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The Industrial Relations Code, 2020

Section 90 - Conditions of service, etc., to remain unchanged under certain circumstances during pendency of proceedings

(1) Where an industrial dispute pertaining to an establishment orundertaking is already pending before a conciliation officer or an Arbitrator or a Tribunal or a NationalIndustrial Tribunal, as the case may be, with regard to matters not covered by the notice of changeissued by an employer under section 40, no employer shall---
(a) in regard to any matter connected with such dispute, alter to the prejudice of the workersconcerned in such dispute the conditions of service applicable to them immediately before thecommencement of such proceedings; or
(b) for any misconduct connected with the dispute, discharge or punish, whether by dismissal orotherwise any worker concerned in such dispute,
save with the express permission in writing of the authority before which the proceeding is pending.
(2) During the pendency of any such proceeding in respect of an industrial dispute referred in subsection (*1*), the employer may, in accordance with standing orders applicable to a worker concerned insuch dispute or, where there are no such standing orders, in accordance with the terms of the contract,whether express or implied, between him and the worker---
(a) alter, in regard to any matter not connected with the dispute, the conditions of serviceapplicable to that worker immediately before the commencement of such proceeding; or
(b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissalor otherwise, that worker:
Provided that no such worker shall be discharged or dismissed, unless he has been paid wages forone month and an application has been made by the employer to the authority before which theproceeding is pending for approval of the action taken by the employer.
(3) Notwithstanding anything contained in sub-section (*2*), no employer shall, during the pendencyof any proceeding in respect of an industrial dispute, take any action against any protected workerconcerned in such dispute---
(a) by altering, to the prejudice of such protected worker, the conditions of service applicable tohim immediately before the commencement of such proceeding; or
(b) by discharging or punishing, whether by dismissal or otherwise, such protected worker,
save with the express permission in writing of the authority before which the proceeding is pending.
Explanation.--- For the purposes of this sub-section, a "protected worker" in relation to anestablishment, means a worker who, being a member of the executive or other office-bearer of aregistered Trade Union connected with the establishment, is recognised as such in accordance with rulesmade in this behalf.
(4) In every establishment, the number of workers to be recognised as protected workers for thepurposes of sub-section (*3*) shall be one per cent. of the total number of workers employed thereinsubject to a minimum number of five protected workers and a maximum number of one hundredprotected workers and for the aforesaid purpose, the appropriate Government may make rules providingfor the distribution of such protected workers among various Trade Unions, if any, connected with theestablishment and the manner in which the workers may be chosen and recognised as protected workers.
(5) Where an employer makes an application to conciliation officer, arbitrator, Tribunal or NationalIndustrial Tribunal, as the case may be, under the proviso to sub-section (*2*) for approval of the actiontaken by him, the authority concerned shall, without delay, hear such application and pass, within aperiod of three months from the date of receipt of such application, such order in relation thereto as itdeems fit:
Provided that where any such authority considers it necessary or expedient so to do, it may, forreasons to be recorded in writing, extend such period by such further periods as it may think fit:
Provided further that no proceedings before any such authority shall lapse merely on the ground thatany

period specified in this sub-section had expired without such proceedings being completed.

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