

GOVERNMENT OF PUDUCHERRY

ABSTRACT

Labour - Act and Rules - The Code on Industrial Relations, 2020 - Puducherry Industrial Relations Recognition of Negotiating Union or Negotiating Council and Adjudication of Disputes of Trade Unions Rules, 2021 - Draft Notification - Order - Issued.

LABOUR DEPARTMENT

G.O.Ms.No. 1/AIL/LAB/T/2022

2 = FEB 2022
Puducherry, the

READ: This Department's I.D.No.91121/AIL/LAB/T/2021, dated
11.11.2021.

ORDER

The following Notification shall be published in the Official Gazette of Government of Puducherry:-

NOTIFICATION

In exercise of the powers conferred by sub-section (1) of section 99 and clauses (o), (p) and (r) of sub-section (2) thereof, of the Industrial Relations Code, 2020 (Central Act No.35 of 2020), read with section 24 of the General Clauses Act, 1897 (Central Act No.10 of 1897), the Lieutenant-Governor, Puducherry, hereby proposes to make the following rules, the draft of which is hereby notified, as required under sub-section (1) of the said section 99, for information of all persons likely to be affected thereby and the notice is hereby given that the said draft notification will be taken into consideration on expiry of a period of forty five days from the date on which the copies of the Official Gazette in which this notification is published, are made available to the public;

2. Objections or suggestions which may be received from any person or organisation by the Government of Puducherry in respect of the said draft rules within the period specified above shall be considered by the Government.

3. Objections or suggestions, if any, shall be addressed to the Secretary to Government (Labour), Labour Department, Government of Puducherry, or by email to secylab.pon@nic.in

DRAFT RULES

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.- (i) These rules may be called, Puducherry Industrial Relations Recognition of Negotiating Union or Negotiating Council and Adjudication of Disputes of Trade Unions Rules, 2021'.

(ii) These rules shall extend to the whole of the Union Territory of Puducherry.

(iii) They shall come into force on and from the date of enforcement of the Code and upon publication in the Official Gazette.

2. Definitions.- (1) In these rules, unless the subject or context otherwise requires,-

(a) "Code" means the Industrial Relations Code, 2020 (Central Act No. 35 of 2020);

(b) "Government" means the Administrator of the Union Territory of Puducherry appointed by the President of India under Article 239 of the Constitution;

(c) "Negotiating Union" means a sole negotiating Union referred to in sub-section (2) or sub-section (3) of section 14;

(d) "section" means the section of the Code;

(e) "verification officer" means an officer appointed under rule 5.

(2) The words and expressions used in these rules which are not defined herein, but are defined in the Code, shall have their respective meanings as assigned to them in the Code.

3. Matters in an industrial establishment having registered Trade Union for negotiation with employer for the workers employed in the industrial establishment under sub-section (1) of section 14.- (1) The matters pertaining to

workers which the negotiating union or negotiating council shall negotiate with the employer of the industrial establishment under sub-section (1) of section 14 are specified, as below, namely :-

(i) classification of grades and categories of workers;

(ii) order passed by an employer under the standing orders applicable in the industrial establishment;

(iii) wages of the workers including their wage period, dearness allowance, bonus, increment, customary concession or privileges, compensatory and other allowances;

(iv) hours of work of the workers, their rest days, number of working days in a week, rest intervals, working of shifts;

(v) leave with wages and holidays;

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- (vi) promotion and transfer policy and disciplinary procedures;
- (vii) quarter allotment policy for workers;
- (viii) safety, health and working conditions related standards;
- (ix) such other matter pertaining to conditions of service, terms of employment which are not covered in the foregoing clauses; and
- (x) any other matter which is agreed between employer of the industrial establishment and negotiating union or council.

4. Criteria for recognizing a single registered Trade Union of workers as sole negotiating Union of workers under sub-section (2) of section 14.- Where there is only one registered Trade Union operating in an industrial establishment having its members not less than thirty percent of the total workers employed in the industrial establishment, then, the employer of such industrial establishment shall recognize such Trade Union as sole negotiating union of the workers.

5. Manner of verification of membership of Trade Unions in an industrial establishment under sub-sections (3) and (4) of section 14.-

(1) (a) The employer of the industrial establishment shall appoint a verification officer for the purpose of verification of membership of the Trade Unions in the industrial establishment who shall be an independent officer and shall not have any interest with any of the Trade Union, whose membership verification is to be carried out;

Provided that the process for constitution of the negotiating union or the negotiating council, as the case may be, shall commence three months before the expiry of the tenure of the existing recognition period of the trade unions recognised by the employer under the Code of Discipline.

(b) The verification officer can appoint additional verification officers to assist him depending upon the quantum of work of membership verification;

(c) The verification officer shall carry out the work of membership verification in the industrial establishment in time bound manner as determined by the employer;

(2) The employer of the industrial establishment shall bear all expenses and make arrangements in connection with the verification of membership of Trade Union under sub-rule (1).

(3) (a) The Trade Unions which satisfy the following conditions shall first submit an application to the employer of the industrial establishment to accord status of negotiating union of the workers, namely:-

(i) such Trade Union has a valid registration under the Trade Unions Act, 1926 and continuing as such or has the registration under the Industrial Relations Code, 2020 (Central Act No. 35 of 2020), as the case may be; and

(ii) the membership of the Trade Union be confined to the particular industrial establishment only.

(b) The Application for recognition made by Trade Union shall be accompanied with the copy of the registration certificate, copy of list of members, details of the membership subscription and copy of latest annual return submitted to Registrar of Trade Unions and any other relevant document which the Trade Union wishes to submit in support of its claim;

(4) (a) In case of negotiating union or council, as the case may be, has been constituted under the Code, the employer of the industrial establishment shall initiate action before expiry of the tenure of incumbent negotiating union or negotiating council, as the case may be, sufficiently in advance but not later than three months before the expiry of the tenure of incumbent negotiating union or negotiating council, as the case may be;

(b) The date of reckoning shall be fixed by the employer of the industrial establishment for the purpose of verification of membership of the Trade Unions;

(c) The employer of the establishment shall forward the documents and records submitted by Trade Unions, to the verification officer;

(d) On receipt of the documents and records, the verification officer shall scrutinize the records or documents submitted by the Trade Union to ascertain the status of registration of Trade Union and related matters;

(e) The verification officer shall hold meeting with representative of employer of industrial establishment and all participating Trade Unions to decide about the process of verification of the membership of Trade Unions through secret ballot;

(f) The employer may, with the mutual agreement with the Trade Unions of the industrial establishment, deploy an electronic process of conducting the election process over an information technology application, online platform or like other platform.

6. Verification of membership of Trade Unions through secret ballot -

(1) The verification officer shall convene meeting of representatives of all registered Trade Unions functioning in the industrial establishment at least sixty days before the date of actual voting, to decide,-

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- (a) publication of voters list;
- (b) date, time, mode of voting, and place of voting;
- (c) date, time and place of counting; and
- (d) other modalities relating to secret ballot.

(2) The verification officer shall cause the minutes of the meeting to be prepared and signed by all participating Trade Unions. All participating Trade Unions shall be allotted symbols in the same meeting. If no decision could be taken regarding date, time, mode of voting, place of voting, allotment of symbols, date, time and place of counting and like other matters in the meeting, then, the decision of the verification officer shall be final and he shall publish the schedule, programme and procedure of such secret ballot;

(3) All workers whose names are borne on the muster roll of the industrial establishment on the date of reckoning, shall be eligible to cast their vote;

(4) The voter list shall be prepared by the employer of the industrial establishment on the basis of names of the workers borne on the muster roll referred to in sub-rule (3) and the voter list shall contain the name, father's name, designation, Universal Account Number (UAN), if any, and place of posting of the worker. The final voter list shall be published by the employer after obtaining the approval of verification officer and shall be displayed at notice board at the main entrance and website, if any, of the industrial establishment. A copy of such voters list shall also be sent to the participating Trade Unions by hand or by registered post or by electronic mode.

(5) The verification officer shall display the name of the participating Trade Unions with the symbol allotted to them on the notice board at the main entrance and website, if any, of the industrial establishment within two days of finalization.

(6) The voting and counting of votes will be held on the date, time and place fixed by the verification officer under the supervision of verification officer and during the counting, agents of all participating Trade Unions shall be allowed to remain present.

(7) After final counting of votes, the result shall be declared by the verification officer. The result sheet shall contain the name of all Trade Unions participated in election, total number of votes polled and the number of votes cast in favour of each of the Trade Union which participated in the election.

7. Verification report to the employer - The verification officer shall submit verification report with results of verification of membership of the Trade Unions to the employer of industrial establishment.

8. Recognition of Trade Union as negotiating union or constituents of negotiation council - On the basis of verification report submitted by verification officer, the employer of the industrial establishment shall grant recognition to Trade Union as a negotiating union or constituents of negotiating council as per provisions of sub-section 2 of section 14 or sub-section 3 of section 14 or sub-section 4 of section 14 of the Code, as the case may be, which shall be valid for three years from the date of recognition of negotiating union or constitution of negotiating council or such further period not exceeding five years, in total, as may be mutually decided by the employer and the negotiating union or negotiating council, as the case may be:

Provided that the tenure of the negotiating union and the negotiating council shall be decided prior to holding of secret ballot.

9. Facilities to be provided by industrial establishment to a negotiating union or negotiating council under sub-section (7) of section 14.- In an industrial establishment, where there is a negotiating union or negotiating council, as the case may be, the employer of such industrial establishment shall provide the following facilities to the negotiating union or negotiating council, as the case may be, namely:-

- (i) notice board for the purpose of displaying the information relating to activities of negotiating union or negotiating council, as the case may be;
- (ii) venue and necessary facilities for holding discussions by the negotiating union or negotiating council, as the case may be, as per schedule and agenda to be settled between employer of the industrial establishment and the negotiating union or constituents of negotiating council, as the case may be;
- (iii) venue and necessary facilities for holding discussions amongst the members of the negotiating union or constituents of negotiating council, as the case may be;
- (iv) facility for entrance of the office bearers of the negotiating union or constituents of negotiating council, as the case may be, in the industrial

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establishment for the purposes of ascertaining the matters which are relating to working conditions of the workers;

- (v) employer to deduct subscription of the members of the Trade Unions on the basis of the written consent of the worker;
- (vi) treating on duty of the employed office bearers of the negotiating union or constituents of negotiating council, as the case may be, when the office bearers are holding meetings or discussing with the employer as per agreed schedule between employer and such office bearers; and
- (vii) employer of an industrial establishment, having three hundred or more workers, shall provide suitable office accommodation with necessary facilities to the negotiating union or negotiating council, as the case may be.

10. Manner of making application for adjudication of dispute before Tribunal under sub-section (1) of section 22 - Where any dispute arises between -

- (a) one Trade Union and another; or
- (b) one or more workers who are members of Trade Union and the Trade Union regarding registration, administration or management or election of office bearers of the Trade Union; or
- (c) one or more workers who are refused admission as members and the Trade Union; or
- (d) where the dispute is in respect of a Trade Union which is a federation of Trade Unions and office bearer authorized in this behalf by the Trade Union,

then, the aggrieved person may make application to the Tribunal having jurisdiction, in **Form - A** within a period of one year from the date on which the dispute arises, electronically or by registered post or by speed post or in person.

FORM - A

(See Rule 10)

Before the Industrial Tribunal ----- (Name and Place)
where dispute arises between

(A) Name and Address and Applicant(s)

Versus

(B) Name and Address of Opposite party(ies)

8/-

Over the matter (statement regarding specific issues of dispute may be mentioned) which are connected with relevant to the dispute under sub section(1) of Section 22 of Industrial Relation Code, 2020.

The applicant(s) prays that instant application may please be admitted for adjudication and request to pass appropriate award in the matter.

Name and signature of the worker(s) or
Officer of Trade union raising the dispute

Place :

Date

//BY ORDER OF THE LIEUTENANT- GOVERNOR//


17/19 (S.D. SUNDARESAN, I.A.S.,)
SECRETARY TO GOVERNMENT (LABOUR)

To

The Director of Stationery & Printing, Puducherry. } with a request to publish the said notification in the
Official Gazette and to supply 20 copies thereof to this
Department for reference and record.

Copy to:

1. The District Collector, Puducherry / Karaikal.
2. The Labour Commissioner, Puducherry.
3. The Deputy Labour Commissioner, Puducherry.
4. The Regional Administrator, Mahe/ Yanam.
5. The Labour Officer (Enforcement), Puducherry.
6. The Labour Officer (Conciliation), Puducherry.
7. The Labour Officer (Welfare Schemes), Puducherry.
8. The Labour Officer, Karaikal.
9. The Inspector of Factories, Puducherry/Karaikal.
10. The Assistant Inspector of Labour, Puducherry/Karaikal/Mahe/Yanam.
11. The Web Master, Labour Department, Puducherry.
12. G.O. File.
13. Spare.