

No. L-41025/01/2017-IR-B1
Government of India
Ministry of Labour and Employment

Shram Shakti Bhawan, New Delhi
Dated: 18.07.2017

Subject: Proposed Online Proforma for raising Industrial Disputes under Section 2-A and 2(k) of Industrial Disputes Act, 1947-reg.

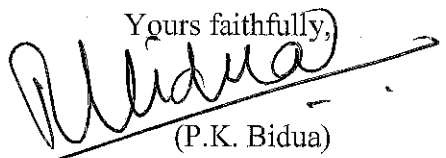
Sir,

With the aim to achieve the objectives of simplifying procedures for raising Industrial Disputes by individual workmen or trade unions, easily, hassle-free and quickly, two proforma are developed for filing of Industrial Disputes online by workmen or trade unions under Section 2-A and 2(k) of the ID Act, 1947.

2. The salient features of the online Performa are:

- i) These are user friendly, simple and easy to understand;
- ii) A Workman/Trade Union can file their dispute by themselves online without any outside help;
- iii) Initially it is proposed to be in English and Hindi and gradually, Performa in English and translation in all scheduled languages is proposed, so that the workmen/trade union can file one's dispute in one's language; and
- iv) Facility of SMS alert will also be provided to the workmen as and when necessary to disseminate the required information.

3. You are therefore, requested to send your comments/suggestions to this Ministry within 15 days from the date of issue of this letter or through e-mail to pk.bidua@gov.in.

Yours faithfully,

(P.K. Bidua)
Deputy Director (IR-B1/LRC)
Tele No: 011-23710706
Email: pk.bidua@gov.in.

Encl: Proforma on the Section 2-A and 2(k).

To,

Director, NIC, MoLE with the request that this letter along with Proforma 2A, 2(k) and background note be uploaded on web-site of MoLE for inviting comments/suggestions of Stakeholders.

Ministry of Labour and Employment

Background Note for online portal for Industrial Dispute under Section 2A and 2K of ID Act, 1947

The prime responsibility of Ministry of Labour and Employment had always been to protect, preserve and uplift the interest of the workers. The framing of laws does not serve any purpose until it is accessible and well understood by the workers and redress their grievances. This can only be possible by devising systems to educate workers so that they become well conversant with the Labour Laws and to enable them to make use of different statutes by themselves without depending on anyone. Industrial workers are the most marginalized group in any economy and need assistance of government for handling the complexities of law. Ministry though focuses primarily on overhauling, simplifying and updating Labour Laws to address the need of the hour but its responsibility does not cease until these laws are effectively utilized to redress the grievance and are worker friendly. Until lucid and transparent methods are in place and awareness percolates till the last worker, the methods become useless. Out of the plethora of Labour Laws handled and implemented/enforced by Ministry through its various offices, Industrial Disputes Act is considered to be most important one as its primary objective is to make provisions for the investigation and settlement of industrial disputes which are defined under section 2A and 2(k).

Section 2A of ID Act, 1947 deals with discharge, dismissal, retrenchment or otherwise termination of the services of an individual workman. Whereas, Section 2(k) deals with industrial dispute between employers and employees, or between employers and workmen, or between workmen and workmen, connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person.

The Act provides for dealing of the disputes by way of mediation by the Conciliation Officer of the Appropriate Government. The Conciliation Officer endeavors to make a settlement and in case of failure it sends a report on failure of conciliation with their observations substantiating reference and non-reference. The Ministry, as an appropriate government, administratively examines an industrial dispute to see whether a dispute exists or not and either makes a reference to the CGIT or declines such reference stating the reason for non-reference. The reference goes to CGIT which gives an award. The award is implemented by the Regional office under the CLC(C) and in case of non-implementation, prosecution is proposed.

However, these disputes fall under procedural trap, ignorance and red-tapism which take years to get solved. In the process workers suffer waiting for the disposal of the cases and sometimes die before seeing the outcome of their effort to get justice. In order to address such delays specifically for cases falling under Section 2A. The ID Act has been amended in the year 2010 to allow workman to make an application direct to Labour Court or Tribunal for adjudication of dispute upon expiry of 45 days from the date of dispute has been filed before C.O. and upon receipt of such application the Labour Court or Tribunal has power and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government.

In spite of such an amendment much could not be achieved due to lack of knowledge with workers, unorganized way of handling, accessibility to information, cost of hiring advocates, accountability of the role players and considerable delay in settling the disputes. In the present scenario of digitalization, it is felt by the Ministry to devise e-dispute portal for filing disputes by workman in a very simple and lucid way which would make the filing of dispute easy. The system is so devised that it would integrate all the role players in the dispute under one roof i.e. online portal which not only is a worker friendly but also makes monitoring of the status of disputes transparent.

Purpose of online portal:

1. This online portal is devised to make it workers friendly, easy to understand for filing dispute, transparency in a way that status will be visible to all stake holders at all times.
2. It would introduce the workers to an easy way of filing their dispute with the appropriate Conciliation Officer, uploading of documents thereby reducing the time taken in filing and compiling documents for the industrial disputes.
3. The provision of the concept of draft before submission would enable the worker to file/upload document as per his convenience before final submission.
4. Processing of the dispute is made easy.
5. Consolidated documents can now directly go to CGIT in case of reference to CGIT, thus saving considerable time of communication.

Objective- The Advantage of the online portal is to

1. Encourage transparency which ensures justice and trust by workers on the governance of the Government.
2. Ensures Quick disposal of disputes.
3. Ensures monitoring of progress of disputes.
4. Process made simple and lucid for the workers to understand.

5. Aggrieved worker can handle his own case independently by himself without taking assistance of any middle man.
6. Cases falling under Section 2A can directly be referred to CGIT after 45 days which would reduce the time taken in manual application for redressal.
7. System would enable automatic distribution of disputes to the concerned Conciliation Officers.
8. This would be an indicator of successful conciliation and make assessment easy.
9. Being an integrated portal, the workers, Conciliation Officers, CGIT and Government will have access to the documents for analysis.
10. Will facilitate officers handling the dispute and make dispute redressal faster by doing away with red-tapism.
11. Increase awareness of workers about their rights.
12. Bunch of document uploaded can be utilized from time to time by the concerned officers and doing away with missing and repeated submission of document.
13. The portal used by workers, Conciliation Officers/Appropriate Government and CGIT will complement the functioning of each other which would reduce the gap in communication.
14. It would give bird's eye view of the status of cases files, disposed of, pending, implemented, including statistics and thus will strengthen the monitoring system.
15. A proforma for filing online Industrial Dispute under section 2A and 2(K) is at Annexure I.

MOLE/SHRAM SUVIDHA PORTAL
GOOD GOVERNANCE
JUSTICE TO WORKMAN MADE SIMPLE, EASY & QUICK
Proforma for Industrial Dispute of workman online

PART I-INFORMATION TO BE FILLED BY WORKMAN

(Case will be rejected for any false information & Action under IPC will be taken)

***Section 2(g) Employer Means:-**

#Section 2(j) Industry Means:-

@Section 2(s) Workman Means:-

Language

Hindi, English

ID No/Date

No. /Date

Dispute under Sec.

2-A

Termination

Dismissal

2(k)

-Take a reference from FORM II

1. Name of workman
2. Date of Birth
3. Name of Father/Husband/Guardian
4. Post held
5. Residential Address
6. Mobile No.
7. Email ID
8. UAN No. Allotted, if any _____ Link UAN (for Verification of information)
9. Name of Establishment where employed (principle Employee)
10. Address of Establishment
11. Email ID of Establishment
12. Mobile No. of HR Manager/Head of Establishment
13. Whether employed through contractor Yes/No

(In case No (a) to (d) will not be visible)

(a) If yes, Name of Contractor

(b) Address of Establishment

(c) Email ID of Establishment

(d) Mobile No./Landline No. of HR Manager/Head of Establishment (O)

14. Period of employment FromTo.....

15. Employment Regular Contract Casual

16. Whether terminated from service Yes/No

17. Whether Notice for termination given by Management Yes/No

18. Whether compensation given for termination Yes/No

19. If yes, indicate amount Rs.....

20. In case of dismissal whether enquiry held Yes/No

21. Date of Dismissal _____

22. Whether Appeal/Filed Yes/No

23. Date of Appeal _____

24. Decision on appeal Accepted/Rejected

25. Whether review petition filed Yes/No

26. Date of review petition _____

27. Decision on review petition Accepted/Rejected

28. Relief sought in brief

(Columns 20 to 26 will be visible in case of dismissal option is exercised)

(Scan and upload representation, if any, Proof of Employment, i.e. muster roll, payment voucher, Appointment letter, supporting documents, if any relating to employment of casual/contract worker and Charge sheet Enquiry proceedings, Appeal, Review Petition etc. in case of dismissal)

Submit

Draft

(On Submission ID No. with date will be generated and information will be considered as final, Draft option can be used many times to change information before submission)

29. Whether dispute referred to Grievance Redressal Committee (GRC) under section 9 (c) for settlement of dispute, if yes, details thereof be uploaded
Yes/No

30. Conciliation Officer

CLC (C)/Addl. CLC(C)/ Deputy CLC (C)
Upward/Downward forwarding

(SMS Alert/email will go to the Dy. CLC (C) who in turn will allot the dispute immediately by SMS or E-mail to the Conciliation Officers under whose jurisdiction the case falls)

31. Whether the workman wants to file the dispute directly to CGIT

Yes/No

(Option is available to workman to go to CGIT directly after the expiry of 45 days from the date he has submitted the application online for conciliation of the dispute. Upon exercising the option, the case will be dealt by CGIT and conciliation proceedings will be stopped and no reference to CGIT is required from the Central Government, a certificate will be generated as per Section 2A(2) of the ID Act. As per Section 2A(3) of the Act, the option is available before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section(1).

PART II-INFORMATION TO BE FILLED BY CONCILIATION OFFICER

(A report under section 12 (6) shall be submitted within fourteen days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government: Provided that, subject to the approval of the conciliation officer, the time for the submission of the report may be extended by such period as may be agreed upon in writing by all the parties to the dispute)

32. Whether the Central Government is the appropriate government for the dispute under reference. (If No an intimation via SMS/E-mail will go to the workman to this effect and case will be stopped)

Yes/No

33. If yes, Date of Notice to the parties to the dispute _____
(Format) Auto generated

34. Whether all investigations made relating to the dispute Yes/No

If yes, (Scan & Upload Documents given by the Management)

35. Whether management confirmed the information given by Workman

Yes/No

36. If not, the management has furnished documents in support, relating to employment or otherwise of workman

Yes/No

(In case yes scan & upload documents given by management)

37. Whether the dispute of workman settled Yes/No

(If yes scan & upload settlement arrived)

38. Whether conciliation proceedings have been completed within 14 Days of commencement as per section 12(6) of the ID Act Yes/No

39. In case no, whether extension of time for proceedings have been agreed to by both the parties Yes/No

(If yes, Scan & Upload each agreement)

40. Whether conciliation proceedings resulted in failure Yes/No

41. In case yes, state brief reasons of failure

(a) (Part-I of FOC to be uploaded) Visible to workman

(b) (Part-II of FOC to be uploaded) Visible to appropriate Government

Submit

Draft

(On clicking submit, information will be final & no further information can be added. Draft option can be used may times to change information.)

**PART III-INFORMATION TO BE FILLED BY MINISTRY OF
LABOUR AND EMPLOYMENT**

42. Desk concerned in IR Division

IR (B-I/B-II/C-I/C-II/Misc./DU)

(Auto generated notice by E.Mail/SMS alert will go to Employing Ministry as per Format)

43. Date of sending E-mails/SMS to Employing Ministry _____

44. Whether any reply received from Employing Ministry within 30 days.

Yes/No/No reply

45. Whether any settlement reached at the level of Employing Ministry between union/workman & employer

Yes

/No

(If yes, scan & upload settlement)

46. Processing of file for direction/comments of DO/US/ DS/JS date wise

47. Decision on Dispute

Reference to CGIT/
Reference Declined

48. Date of approval for reference or decline. _____

(SMS/Email will go to CGIT conveying reference of dispute. In case of decline, speaking order will be uploaded.)

**PART IV-INFORMATION TO BE FILLED BY PRESIDING OFFICER
OF CGIT**

(Section 10(2A) of the Act: An order referring an industrial dispute to a labour court, Tribunal or National Tribunal under this section shall specify the period within which such labour court, Tribunal or National Tribunal shall submit its award on such dispute to the Appropriate Government: Provided that where such industrial dispute is connected with an individual workman, no such period shall exceed three months:

Provided further that where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, to the Labour Court, Tribunal or National Tribunal for extension of such period or for any other reason, and the presiding officer of such labour court, Tribunal or national Tribunal considers it necessary or expedient to extend such period, he may for reasons to be recorded in writing, extend such period by such further period as he may think fit:

Provided also that in computing any period specified in this sub section, the period, if any, for which the proceedings before the Labour Court, Tribunal or National Tribunal had been stayed by any injunction or order of a civil court shall be excluded:

Provided also that no proceedings before a Labour Court, Tribunal, or National Tribunal shall lapse merely on the ground that any period specified under this subsection had expired without such proceedings being completed.]

(As per Rule 10-B of Part III of the ID Central Rules Sub Section (8) the Labour Court shall not ordinarily grant an adjournment for a period exceeding a week at a time but in any case not more than three adjournments in all at the instance of the parties to the dispute; provided that the Labour Court for the reasons to be recorded in writing grant and adjournment exceeding a week at a time but in any case not more than three adjournments at the instance of any one of the parties to the dispute)

49. Date of reference of the case

50. Date of first hearing
51. Status of the case (update)
52. Date of award
53. Description of award in brief

(Scan & Upload Signed Copy of Award)

PART V-INFORMATION BY GOI Press

54. Date of receipt of award in the Ministry from CGIT
55. Date of sending the award for Publication of Award in official Gazette (E-mail to go to all concerned)

PART VI-INFORMATION BY CLC (C)

56. Date of Published award _____
57. Date of SMS alert/E.Mail to office of Deputy CLC of concerned _____
58. Whether award implemented or not
59. If not, date of prosecution filed

If yes, whether provisions of sec.22 is complied with (in case of strike)

15. Nature of demand/dispute

(upload scan copy of charter of demand)

16. Whether dispute referred to Grievance Redressal Committee (GRC)

under Section 9 'C' of I.D. Act, 1947 for settlement of dispute, if yes
details thereof. Yes/No

17. Conciliation Officer

CLC(C)/Adl.CLC(C)/Dy.CLC(C)Hq./Dy.CLC(C)Field Off.
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(SMS Alert/email will go to Conciliation officer)

PART II-INFORMATION BY Conciliation Officer

A report under Section 12(6) shall be submitted within fourteen days of the commencement of the conciliation proceedings or within such shorter period as may be fixed by the appropriate Government:

[Provided that, [subject to the approval of the conciliation officer,] the time for the submission of the report may be extended by such period as may be agreed upon in writing by all the parties to the dispute].

1. If it is strike notice, the date of commencement of proposed strike.
2. Notice to the parties of dispute
3. Whether management endorsed the information given by Union/workman
Yes/No
4. If not, the management has furnished documents in support relating to Charter of Demand of workmen (Scan & Upload Documents given by the Management)
5. Whether the industrial dispute is settled during the course of conciliation, if yes, upload the Memorandum of Settlement
6. Whether conciliation proceedings have been completed within 14 Days of commencement
Yes/No
7. Whether extension of time for proceedings have been agreed to by both the parties
Yes/No

(If yes Scan & Upload the agreement)

8. Whether conciliation proceedings resulted in failure Yes/No
9. In case yes, state brief reasons of failure –
- (a) Part I - Visible to all
- (b) Part-II - Visible to only Ministry

10. Desk concerned in IR Division

IR (B-I/B-II/C-I/C-II/Misc./DU)

(Auto generated notice will go to employing Ministry)—Format.. Annex.

PART III-INFORMATION BY Ministry

1. Whether any reply received from controlling Ministry of the establishment within 30 days Yes/No
2. If yes indicate date
3. Processing a file for direction/comments of DS/JS on the response of the controlling Ministry and date:
4. Whether any settlement reached by controlling Ministry of the establishment between union/workman and employer Yes/No
(If yes, upload the particulars of settlement)
5. Date of approval for reference/decline.
6. In case of reference, date of reference
7. In case of decline, reason for decline/non-reference with date;

PART IV-INFORMATION BY Presiding Officer of CGIT

10.(2A) An order referring an industrial dispute to a Labour Court, Tribunal or National Tribunal under this section shall specify the period within which such Labour Court, Tribunal or National Tribunal shall submit its award on such dispute to the appropriate Government:

Provided that where such industrial dispute is connected with an individual workman, no such period shall exceed three months:

Provided further that where the parties to an industrial dispute apply in the prescribed manner, whether jointly or separately, to the Labour Court, Tribunal or National Tribunal for extension of such period or for any other reason, and the presiding officer of such Labour Court, Tribunal or National Tribunal considers it necessary or expedient to extend such period, he may for reasons to be recorded in writing, extend such period by such further period as he may think fit:

Provided also that in computing any period specified in this sub-section, the period, if any, for which the proceedings before the Labour Court, Tribunal or National Tribunal had been stayed by any injunction or order of a Civil Court shall be excluded:

Provided also that no proceedings before a Labour Court, Tribunal or National Tribunal shall lapse merely on the ground that any period specified under this sub-section had expired without such proceedings being completed.]

8. Date of receipt of reference:
 9. Date of first hearing :
 10. Status of the case to be uploaded

 11. Date of Award

 12. Description of Award in brief
- (Scan & Upload Signed Copy of Award)

PART V-INFORMATION BY GOI Press

1. Date of receipt of award in the Ministry from CGIT
2. Date if sending the award for publication in official gazette (Email to go to all concerned)

PART VI-INFORMATION BY CLC (C)

1. Whether Award implemented Yes/No

2. If not implemented, date of filing prosecution in the Court against the employer _____

The Industrial Disputes Act, 1947

*** Employer Means [Section 2(g):-**

- (i) In relation to any industry carried on by or under the authority of any department of [the Central Government or a State Government,] the authority prescribed in this behalf or where no authority is prescribed, the head of the department;
- (ii) In relation to an industry carried on by or on behalf of a local authority, the chief executive officer of that authority.

Industry Means [Section 2(j):-

“Industry” means any business, trade, undertaking, manufacture or calling of employers and includes any calling, service, employment, handicraft, or industrial occupation or avocation of workmen.

@ Workman Means [Section 2(s):-

“workman” means any person (including an appropriate) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-

- (i) Who is employed in the police service or as an officer or other employee of a prison; or
- (ii) Who is employed mainly in a managerial or administrative capacity; or
- (iii) Who, being employed in a supervisory capacity, draws wages exceeding ten thousand rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.