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GOVERNMENT OF INDIA
MINISTRY OF LABOUR AND EMPLOYMENT

NOTIFICATION

New Delhi, 2018

G.S.R..... (E).- In exercise of the powers conferred by section 12 of the Sales Promotion Employees (Conditions of Service) Act, 1976 (11 of 1976), the Central Government hereby makes the following rules to amend the Sales Promotion Employees (Conditions of Service) Rules, 1976, namely:-

1. (1) These rules may be called the Sales Promotion Employees (Conditions of Service) Amendment Rules, 2018.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Sales Promotion Employees (Conditions of Service) Rules, 2018 (hereinafter referred to as the principal rules), rule 2 shall be numbered as sub-rule (1) thereof and after sub-rule (1) so numbered, the following sub-rule shall be inserted namely:-

“(2) the words and expressions used in these rules which are not defined therein, but are defined or used in the Act shall have the meanings respectively assigned to them in the Act”.

3. In the principal rules, after rule 2, the following shall be inserted, namely:-

“2A. Application.- These rules shall apply to every establishment –

- (a) engaged in pharmaceutical industry;
- (b) which is on the date of the commencement of the Sales Promotion Employees (Conditions of Service) Amendment Rules, 2018 a notified industry on which the provisions of the Act apply; and

(c) which shall be declared notified industry after the commencement of the Sales Promotion Employees (Conditions of Service) Amendment Rules, 2018 with effect from the date on which the provisions of the Act apply to such establishment.”.

2B. Job responsibility.- A sales promotion employee employed or engaged in an establishment shall perform the job of sales promotion or marketing in any manner relating to pharmaceutical industry or, as the case may be, notified industry of such establishment for which he is so employed or engaged:

Provided that the employer may assign him additional job, if any relating to the operational requirement, incidental to sales promotion or marketing, of the establishment.

2C. Job specification.- The job of a sales promotion employee employed or engaged in an establishment shall inter-alia be –

- (i) to present, promote and sell products or services to existing and prospective customers;
- (ii) to perform cost-benefits and needs analysis of existing or potential products and services;
- (iii) to establish, develop and maintain positive business and customer relationship;
- (iv) to expedite the resolution of customer problems and complaints to maximize customers’ satisfaction;
- (v) to achieve agreed upon sales targets and outcomes within schedule time;
- (vi) to co-ordinate sales effort with team members and other departments;
- (vii) to analyze the territory, or market’s potential, track sales and status reports;
- (viii) to keep abreast of best practices and promotional trends; and
- (ix) any other job related with, or incidental to, the job specified in clauses (i) to (ix).

CHAPTER IA SERVICE CONDITIONS

2D. Classification of sales promotion employees.– (1) The sales promotion employees shall be classified into following categories, namely:-

- (i) permanent;
- (ii) probationer
- (iii) fixed term;
- (iv) temporary ; and
- (v) apprentice or trainee

(2) A permanent sales promotion employee is an employee who has been employed or engaged against permanent vacancy and has completed satisfactorily probationary period of six months in the same or another similar occupation in the establishment which includes the periods of breaks due to sickness, accident, leave, lock-out, strike (not being an illegal strike) or involuntary closure of the establishment.

(3) A probationer sales promotion employee is an employee who has been employed or engaged against a permanent vacancy and has not completed probationary period of six months and where in an establishment, a permanent sales promotion employee is employed or engaged as a probationer sales promotion employee against a new post in the establishment, then, he may, at any time during the probationary period of six months, be reverted to his pervious permanent post.

(4) A fixed term sales promotion employee is an employee who has been employed for a fixed period in an establishment under a written contract:

Provided that –

- (a) his hours of work, wages, allowances and other benefits shall not be less than that of a permanent sales promotion employee; and
- (b) he shall be eligible for all statutory benefits available to a permanent sales promotion employee in the establishment, in proportion to the period of service rendered by him even though his period of employment does not extend to the qualifying period of employment required for such benefit under the law applicable for such purpose.

(5) A temporary sale promotion employee is an employee in an establishment who has been employed against a temporary vacancy.

(6) An apprentice or a trainee sales promotion employee is an employee in the establishment as a learner who is paid an allowance during his period of apprenticeship or training and no person undertaking a job independently in the establishment shall be treated as an apprentice or trainee.

2E. Confirmation of sales promotion employees.- The employer shall confirm a permanent sales promotion employee in the establishment in accordance with the terms and conditions for confirmation stipulated in his letter of employment and issue a letter of confirmation to him and after such confirmation the employer shall cause to be entered in the service record of such permanent sales promotion employee an entry of confirmation within a period of thirty days from the date of such confirmation.

2F. Age of retirement of sales promotion employees.- The age of retirement or superannuation of a sales promotion employee in an establishment shall be such as may be agreed upon between the employer and the sales promotion employee and mentioned in the written agreement or as specified in a settlement or award under law which is binding on both the employer and the sales promotion employee and where there is no such agreed age, then, retirement or superannuation shall be on completion of fifty-eight years of such employee.

2G. Training for skill upgradation.- The employer of the sales promotion employees employed or engaged in an establishment in which twenty or more sales promotion employees are employed or engaged, shall make arrangement of the training programme of at least one week of duration in a year for skill upgradation of sales promotion employees considering their respective training needs having regard to the scientific and technological changes identified from time to time for the purposes of such training.

CHAPTER IB WELFARE OBLIGATION

2H. Certain facilities to be provided by the employer.- (1) The employer shall provide to the sales promotion employees employed or engaged in his establishment,-

- (a) first aid facilities during their duty either at the headquarters of the establishment or in the field respectively relating to their duties and such first aid shall be so maintained and equipped with essential

contents conforming to the medical standard in practice as to be readily accessible during the duty hours of the sales promotion employees and while a sales promotion employee remains in field relating to his job, suitable first aid facility, as may be practicable, shall be provided to him;

- (b) where fifty or more sales promotion employees are employed or engaged in the establishment, such crèche facility as may be directed by the Labour Commissioner of the State Government having jurisdiction and having regard to the reasonable convenience to the sales promotion employees.

2 I. Welfare and working condition of the sales promotion employees.- The employer shall provide to the sales promotion employees employed or engaged in his establishment, the following welfare facilities, namely:-

- (i) supply of wholesome drinking water for their use during duty hours;
- (ii) arrangement of separate washroom facilities for male and female sales promotion employees easily accessible and conveniently situated in the establishment;
- (iii) locker rooms for the use of sales promotion employees as per their requirement in the establishment;
- (iv) canteen facilities available to the sales promotion employees in such establishment wherein one hundred or more sales promotion employees are employed or engaged;
- (v) any other facilities which are required for the smooth functioning of the duties of the sales promotion employees such as clothes, foot wears, water bottle, umbrella (in summer), rain coat (during rainy season), warm jacket (in winter), and like other things:

Provided that in case, it is not feasible or practicable for an employer to provide such facilities to the sales promotion employees, then, the employer may pay to the sales promotion employees the cash compensation in lieu of the facilities.”.

4. In the principal rules, after chapter II, the following chapters shall be inserted, namely:-

“CHAPTER IIA
WORKING HOURS

21A. Definition for the chapter.- In this chapter, unless the context otherwise requires,-

- (a) “closing hour” means the hour at which the sales promotion employee, after completing his job activity of a day, submits report of such activity to the reporting officer and gets clearance from such officer;
- (b) “opening hour”, in respect of the job of a sales promotion employee employed or engaged in an establishment, means the preparatory time spent by him to organize samples necessary for performing his duty of a day either at his own residence or, as the case may be, from the storage of the establishment or its any office;
- (c) “spread-over”, in a day, means the period between the commencement and completion of his job on that day by a sales promotion employee relating to an establishment in which he is employed or engaged;
- (d) “working hours”, in respect of a sales promotion employee, means the period during which he performs his job, assigned to him in the establishment in which he is employed or engaged, either under the direct or indirect control and supervision of his employer.

21B. Power of employer to fix different opening and closing hours.- Notwithstanding anything contained in these rules, an employer in an establishment may, for the purposes of the application of these rules in the establishment and with the prior permission of the Central Government or an officer authorized by the Central Government and in consultation with the organization of the sales promotion employees relating to the establishment (with whatsoever name it may be called), fix different opening hours and different closing hours for different duration of time periods in a year.

21C. Working hours and spread over.- The working hours of a sales promotion employee shall not exceed nine hours in a day and forty-eight hours in a week and the spread over in a day shall not exceed ten and half hours.

21D. Wages for overtime job of the sales promotion employees.- Where a sales promotion employee whose minimum rate of wages has been fixed under the Minimum Wages Act, 1948 (11 of 1948) as applicable to him by hour, by the day or by such a longer wage period, if any, under the provisions of the rules made under such Minimum Wages Act, then the job performed by him on any day in excess of the number of hours constituting a normal working day, the employer of the sales promotion employee shall pay him for every hour or part of an hour so job performed in excess, at the overtime rate which shall not be less than twice the normal rate of wages.

21E. Shift working.- The job of sales promotion employee employed or engaged in an establishment may be performed in more than one shift at the discretion of the employer. If more than one shift of job is performed, the sales promotion employees shall be liable to be transferred from one shift to another. No shift performing the job shall be discontinued without two months' notice being given in writing to the sales promotion employees prior to such discontinuance, provided that no such notice shall be necessary if the closing of the shift is under an arrangement with the sales promotion employees affected. If as a result of the discontinuance of the shift performing, any sales promotion employees are to be retrenched, such retrenchment shall be effected in accordance with the provisions of the Industrial Disputes Act, 1947 (14 of 1947) as applicable to the sales promotion employees, and the rules made thereunder. If shift performing is re-started, the sales promotion employees shall be given notice and re-employed in accordance with the provisions of the said Act and the said rules.

CHAPTER IIB GRIEVANCE REDRESSAL COMMITTEE

21E. Setting up of grievance redressal committee.- Every establishment, employing twenty or more sales promotion employees, shall have one or more grievance redressal committee for the resolution of disputes arising out of individual grievances of the sales promotion employees which shall be constituted and function in accordance with the provisions contained in section 9C of the Industrial Disputes Act, 1947 (14 of 1947) as it applies to, or in relation to, workmen within the meaning of that Act.”.

[F. No.]

(.....)

Joint Secretary to the Government of India

Note.- The principal rules were published in the Gazette of India vide G.S.R. 113 (E), dated the 8th March 1976.