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L.L.B Part- 3rd

Subject- Labour Law

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Topic- What is a Layoff? What are the general prohibition of lay-off?

Layoff:

A layoff describes the act of an employer suspending or terminating a worker, either temporarily or permanently, for reasons other than an employee's actual performance. A layoff is not the same thing as an outright firing, which may result from worker inefficiency, malfeasance, or breach of duty.

In its initial context, a layoff was meant to denote a temporary work interruption, but over time, the term has morphed to describe a permanent lack of work. A layoff may happen to a displaced worker whose job has been eliminated because an employer has shuttered its operation or relocated. A worker may likewise be replaced due to a production slowdown or cessation.

Understanding Layoffs:

Layoffs may happen for a variety of reasons that may affect an individual or a group of workers, in both the public and private sectors. Generally, layoffs are conducted to reduce salary expenditures, in an effort to increase shareholder value. Layoffs may occur when an employer's strategic business objectives or processes change, in the face of declining revenue, the adoption of automation, or the offshoring or outsourcing.

The Psychological Effects of Layoffs:

While workers bear the brunt of layoffs with lost wages and the uncertainty of unemployment, the effects of layoffs are also felt in local and national economies. They likewise impact the workers who remain employed, following such workforce reductions.

For example, workers who have witnessed their colleagues being laid off report greater anxiety and increased concerns over their own job security. This often results in reduced motivation, and employee attrition. Workers who have been subject a layoff may also feel a level of distrust toward future employers, which is why some companies may try to lay off multiple workers at once, in order to soften the psychological blow and make sure people do not feel singled out.

Mass layoffs may create a sizable impact on the economy and tax base of a community or region and may create a ripple effect among related industries across a country.

Prohibition of lay-off:

(1) No workman (other than a badly workman or a casual workman) whose name is borne on the muster rolls of an industrial establishment to which this Chapter applies shall be laid-off by his employer except [with the prior permission of the appropriate government or such authority as may be specified by that government by notification in the Official Gazette (hereafter in this section referred to as the specified authority), obtained on an application made in this behalf, unless such lay-off is due to shortage of power or to natural calamity, and in the case of a mine, such lay-off is due also to fire, flood, excess of inflammable gas or explosion].

(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended lay-off and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

(3) Where the workmen (other than badly workmen or casual workmen) of industrial establishment, being a mine, have been laid-off under sub-section (1) for reasons of fire, flood or excess of inflammable gas or explosion, the employer, in relation to such establishment, shall, within a period of thirty days from the date of commencement of such lay-off, apply, in the prescribed manner, to the appropriate government or the specified authority for permission to continue the lay-off.

(4) Where an application for permission under sub-section (1) or sub-section (3) has been made, the appropriate government or the specified authority, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the persons interested in such lay-off, may, having regard to the genuineness and adequacy of the reasons for such lay-off, the interests of the workmen 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.

(5) Where an application for permission under sub-section (1) or sub-section (3) has been made and the appropriate government or the specified authority 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.

(6) An order of the appropriate government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (7), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(7) The appropriate government or the specified authority 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 (4) or refer the matter or, as the case may be, cause it to be referred, 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.

(8) Where no application for permission under sub-section (1) is made, or where no application for permission under sub-section (3) is made within the period specified therein, or where the permission for any lay-off has been refused, such lay-off shall be deemed to be illegal from the date on which the workmen had been laid-off and the workmen shall be entitled to all the benefits under any law for the time being in force as if they had not been laid-off.

(9) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (1), or, as the case may be, sub-section (3) shall not apply in relation to such establishment for such period as may be specified in the order.

(10) The provisions of section 25C (other than the second proviso thereto) shall apply to cases of lay-off referred to in this section.

The End