

The Uttar Pradesh (Industrial Dispute) (Amendment) Act, 1978

Act 34 of 1978

Keyword(s):

Industrial Dispute, Construction of Buildings, Permission, Employer, Grant, Labour Court

Amendments appended: 26 of 1983, 3 of 1991, 21 of 2000

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Cap 2

विभागाध्यक्ष
(शासकीय प्रकाशन)
उत्तर प्रदेश सरकार

उत्तर प्रदेश औद्योगिक झगड़ा (संशोधन) अधिनियम, 1978

[उत्तर प्रदेश अधिनियम संख्या 34 सन् 1978]

उत्तर प्रदेश विधान सभा ने दिनांक 24 अगस्त, 1978 ई० तथा उत्तर प्रदेश विधान परिषद् दिनांक 9 सितम्बर, 1978 ई० की बैठक में स्वीकृत किया।

“भारत का संविधान” के अनुच्छेद 201 के अन्तर्गत राष्ट्रपति ने दिनांक 23 अक्टूबर, 1978 ई० को अनुमति प्रदान की तथा उत्तर प्रदेशीय असाधारण गजट के विधायी परिशिष्ट के भाग-1 खंड (क) में दिनांक 25 अक्टूबर, 1978 ई० को प्रकाशित हुआ।

संयुक्त प्रान्तीय औद्योगिक झगड़ों का ऐक्ट, 1947 को अग्रतर संशोधन करने के लिए

अधिनियम

भारत गणराज्य के उन्तीसवें वर्ष में निम्नलिखित अधिनियम बनाया जाता है :—

1—यह अधिनियम उत्तर प्रदेश औद्योगिक झगड़ा (संशोधन) अधिनियम, 1978, कहा जायगा।

2—संयुक्त प्रान्तीय औद्योगिक झगड़ों का ऐक्ट, 1947 की, जिसे आगे मूल अधिनियम कहा जायगा, धारा 2 के पश्चात् निम्नलिखित धारा बढ़ा दी जायगी, अर्थात्—

“2-क—जहां कोई मालिक किसी एक मजदूर की सेवोन्मुक्ति, पदच्युति, छटनी या अन्य किसी मजदूर की प्रकार से सेवा-समाप्ति करता है, वहां उस मजदूर और उसके मालिक पदच्युति आदि को के बीच ऐसी सेवोन्मुक्ति, पदच्युति, छटनी या सेवा-समाप्ति से सम्बद्ध औद्योगिक झगड़ा या उत्पन्न होने वाले किसी झगड़ा या मतभेद को औद्योगिक झगड़ा समझा जायगा। समझा जायगा भले ही कोई अन्य मजदूर या कोई मजदूर संघ उस झगड़े में पक्षकार न हो।”

उद्देश्य और कारणों के विवरण के लिए कृपया दिनांक 29 अप्रैल, 1978 ई० का सरकारी साधारण गजट के विधायी परिशिष्ट का भाग-3 खंड (क) देखिये।

संक्षिप्त नाम

सं० प्रा० ऐक्ट सं०
28, सन् 1947
में नई धारा 2-क
का बढ़ाया जाना

धारा 4-ड का
संशोधन

3--मूल अधिनियम की धारा 4-ड में--

(क) उपधारा (1) में, खण्ड (3) के पश्चात् निम्नलिखित खण्ड बढ़ा दिया जायगा, अर्थात्--

“(3-क) श्रम आयुक्त, उत्तर प्रदेश;”;

(ख) उपधारा (3) में शब्द “अथवा स्टेट जुडीशियल सर्विस अथवा स्टेट लेबर सर्विस का सदस्य न हो या न रहा हो” के स्थान पर शब्द “अथवा उत्तर प्रदेश न्यायिक सेवा अथवा स्टेट लेबर सर्विस का सदस्य न हो या न रहा हो, अथवा जो स्टेट सिविल सर्विस (एक्जीक्यूटिव ब्रांच) का ऐसा सदस्य न हो या न रहा हो जिसे राज्य के श्रम विभाग में कम से कम तीन वर्ष कार्य करने का अनुभव हो” रख दिए जायेंगे।

धारा 6 का
संशोधन

4--मूल अधिनियम की धारा 6 में, उपधारा (2) के पश्चात् निम्नलिखित उपधारा बढ़ा दी जायगी, अर्थात्--

“(2-क) किसी मजदूर की सेवोन्मुक्ति या पदच्युति से सम्बन्धित औद्योगिक झगड़े के पंच-निर्णय में सेवोन्मुक्ति या पदच्युति को अपास्त करने का और मजदूर को ऐसे निबन्धनों और शर्तों पर, यदि कोई हों, जिसे पंच-निर्णय देने वाला प्राधिकारी उचित समझे, बहाल करने का या मजदूर को ऐसा अन्य अनुतोष दिये जाने का जिसमें सेवोन्मुक्ति या पदच्युति के बजाय मामले की परिस्थितियों की अपेक्षानुसार कोई हल्का दण्ड देना सम्मिलित है, निर्देश दिया जा सकता है।”

धारा 6-छ का
संशोधन

5--मूल अधिनियम की धारा 6-छ म, उपधारा (1) क स्थान पर निम्नलिखित उपधारा रख दी जायगी, अर्थात्--

“(1) राज्य सरकार लिखित आदेश द्वारा उसमें उल्लिखित कारणों से, किसी कार्यवाही को,--

(1) किसी श्रम न्यायालय से वापस ले सकती है और उसे निस्तारणार्थ किसी अन्य श्रम न्यायालय या किसी न्यायाधिकरण को संक्रामित कर सकती है;

(2) किसी न्यायाधिकरण से वापस ले सकती है और उसे निस्तारणार्थ किसी अन्य न्यायाधिकरण को या यदि झगड़ा श्रम न्यायालय की अधिकारिता में हो तो किसी श्रम न्यायालय को संक्रामित कर सकती है, और वह श्रम न्यायालय या न्यायाधिकरण जिसे कार्यवाही इस प्रकार संक्रामित की जाय, संक्रामण आज्ञा में उल्लिखित किसी विशेष निर्देश के अधीन रहते हुए, या तो नये सिरे से या उस चरण से जिस पर कार्यवाही इस प्रकार संक्रामित की गई थी, कार्यवाही कर सकता है।”

नई धारा 14-क
का बढ़ाया जाना

6--मूल अधिनियम की धारा 14 के पश्चात् निम्नलिखित धारा बढ़ा दी जायगी, अर्थात्--

“14-क--कोई व्यक्ति जो किसी ऐसे निपटारा या पंच-निर्णय के, जो इस अधिनियम के अधीन उस पर आबद्धकर है, किसी निबन्धन का उल्लंघन करता है पंच-निर्णय के ऐसी अवधि के लिये जो छः मास तक हो सकती है कारावास से, या निबन्धन के उल्लंघन के लिये शास्ति जुर्माना से, या दोनों से और यदि उल्लंघन जारी रहे तो अतिरिक्त जुर्माना से दण्डनीय होगा जो प्रत्येक ऐसे दिन के लिए जिसमें प्रथम दोष सिद्ध के पश्चात् उल्लंघन जारी रहे, दो सौ रुपये तक हो सकता है, और अपराध पर विचार करने वाला न्यायालय, यदि वह अपराधी पर जुर्माना करता है, यह निर्देश दे सकता है कि उससे वसूल किया गया सम्पूर्ण जुर्माना या उसका कोई भाग प्रतिकर के रूप में उस व्यक्ति को दिया जायगा जिसे उसकी राय में ऐसे उल्लंघन से क्षति पहुंची हो।”

संक्रमणकालीन
उपबन्ध

7--औद्योगिक विवाद अधिनियम, 1947 की धारा 10 के अधीन किसी निर्देश को, जो उक्त अधिनियम की धारा 2-क में निर्दिष्ट औद्योगिक विवाद से उत्पन्न हो और इस अधिनियम के प्रारम्भ के दिवांक को विचाराधीन हो, इस अधिनियम द्वारा बढ़ायी गई मूल अधिनियम की धारा 2-क में निर्दिष्ट औद्योगिक झगड़े से उत्पन्न मूल अधिनियम की धारा 4-ट के अधीन किया गया निर्देश समझा जायगा, मानों उक्त धारा 2-क के उपबन्ध सभी सारभूत समयों पर प्रवृत्त थे, और किसी ऐसे निर्देश को मूल अधिनियम के अधीन नियुक्त, यथास्थिति, श्रम न्यायालय या न्यायाधिकरण द्वारा निस्तारण के लिए मूल अधिनियम के उपबन्धों के अधीन वापस लिया जा सकता है और संक्रामित किया जा सकता है।

No. 2866(2)/XVII-V-1-1 (Ka)-20-1983

Dated Lucknow, October 12, 1983

IN pursuance of the provisions of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of the Uttar Pradesh Audyogika Jhagara (Sanshodhan) Adhiniyam, 1983 (Uttar Pradesh Adhiniyam Sankhya 26 of 1983) as passed by the Uttar Pradesh Legislature and assented to by the President on October 10, 1983:

THE UTTAR PRADESH INDUSTRIAL DISPUTES (AMENDMENT) ACT, 1983

[U. P. ACT NO. 26 OF 1983]

(As passed by the Uttar Pradesh Legislature Council)

AN

ACT

further to amend the United Provinces Industrial Disputes Act, 1947

IT IS HEREBY enacted in the Thirty-fourth Year of the Republic of India as follows :—

Short title and commencement.

1. (1) This Act may be called the Uttar Pradesh Industrial Disputes (Amendment) Act, 1983.

(2) It shall be deemed to have come into force on August 3, 1983.

Amendment of section 2 of U.P. Act no. XXVIII of 1947.

2. In section 2 of the U. P. Industrial Disputes Act, 1947, hereinafter referred to as the principal Act, after clause (e), the following clause shall be inserted, namely :—

“(ee) ‘closure’ means the permanent closing down of a place of employment or part thereof;”.

Insertion of sections 6-V, 6-W and 6-X.

3. In the principal Act, after section 6-U, the following sections shall be inserted, namely :—

“6-V. (1) The provisions of sections 6-W and 6-X shall apply to an industrial establishment pertaining to an industry other than an industry referred to in sub-clause (i) of clause (a) of section 2 of the Industrial Disputes Act, 1947 (not being an establishment of a seasonal character or in which work is performed only intermittently) in which not less than three hundred workmen were employed on an average per working day for the preceding twelve months;

(2) If a question arises whether an industrial establishment is of a seasonal character or whether work is performed therein only intermittently; the decision of the State Government thereon shall be final.

6-W. (1) An employer who intends to close down an industrial establishment shall, in the prescribed manner, apply, for prior permission, at least ninety days before the date on which the intended closure is to become effective, to the State Government, stating clearly the reasons for the intended closure of the undertaking and a copy of such application shall also be served simultaneously on the representatives of the workmen in the prescribed manner :

Procedure for closing down an undertaking.

Provided that nothing in this sub-section shall apply to an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work.

(2) Where an application for permission has been made under sub-section (1), the State Government, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen and the persons interested in such closure may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the general public and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(3) Where an application has been made under sub-section (1) and the State Government does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(4) An order of the State Government granting or refusing to grant permission shall, subject to the provisions of sub-section (5), be final and binding on all the parties and shall remain in force for one year from the date of such order.

(5) The State Government may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (2) or refer the matter to a Tribunal for adjudication :

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(6) Where no application for permission under sub-section (1) is made within the period specified therein, or where the permission for closure has been refused, the closure of the undertaking shall be deemed to be illegal from the date of closure and the workmen shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down.

(7) Notwithstanding anything contained in the foregoing provisions of this section, the State Government may, if it is satisfied that owing to such exceptional circumstances as accident in the undertaking or death of the employer or the like it is necessary so to do, by order, direct that the provisions of sub-section (1) shall not apply in relation to such period as may be specified in the order.

(8) Where an undertaking is permitted to be closed down under sub-section (2) or where permission for closure is deemed to be granted under sub-section (3), every workman who is employed in that undertaking immediately before the date of application for permission under this section, shall be entitled to receive compensation which shall be equivalent to fifteen day's average—pay for every completed year of continuous service or any part thereof in excess of six months.

6-X. (1) If the State Government is of opinion in respect of any undertaking of an industrial establishment which has been closed down before or after the commencement of the Uttar Pradesh Industrial Disputes (Amendment) Act, 1983—

Special provisions as to the restarting of certain undertakings.

(a) that such undertaking was closed down otherwise than on account of unavoidable circumstances beyond the control of the employer ;

(b) that there are possibilities of restarting the undertaking ;

(c) that it is necessary for the rehabilitation of the workmen employed in such undertaking before its closure or for the maintenance of supplies and services essential to the life of the community to restart the undertaking or both; and

(d) that the restarting of the undertaking will not result in hardship to the employer in relation to the undertaking ;

it may, after giving an opportunity to such employer and workmen for reasons to be recorded in writing direct, by order published in the *Gazette*, that the undertaking shall be restarted within such time (not being less than one month from the date of the order) as may be specified in the order.

(2) Where the employer is aggrieved from an order passed under sub-section (1), he may refer the matter in the prescribed manner to the Tribunal for adjudication and the Tribunal may pass such orders as it thinks proper and reasonable in the circumstances of the case."

4. In the principal Act, after section 14-A, the following section shall be inserted, namely :—

"14-B. (1) Any employer who closes down an undertaking in contravention of the provisions of section 3 or section 6-W shall be punishable with imprisonment for a term which may extend to three years or with fine or with both.

Insertion of section 14-B.

(2) Any employer, who contravenes a direction given under section 6-X shall be punishable with imprisonment for a term which may extend to three years or with fine or with both, and where the contravention is a continuing one, with a further fine which may extend to two thousand rupees for every day during which the contravention continues after the conviction."

Amendment of
the Second
Schedule.

5. In the principal Act, in the Second Schedule, after entry 10 the following entry shall be inserted, namely:—

"10-A. Any matter relating to the closure of the undertaking of an industrial establishment."

Repeal and
savings.

6. (1) The Uttar Pradesh Industrial Disputes (Amendment) Ordinance, 1983 is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the principal Act, as amended by the Ordinance referred to in sub-section (1), shall be deemed to have been done or taken under the corresponding provisions of the principal Act as amended by this Act, as if the provisions of this Act were in force at all material times.

U. P.
notice
of

By order,
G. B. SINGH,
Sachiv.

उत्तर प्रदेश असाधारण गजट, 27 फरवरी, 1991

No. 444(2)/XVII-V-1—1(KA)-36-1990

Dated Lucknow, February 27, 1991

IN pursuance of the provisions of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of the Uttar Pradesh Audyogik Jhagra (Sanshodhan) Adhiniyam, 1991 (Uttar Pradesh Adhiniyam Sankhya 3 of 1991) as passed by the Uttar Pradesh Legislature and assented to by the President on February 26, 1991.

**THE UTTAR PRADESH INDUSTRIAL DISPUTES (AMENDMENT)
ACT, 1991**

(U. P. ACT NO. 3 OF 1991)

[As passed by the U. P. Legislature]

AN
ACT

further to amend the United Provinces Industrial Disputes Act, 1947.

IT IS HEREBY enacted in the Forty-second Year of the Republic of India as follows :—

1. (1) This Act may be called the Uttar Pradesh Industrial Disputes (Amendment) Act, 1991.

Short title and
commencement

(2) It shall be deemed to have come into force on August 13, 1990.

2. In section 6 of the United Provinces Industrial Disputes Act, 1947, for sub-section (4), the following sub-section shall be substituted, namely—

Amendment of
section 6 of U. P.
Act no. XXVIII
of 1947

“(4) Before publication of an award of a Labour Court or Tribunal under sub-section (3), if the State Government is of the opinion that,—

(a) the adjudicating authority has unreasonably refused permission to any party to adduce evidence ; or

(b) any party was prevented by any other sufficient cause from adducing evidence ; or

(c) new and important material fact or evidence has come to notice, which after the exercise of due diligence, was not within the knowledge of, or could not be produced by, the party at the time when the award was made ; or

(d) the award is likely to disturb the industrial peace ; or

(e) the award is likely to affect prejudicially the national or State economy ; or

(f) the award is likely to interfere with the principles of social justice ; or

(g) the award has left undetermined any of the matters referred for adjudication, or where it determines any matter not referred for adjudication and such matter cannot be separated without affecting the determination of the matters referred ; or

(h) the award is so indefinite as to be incapable of being enforced ; or

(i) illegality of the award is apparent upon the face of it,

it may, after giving the parties reasonable opportunity of being heard, for reasons to be recorded, remit the award for reconsideration of the adjudicating authority, and that authority shall, after reconsideration, submit its award to the State Government, and the State Government shall publish the award in the manner provided in sub-section (3)."

Repeal
saving and

3. (1) The Uttar Pradesh Industrial Disputes (Amendment) Ordinance, 1990, is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the principal Act, as amended by the Ordinance referred to in sub-section (1), shall be deemed to have been done or taken under the corresponding provisions of the principal Act, as amended by this Act, as if the provisions of this Act were in force at all material times.

U. P.
Ordinance
no. 22 of
1990.

By order,

R. D. MATHUR,

*Joint Secretary and Joint
Legal Remembrancer.*

THE UTTAR PRADESH INDUSTRIAL DISPUTES (AMENDMENT) ACT, 2000

[U. P. ACT No. 21 OF 2000]

(As passed by the Uttar Pradesh Legislature)

AN ACT

furth^r to amend the United Provinces Industrial Disputes Act, 1947.

IT IS HEREBY enacted in the Fifty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Uttar Pradesh Industrial Disputes (Amendment) Act, 2000.

Short title and commencement

(2) It shall be deemed to have come into force on March 16, 2000.

2. In section 4-E of the United Provinces Industrial Disputes Act, 1947 hereinafter referred to as the principal Act,—

Amendment of section 4-E of U. P. Act no. XXVIII of 1947

(a) for sub-section (1) the following sub-section shall be substituted, namely:—

“(1) The State Government shall constitute a committee consisting of the following:—

(a) two Judges of the High Court nominated by the Chief Justice of the High Court. The Judge, who is senior, shall be the Chairman;

(b) the Chief Secretary to the State Government;

(c) the Principal Secretary or Secretary as the case may be, to the State Government in the Labour Department;

(d) the Principal Secretary to the State Government in the Legislative Department;

(e) the Principal Secretary to the State Government in the Judicial Department;

(f) the Labour Commissioner, Uttar Pradesh;

(g) a person who is, or has been, a member of a Public Service Commission, appointed by the State Government.”

(b) for sub-section (3) the following sub-section shall be substituted, namely:—

“(3) No person who is not or who has not been a member of the State Higher Judicial Service or the Uttar Pradesh Nyayik Sewa or who is not or who has not been such member of the Indian Administrative Service, or State Labour Service as has experience of dispensation of Justice for a period of not less than 3 years or who is not or who has not been such member of the State Civil Service (Executive Branch) as has experience of working for at least three years in the Labour Department of the State and has experience of dispensation of justice for a period of not less than three years, shall be eligible for enrolment in the lists prepared under sub-section (2).”

3. (1) The Uttar Pradesh Industrial Disputes (Amendment) Ordinance, 2000 is hereby repealed.

Repeal and savings

(2) Notwithstanding such repeal, anything done or any action taken under the provisions of the principal Act as amended by the Ordinance referred to in sub-section (1) shall be deemed to have been done or taken under the corresponding provisions of the principal Act as amended by this Act as if this Act were in force at all material times.

By order,

Y. R. TRIPATHI,

Pramukh Sachiv.