

The Industrial Relations Code, 2020

Section 79 - Conditions precedent to retrenchment of workers to which Chapter X applies

(1) Noworker employed in any industrial establishment to which this Chapter applies, who has been incontinuous service for not less than one year under an employer shall be retrenched by that employeruntil,---

(a) the worker has been given three months notice in writing indicating the reasons forretrenchment and the period of notice has expired, or the worker has been paid in lieu of such notice,wages for the period of the notice; and

(b) the prior permission of the appropriate Government has been obtained on an application madein this behalf.

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

(3) Where an application for permission under sub-section (1) has been made, the appropriateGovernment, after making such enquiry as it thinks fit and after giving a reasonable opportunity ofbeing heard to the employer, the workers concerned and the persons interested in such retrenchment,may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workers 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 andthe workers.

(4) Where an application for permission has been made under sub-section (1) and the appropriateGovernment does not communicate the order granting or refusing to grant permission to the employerwithin a period of sixty days from the date on which such application is made, the permission appliedfor shall be deemed to have been granted on the expiration of the said period of sixty days and theapplication shall be deemed to have been disposed of accordingly by the appropriate Government.

(5) An order of the appropriate Government granting or refusing to grant permission shall, subjectto the provisions of sub-section (6), be final and binding on all the parties concerned and shall remainin force for one year from the date of such order.

(6) The appropriate Government may, either on its own motion or on the application made by theemployer or any worker, review its order granting or refusing to grant permission under sub-section (3)within the prescribed time from the date on which such order is made or refer the matter or, as the casemay 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 anaward within a period of thirty days from the date of such reference.

(7) Where no application for permission under sub-section (1) is made, or where the permission forany retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date onwhich the notice of retrenchment was given to the worker and the worker shall be entitled to all thebenefits under any law for the time being in force as if no notice had been given to him.

(8) Notwithstanding anything contained in the foregoing provisions of this section, the appropriateGovernment may, if it is satisfied that owing to such exceptional circumstances as accident in theestablishment or death of the employer or the like, it is necessary so to do, by order, direct that theprovisions of sub-section (1) shall not apply in relation to such establishment for such period as may bespecified in the order.

(9) Where permission for retrenchment has been granted under sub-section (3) or where permissionfor retrenchment is deemed to be granted under sub-section (4), every worker who is employed in thatestablishment immediately before the date of application for permission under this section shall beentitled to receive, at the time of retrenchment, compensation which shall be equivalent to fifteen daysaverage pay, or

average pay of such days as may be notified by the appropriate Government, for every completed year of continuous service or any part thereof, in excess of six months.

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