period of probation	9
11. Leave and holidays	10
12. Case laws under section.5	12
13. Over stay beyond 10 days	13
14. Stoppage of work	14
15. Calculation of "one year" or 'six months' of continuous service	15
16. Restriction of application of sections 6,9,10 and 11	16
17. Right of laid - Off workers for compensation	17
18. Master - Roll for laid - off workers	18
19. Workers not entitled to compensation in certain cases	18
20. Conditions of retrenchment	19
21. Case Laws u/s 12	20
22. Procedure for retrenchment	21
23. Re-employment of retrenched workers	21
24. Fine	21
25. Discharge from service	21
26. Dismissal from service	22
27. Procedure for punishment	26
28. Termination of employment	31
29. Provident Fund	38
30. Certificate of service	39
31. Protection of existing conditions of employment	39
32. Power to exempt	39

33. Eviction from residential accommodation	39
34. Grievance procedure	40
35. Penalty for non-compliance of Court's order under section	52
36. Penalties and procedure	53
37. Display of notice of abstracts of the Act.	54
38. Liability of employer	55
39. Chief Inspector and Inspectors	55
40. Power to make rules	56
Employment of Labour (Standing Orders) Rules, 1968.	
41. Definitions	57
42. Complaint to Labour Court	58
43. Procedure for approval of draft Service Rules	59
44. Display of Abstract of Act and Rules	61
45. Annexures to Rules and Forms	62-80
Industrial Relations Ordinance, 1969 (XXIII of 1969)	
46. Short title and commencement	81
47. Definitions	82
48. Case Laws u/s 2	87
49. Trade unions and freedom of association	92
50. Application for registration	93
51. Requirements for application	93
52. Requirements of registration	93
53. Disqualifications for being an officer or a Member of a trade union	95
54. Registered trade union to maintain register, etc.	95
55. Registration	96
56. Certificate of registration	96
57. Cancellation of registration	96
58. Appeal against cancellation	98
59. No trade union to function without registration	98
60. Restriction on dual membership	98
61. Registrar of trade unions	98
62. Powers and functions of the registrar	98
63. Incorporation of registered trade union	99
64. Unfair labour practices on the part of employers	99
65. Unfair labour practices on the part of workmen	101
66. Rights and privileges of registred trade unions and collective barganing agents.	
67. Law of conspiracy limited in application	103

CONTENTS

VII

68. Immunity from civil suit in certain cases	104
69. Enforceability of agreement	106
70. Registration of Federation of Trade unions	106
71. Returns	107
72. Collective Bargaining Agent	108
73. A collective Bargaining Agent for institutions with more than one establishment.	112
74. Check-off	112
75. Joint consultation, conciliation and mediation	113-146
76. Participation Committee	113
77. Function of Participation Committee	114
78. Meetings of the Participation Committee	114
79. Negotiation relating to industrial disputes	115
80. Conciliator	115
81. Conciliation before notice strike, etc.	116
82. Notice of strike of lock-out	116
83. Conciliation after notice of strike of lock-out	116
84. Proceedings before conciliator	117
85. Arbitration	118
86. Strike and lock-out	119
87. Application to Labour Court u/s 34	121
88. Labour Court u/s 35-	122
89. Procedure and powers of Labour Court u/s 36	125
90. Award and decisions of Labour Court u/s 37	128
91. Amendment made under Martial Law Order 19 of 1982	128
92. Labour Appellate Tribunal u/s 38	129
93. Settlements and awards on whom binding	130
94. Effective date of Settlement, award, etc.	131
95. Commencement and conclusion of proceedings	133
96. Raising of industrial disputes	135
97. Prohibition on serving notice of strike of lock-out while proceedings pending.	135
98. Powers of Labour Court and Tribunal to prohibit strike etc. u/s 45	135
99. Illegal strikes and lock-outs	136
100. Conditions of service to remain unchanged while proceedings pending	138

101. Conditions of service to remain unchanged while application for registration pending.	142
102. Officers not to be transferred	142
103. Protection of Certain persons	142
104. Representation of parties	143
105. Interpretation of settlement and awards	144
106. Recovery of money due from an employer under a settlement or award	145
107. Penalties and Procedure	146-149
108. Penalty for unfair labour practices	146
109. Penalty for committing breach of settlement	146
110. Penalty for failing to implement settlement, etc.	146
111. Penalty for false statements etc. u/s. 56	147
112. Penalty for illegal strike or lock-out	147
113. Penalty for instigating illegal strike or lock-out	147
114. Penalty for taking part in or instigating "go-slow"	148
115. Penalty for discharging officer or trade union in certain circumstances etc.	148
116. Penalty for embezzlement or misappropriation of funds.	148
117. Penalty for activities of unregistered trade unions	148
118. Penalty for dual membership of trade unions	149
119. Penalty for other offences	149
120. Penalty for non-appearance or non-representation before a conciliator	
121. Offences by Corporations	149
122. Trial of offences	149
123. Indemnity	150
124. Registrar, etc to be public servants	150
125. Powers to make rules	150
126. Repeal and savings	150
127. Schedule [(under s. 2(19)]	152
Industrial Relations Rules, 1977	153-179
128. Case laws - Employer and Employee	180
129. Case laws- Employment of Labour (S.O.) Act.	181-194
130. Case laws-Industrial courts, Industrial Corporation	195
131. Case laws-Industrial and Commercial Employment (S.O) Ordinance.	195-197
132. Case laws-Industrial Dispute	198-207
133. Case laws- Industrial Disputes Act.	207-211
134. Case Laws-Industrial Relations Ordinance Industrial Relations (Regulation)(Repeal) Ordinance, 1984	211-212
Minimum Wages Ordinance, 1961	212
Minimum Wages Rules, 1961	213-227
Shops and Establishments Act, 1965	228-240
241-254	
135. Case laws-Shops and Establishments Act (1 of 1952)	225-257
Shops and Establishments Rules, 1970	258-264

Case-Laws

Employment of Labour (Standing Orders) Act, 1965 [VIII of 1965]

Section 2(d) Read with Section 2(c) Shops and Establishment Act 1965 (VII of 1965) (Page 2)—Whether the plaintiffs are workers as defined in labour laws having no remedy in Civil Court.

Let us now see whether the plaintiffs are workers as defined in the Labour Laws so that they may be said to have no remedy in the Civil Court. The case reported in 35 DLR 151 relates to some employee of another Nationalised Bank, that is, the Sonali Bank. In that case of criminal prosecution of a Branch Manager of the said Bank under the Provisions of Shops and Establishment Act, 1965 the question arose whether such nationalised Banks came under the purview of the Shops and Establishment Act.

It was noticed that among other concerns a banking company and a bank were also included within the definition, and after elaborate discussion a Division Bench of this Court held that the Bank was a Commercial Establishment. There is no reason why the Janata Bank being a similarly Nationalized Bank should not also be treated as a Commercial Establishment as defined in the Shops and Establishment Act.

It is clear in the light of this definition that the plaintiffs who were employed to do clerical work in the commercial establishment like the Janata Bank fall within the definition of worker. The decision reported in 35 DLR 151 does not appear to have been placed from the Bar before his Lordship while deciding the case reported in 39 DLR 167 where it has been held that the employees of the Rupali Bank, a similarly Nationalized Bank, are not workers under the said Act. For obvious reasons I respectfully disagree with the Single Bench decision. 39 DLR 167 not followed

The plaintiffs are workers, Labour Court is the proper forum for redress of their grievances. Civil Court has no jurisdiction to entertain the two suits. *Md. Shaha buddin vs. Janata Bank* 41 DLR 94.

Section 2(l) and 6 (Page 6)—Layoff—Employer's financial inability is covered by the expression "other cause beyond his control" appearing in section 6 and his right to take action thereunder cannot be fettered with limitation. *Virginia Tobacco Co. vs. Labour Court* 45 DLR 233.

Sections 2(m)(s) & 4(2) (Page 6)—The term "temporary worker" has a connotation which is different from popular and dictionary meaning of the term. Having regard to the language employed in the sub-section of the Act, a worker in order to be treated as permanent worker need not require appointment on permanent basis. It will be sufficient if he has satisfactorily completed the period of probation. *Managing Director, Rupali Bank Limited and others vs. Chairman, First Labour Court and others* 46 DLR 143.

Section 2(v)(ii)(h) (Page 8)—Mere designation is not sufficient to indicate whether a person is a 'worker' or an 'employer', but it is the nature of the work showing the extent of his authority which determines whether he is a worker or employer. *Dosta Text. Mills vs. SB Nath* 40 DLR (AD) 45.

Section 2(v) (Page 8)—Worker—definition of—The employment of employees such as cash staff, godown staff, security staff and managerial staff of the bank cannot be designated as workers within the meaning of the definition of workers, because these classes of employees are not meant for productive purpose but used as mere aid to production *Rupali Bank Ltd. vs. Nazrul Islam Patwari* 44 DLR 406.

Section 3 (Page 8)—The Corporation has a right to frame its own Rules concerning the condition of employment of workers as provided under the Proviso to section 3 of the Act—Rules not found invalid—Labour Court travelled beyond the pleading of the party. *Brigadier Choudhury Khalequzzaman vs. Sk. Shahabuddin* 42 DLR 293.

Section 5(2) (Page 10)—If a worker desires extension of leave he must apply for it before expiry of the leave. *Chittagong Textile Mills vs. Labour Court* 45 DLR 159.

Sections 6(I) & 12 (Page 14)—Stoppage of work, layoff and retrenchment of workers by the employer—Extent of Labour Court's authority to question employer's action—Stoppage of power supply is a valid ground for stoppage of work even if it is not beyond the control of the employer. The Labour Court acted without lawful authority in directing the petitioner to start work in the mill by getting electric supply after payment of arrears bills. There is no law prohibiting the employer from retrenching his workers during pendency of labour dispute. *Sultana Jute Mills Ltd vs. Chairman, Labour Court* 42 DLR 340.

Sections 16 & 17 (Page 21)—While awarding punishment the employer ought to have considered the length of service and previous record of the employees before issuing orders of dismissal. Considering their length of service and the circumstances of the case the order of dismissal of the employees are modified to treat the dismissal as discharge with compensation as provided in law. *Shaukat Ali vs. Chairman, Labour Court, Khulna and others* 44 DLR 410.

Section 17(3)(b) (Page 23)—Temporary possession of goods without knowledge or consent or the person entitled to the possession amounts to

misappropriation. *Zeenat Textile Mills Ltd. vs. Third Labour Court Dhaka* 44 DLR 313.

Sections 17(3) and 25(d) (Page 23)—Labour Court has the power to convert an order of dismissal into one of termination of service in appropriate circumstances. *Bank of Credit and Commerce vs. Tajul Islam* 45 DLR (AD) 61.

Section 18 (Page 26)—Dismissal—Dismissal of a worker with retrospective effect is illegal, but not in toto—dismissal is legal prospectively with effect from the date when the order was issued. *Chittagong Textile Mills vs. Labour Court* 45 DLR 159.

Section 18 (Page 26)—In a case of punishment for the worker Labour Court cannot re-open the factual merit and re-assess evidence to disprove findings given by the domestic tribunal. Labour Court may interfere only when there is inadequacy of evidence or want of strict proof. Functions of the Labour Court is to see only whether requirements of law are complied with by the employer before passing order of dismissal and in deciding the point it is to rely on the findings of fact arrived at by the enquiry committee. Labour Court acted without lawful authority in disbelieving the observation of the enquiry committee that the witnesses were examined in presence of the worker and he refused to cross-examine the witnesses though opportunity was given. In the domestic enquiry like the present one the enquiry committee is not bound by the Evidence Act. Labour Court took a different view purely on question of facts which is beyond its jurisdiction. *Adamjee Jute Mills Ltd. vs. The Chairman, Third Labour Court* 42 DLR 371.

Section 18 (Page 26)—Termination with stigma—From the order of termination it appears that the petitioner has been branded to be a "habitual absentee" i.e. a stigma has been attached which calls for opportunity to the petitioner to defend himself. The petitioner has not been afforded an opportunity of being heard in the matter and no enquiry has been held. This is an order of dismissal in the garb of termination and as such the same is declared to have been passed without lawful authority and the petitioner be re-instated in service at once. *Modares Miah vs. The Chairman, 1st Labour Court* 44 DLR 165.

Section 18 (Page 26)—Judgment by domestic tribunal—Extent of Labour Court's jurisdiction over such judgment—The finding of the domestic tribunal in the present case is not contrary to evidence or perverse and as such it cannot be interfered with by the Labour Court. This is not a case of no evidence but a case of improper assessment of evidence on record. It is not the function of the Labour Court to make re-assessment of evidence recorded by the Tribunal. *Zeenat Textile Mills Ltd. vs. Chairman, Third Labour Court Dhaka* 44 DLR 213.

Section 18 (Page 26)—Domestic enquiry—Plea for fresh enquiry—Such enquiry was demanded after examination of witnesses and the order of dismissal on the contention that the enquiry was not fair. If the employees had any doubt

about the fairness of the enquiry they should have raised it at the initial state and before the enquiry committee concluded its proceeding. This having not been done the contention is not tenable. *Shaukat Ali vs. Chairman, Labour Court, Khulna and others* 44 DLR 410.

Section 18(1) (Page 26)—Labour Court is not a Court of appeal, but it can interfere only when the Inquiry Officer or the Inquiry Committee, as the case may be, acts unfairly and against the principles of natural justice.

The Labour Court can only interfere with the finding of the Inquiry Officer or Inquiry Committee if it is found that inquiry was held unfairly, with bad faith, without complying with the principles of natural justice and without following the procedure laid down in section 18 of the Employment of Labour (Standing Orders) Act. *Nurul Amin Chowdhury vs. Chairman, Second Labour Court* 42 DLR 217.

Section 18(2) (Page 26)—The continued suspension of the respondent No.2 beyond 60 days from 19.8.1982 is illegal in view of section 18(2) of the Act.

The total period of suspension that can be passed is 67 days, 60 days for purposes of enquiry and only 7 days as a measure of punishment.

The petitioner-Corporation is not authorised by law to take action against the respondent No.2 at stages in pursuance of the Inquiry Report—It has to take action only once against the delinquent worker—The Corporation cannot continue the order of suspension ad infinitum though it is entitled to issue a fresh order of suspension. *Secy. BJC & other vs. Chairman, 2nd Labour Court* 41 DLR 265.

Section 18(4)(a) (Page 26)—The suspended worker will be entitled to the subsistence allowance under the proviso to sub-section (2) of Section 17. *Secy. B. Jute Corporation vs. Chairman, Second Labour Court* 41 DLR 265.

Section 18(5) (Page 27)—If an inquiry is held at the back of a delinquent or without notifying the delinquent, it cannot be found that the inquiry was conducted in accordance with the provisions of section 18 of the Employment of Labour (Standing Orders) Act—Labour Court's finding is illegal. *Nurul Amin Chowdhury vs. Chairman, Second Labour Court* 42 DLR 217.

Section 18(6) (Page 27)—Non-consideration of previous records, effect of—Non-consideration of the previous record of the worker is no ground to strike down the order of his dismissal, but a lesser punishment may be given and, accordingly, the order is modified to the extent that the worker's dismissal be treated as discharge from service. *Adamjee Jute Mills Ltd. vs. Chairman, Third Labour Court* 42 DLR 371.

Section 18(6) (Page 27)—It is purely a matter of discretion of the employer to take into consideration previous good services of an employee before awarding him punishment. *Serajul Islam vs. Bangladesh* 45 DLR (AD) 100.

Section 18(6) (Page 27)—Enquiry report of the enquiry officer having not been furnished along with the second show cause notice to the petitioner and his previous record of service having not been taken into consideration before awarding the punishment of dismissal from service, the punishment is illegal. *Mostafa Moah vs. Chairman, First Labour Court, Dhaka and others* 46 DLR 373.

Section 19 (Page 31)—Termination, validity of—There is nothing to indicate that the Assistant General-Manager exercised any delegated authority or communicated order passed by any superior officer who was the appointing authority of the employee. The courts below struck down the order as being without jurisdiction which called for no interference. *Rupali Bank Ltd. vs. Nazrul Islam Patwari* 44 DLR 406.

Section 19(1) & 25(d) (Page 31)—Termination of worker—Termination when to take effect—Labour Court has given no reasons for treating the date of its judgment as the date of termination of service of the worker. It is not correct to say that the language of section 25(d) of the Act and the facts and circumstances of the case warrant treating the date of judgment of the Labour Court as the date of termination of his service. Labour Court's order treating the date of its judgment as the date of termination is without lawful authority. *Chittagong Textile Mills Ltd. vs. Chairman, Labour Court, Chittagong and another* 43 DLR 471.

Sections 19 and 25(1)(d) (Page 31)—"Termination" is a recognised method of dispensing with the services of a worker by an employer after fulfilling certain conditions, such as by providing termination benefits—The wide powers with which the Labour Court is vested under section 25(1)(d) also includes the power to order termination with termination benefits. *Haider Ali Mollah vs. The Chairman, Second Labour Court* 42 DLR 200.

Section 19 & 25 (Page 31)—When fact of termination of service has not been brought home by either side the question of termination benefit does not arise. *Managing Director, United Hosiery Mills and another vs. Chairman, Second Labour Court, Dhaka and another* 46 DLR 445.

Section 25 (Page 40)—Whether 'retirement from service' is a grievance coming within the purview of section 25 of the Act—Since the retirement, right or wrong, is not covered under any of the provisions of the Act as grievance; the workers so retired cannot invoke the jurisdiction of the Labour Court. *M/s. Adamjee Jute Mills Ltd. vs. The Chairman, Third Labour Court* 42 DLR 275.

—An aggrieved individual worker including a dismissed or discharged or retrenched or laid-off or otherwise removed person shall have to submit his grievance to his employer within 15 days of the occurrence of the cause of such action. *M/s. Karim Jute Mills Ltd vs. Chairman, 2nd Labour Court* 42 DLR 255.

Section 25 and 27 (Page 40)—Labour Court cannot act as an Appellate Court in deciding cases by giving a finding of its own on re-assessment of evidence.

In view of the fact that the domestic enquiry was held in accordance with the provisions of the Act, the decision of the Labour Court that the charges against the delinquent employees have not been established is without lawful authority. *Dhaka Dyeing & Manufacturing Company Ltd. vs. Chairman, Second Labour Court Dhaka 42 DLR 278.*

Section 25 (Page 40)—Suspension—Grievance notice—Section 25 of the Act does not contemplate filing of grievance notice after 15 days of the order of suspension of an employee on the plea that cause of action in case of suspension is recurring one. *GM, Kohinoor Spinning Mills Ltd. vs. Chairman, 1st Labour Court, Dhaka 44 DLR 344.*

Section 25 (Page 40)—Additional written statement—Limitation—Labour Court acted in excess of its jurisdiction by relying upon the additional written statement filed beyond the period of limitation giving rise to new cause of action. *GM Kohinoor Spinning Mills Ltd. vs. Chairman, 1st Labour Court, Dhaka 44 DLR 344.*

Section 25 (Page 40)—When Labour Court does not find any procedural defect in the domestic tribunal's enquiry into a case, Labour Court has no authority to assume its jurisdiction to set aside the tribunal's conclusion. Labour Court cannot act as a court of appeal and reassess the evidence so as to arrive at finding of its own. *GM, Kohinoor Spinning Mills Ltd. vs. Chairman, 1st Labour Court, Dhaka 44 DLR 344.*

Section 25 (Page 40)—Termination of bank employee—Civil court jurisdiction— There is no specific provision either in the President's Order in the Bank (Employees) Service Regulation against termination of employment or imposition of penalty before any court. There is therefore no question of inconsistency of any provision of the Regulation with section 25 of the Standing Orders Act as to forum for judicial redress. This section must be read to have been made applicable in respect of any liability created under the service regulations. The Courts below therefore fell into an error of law in not holding that the suits were impliedly barred and the civil Court had no jurisdiction to entertain the same. *Pubali Bank Limited vs. Monsur Ali Akanda and others 44 DLR 589.*

Section 25 (Page 40)—Since the worker did not send his grievance petition to the employer within 15 days of his alleged removal, he cannot come before the Labour Court also under section 25 of the Act *NETC vs. Labour Court 45 DLR 357.*

Section 25 (Page 40)—Where the Labour Court finds that an order of dismissal from service cannot be maintained on facts and there is no procedural defect in holding enquiry by the domestic tribunal, it can convert the order of dismissal to one of termination. Such order cannot be declared as made without jurisdiction merely on the ground of stigma unless the proceeding of the Domestic Tribunal is vitiated by procedural defect. *Anil Krishna Mondal vs. Chairman 45 DLR 367.*

Section 25(1)(b) (Page 41)—Submission of grievance petition within 15 days must be fulfilled and then complaint petition to the Labour Court lies. *M/s. Karim Jute Mills vs. Chairman 2nd Labour Court 42 DLR 255.*

Section 25(1)(a) (Page 40)—It is well settled that even in a domestic inquiry witnesses cannot be examined behind the back of the worker without informing him regarding the place, date and time for examination of witnesses and thereby giving him an opportunity to cross-examine them if he so wants. There is nothing in the recorded evidence that the worker had put signature on any page of the deposition sheet. The Labour Court has rightly held that the witnesses were examined behind the back of the worker. The worker was also deprived of the opportunity of being heard as guaranteed under section 25(1)(a) of the aforesaid Act. The aforesaid section provided that the worker shall bring his grievance to the notice of his employer in writing within 15 days of the occurrence of the cause of such grievance and the employer shall within 30 days of receipt of such grievance, enquire into the matter and give the worker concerned an opportunity of being heard and communicate his decision in writing to the said worker. *Eastern Pharmaceuticals Ltd. vs. Labour Court 43 DLR 223.*

Section 25(1)(b) (Page 41)—Deposit of tax and fine payable by the employee did not absolve him of the liability of disciplinary action for misconduct, although the employer did not incur any monetary loss. Labour Court acted without lawful authority in holding that the employee was punished twice for the same offence by dismissing him from service for misconduct. *Bangladesh Road Transport Corporation represented by the Chairman vs. Chairman, First Labour Court & anr 46 DLR 483.*

Section 25(i)(d) (Page 42)—Whether a Labour is empowered to re-instate a dismissed worker—Whether a Labour Court which has sufficient materials to draw a conclusion that it would be inappropriate to make an order for re-instatement can pass an order of termination of service instead, though the Labour Court had found that the order of dismissal was illegal. *Shahjahan Ali vs. Chariman, Labour Court 40 DLR 132.*

Section 25(1)(d) (Page 42)—Discretion to pass an order under section 25(1)(d) rests with the Labour Court—Writ Court cannot substitute its own discretion or its concept of propriety for the discretion or the concept of propriety of the Labour Court—It can only examine the legality or otherwise of the impugned

order passed by the Labour Court. *Haider Ali Mollah vs. Chairman, Second Labour Court* 42 DLR 200.

Section 25(1)(d) (Page 42)—Labour Court did not act illegally or in excess of its authority in converting the order of dismissal into an order of termination simpliciter. *Nurul Islam (Md) vs. Chairman, 1st Labour Court, Dhaka and another* 46 DLR 661.

Section 26 (Page 52)—Labour Court has no jurisdiction to determine the quantum of termination benefit under section 26—Labour Court cannot punish an alleged offender for failure to comply with an indefinite order. *Brigadier Choudhury Khalequzzaman vs. Sk. Shahabuddin* 42 DLR 293.

Case-Laws

Industrial Relations Ordinance [XXIII of 1969]

Section 2 clause VIII, IX, XIV & XX (Page 82)—"Industry"—Its meaning—Whether Cholera Research Laboratory and Kumudini Hospital did come within the purview of the Industrial Relations Ordinance. If a hospital is run as business in commercial way there may be found element of industry. The Cholera Research Laboratory has been financed by donations of other countries and the services rendered are free and it is a non-profit making charitable organisation whose dominant purpose is to conduct research in Cholera in order to eradicate the same. The argument that since this is a public utility services it automatically comes under the Industrial Relations Ordinance as an industry is a fallacious one. It must be first an industry as defined in Industrial Relations Ordinance and unless it comes within the meaning of "industry" the protection that has been afforded against strike and lockout in public utility services is not available as contemplated in section 33. The fallacy of the argument can be revealed by demonstrating that electricity, gas, water by itself is not industry. The opinion of the Labour Appellate Tribunal that definition of industry in Industrial Relations Ordinance is wider does not appear to be sound. These institutions are not industry within the meaning of Industrial Relations Ordinance. *Kumudini Hospital vs. Kumudini Hospital Karmachari Union & others* 43 DLR 655.

Section 2(13), 18, 34, 35 & 43 (Page 84)—Trade Union sought to enforce its right to contest election for Collective Bargaining Agent. Facts do not bring the case within the definition of industrial dispute to confer jurisdiction on Labour Court. Civil Procedure Code will apply and the Civil Court will have jurisdiction.

If there is no remedy for the grievance of the plaintiff in the Industrial Relations Ordinance then the Civil Court will have jurisdiction to try the matter. It is palpably clear that section 18 of the Ordinance has not even a remote connection with the present case which is an action by one Trade Union against being debarred from contesting the election for Collective Bargaining Agent. Right to contest the election has been vested in the plaintiff. For enforcing this right no forum has been provided in the Industrial Relations Ordinance. Therefore, the Civil Court has got jurisdiction to entertain the suit in question. The impugned judgment and order (holding the suit to be not maintainable) be set aside and the case sent back for decision on merits. *Karnafully Paper Mills Sramik Union vs. Registrar Trade Union* 42 DLR 329.

Section 2 (XXVIII) (Page 86)—'Workman'—Members of the Watch and Ward and security staff belonging to the petitioner (North Bengal Paper Mills Ltd.) have been excluded from the category of worker by clause (a) of the section. They cannot therefore enforce the right as guaranteed under section 10(a) & (b) of the Shops and Establishments Act, 1965. *North Bengal Paper Mills vs. Labour Court* 45 DLR 167.

Section 7A(1)(b) (Page 95)—Entitlement to be a member of a trade union formed of different establishments—Workers of "group of establishments" owned by separate owners cannot be considered to be workers of one group of establishments. They cannot, therefore, form one trade union. The formations of one registered trade union, as in the present case, by workers of the three cinema halls owned by different owners, is illegal and as such the same is liable to be cancelled. *Naogaon Chitra Bani vs. Naogaon Cinema Hall Sramajibi Union* 43 DLR 392.

Section 7(2) (Page 95)—The workers of more than one establishment under the same employer are free to form trade unions, as before. No doubt the existing trade unions lose their registrations in the process under the amended law and are unable to continue in their old forms, but the organisational structure of trade unions is a legitimate domain of legislative exercise and no worker has a fundamental right to a particular form of organisational set up. *Secretary of Aircraft Engineers of Bangladesh & another vs. Registrar of Trade Unions and ors.* 45 DLR (AD) 122.

Section 7(2) (Page 95)—The amended legislation aims to put an end to the concept of "as many trade unions as establishments" and introduce a scheme of "one employer, one establishment". The erstwhile registered trade unions can claim a fundamental right to their continuance only if they can establish that they have a fundamental right to the continuation of the old concept of organisational set-up. *Secretary of Aircraft Engineers of Bangladesh & anr. vs. Registrar of Trade Unions and ors.* 45 DLR (AD) 122.

Sections 7(2) & 10 (Page 95)—Trade Unions have to be organised "establishment-wise" and there cannot be at any given point of time more than 3 registered trade unions in an establishment. The registration may even be cancelled if membership of the union falls short of thirty percent. The purpose is not to restrict the right to form unions but to give trade unions a shape and to chart out a well-ordered territory for their operation. *Secretary of Aircraft Engineers of Bangladesh & anr. vs. Registrar of Trade Unions and ors.* 45 DLR (AD) 122.

Section 10 (Page 96)—Claim of legal obligation in support of injunction—The legal right as claimed by the plaintiff under the cover of registration of their trade union is similarly being enjoyed by the defendants under cover of valid registration of their trade union. It cannot therefore be said either trade union is under any obligation to be restrained by any order of injunction. *Badsha Miah vs. Tofael Ahmed Chowdhury* 42 DLR 504.

Section 10(1)(b) (Page 97)—In view of the provision of section 10(2)(1)(b) the Registrar himself can challenge the registration but from that it cannot be held that because of existence of the provision in clause (b) of sub-section (1) of section 10 the present plaintiff is debarred from instituting the present suit in Civil Court. *TK Oil Refinery and Vegetable Products (Pvt) Ltd. Sramik League vs. TK Oil Refinery* 42 DLR 13.

Section 10(2) (Page 97)—Section 10(2) of IR Ordinance 1969 does not operate as a bar to challenge the order of registration of a trade union and issuance of certificate of registration as alleged.

A close reading of sub-section (2) of section 10 shows that the Registrar can cancel the certificate granted after obtaining necessary permission from the Labour Court. Sub-section (2) of section 10, it seems to me, does not operate as a bar to challenge the order of registration of the trade union and issuance of certificate of registration on the grounds as alleged in the present case in a Civil Court.

Section 10(2) does not oust the jurisdiction of the Civil Court to try a suit challenging the order of the registration and issuance of certificate of registration.

Section 10(2) empowers the Registrar himself to cancel the registration already granted by him for the reasons stated in (a) to (i) of sub-section (1) of section 10 on obtaining a permission from the Labour Court. From reading of the provision of section 10(2) it does not seem to me that it contains any provision ousting the jurisdiction of the Civil Court to try the suit where the plaintiff challenges the order of registration and issuance of certificate of registration. *TK Oil Refinery and Vegetable Products (Pvt) Ltd. Sramik League vs. TK Oil Refinery* 42 DLR 13.

Section 33 (Page 120)—"Industry"—Its meaning—Whether Cholera Research Laboratory and Kumudini Hospital did come within the purview of the Industrial Relations Ordinance. If a hospital is run as business in commercial way there may be found element of industry. The Cholera Research Laboratory has been financed by donations of other countries and the services rendered are free and it is a non-profit making charitable organisation whose dominant purpose is to conduct research in cholera in order to eradicate the same. The argument that since this is a public utility services it automatically comes under the Industrial Relations Ordinance as an industry is a fallacious one. It must be first an industry as defined in Industrial Relations Ordinance and unless it comes within the meaning of "industry" the protection that has been afforded against strike and lockout in public utility services is not available as contemplated in section 33. The fallacy of the argument can be revealed by demonstrating that electricity, gas, water by itself is not industry. The opinion of the Labour Appellate Tribunal that the definition of industry in Industrial Relations Ordinance is wider does not appear to be sound. These institutions are not industry within the meaning of Industrial Relations Ordinance. *Kumudini Hospital vs. Kumudini Hospital Karmachari Union & others* 43 DLR 655.

Section 34 (Page 121)—The Respondent No.2 who is an employee of the Railway Department cannot file a petition u/s.34 of the IR Ordinance relating to the terms and conditions of his service in view of section 4 of the Administrative Tribunal Act (VII of 1981) read with the provisions of Ordinance No.24 of 1983. The Administrative Tribunal has exclusive jurisdiction to entertain and determine such matters and consequently the Labour Court has no jurisdiction to entertain and dispose of such matters. *The General Manager, (West) Bangladesh Railway vs. The Chairman, Labour Court Rajshahi* 40 DLR 163.

Section 34 (Page 121)—Respondent No.2 could have applied to the Labour Court under section 34 for determination of the quantum of the termination benefits. *Sekandar Miah, Director, BISIC, Dhaka, & others vs. Chairman, 1st Labour Court, Dhaka & another* 41 DLR 203.

Sections 34, 62 and 64 (Page 121)—Remedy under sections 34, 62 or 64 of the IRO is not available to a trade union leader working in the Corporation. *Abdul Mannan Talukder vs. BIIFC* 42 DLR (AD) 104.

Section 34 (Page 121)—Enforcement of right—Memorandums issued by the Government being no award or settlement, the same cannot be enforced by the Labour Court. The petitioner company being a Public Limited Company with its own management is not bound to implement the executive order meant for Government servants. *Bangladesh Can Company Ltd vs. Chairman, Labour Court* 42 DLR 368.

—The complainant workmen may have the quantum of termination benefit fixed or determined by the process of law by filing an application u/s 34 of the

Industrial Relations Ordinance—Labour Court is not to decide the said quantum under section 26 of the Standing Orders Act. *Brigadier Choudhury Khaleguzzaman vs. Sk. Shahabuddin* 42 DLR 293.

Sections 34, 36 & 43 (Page 121)—Labour Court—Its power to grant interim order of stay—An adjudication on an industrial dispute or a proceeding for enforcement of any guaranteed right though a matter of civil nature, is not a suit and does not attract all the panoply of powers of the Code of Civil Procedure. From a plain reading of section 36(2) it is clear that in adjudicating an industrial dispute, the Labour Court acts as a civil Court for limited purpose—it will not exercise power like those given in Or. IX or Or. XXXIX of the Code which civil Court may exercise in a suit but not necessary to decide an industrial dispute. *Pubali Bank vs. The Chairman, First Labour Court Dhaka* 44 DLR (AD) 40.

Section 34 (Page 121)—Before the Labour Court workers were shown as petitioners but the petition was signed only by respondent No.2 who is not a worker. The IRO case was therefore not legally instituted. *Virginia Tobacco Co. vs. Labour Court* 45 DLR 233.

Section 34 (Page 121)—A worker or workmen whose termination of service or dismissal or discharge from service have not been in connection with an industrial dispute is not a worker within the meaning of this Ordinance and therefore section 34 thereof cannot apply in such a case. *NETC vs. Labour Court* 45 DLR 357.

Sections 34 & 36 (Page 121)—Labour Court acts as a civil court for a limited purpose. It will not exercise power like those given in Order IX or Order XXXIX rule I CPC which the civil court may exercise in a suit. *Ibrahim Shaikh vs. Chairman, Labour Court Khulna Division, Khulna and others* 47 DLR 498.

Section 36(3) & 64 (Page 125)—Labour Court and a Magistrate, 1st Class, having jurisdiction in the relevant matter shall have concurrent jurisdiction to try an offence punishable under the Industrial Relations Ordinance. Under section 64 of the Ordinance a Magistrate, 1st Class, has also been invested with power to try any offence under this Ordinance. The decision reported in 1985 BLD (AD) 278 is not applicable in the facts of the present case. *Kamaluddin Chowdhury vs. Mashiudowllah* 43 DLR 137.

Section 47B (Page 142)—The appellant, a Supervisor, was posted at the relevant time at the Head Office of the Corporation in Dhaka and he was organizing secretary of the Karmachari Union of the Corporation. His case is that as a trade union leader he was not liable to be transferred without his consent to any station outside Dhaka under section 47B of the Industrial Relations Ordinance, 1969 (hereinafter referred to as the IRO), but he was illegally transferred from the Head Office to the Corporation's Regional Manager's Office at Comilla. The appellant challenged that order by instituting IRO. Case No.267

of 1988 before the First Labour Court, Dhaka under section 34 of the IRO. *Abdul Mannan Talukder vs. Bangladesh House Building Finance Corporation* 42 DLR (AD) 104.

—Main Object of section 47B of the IRO, 1969 is to give protection to a trade union leader so that for his trade union activities he may not be harassed by the employer by way of transfer without his consent but the remedy is not available to one working in a Corporation. *Abdul Mannan Talukder vs. Bangladesh House Building Finance Corporation* 42 DLR (AD) 104.

Section 55 (Page 146)—This provision provides for penal action and does not empower the Labour Court to pass an order for deposit of arrear lay-off benefits and wages in court. *Virginia Tobacco vs. Labour Court* 45 DLR 233.

Case-Laws

Shops and Establishment Act, 1965 [VII of 1965]

Section 2(c) (Page 242)—Whether the plaintiffs are workers as defined in labour laws having no remedy in Civil Court.

Let us now see whether the plaintiffs are workers as defined in the Labour Laws so that they may be said to have no remedy in the Civil Court. The case reported in 35 DLR 151 relates to some employee of another Nationalised Bank that is the Sonali Bank. In that case of Criminal Prosecution of a Branch Manager of the said Bank under the Provisions of Shops and Establishment Act, 1965 the question arose whether such nationalised Banks came under the purview of the Shops and Establishment Act.

It was noticed that among other concerns banking company' and 'a bank' were also included within the definition, and after elaborate discussion a Division Bench of this Court held that the Bank was a Commercial Establishment. There is no reason why the Janata Bank being a similarly Nationalized Bank should not also be treated as a Commercial Establishment as defined in the Shops and Establishment Act.

It is clear in the light of this definition that plaintiffs who were employed to do clerical work in a commercial establishment like the Janata Bank fall within the definition of worker. The decision reported in 35 DLR 151 does not appear to have been placed from the Bar before his Lordship while deciding the case reported in 39 DLR 167 where it has been held that the employees of the Rupali Bank, a similarly Nationalized Bank, are not workers under the said Act. For obvious reasons I respectfully disagree with the Single Bench decision. 39 DLR 167 not followed.

The plaintiffs are workers. Labour Court is the proper forum for redress of their grievance. Civil Court has no jurisdiction to entertain the two suits. *Md. Shahabuddin vs. Janata Bank* 41 DLR 94.

Case-Laws

Minimum Wages Ordinance [XXXIX of 1961]

Section 6 & 9(1) (Page 221)—The law prohibits payment of any wages by an employer to worker below the minimum wages fixed. The minimum wage fixed by the government by the notification has the force of law and was fixed in exercise of statutory power of the Government and, as such, the said minimum wages could not be varied or reduced to the disadvantage of a worker by any agreement whatsoever between the management and the collective bargaining agent. *Kazi Giasuddin and another vs. First Labour Court, Dhaka and another* 46 DLR 359.

Sections 9 & 50(1) (Page 223)—The provision for minimum hours of work does by no means empower the employer to circumvent the mandatory provision of the Ordinance which makes it mandatory for the employer to pay minimum wages fixed by the Government. There is no substance in the submission that since the respondent No. 2 did not work for 48 hours they are not entitled to the minimum wages fixed by the notification. *Kazi Giasuddin and another vs. First Labour Court, Dhaka and another* 46 DLR 359.

Sections 2(8) (Page 214)—"যাতায়াত ভাতা" cannot be treated as "Travelling allowance" within the meaning of this provision of law and as such the impugned judgment needs to be modified. *Bangladesh vs. Hasan Movies Ltd. and others* 48 DLR (AD) 40.

Ordinance No. XVI of 1985
Amendment to
Employment of Labour (Standing Orders)
(Amendment) Ordinance, 1985
An
Ordinance

*Further to amendment the Employment of Labour (Standing Orders)
Act, 1965*

Whereas it is expedient further to amend the Employment of Labour (Standing Orders) Act, 1965 (EP Act VIII of 1965), for the purposes hereinafter appearing;

Now, therefore, in pursuance of the Proclamation of the 24th March, 1982, and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:

1. Short title—This Ordinance may be called the Employment of Labour (Standing Orders) (Amendment) Ordinance, 1985

2. Amendment of section 12, EP Act VIII of 1965.—In the Employment of Labour (Standing orders) Act, 1965 (EP Act VIII of 1965), hereinafter referred to as the said Act, in section 12, in clause (c), for the word "fourteen" the word "thirty" shall be substituted.

3. Amendment of section 16, EP Act VIII of 1965—In the said Act, in section 16, in the proviso, for the word "fourteen" the word "thirty" shall be substituted.

4. Amendment of section 17, EP Act VIII of 1965.—In the said Act, in section 17, for sub-section (1) the following shall be substituted, namely :—

"(1) Notwithstanding anything regarding lay-off, retrenchment, discharge and termination of service as provided elsewhere in this Act, a worker may—

- (a) be dismissed without prior notice or pay in lieu thereof or any compensation if he is convicted for an offence; or
- (b) be dismissed without prior notice or pay in lieu thereof if he is found guilty of misconduct under section 18:

Provided that the worker who is so dismissed shall, if his continuous service is not less than one year, be paid by the employer compensation at the rate of fourteen days wages for every completed year of service, or for any part thereof in excess of six months or gratuity, if any, whichever is higher.

Explanation—For the purpose of calculation of compensation under this sub-section "wages" shall mean the average of basic wages and dearness allowance, if any, paid to the worker during the period of twelve months immediately preceding the date of his dismissal."

5. Amendment of section 19, EP Act VIII of 1965.—In the said Act, in section 19, in sub-section (1).—

- (a) for the words "ninety days", occurring twice, the words "one hundred and twenty days" shall be substituted;
- (b) for the words "forty-five days", occurring twice, the words "sixty days" shall be substituted; and
- (c) for the words "fourteen days" the words "thirty days" shall be substituted.

6. Substitution of section 20, EP Act VIII of 1965.—In the said Act, for section 20 the following shall be substituted, namely:—

"**20. Provident Fund**—No worker, who is a member of any Provident Fund, shall be deprived due to retrenchment, dismissal, discharge or termination of service of the benefit of the Provident Fund including the employers' contribution thereto, if he is entitled to it under the rules of that Fund."

7. Amendment of section 25, EP Act VIII of 1965.—In the said Act, in section 25.—

- (a) in clause (b) for the proviso the following shall be substituted, namely;—

"Provided that no complaint shall lie against an order of termination of employment of a worker under section 19, unless the services of the worker concerned is alleged to have been terminated for his trade union activities or unless the worker concerned has been deprived of the benefits specified in that section."; and

- (b) in clause (c), the words "in such summary way as it deems proper" shall be omitted.

Act No. XXXIV of 1988
Amendment to
Minimum Wages Ordinance, 1961
এর অধিকতর সংশোধনকল্পে প্রণীত আইন

যেহেতু নিম্নবর্ণিত উদ্দেশ্যসমূহ পূরণকল্পে Minimum Wages Ordinance, 1961 (XXXIX of 1961) এর অধিকতর সংশোধন সমীচীন ও প্রয়োজনীয়;

সেহেতু এতদ্বারা নিম্নরূপ আইন করা হইলঃ-

১। সংক্ষিপ্ত শিরনামা।-এই আইন The Minimum Wages (Amendment) Act, 1988 নামে অভিহিত হইবে।

২। Ord. XXXIX of 1961 এর সংশোধন।-এই আইনে ভিন্নরূপ বিধান না থাকিলে, The Minimum Wages Ordinance, 1961 (XXXIX of 1961) অতঃপর উক্ত Ordinance বলিয়া উদ্ভিষিত, এর সর্বত্র-

- (ক) "a Board" শব্দগুলির পরিবর্তে "the Board" শব্দগুলি প্রতিস্থাপিত হইবে;
- (খ) "Boards" শব্দটির পরিবর্তে "Board" শব্দটি প্রতিস্থাপিত হইবে;
- (গ) "Provincial Government" শব্দগুলির পরিবর্তে "Government" শব্দটি প্রতিস্থাপিত হইবে; এবং
- (ঘ) "such Government" শব্দগুলির পরিবর্তে "The Government" শব্দগুলি প্রতিস্থাপিত হইবে।

৩। Ord. XXXIX of 1961 এর section 1 এর সংশোধন।-উক্ত Ordinance এর section 1 এর sub-section (2) তে "Pakistan" শব্দটির পরিবর্তে "Bangladesh" শব্দটি প্রতিস্থাপিত হইবে।

৪। Ord. XXXIX of 1961 এর section 2 এর সংশোধন।-উক্ত Ordinance এর section 2 এর-

(ক) clause (1) এ "Factories Act, 1934" শব্দগুলি, কমা ও সংখ্যার পরিবর্তে "Factories Act, 1965 (EP Act IV of 1965)" শব্দগুলি, কমা, সংখ্যাগুলি ও বন্ধনীগুলি প্রতিস্থাপিত হইবে;

- (খ) clause (2) তে "Minimum Wages Board" শব্দগুলির পরিবর্তে "the Minimum Wages Board" শব্দগুলি প্রতিস্থাপিত হইবে;
- (গ) clause (3) বিলুপ্ত হইবে;
- (ঘ) clause (5) এর পরিবর্তে নিম্নরূপ clause (5) প্রতিস্থাপিত হইবে, যথা :-

"(5) "factory" means a factory as defined in clause (f) of section 2 of the Factories Act, 1965 (EP Act IV of 1965), and includes any place deemed to be a factory under sub-section (3) of section 3 thereof;"

- (ঙ) clause (6) এ "clause (g) of section 2 of the Industrial Disputes Ordinance, 1959" শব্দগুলি, বন্ধনীগুলি, বর্ন, সংখ্যাগুলি ও কমা পরিবর্তে "clause (xiv) of section 2 of the Industrial Relations Ordinance, 1969 (XXIII of 1969) শব্দগুলি, বন্ধনীগুলি, সংখ্যাগুলি ও কমা প্রতিস্থাপিত হইবে; এবং
- (চ) clause (9) এর sub-clause (i) এর পরিবর্তে নিম্নরূপ sub-clause প্রতিস্থাপিত হইবে, যথা :-
- "(i) persons employed by the Government;" ।

৫। Ord. XXXIX of 1961 এর section 3 এর সংশোধন।—উক্ত Ordinance এর section 3 এর—

- (ক) Sub-section (1) এ,—
- (১) "Provincial Government shall establish a Minimum Wages Board for the Province" "শব্দগুলির পরিবর্তে "the Government shall establish a Board to be called the Minimum Wages Boare" শব্দগুলি প্রতিস্থাপিত হইবে; এবং
- (২) "of the Province" (দুইবার উল্লেখিত) শব্দগুলি বিলুপ্ত হইবে;
- (খ) sub-section (2)তে "Province" শব্দটির পরিবর্তে "country" শব্দটি প্রতিস্থাপিত হইবে; এবং
- (গ) sub-section (3) তে "of the Province" শব্দগুলি বিলুপ্ত হইবে ।

৬। Ord. XXXIX of 1961 এর section 4 এর সংশোধন।—উক্ত Ordinance এর section 4 এর—

- (ক) sub-section (1) এ,—
- (১) "A Board" শব্দগুলির পরিবর্তে "The Board" শব্দগুলি প্রতিস্থাপিত হইবে; এবং
- (২) "in the Province" শব্দগুলি বিলুপ্ত হইবে; এবং
- (খ) sub-section (2) তে "Province" শব্দটির পরিবর্তে "country" শব্দটি প্রতিস্থাপিত হইবে ।

৭। Ord. XXXIX of 1961 এর section 5 এর সংশোধন।—উক্ত Ordinance এর section 5 এর sub-section (1) এ—

- (ক) "in the Province" শব্দগুলি বিলুপ্ত হইবে; এবং
- (খ) "the Provincial Government" কমা ও শব্দগুলির পরিবর্তে "and the Government" শব্দগুলি প্রতিস্থাপিত হইবে ।

৮। Ord. XXXIX of 1961 এর section 9 এর সংশোধন।—উক্ত Ordinance এর section 9 এর sub-section (3)তে "six months" এবং "five

hundred rupees" শব্দগুলির পরিবর্তে যথাক্রমে "one year" ও "five thousand taka" শব্দগুলি প্রতিস্থাপিত হইবে।

৯। Ord. XXXIX of 1961 এর section 10 এর প্রতিস্থাপনা—উক্ত Ordinance এর section 10 এর পরিবর্তে নিম্নরূপ section 10 প্রতিস্থাপিত হইবে, যথাঃ—

"10. Cognizance of offence.—(1) No court other than a Labour Court established under the Industrial Relations Ordinance, 1969 (XXIII of 1969), or a court not inferior to that of a Magistrate of the first class shall take cognizance of an offence punishable under this Ordinance or the rules made thereunder, and cognizance shall not be so taken except upon a complaint in writing made by the person aggrieved by the commission of the offence or by any person authorised by the Government in this behalf.

(2) A Labour Court shall, for the purpose of trying an offence under this Ordinance, have the same powers as are vested in the court of a Magistrate of the first class under the Code of Criminal Procedure, 1898 (Act V of 1898), hereinafter referred to as the said Code, and shall, for the purpose of an appeal from a sentence passed by it, be deemed to be a court of sessions under the said Code.

(3) A Court trying an offence under this Ordinance shall follow as nearly as possible summary procedure as prescribed under the said Code."।

১০। Ord. XXXIX of 1961 এর section 12 এর সংশোধন—উক্ত Ordinance এর section 12 এ—

(ক) sub-section (1) এ "Any Board or the Chairman of a Board" শব্দগুলির পরিবর্তে "The Board or the Chairman of the Board" শব্দগুলি প্রতিস্থাপিত হইবে;

(খ) sub-section (2) এ,—

(১) "Chairman of the Boards" শব্দগুলির পরিবর্তে "Chairman of the Board" শব্দগুলি প্রতিস্থাপিত হইবে; এবং

(২) "by the Chairmen" শব্দগুলির পরিবর্তে "by the Chairman" শব্দগুলি প্রতিস্থাপিত হইবে; এবং

(গ) sub-section (3) তে "five hundred rupees" শব্দগুলির পরিবর্তে "five thousand taka" শব্দগুলি প্রতিস্থাপিত হইবে।

১১। Ord. XXXIX of 1961 এর section 13 এর সংশোধন—উক্ত Ordinance এর section 13 এ "Civil Courts" শব্দগুলির পরিবর্তে "Civil Court" শব্দগুলি প্রতিস্থাপিত হইবে।

১২। Ord. XXXIX of 1961 এর section 14 এর সংশোধন।—উক্ত Ordinance এর section 14 এ "Pakistan Penal Code" শব্দগুলির পরিবর্তে "Penal Code" শব্দগুলি প্রতিস্থাপিত হইবে।

১৩। Ord. XXXIX of 1961 এর section 17 এর সংশোধন।—উক্ত Ordinance এর section 17 এর sub-section (3) তে "five hundred rupees" শব্দগুলির পরিবর্তে "five thousand taka" শব্দগুলি প্রতিস্থাপিত হইবে।

Act No. XXII of 1990
Amendment to
Industrial Relations Ordinance, 1969

এর অধিকতর সংশোধনকল্পে প্রণীত আইন

যেহেতু নিম্নবর্ণিত উদ্দেশ্যসমূহ পূরণকল্পে Industrial Relations Ordinance, 1969 (XXIII of 1969) এর অধিকতর সংশোধন সমীচীন ও প্রয়োজনীয়;

সেহেতু এতদ্বারা নিম্নরূপ আইন করা হইলঃ—

১। সংক্ষিপ্ত শিরনামা।—এই আইন The Industrial Relations (Amendment) Act 1990 নামে অভিহিত হইবে।

২। Ord. XXIII of 1969 এর section 7 এর সংশোধন।—Industrial Relations Ordinance, 1969 (XXIII of 1969), অতঃপর উক্ত Ordinance বলিয়া উল্লিখিত এর section 7 এর sub-section (2) এর শেষে full-stop এর পরিবর্তে একটি colon প্রতিস্থাপিত হইবে এবং তৎপর নিম্নরূপ শর্তাংশগুলি সংযোজিত হইবে, যথাঃ—

"Provided that more than one establishments under the same employer, which are allied to and connected with one another for the purpose of carrying on the same industry irrespective of their place of situation, shall be deemed to be one establishment for the purpose of this sub-section.

Provided further that where any doubt or dispute arises as to whether any two or more establishments are under the same employer or whether they are allied to or connected with one another for the purpose of carrying on the industry, the decision of the Registrar shall be final."

৩। Ord. XXIII of 1969 এর section 7A এর সংশোধন।—উক্ত Ordinance এর section 7A এর sub-section (1) এর clause (b) এর শেষে "or if he was dismissed from any such establishment" শব্দগুলি সংযোজিত হইবে।

৪। Ord. XXIII of 1969 এর section 47B এর প্রতিস্থাপনা—উক্ত Ordinance এর section 47B এর পরিবর্তে নিম্নরূপ section 47B প্রতিস্থাপিত হইবে, যথাঃ—

"47B. President and General Secretary not to be transferred.—Neither the President nor the General Secretary of any trade union shall be transferred from one place to another without his consent."

৫। বিশেষ বিধান—(১) উক্ত Ordinance বা আপাততঃ বলবৎ অ্য কোন আইনে যাহা কিছুই থাকুক না কেন, এই আইন দ্বারা সংশোধিত উক্ত Ordinance এর section 7(2) এর বিধান সম্বত নয় এমন সকল বিদ্যমান ট্রেড ইউনিয়নের নাম, প্রয়োজনীয় তদন্তের পর, ট্রেড ইউনিয়ন-সমূহের রেজিষ্টার সরকারী গেজেটে প্রজ্ঞাপন দ্বারা প্রকাশ করিবেন।

(২) উপ-ধারা (১) এর অধীন প্রজ্ঞাপন জারীর তারিখ হইতে নব্বই দিন অতিবাহিত হইবার পর প্রজ্ঞাপনে উল্লিখিত ট্রেড ইউনিয়নের রেজিস্ট্রেশন, উপ-ধারা (৩) এর বিধান সাপেক্ষে বাতিল হইবে।

(৩) উপ-ধারা (১) এর অধীন প্রকাশিত কোন ট্রেড ইউনিয়নের নাম গেজেটে প্রকাশ করার বিরুদ্ধে আপত্তি থাকিলে উহার যে কোন কর্মকর্তা উক্তরূপ বাতিলের পূর্বে ট্রেড ইউনিয়নসমূহের রেজিষ্ট্রারের নিকট উক্ত আপত্তি লিপিবদ্ধ করিয়া আবেদন দাখিল করিতে পারিবেন এবং যে ট্রেড ইউনিয়নের ব্যাপারে এইরূপ আবেদন দাখিল করা হইবে সেই ট্রেড ইউনিয়ন, উপ-ধারা (২) এর বিধান সত্ত্বেও, বহাল থাকিবে।

(৪) উপ-ধারা (৩) এর অধীন আবেদন প্রাপ্তির নব্বই দিনের মধ্যে ট্রেড ইউনিয়নসমূহের রেজিষ্ট্রার আবেদনকারী ও সংশ্লিষ্ট অন্যান্য পক্ষতে স্তন্যীয় সুযোগ দিয়া বিষয়টি উপর তাঁহার সিদ্ধান্ত প্রদান করিবেন এবং উক্ত সিদ্ধান্ত মোতাবেক যদি সংশ্লিষ্ট ট্রেড ইউনিয়নটি উপরি-উক্ত section 7 (2) এর বিধান সম্বত নয় বলিয়া সাব্যস্ত হয়, তাহা হইলে সিদ্ধান্ত প্রদানের তারিখ হইতে ট্রেড ইউনিয়নটি বাতিল হইবে।

৬। রহিতকরণ ও হেফাজত—(১) The Industrial Relations (Amendment) Ordinance, 1989 (অধ্যাদেশ নং ১৭, ১৯৮৯) এতদ্বারা রহিত করা হইল।

(২) অনুরূপ রহিতকরণ সত্ত্বেও, রহিত Ordinance দ্বারা সংশোধিত উক্ত Ordinance এর অধীন কৃত কাজকর্ম বা গৃহীত ব্যবস্থা এই Act দ্বারা সংশোধিত উক্ত Ordinance এর অধীন কৃত বা গৃহীত হইয়াছে বলিয়া গণ্য হইবে।

Act No. XXII of 1993

Amendment to

Industrial Relations Ordinance, 1969

এর অধিকতর সংশোধনকল্পে প্রণীত আইন

যেহেতু নিম্নবর্ণিত উদ্দেশ্যসমূহ পূরণকল্পে Industrial Relations Ordinance, 1969 (XXIII of 1969) এর অধিকতর সংশোধন সমীচীন ও প্রয়োজনীয়; সেহেতু এতদ্বারা নিম্নরূপ আইন করা হইলঃ—

১। সংক্ষিপ্ত শিরনামা—এই আইন The Industrial Relations (Amendment) Act, 1993 নামে অভিহিত হইবে।

২। Ord. XXIII of 1969 এর section 1 এর সংশোধন—Industrial Relations Ordinance, 1969 (XXIII of 1969), অতঃপর উক্ত Ordinance বলিয়া উল্লেখিত, এর section 1 এর sub-section (3) এর Telephone Departments" শব্দগুলির পরে"; or to any person employed in the security Printing Corporation (Bangladesh) Ltd." সেমিকোলন, শব্দগুলি ও বন্ধনীগুলি সংযোজিত হইবে।

৩। Ord. XXIII of 1969 এর section 2 এর সংশোধন—উক্ত Ordinance এর section 2 এর -

"(ক) clause (ix) এর পরিবর্তে নিম্নরূপ clause প্রতিস্থাপিত হইবে, যথাঃ-

"(স) 'establishment" means any office, firm, industrial unit, transport vehicle, undertaking, shop or premises in which workmen are employed for the purpose of carrying on any industry:

Provided that each class of transport vehicles, such as "truck/tank-lorry", "bus/minibus", "taxi" and "baby taxi/tempo" operating in a region of a Transport Committee shall be deemed to be an establishment for the purpose of registration of trade union of workmen employed in such transport vehicles;"

(খ) clause (xxvi) এর পর নিম্নরূপ নূতন clause গুলি সন্নিবেশিত হইবে, যথাঃ-

"(xxvi a) "transport vehicle" shall have the same meaning as in clause (57) of section 2 of the Motor Vehicles Ordinance, 1983 (LV of 1983);

(xxvii) "Transport Committee" means a Transport Committee constituted under section 54 of the Motor Vehicles Ordinance, 1983 (LV of 1983);"

৪। Ord. XXIII of 1969 এর section 6 এর সংশোধন—উক্ত Ordinance এর section 6 এর clause (a) এর sub-section (v) এর পর নিম্নরূপ নূতন sub-clause সংযোজিত হইবে, যথাঃ-

"(vi) in case of a trade union of transport vehicle workmen, total number of transport vehicles, the names and addresses of their owners, the route permit number of the vehicles and the number of workers in such vehicles;" ।

৫। Ord. XXIII of 1969 এর section 35 এর সংশোধন—উক্ত Ordinance এর section 35 এর-

(ক) sub-section (2) এর পরিবর্তে নিম্নরূপ sub-section প্রতিস্থাপিত হইবে, যথাঃ-

"(2) A Labour Court shall consist of a Chairman appointed by the Government and two members to advise the Chairman, one to represent the employers and the other to represent the workmen, appointed in the manner hereinafter provided.";

(খ) sub-section (3) তে "a High Court" শব্দগুলির পরিবর্তে "The High court Division" শব্দগুলি প্রতিস্থাপিত হইবে;

(গ) sub-section (4) এর পরিবর্তে নিম্নরূপ sub-section প্রতিস্থাপিত হইবে, যথাঃ-

"(4) The Government shall constitute, in the prescribed manner, by notification in the official Gazette, two panels, one of which shall consist of representatives of employers and the other of representatives of the workmen, each panel consisting of not more than five persons:

Provided that the Government shall reconstitute such panels after every two years, but the members of the panels, notwithstanding the expiry of the said period of two years, shall continue on the panels till the new panels are constituted and notified in the official Gazette.";

(ঘ) sub-section (4) এর পর নিম্নরূপ নূতন sub-section সন্নিবেশিত হইবে, যথাঃ-

"(4A) The Chairman shall, for adjudication, enquiry, determination or disposal of a case relating to a specific industrial dispute, select one person from each of the two panels constituted under sub-section (4), and persons so selected, together with the Chairman, shall be deemed to have constituted the Labour Court in respect of that specific industrial dispute:

Provided that the Chairman may selected any member from either of the panels as a member of the Labour Court in respect of more than one case pending before the Labour Court.";

(ঙ) sub-section (5) এর "A Labour Court shall" শব্দগুলির পরিবর্তে "A Labour Court shall have exclusive jurisdiction to" শব্দগুলি প্রতিস্থাপিত হইবে;

(চ) sub-section (7) এর "such absence" শব্দগুলির পরিবর্তে "such absence, or on the ground of any vacancy in, or any defect in the constitution of, the Labour Court" শব্দগুলি ও কমাগুলি প্রতিস্থাপিত হইবে।

৬। Ord. XXIII of 1969 এর section 36 এর সংশোধন।—উক্ত Ordinance এর section 36 এর sub-section (2) এর পর নিম্নরূপ নূতন sub-section সন্নিবেশিত হইবে, যথাঃ-

"(2A) A Labour Court may, if it is satisfied that the dispute has been amicably resolved, allow the withdrawal of a case before it at any stage of the proceeding thereof upon consideration of an application signed by all the parties to the case after giving hearing all or any one of them.";

৭। Ord. XXIII of 1969 এর section 38 এর সংশোধন।—উক্ত Ordinance এর section 38 এর-

(ক) sub-section (1) এর পরিবর্তে নিম্নরূপ sub-section গুলি প্রতিস্থাপিত হইবে, যথাঃ-

"(1) The Government may, by notification in the official Gazette,

establish one or more Labour Appellate Tribunals for the purposes of this Ordinance.

(1A) When more than one Labour Appellate Tribunal is established, the Government shall, by notification in the official Gazette, Specify the area within which each Tribunal shall exercise jurisdiction.";

"(খ) sub-section (2) এর পরিবর্তে নিম্নরূপ sub-section গুলি প্রতিস্থাপিত হইবে, যথাঃ—

"(2) The Tribunal shall consist of one member who shall be appointed by the Government, by notification in the official Gazette, from among person who is or has been a Judge or an Additional Judge of the High Court Division.

(2A) The member of the Tribunal shall hold office on such terms and conditions as the Government may determine::

(গ) sub-section (3) এর পর নিম্নরূপ নূতন sub-section সন্নিবেশিত হইবে, যথাঃ—

"(3A) If an appeal is preferred against an order of re-instatement of a workman by the the Labour Court, the Tribunal shall, notwithstanding anything contained in sub-section (3), decide such appeal within a period not beyond 180 days following the filing of the appeal and in the meantime the Tribunal may pass an order staying the operation of the order of the Labour Court and if such appeal is not disposed of within the aforesaid period, the order of the Tribunal shall stand vacated after the expiry of the period";

(ঘ) sub-section (8) এর পর নিম্নরূপ নূতন sub-section সন্নিবেশিত হইবে, যথাঃ—

"(4A) The Tribunal may, on its own motion, and for the purpose of satisfying itself as to the correctness, legality or propriety of the order of the Labour Court, call for the record of any case or proceeding under this Ordinance and may pass such order in relation thereto as it thinks fit:

Provided tht no order under this sub-section shall be passed revising or modifying any order adversely affecting any person without giving such prson a reasonable opportunity of being heard.";

(ঙ) sub-section (6) এর "Fifty Taka" শব্দগুলির পরিবর্তে "one thousand taka" শব্দগুলি প্রতিস্থাপিত হইবে।

৮। Ord. XXIII of 1969 এর section 52 এ Explanation সংযোজন।—উক্ত Ordinance এর section 52 এর পর নিম্নবর্ণিত Explanation সংযোজিত হইবে, যথাঃ—

Explanation—For the purposes of this section, a registered trade union means such registered trade union which has a membership of at least one-third of the total number of workers of the establishment concerned.