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THE CONTROL OF EMPLOYMENT ORDINANCE, 1965

ORDINANCE NO. XXXII OF 1965

[18th September, 1965]

An Ordinance to provide for the collection of information relating to employment in industrial undertakings and availability of persons therefore, and for the control and distribution of such employment, and matters connected therewith or incidental thereto.*

WHEREAS it is expedient to provide for the collection of information relating to employment in industrial undertakings and availability of persons therefore, and for the control and distribution of such employment, and matters connected therewith or incidental thereto;

AND WHEREAS a Proclamation of Emergency issued under clause (1) of Article 30 of the Constitution is in force;

AND WHEREAS the President is satisfied that immediate legislation is necessary to meet the emergency;

NOW, THEREFORE, in exercise of the powers conferred by clause (4) of Article 30 of the Constitution, read with clause (2) of Article 131 thereof, and of all other powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :-

Short title,
extent,
application and
commencement

1. (1) This Ordinance may be called the Control of Employment Ordinance, 1965.

(2) It extends to the whole of Bangladesh, and also applies to all citizens of Bangladesh, and vehicles, vessels and aircraft registered in or chartered for Bangladesh wherever they may be.

* Throughout this Ordinance, the words “Bangladesh”, “Government” and “Taka” were substituted for the words “Pakistan”, “Central Government or the Provincial Government” or “Provincial Government” or “Central Government or a Provincial Government” or “Central Government” and “rupees” respectively by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(3) It shall come into force at once and shall be deemed to have taken effect on the eighth day of September, 1965.

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

- (1) "Board" means a Manpower Board constituted under section 4;
- (2) "essential personnel" has the same meaning as assigned to it in clause (a) of section 2 of the Essential Personnel (Registration) Ordinance, 1948, as amended from time to time;
- (3) "essential work" means any work relating to the manufacture, production, maintenance or repair of arms, ammunition and equipment or other supplies and any other work which the Government may, by notification in the *official Gazette*, declare to be essential work for the purposes of this Ordinance;
- (4) "industrial undertaking" means,-
 - (a) any concern engaged in-
 - (i) the manufacture or production of any article or commodity;
 - (ii) the supply or distribution of light, power, gas or water;
 - (iii) the supply or maintenance of any kind of mechanised transport;
 - (b) any concern engaged in installing equipment or erecting premises or preparing and producing designs for, or testing the products of, any concern referred to in sub-clause (a);
 - (c) any technical training establishment or centre; and
 - (d) any other undertaking which the Government may, by notification in the *official Gazette*, declare to be an industrial undertaking for the purposes of this Ordinance;

¹[* * *]

¹ Clause (5) was omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(6) “prescribed” means prescribed by rules made under this Ordinance; and

¹[* * *].

3. [*Manpower Council.- Omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).*]

Manpower Board

²**4.** (1) The Government may constitute a Manpower Board consisting of 6 members to be appointed by it.

(2) One of the members appointed under sub-section (1) as may be determined by the Government, shall be the Chairman of the Board.

(3) Three members of the Board including the Chairman shall constitute a quorum at a meeting of the Board.]

Functions and powers of the Board

5. (1) The functions of the Board shall include collection of information relating to employment in industrial undertakings and availability of persons therefore, and to control and distribution of, and taking measures to make persons available for, such employment.

³[* * *]

(2) For the purpose of sub-section (1), the Board may-

- (a) require any person or industrial undertaking to furnish or cause to be furnished, such information and in such manner and form as it may specify;
- (b) take measures, or cause measures to be taken, by any industrial undertaking or other competent authority, to ensure that the required number of persons is available for employment in such undertaking;

¹ Clause (7) was omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² Section 4 was substituted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The proviso was omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (c) require any person to undertake any essential work he is competent to do;
- (d) prohibit any person from accepting any employment or offer of employment;
- (e) control or regulate the employment in any industrial undertaking;
- (f) regulate the relinquishment of employment by, and the dismissal of, any person employed in any industrial undertaking;
- (g) order the release, transfer, interview, training or test of skill of any person employed or to be considered for employment in any industrial undertaking;
- (h) prohibit persons employed or engaged in any essential work from leaving the work or absenting themselves from duty or slowing down or otherwise impeding their output;
- (i) lay down the terms and conditions of service of persons employed, or to be employed, in any industrial undertaking;
- (j) authorise any of its members or officers to enter upon, inspect and search any premises occupied by any industrial undertaking and to ask for and examine any document relating to such undertaking and to require any person employed or found therein to furnish any information relating thereto;
- (k) authorise any of its officers or any persons employed in a managerial or supervisory capacity in any industrial undertaking to test therein the technical skill of such persons as the Board may, by order in writing, direct and require any such undertaking to afford reasonable facilities for such test;
- (l) require any industrial undertaking to maintain such books of accounts and records and in such form as it may direct; and
- (m) require the employment exchanges to issue call up notices.

Obligation to comply with the order or direction of the Board, etc.

6. (1) Where the Board makes any order or gives any direction requiring any person or industrial undertaking to furnish any information or document or to afford any facility or to take any measure or to do or refrain from doing anything, such persons and, in the case of an industrial undertaking, the owner, director, manager, secretary or other officer or agent thereof competent for the purpose, shall subject to the other provisions of this section comply with such order or direction.

(2) Any person or industrial undertaking aggrieved by an order or direction of the Board may prefer an appeal against such order or direction to the Government or to such officer or authority as the Government may appoint, and the decision of the Government or such officer or authority, as the case may be, shall be final.

(3) Failure or neglect to comply with any order or direction of the Board or, where an appeal is preferred under sub-section (2), with the final decision thereon shall be an offence under the Ordinance.

Reinstatement of person released under the orders of the Board

7. (1) Subject to the other provisions of this section, every employer by whom a person was released for any essential work ¹[* * *] shall, on the termination of, or release from, such work or service, reinstate such person in his former employment from which he was released and, if such reinstatement is less favourable to such person than that to which he would, in the ordinary course, have been entitled, give him such employment as is not so less favourable:

Provided that the employer shall not be required to so reinstate or employ any person if such person does not apply or report to him for the purpose within three months of the termination of, or release from the essential work or such service.

(2) Where for any reason reinstatement or employment under sub-section (1) is not practicable, the employer shall, within seven days from the date on which the person to be

¹ The words, brackets, commas and figures “or for service under the Compulsory Service (Armed Forces) Ordinance, 1965 (XXIV of 1965), in pursuance of an order or requisition of the Board or of a notice served under section 6 of the said Ordinance” were omitted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

reinstated or employed applies or reports himself for reinstatement or employment, make an application to the Tribunal for exemption from the provisions of sub-section (1).

(3) Upon an application of the employer under sub-section (2), the Tribunal shall, after such enquiry and hearing as it considers necessary, make an order either-

- (a) exempting the employer from the provisions of sub-section (1), in which case the employer shall be required to pay to such person a compensation of a sum not less than six months' remuneration of the person calculated at the rate he was entitled to when he was released by the employer; or
- (b) requiring the employer to reinstate or give employment to such person in terms of sub-section (1) or on such terms and conditions as it may specify in the order.

(4) If any employer contravenes the provisions of sub-section (1), or fails or neglects to carry out the order of the Tribunal under sub-section (3), he shall be guilty of an offence under this Ordinance and be punishable with fine which may extend to one thousand Taka and, if the Court by which he is convicted so directs shall also be liable to pay to the person with respect to whose reinstatement or employment he has been convicted such sum not exceeding six months' remuneration of that person calculated at the rate he was entitled to when he was released as the Court may specify, in addition to any compensation he is required to pay under clause (a) of sub-section (3).

(5) Any sum which the employer is required to pay under an order of the Tribunal under sub-section (3) or an order of the Court under sub-section (4), shall be recoverable as if it were a fine imposed by a Court.

8. (1) The Board may, for obtaining advice and assistance in the discharge of its functions under this Ordinance, constitute an Advisory Committee for such area and in such place as it may think fit.

Advisory
Committee

(2) An Advisory Committee constituted under sub-section (1) shall consist of -

- (a) the Commissioner of the Division concerned, who shall be the Chairman of such Committee,

- ¹[(b) an officer of the Directorate of Labour nominated by that Directorate,
- (bb) an officer of the Bureau of Manpower, Employment Training, nominated by that Bureau,]
- ²[(c) one person to represent the Ministry of Industry, to be nominated by that Ministry,]
- (d) one person to represent the Railway Board of the Province, to be nominated by that ³[Division],
- (e) one person to represent the Ministry of Defence, to be nominated by that Ministry,
- (f) the Manager of the Employment Exchange of the area concerned,
- (g) one person to represent the employers of the area concerned, and
- (h) one person to represent the workers of the area concerned.

(3) Three members including the Chairman shall constitute a quorum at a meeting of the Advisory Committee.

Manpower
Tribunal

9. (1) The Government shall constitute one or more Manpower Tribunals for such area or areas as it may consider necessary for the disposal of applications under sub-section (2) of section 7.

(2) A Tribunal shall consist of a Chairman and two members all being appointed by the Government.

(3) The Chairman of a Tribunal shall be a person who holds, or has held, a judicial post not inferior to that of a District Judge.

¹ Clauses (b) and (bb) were substituted for the former clause (b), by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² Clause (c) was substituted by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

³ The word "Division" was substituted for the word "Board" by section 3 and the Second Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

(4) A member of the Board shall not be appointed to be member of a Tribunal.

(5) A Tribunal shall meet at such times and places as it thinks fit.

(6) A Tribunal shall, for the purpose of receiving evidence, administering oaths, enforcing the attendance of witnesses and compelling the discovery and production of documents, have the powers of a Civil Court under the Code of Civil Procedure, 1908, and shall be deemed to be such Court within the meaning of sections 480, 482 and 484 of the Code of Criminal Procedure, 1898.

10. (1) The Government may, by notification in the *official Gazette*, declare any industrial undertaking to be a notified industrial undertaking for the purpose of this Ordinance.

Notified industrial undertakings

(2) Every notified industrial undertaking shall report to the Board in such manner and within such period all situations in the undertaking which are vacant or are soon likely to be vacant and employ such essential personnel within such period and on such terms and conditions as the Board may direct and no such industrial undertaking shall, except with the permission of the Board, fill any vacancy in which essential personnel may be employed.

11. Any person who,-

False statements

- (a) for the purpose of obtaining employment or procuring essential work, knowingly describes himself, or allows himself to be described, to any member of the Board or Advisory Committee as a person practising or engaged in any profession, occupation or employment when in fact he does not practise or engage himself in such profession, occupation or employment, or
- (b) for the purpose of obtaining release from any essential work, knowingly makes, or allows to be made, any false statement to any member of the Board or Advisory Committee, or
- (c) being an owner, manager, or officer discharging managerial functions, knowingly furnishes, or allows to be furnished, false information relating to the undertaking, shall be guilty of an offence under this Ordinance.

Offences by industrial undertakings

12. Where the person guilty of an offence under the Ordinance or the rules made thereunder is an industrial undertaking, every owner, director, manager, secretary, or other officer or agent thereof shall, unless he proves that he made all efforts and exercised all diligence to prevent the commission of the offence, be deemed to be guilty of such offence.

Penalty and procedure

13. (1) Whoever is guilty of an offence under this Ordinance or the rules made thereunder shall, save as otherwise provided elsewhere in this Ordinance or in the rules, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Taka, or with both.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under this Ordinance shall be cognizable.

(3) No Court shall take cognizance of an offence under this Ordinance except with the previous sanction in writing of the Board.

(4) No Court inferior to that of a Magistrate of the first class shall try an offence under this Ordinance.

Service of notice, etc.

14. Any notice, direction or order under this Ordinance to be served on any person may be served by being sent by post addressed to such person at his last known address.

Indemnity

15. No suit, prosecution or other legal proceeding shall be instituted in any Court in respect of anything in good faith done or intended to be done under this Ordinance.

Power to make rules

16. (1) The Government may, by notification in the *official Gazette*, make rules for carrying out the purposes of this Ordinance.

(2) Rules made under sub-section (1) may provide that any contravention thereof shall be punishable with a penalty not exceeding that provided in section 13.

Saving

17. Nothing in this Ordinance shall apply to any industrial undertaking owned or managed, or person employed, by the Government or by such authority, body or institution as may be notified in this behalf by the Government.