

THE PAYMENT OF GRATUITY (CENTRAL)

RULES, 1972

In exercise of the powers conferred by sub-section (1) of section 15 of the Payment of Gratuity Act, 1972 (39 of 1972), the Central Government hereby makes the following rules, namely:-

1. Short title and commencement.-(1) These rules may be called the Payment of Gratuity (Central) Rules, 1972.

(2) These rules shall come into force on the 16th September, 1972;

2. Definitions.-In these rules, unless there is anything repugnant in the subject or context,-

(a) "Act" means the Payment of Gratuity Act, 1972 (39 of 1972);

(b) "Appellate authority" means the Central Government or the authority specified by the Central Government under sub-section (7) of section 7;

(c) "Form" means a form appended to these rules;

(d) "nomination" means nomination made under section 6;

(e) "section" means a section of the Act.

3. Notice of opening, change or closure of the establishment.- (1) Within thirty days of the rules becoming applicable to an establishment, a notice in Form A shall be submitted by the employer to the controlling authority of the area.

(2) A notice in Form B shall be submitted by the employer to the controlling authority of the area within thirty days of any change in the name, address, employer or nature of business.

(3) Where an employer intends to close down the business he shall submit a notice in Form C to the controlling authority of the area at least sixty days before the intended closure.

4. Display of notice.-(1) The employer shall display conspicuously a notice at or near the main entrance of the establishment in bold letters in English and in a language understood by the majority of the employees specifying the name of officer with designation authorised by the employer to receive on his behalf notices under the Act or the rules.

(2) A fresh notice shall be displayed immediately after the notice referred to in sub-rule (1) becomes illegible or requires a change.

*5. Form of notice under proviso to section (2) (h) (ii).-(1) A notice under the proviso to sub-clause (ii) of clause (h) of section 2 shall be in Form D and sent in triplicate by the employee to the employer, who shall, after recording its receipt on one copy thereof, return the copy to the employee and send the second copy to the controlling authority of the area.

1. Vide G.S.R. 412 (E). dated 16th September, 1972, published in the Gazette of India; Extra., Pt. II, Sec. 3(i), dated 16th September, 1972.

* By section 2 of the Payment of Gratuity (Amendment) Act, 1987 (22 of 1987) proviso to sub- clause (ii) of clause (h) of section 2 of the Payment of Gratuity Act, 1972 (39 of 1972) has been omitted (w.e.f. 1-10-1987) and accordingly rule 5 along with Forms D and E have become redundant, Ed.

(2) An employee may withdraw the notice referred to in sub-rule (1) by giving another notice in triplicate in Form 'E' to the employer, who shall follow the same procedure as in sub-rule (1).

6. Nominations.-(1) A nomination shall be in Form 'F' and submitted in duplicate by personal service by the employee, after taking proper receipt or by sending through registered post acknowledgement due to the employer,

(i) in the case of an employee who is already in employment for a year or more on the date of commencement of these rules, ordinarily, within ninety days from such date, and

(ii) in the case of an employee who completes one year of service after the date of commencement of these rules, ordinarily within thirty days of the completion of one year of service:

Provided that nomination in Form 'F' shall be accepted by the employer after the specified period, if filed with reasonable grounds for delay, and no nomination so accepted shall be invalid merely because it was filed after the specified period.

(2) Within thirty days of the receipt of nomination in Form 'F' under sub-rule (1), the employer shall get the service particulars of the employee, as mentioned in the form of nomination, verified with reference to the records of the establishment and return to the employee, after obtaining a receipt thereof, the duplicate copy of the nomination in form 'F' duly attested either by the employer or an officer authorised in this behalf by him, as a token of recording of the nomination by the employer and the other copy of the nomination shall be recorded.

(3) An employee who has no family at the time of making a nomination shall, within ninety days of acquiring a family submit in the manner specified in sub-rule (1), a fresh nomination, as required under sub-section (4) of section 6, duplicate in Form 'G' to the

employer and thereafter the provisions of sub-rule (2) shall apply mutatis mutandis as if it was made under sub-rule (1).

(4) A notice of modification of a nomination, including cases where a nominee predeceases an employee, shall be submitted in duplicate in Form 'H' to the employer in the manner specified in sub-rule (1), and thereafter the provisions of sub-rule (2) shall apply mutatis mutandis.

(5) A nomination or a fresh nomination or a notice of modification of nomination shall be signed by the employee or, if illiterate, shall bear his thumb impression, in the presence of two witnesses, who shall also sign a declaration to that effect in the nomination, fresh nomination or notice of modification of nomination, as the case may be.

(6) A nomination, fresh nomination or notice of modification of nomination shall take effect from the date of receipt thereof by the employer.

7. Application for gratuity.-(1) An employee who is eligible for payment of gratuity under the Act, or any person authorised, in writing, to act on his behalf, shall apply, ordinarily within thirty days from the date the gratuity became payable, in Form 'I' to the employer:

Provided that where the date of superannuation or retirement of an employee is known, the employee may apply to the employer before thirty days of the date of superannuation or retirement.

(2) A nominee of an employee who is eligible for payment of gratuity under the second proviso to sub-section (1) of section 4 shall apply, ordinarily within thirty days from the date of gratuity became payable to him, in Form 'J' to the employer:

Provided that an application in plain paper with relevant particulars shall also be accepted. The employer may obtain such other particulars as may be deemed necessary by him.

(3) A legal heir of an employee who is eligible for payment of gratuity under the second proviso to sub-section (1) of section 4 shall apply, ordinarily within one year from the date of gratuity became payable to him, in Form 'K' to the employer.

(4) Where gratuity becomes payable under the Act before the commencement of these rules, the periods of limitation specified in sub-rules (1), (2) and (3) shall be deemed to be operative from the date of such commencement.

(5) An application for payment of gratuity filed after the expiry of the periods specified in this rule shall also be entertained by the employer, if the applicant adduces sufficient cause for the delay in preferring his claim, and no claim for gratuity under the Act shall be invalid merely because the claimant failed to present his application within the specified period. Any dispute in this regard shall be referred to the controlling authority for his decision.

(6) An application under this rule shall be presented to the employer either by personal service or by registered post acknowledgement due.

8. Notice for payment of gratuity.-(1) Within fifteen days of the receipt of an application under rule 7 for payment of gratuity, the employer shall-

(i) if the claim is found admissible on verification, issue a notice in Form 'L' to the applicant employee, nominee or legal heir, as the case may be, specifying the amount of gratuity payable and fixing a date, not being later than the thirtieth day after the date of receipt of the application, for payment thereof, or

(ii) if the claim for gratuity is not found admissible, issue a notice in Form 'M' to the applicant employee, nominee or legal heir, as the case may be, specifying the reasons why the claim for gratuity is not considered admissible. In either case a copy of the notice shall be endorsed to the controlling authority.

(2) In case payment of gratuity is due to be made in the employer's office, the date fixed for the purpose in the notice in Form 'L' under clause (1) of sub-rule (1) shall be refixed by the employer, if a written application in this behalf is made by the payee explaining why it is not possible for him to be present in person on the date specified.

(3) If the claimant for gratuity is a nominee or a legal heir, the employer may ask for such witness or evidence as may be deemed relevant for establishing his identity or maintainability of his claim, as the case may be. In that case, the time limit specified for issuance of notices under sub-rule (1) shall be operative with effect from the date such witness or evidence, as the case may be, called for by the employer is furnished to the employer.

(4) A notice in Form 'L' or Form 'M' shall be served on the applicant either by personal service after taking receipt or by registered post with acknowledgement due.

(5) A notice under sub-section (2) of section 7 shall in Form 'L'.

9. Mode of payment of gratuity.- The gratuity payable under the Act shall be paid in cash or, if so desired by the payee, in Demand Draft or bank Cheque to the eligible employee, nominee or legal heir, as the case may be:

Provided that in case the eligible employee, nominee or legal heir, as the case may be, so desires and the amount of gratuity payable is less than one thousand rupees, payment may be made by postal money order after deducting the postal money order commission therefor from the amount payable:

Provided further that intimation about the details of payment shall also be given by the employer to the controlling authority of the area:

1[Provided further that in the case of nominee, or an heir, who is minor, the controlling authority shall invest the gratuity amount deposited with him for the benefit of such minor in term deposit with the State Bank of India or any of its subsidiaries or any Nationalised Bank.

Explanation.-"Nationalised Bank" means a corresponding new bank specified in the First Schedule to the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or a corresponding new bank specified in the First Schedule of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980).]

10. Application to controlling authority for direction.-(1) If an employer-

(i) refuses to accept a nomination or to entertain an application sought to be filed under rule 7, or

(ii) issues a notice under sub-rule (1) of rule 8 either specifying an amount of gratuity which is considered by the applicant less than what is payable or rejecting eligibility to payment of gratuity, or

(iii) having received an application under rule 7 fails to issue any notice as required under rule 8 within the time specified therein,

the claimant employee, nominee or legal heir, as the case may be, may, within ninety days of the occurrence of the cause for the application, apply in Form 'N' to the controlling authority for issuing a direction under sub-section (4) of section 7 with as many extra copies as are the opposite party:

Provided that the controlling authority may accept any application under this sub-rule, on sufficient cause being shown by the applicant, after the expiry of the specified period.

(2) Application under sub-rule (1) and other documents relevant to such an application shall be presented in person to the controlling authority or shall be sent by registered post acknowledgement due.

11. Procedure for dealing with application for direction.-(1) On receipt of an application under rule 10 the controlling authority shall, by issuing a notice in Form 'O', call upon the applicant as well as the employer to appear before him on a specified date, time and place, either by himself or through his authorised representative together with all relevant documents and witnesses, if any.

1. Ins. by G.S.R. 77, dated 2nd February, 1991 (w.e.f. 1-2-1991).

1. Ins. by G.S.R. 2868, dated 22nd November, 1975.

(2) Any person desiring to act on behalf of an employer or employee, nominee or legal heir, as the cases may be, shall present to the controlling authority a letter of authority from the employer or the person concerned, as the case may be, on whose behalf he seeks to act together with a written statement explaining his interest in the matter and praying for permission so to act. The controlling authority shall record thereon an order either according his approval or specifying, in the case of refusal to grant the permission prayed for, the reasons for the refusal.

(3) A party appearing by an authorised representative shall be bound by the acts of the representative.

(4) After completion of hearing on the date fixed under sub-rule (1), or after such further evidence, examination of documents, witnesses, hearing and enquiry, as may be deemed necessary, the controlling authority shall record his finding as to whether any amount is payable to the applicant under the Act. A copy of the finding shall be given to each of the parties.

(5) If the employer concerned fails to appear on the specified date of hearing after due service of notice without sufficient cause, the controlling authority may proceed to hear and determine the application ex parte. If the applicant fails to appear on the specified date of hearing without sufficient cause, the controlling authority may dismiss the application:

Provided that an order under this sub-rule may, on good cause being shown within thirty days of the said order, be reviewed and the application re-heard after giving not less than fourteen days' notice to the opposite party of the date fixed for rehearing of the application.

12. Place and time of hearing.- The sittings of the controlling authority shall be held at such times and at such places as he may fix and he shall inform the parties of the same in such manner as he thinks fit.

13. Administration of oath.- The controlling authority may authorise a clerk of his office to administer oaths for the purpose of making affidavits.

14. Summoning and attendance of witnesses.- The controlling authority may, at any stage of the proceedings before him, either upon or without an application by any of the parties involved in the proceedings before him, and on such terms as may appear to the controlling authority just, issue summons to any person in Form 'P' either to give evidence or to produce documents or for both purposes on a specified date, time and place.

15. Service of summons or notice.-(1) Subject to the provisions of sub-rule (2) any notice, summons, process or order issued by the controlling authority may be served either personally or by registered post acknowledgement due or in any other manner as prescribed under the Code of Civil Procedure, 1908 (Act 5 of 1908).

(2) Where there are numerous persons as parties to any proceeding before the controlling authority and such persons are members of any trade union or association or are represented by an authorised person, the service of notice on the Secretary, or where there is no Secretary, on the principal officer of the trade union or association, or on the authorised person shall be deemed to be service on such persons.

16. Maintenance of records of cases by the controlling authority.-(1) The controlling authority shall record the particulars of each case under section 7, in Form 'Q' and at the time of passing orders shall sign and date the particulars so recorded.

(2) The controlling authority shall, while passing orders in each case, also record the findings on the merits of the case and file it together with the memoranda of evidence with the order sheet.

(3) Any record, other than a record of any order or direction, which is required by these rules to be signed by the controlling authority, may be signed on behalf of and under the direction of the controlling authority by any subordinate officer appointed in writing for this purpose by the controlling authority.

17. Direction for payment of gratuity.-If a finding is recorded under sub-rule (4) of rule 11 that the applicant is entitled to payment of gratuity under the Act, the controlling authority shall issue a notice to the employer concerned in Form 'R' specifying the amount payable and directing payment thereof to the applicant under intimation to the controlling authority within thirty days from the date of the receipt of the notice by the employer. A copy of the notice shall be endorsed to the applicant employee, nominee or legal heir, as the case may be.

18. Appeal.-(1) The Memorandum of appeal under sub-section (7) of section 7 of the Act shall be submitted to the appellate authority with a copy thereof to the opposite party and the controlling authority either through delivery in person or under registered post acknowledgement due.

(2) The Memorandum of appeal shall contain the facts of the case, the decision of the controlling authority, the grounds of appeal and the relief sought.

(3) There shall be appended to the Memorandum of appeal a certified copy of the finding of the controlling authority and direction for payment of gratuity.

(4) On receipt of the copy of Memorandum of appeal, the controlling authority shall forward records of the case to the appellate authority.

(5) Within 14 days of the receipt of the copy of the Memorandum of appeal, the opposite party shall submit his comments of each paragraph of the memorandum with additional pleas, if any, to the appellate authority with a copy to the appellant.

(6) The appellate authority shall record its decision after giving the parties to the appeal a reasonable opportunity of being heard. A copy of the decision shall be given to the parties to the appeal and a copy thereof shall be sent to the controlling authority returning his records of the case.

(7) The controlling authority shall, on receipt of the decision of the appellate authority, make necessary entry in the records of the case maintained in Form 'Q' under sub-rule (1) of rule 16.

(8) On receipt of the decision of the appellate authority, the controlling authority shall, if required under that decision, modify his direction for payment of gratuity and issue a notice to the employer concerned in Form 'S' specifying the modified amount payable and directing payment thereof to the applicant, under intimation to the controlling authority within fifteen days of the receipt of the notice by the employer. A copy of the notice be endorsed to the appellant employee, nominee or legal heir, as the case may be and to the appellate authority.

19. Application for recovery of gratuity.-Where an employer fails to pay the gratuity due under the Act in accordance with the notice by the controlling authority under rule 17 or rule 18, as the case may be, the employee concerned, his nominee or legal heir, as the case may be, to whom the gratuity is payable may apply to the controlling authority in duplicate in Form 'T' for recovery thereof under section 8 of the Act.

20. Display of abstract of the Act and Rules.- The employer shall display an abstract of the Act and the rules made thereunder 1[as given in Form 'U'] in English and in the language understood by the majority of the employees at conspicuous place at or near the main entrance of the establishment.

