

Labour Law

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L.L.B Part- 3rd

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Topic- Law relating to Annual leave with wages under the Factories Act 1948.

INTRODUCTION:

Generally the term 'Wages' Means Consideration in money which is paid to the workers for the work performed by them. As we know in all the factories, wages of labourer's are paid on daily basis. So, this practice coincide the possibility that those workers who are on leave, may not be allowed to draw their wages for the days of their leave. But, the Factories Act, 1948 contains certain provisions regarding annual leave with wages so that they can maintain their livelihood even on the days of their leave.

Chapter - VIII of the Factories Act, 1948 enumerates the provisions for Annual leave with wages. Section 78 to 84 of the Act deals with Annual leave with wages. The provisions which is provided under this chapter shall be avail in such a way that it does not infringe the aligned right of wages of any worker of the factory under any law. But, if any law contains a lower rate of annual leave with wage then, provisions of this chapter shall prevail.

ANNUAL LEAVE WITH WAGES:

The determination of annual leave with wages is dealt under Section 79 of this Act. If any of the worker working in any factory want to claim the annual leave with wages, the workers must have worked for a period of 240 days or more in a calendar year. It enables him to claim annual wage with leave in the subsequent calendar.

No of days to be granted as leave: For an adult, one day for every twenty days of work performed.

For a child, one day for every fifteen days of work performed. Any days of lays off under any agreement or contract or standing order.

In case of female, maternity leave for any number of days not exceeding twelve weeks.

The leave already earned in the year prior to that shall be deemed to be the days on which the worker has worked in the factory for computation of 240 days, but shall not earn leave for these days. All leave granted shall be exclusive of holidays during or at the end of the period of leave.

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Application for leave and Ground of illness: Section 79(6) of the Factories Act 1948 also provides for the provision of making application for grant of leave. To get the annual leave with wages, the worker of the factory must have to appeal in writing at least fifteen days before he wishes to begin his leave. If any worker who works in public utility service the said period shall be of twenty days. Section 79(10) also provides that an application for leave which does not contravene the provisions of sub section 6, shall not be refused. It may only be refused in accordance with the scheme under sub section 8 and 9.

Section 79(7) of the Act provides for leave on medical grounds. Under this sub section, the worker may be granted leave with wages to cover a period of illness even if application leave is not made within the said period as prescribed in section 79(6).

Scheme of Annual Leave: Under the provisions of Section 79(8), the occupier or the manager of the factory in agreement with the Work Committee or a similar Committee or with the agreement of the representatives of the workers, may lodge with the Chief Inspector a scheme whereby the grant of leave may be regulated.

As per the provision of section 79(9), such schemes shall be displayed at some conspicuous and convenient places in the factory. The validity of the scheme shall be for the period of twelve months and after that it may be renewed with or without modification for another period of twelve months.

WAGES DURING LEAVE PERIOD:

Section 80 enumerates the provision for determination of quantum of wage to be paid during the leave period granted under section 78 or 79, as the case may be.

(1) For the leave allowed to him under section 78 or section 79, as the case may be, a worker shall be entitled to wages at a rate equal to the daily average of his total full time earnings for the days on which he actually worked during the month immediately preceding his leave, exclusive of any overtime and bonus but inclusive of dearness allowance and the cash equivalent of the advantage accruing through the concessional sale to the worker of food grains and other articles:

Provided that in the case of a worker who has not worked on any day during the calendar month immediately preceding his leave, he shall be paid at a rate equal to the daily average of his total full time earnings for the days on which he actually worked during the last calendar month preceding his leave, in which he actually worked, exclusive of any overtime and bonus but inclusive of dearness allowance and the cash equivalent of the advantage accruing through the concessional sale to the workers of food grains and other articles.

(2) The cash equivalent of the advantage accruing through the concessional sale to the worker of food grains and other articles shall be computed as often as may be prescribed on the basis of the maximum quantity of food grains and other articles admissible to a standard family.

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(3) The State Government may make rules prescribing-

(a) the manner in which the cash equivalent of the advantage accruing through the concessional sale to a worker of food grains and other articles shall be computed; and

(b) the registers that shall be maintained in a factory for the purpose of securing compliance with the provisions of this section.

POWERS OF THE STATE GOVERNMENT REGARDING ANNUAL LEAVE:

Section 83 and 84 of the Factories Act confers certain rights upon the state government to make rules regarding annual leave with wages.

Powers to make rules:

Section 83 of the Act entails the power of the state government to make rules in this regard. The state government may direct the managers of the factories to keep registers containing such Prescribed particulars requiring the registers to be made available for examination by the inspector.

Powers to exempt factories: When a factory has some leave rules which are not less favourable for the workers than those contained in Chapter - VIII, the state government may exempt such factories from all or any provision of this chapter by passing a written order.

CONCLUSION:

The provision of this chapter - VIII are for the benefit of the workers and to protect their interest. It provides the scope for claiming annual leave for the workers, maternity benefit for the female workers and for availing medical leave. The leave granted under this chapter are leave with wages, which benefit the workers to meet their urgencies without losing their wages.

The End