

## BRIEF OVERVIEW OF PAYMENT OF WAGES ACT 1936

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### ABSTRACT

*This article delves into the historical and regulatory aspects of the Payment of Wages Act 1936, offering a comprehensive overview of its significance in the country's labor law landscape. The article outlines the historical progression of the Act, from its initial application to factories, railways, and subcontractors to its subsequent expansion to cover various industries, including mines, oil fields, and commercial premises. The article delves into the Act's general rules, encompassing responsibilities related to wage payment, wage period delineation, and stipulated timeframes for wage disbursement. It emphasizes the Act's mandate for payment in legal tender while allowing alternative payment methods with employee consent. Moreover, the article elucidates the importance of employers maintaining meticulous records for a minimum of three years. Detailed explanations are provided regarding the regulation of deductions from wages, covering fines, absence from duty, damages or loss, services rendered, and other categories. These deductions are subject to specific caps and regulations. The article also delves into the Act's provisions pertaining to the appointment of authorities, including inspectors. Additionally, it explores the Act's mechanisms for claims resolution, elucidating the authorities appointed for hearing and deciding on wage-related claims. Finally, the article touches upon the recent Wage Code, which has expanded definitions and placed renewed emphasis on timely wage payments.*

**Keywords:** Payment of Wages, Deductions, Code on Wages 2019.

### 1. INTRODUCTION

The Payment of Wages Act was passed in 1936 and received its assent on 23<sup>rd</sup> April 1936 to regulate the wage payment to employees of specific industries by detailing the timing and method of wage payments, ensuring that employees receive their wages on time, and regulating the types and methods of deduction to prevent arbitrary deductions. Additionally, it provides an effective remedy against unlawful deductions and unreasonable wage payment delays.

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## 1.1 Historical Background

As India's industries expanded, the industrial units were exploiting their workers by not paying their workers at regular intervals and their wages were not consistent. In 1925, a private bill known as the Weekly Payment Bill was introduced in the Legislative Assembly for the first time to protect wages. However, after receiving an assurance from the government that the issue was being investigated, it was withdrawn.<sup>1</sup>

Laborers in India needed protection from unauthorized deductions from wages by employers, according to the Royal Commission on Labor in India, which issued its report in June 1931. The commission argued that delayed wage payments were one of the causes of Indian laborers' debt<sup>2</sup>. The Bill of Payment of Wages Act was introduced in the Legislative Assembly in 1933, based on the recommendations of the Royal Commission on Labor. Due to the dissolution of the assembly in 1933, it was unsuccessful.

The 1935 Payment of Wages Bill was introduced in the Legislative Assembly on February 15th, based on the same conceptual frameworks as the previous Bill of 1933 but it was substantially amended. The Select Committee was tasked with reviewing the Bill. On September 2<sup>nd</sup>, 1935, the Select Committee delivered its report. The 1935 Payment of Wages Bill was reintroduced in the Legislative Assembly which incorporated the recommendations of the Select Committee.<sup>3</sup>

In 1936, the bill became an act, and it went into effect in 1937. The Payment of Wages Act was significantly impacted by the Royal Commission's recommendations. It was the first attempt to safeguard wages for workers.

## 1.2 Scope of Applicability

This Act has its applicability to the whole of India.<sup>4</sup> The Act does not intend to control wages or to interfere with employment contracts, save to the extent necessary to prevent wrongful deductions or delays in the payment of wages. The Act initially applied to the payment of wages for individuals employed in factories, railways, or who were employed directly or

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<sup>1</sup> S. N. Misra, 'Labour and Industrial Laws' (29<sup>th</sup> Edition Central Law Publications), Pg. 764

<sup>2</sup> Anand Prakash, 'Labour Law' Pg. 427

<sup>3</sup> *The Payment of Wages Act, 1936*, Ministry of Labour & Employment < [THE PAYMENT OF WAGES ACT, 1936 \(labour.gov.in\)](https://www.labour.gov.in/legislation/pwa-1936)> Pg. 3 of 40 (Last Accessed: 15 September 2023)

<sup>4</sup> The Payment of Wages Act, S1(2)

indirectly by a subcontractor<sup>5</sup>. However, the appropriate governments were given the authority to widen the application of the Act to individuals employed in any other industrial establishment or group of industrial establishments.<sup>6</sup>

The Act's provisions have been expanded to include several other additional industrial establishments, including mines and oil fields, through the authority granted to the appropriate government. Additionally, they have been made applicable to motor transport workers under the Motor Transport Workers Act of 1961 and to stores and other commercial premises under the laws enacted by the respective state.<sup>7</sup>

This Act also applies to wages paid to an employee for a wage period if those wages do not exceed 18,000 rupees per month or whatever higher amount. This is specified at the discretion of the Central Government every five years by notification in the Official Gazette based on data from the Consumer Expenditure Survey published by the National Sample Survey Organization<sup>8</sup>. Over the years this amount has been amended from Rs. 1,000 per month to 1,600 per month in 1982 to 6,500 per month in 2005 to 10,000 per month in 2007 to 18,000 per month in 2012.

## 2. DEFINITIONS

The Act provides definitions to better understand the scope, constituents, and relevancy of the authorities and other terminology forming the structural backbone of the Act. It does not define an 'employed person' with whom all are to be considered as employed persons but expands the scope of it by making an express inclusion of the legal representative of the deceased employed persons.<sup>9</sup> Similarly, in the case of an 'employer', the Act does not define an employer but widens its scope by expressly including the legal representative of the deceased employer.<sup>10</sup>

'Appropriate Government' has been defined as the Central Government in relation to railways, air transport services, mines, and oil fields and the State Government in relation to all the other cases.<sup>11</sup>

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<sup>5</sup> The Payment of Wages Act, S1(4)

<sup>6</sup> The Payment of Wages Act, S1(5)

<sup>7</sup> Supra note 2

<sup>8</sup> The Payment of Wages Act, S1(6)

<sup>9</sup> The Payment of Wages Act, S2 (ia)

<sup>10</sup> The Payment of Wages Act, S2 (ib)

<sup>11</sup> The Payment of Wages Act, S2 (i)

An 'Industrial or other establishments' is defined to include a variety of establishments, such as tramway and road-based motor transport services for passengers or goods, and air transport services except for military or governmental air transport services. It encompasses docks, mechanically propelled inland vessels, mines, quarries, oil fields, plantations, workshops engaged in producing articles, and establishments participating in construction, development, maintenance, or activities related to buildings, roads, bridges, canals, navigation, irrigation, water supply, or power generation. Furthermore, any other establishment or category can be included based on its nature and to safeguard employees and can be notified by the appropriate Government through an Official Gazette notification.<sup>12</sup>

An elaborate definition of 'wages' has been given specifying what would be included under it and what would not be included. It includes all forms of remuneration, whether it be in the form of a salary, allowances, or any other expression in monetary terms or capable of such expression, that an individual would be entitled to in their employment, or for work undertaken within that employment by expressly or impliedly satisfying the terms of the employment. This definition also encompasses remuneration specified in awards, settlements, or court orders, compensation for overtime, holidays, or leave periods, additional remuneration bonus, sums payable upon termination of employment, with or without deductions, and sums to which the employee is entitled under schemes established by laws in force.<sup>13</sup>

Under the definition of wages, certain remunerations are explicitly excluded. This exclusion applies to any bonus, regardless of its association with profit-sharing schemes, unless it is part of the employment terms or, specified in an award, settlement, or court order. Additionally, it extends to the value of provided accommodations such as housing, as well as utilities like light and water, medical care, or any service specifically excluded from wage computation via a government directive. Contributions made by the employer to pension or provident funds, along with any accrued interest, are also to be excluded. Similarly, travel allowances or the value of travel concessions, as well as any payments designated for covering special expenses arising from the nature of employment are also excluded. Lastly, gratuity payments due upon employment termination are not included as wages, except for instances mentioned in sub-clause (d).<sup>14</sup>

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<sup>12</sup> The Payment of Wages Act, S2 (ii)

<sup>13</sup> The Payment of Wages Act, S2 (vi)

<sup>14</sup> Ibid

### 3. RULES FOR PAYMENT OF WAGES

Rules for payment of wages can be divided into two broad categories namely, general rules and rules for deductions. The general rules include provisions specifying the authority responsible for the payment of wages, wage periods, time of payment of wages, and mode of payment of wages. The rules for deductions include provisions specifying what is included and excluded in deduction, kinds of deductions, and rules regarding some specific kinds of deductions.

#### 3.1 GENERAL RULES

##### 3.1.1 Responsibility for payment of wages

The Act establishes a clear and unequivocal responsibility on the part of employers to ensure the payment of wages to their employees as mandated by the Act. This obligation extends to various employment contexts. For instance, in factories, the responsibility falls on a manager, as specified in section 7(1)(f) of the Factories Act, 1948. In industrial or other establishments, it falls upon the person entrusted with supervision and control of the establishment. On railways (excluding factories), the railway administration assumes this responsibility and designates a person for the local area concerned. When contractors are involved, the responsibility rests with the individual directly under the contractor's authority, as designated by the contractor. In all other cases, the employer is expected to designate a person who will ensure compliance with the Act's provisions. This designated or nominated individual holds the responsibility for effecting these wage payments.<sup>15</sup>

However, it is crucial to note that, irrespective of the circumstances outlined, the ultimate responsibility for making all mandated wage payments under this Act remains with the employer. This responsibility is non-negotiable and falls squarely on the employer's shoulders. In cases where contractors or designated individuals fail to fulfill this duty, the onus is on the employer to ensure that all required wage payments<sup>16</sup> are made in accordance with the Act<sup>16</sup>.

The appellant company was required to create and maintain a canteen for its employees in *Cominco Binani Zinc Ltd. v Pappachan*<sup>17</sup>. The contractor was given responsibility by the

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<sup>15</sup> The Payment of Wages Act, S3

<sup>16</sup> Ibid

<sup>17</sup> *Cominco Binani Zinc Ltd. v Pappachan*, (1989) 1 LLJ 452 (Kerala)

company for managing a canteen. It was found that management could not serve as the employees' ultimate employer for all purposes just because they are responsible for providing and maintaining a canteen under Section 46 of the Factories Act and that they are not managerial employees. Therefore, the principal employer's responsibility is limited to paying wages if the contractor fails to do so.

### 3.1.2 Fixation of wage period

The wage period is fixed by the person responsible for the payment of wages which shall not exceed one month.<sup>18</sup> Therefore, the wage period can be any period as the person responsible for the payment of wages deems fit provided it is in accordance with the provisions of the Act and is generally either daily, weekly, fortnightly, or, monthly.

### 3.1.3 Time of payment of wages

The Act sets out specific timelines for the payment of wages to employees in various types of employment. In the case of those employed on railways, factories, or industrial or other establishments with fewer than one thousand employees, their wages must be paid within seven days from the end of the wage period. For employees in other railways, factories, or industrial establishments, the payment must occur within ten days of the end of the wage period. However, there is an exception for workers on docks, wharves, jetties, or in mines, where the remaining wages due after the completion of certain tasks related to ship or wagon tonnage must be paid within seven days from the day of completion<sup>19</sup>.

Additionally, when an employee's tenure ends, either by their own or the employer's action, the wages they have earned must be paid within two working days from the termination date<sup>20</sup>. For instance, if 'A' works in a factory with a wage period of one month then, the wages must be paid to him/her before the 7<sup>th</sup> of the subsequent month if the factory has less than 1000 employees and if the factory has more than 1000 employees then 'A' must be paid wages before the 10<sup>th</sup> of the subsequent month.

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<sup>18</sup> The Payment of Wages Act, S4

<sup>19</sup> The Payment of Wages Act, S5 (1)

<sup>20</sup> The Payment of Wages Act, S5 (2)

### 3.1.4 Payment in current coins or currency notes

Wages must be paid in legal tender, which includes current coins, currency notes, or a combination of both. However, there is a provision for employers to pay wages through alternative means if they have written authorization from the employee. This alternative method could involve payment by check or direct deposit into the employee's bank account.<sup>21</sup>

For instance, an employer typically pays their employees in cash. However, some employees may prefer the convenience and security of receiving their wages through direct deposit into their bank accounts. In this case, the employer can make this arrangement, but only after obtaining written authorization from each employee who wishes to use this method. This written authorization ensures that the employee consents to receiving their wages through a non-cash method, such as direct deposit or a check. It provides flexibility for both employers and employees in choosing the most convenient and secure payment method.

### 3.1.5 Responsibility for maintenance of registers and records

Every employer is obligated to keep and maintain comprehensive registers and records that contain specific information about their employees. These records should encompass crucial details such as the identities of the employees, the nature of the work performed, the wages they receive, any deductions taken from their wages, receipts issued, and any other particulars. These records must adhere to the format and include details prescribed by the relevant authorities. Furthermore, the importance of preserving data is stressed as a responsibility of the employer. Employers must retain these registers and records for a minimum of three years after the date of the last entry<sup>22</sup>.

This prolonged retention period enables the supervision and validation of employment practices, wage disbursements, and deductions. Additionally, this robust framework for maintaining records and managing data ensures openness and responsibility in labor relations, which benefits both employers and employees.

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<sup>21</sup> The Payment of Wages Act, S6

<sup>22</sup> The Payment of Wages Act, S13A

### 3.2 RULES FOR DEDUCTIONS

Deduction from wages is expressed as the amount paid to the employer or his agent by the employed person<sup>23</sup> but in general sense, deduction is any specific reduction made from the wages. However, it does not include wage reductions because of penalties imposed by their employer for good and sufficient reasons, such as withholding an increment or promotion, demotion, or suspension, provided that these penalties follow any Appropriate Government requirements specified in the Official Gazette<sup>24</sup>.

Section 7 of the Act specifies the exclusive list of kinds of deductions in clause 2 which are permissible to be made from an employed person's wages but the total amount of deductions in any wage period shall not exceed 75% of wages in cases of payment of co-operative societies and in any other case shall not exceed 50% of wages<sup>25</sup>.

In a Karnataka High Court case<sup>26</sup>, J. S. Bhat authored that for an illegal strike, the deduction from wages is justified. In *Mansukh Gopinath Jadhav v W.M. Bapat*<sup>27</sup>, it was held that a settlement permitting deduction with the consent of the employees and paying it to the employees' union does not contravene section 7.

#### 3.2.1 Fines

Fines are the first in the list of permissible deductions under clause (a) of sub-section 2 section 7. Fines may solely be levied for specific actions or omissions that have received prior approval from the appropriate government and are exhibited in an official notice. This notice should be prominently displayed at the workplace or in designated areas for railway employees. It is crucial to note that no fine can be imposed unless the employee is given an opportunity to show cause for their case or defend themselves. The total fine in a single wage period is capped at 3% of the wages for that wage period, and fines are not permitted for employees below the age of fifteen<sup>28</sup>.

Additionally, fines cannot be collected through installment payments and must be collected within ninety days from the date of their imposition or the day when the act or omission

<sup>23</sup> The Payment of Wages Act, S7 (1) Explanation I

<sup>24</sup> The Payment of Wages Act, S7 (1) Explanation II

<sup>25</sup> The Payment of Wages Act, S7 (3)

<sup>26</sup> *Mineral Miners' Union v Kudremukh Iron Ore Co. Ltd.*, (1989) I LLJ 277 Kant

<sup>27</sup> *Mansukh Gopinath Jadhav v W.M. Bapat and Ors* (1982) I LLJ 144 Bom

<sup>28</sup> The Payment of Wages Act, S8

occurred. All fines and their collections must be documented in a register, with the collected sums used exclusively for purposes that benefit the employees, subject to approval by the appropriate authority<sup>29</sup>.

### 3.2.2 Absence from duty

Absence from duty is the second in the list of permissible deductions under clause (b) of sub-section 2 section 7. Deductions are only to be made when an employed person is not at the place or places where their employment terms require them to be, whether for the whole or part of the period they should be working there. Additionally, there is a critical limit placed on these deductions, ensuring they do not exceed a proportion relative to the time of absence compared to their total work period within the specific wage period<sup>30</sup>.

Furthermore, there is a proviso that permits deductions for groups of ten or more employed persons who collectively and without proper notice and reasonable cause absent themselves; however, these deductions are capped at the equivalent of eight days of wages. The explanation also clarifies that if an employed person is physically present at their workplace but refuses to perform their work for unreasonable reasons, like participating in a stay-in strike, they are considered absent. This provision acts as a safeguard for both employers and employees, ensuring that wage deductions are fair and proportional to the circumstances of the absence<sup>31</sup>.

In the case of *Kothari (Madras) Ltd. v Second A.J. cum Appellate Authority*<sup>32</sup>, the issue revolved around the legality of deducting wages from employees who couldn't come to work due to the Andhra Bandh. The court's ruling established that if the Tribunal determines that an employee had no responsibility for their absence from work or if they were prevented from attending work, the management does not have the right to make wage deductions. Additionally, the Tribunal is authorized to investigate the reasons behind the absence and provide a judgment on this matter. In the specific case being discussed, the employees were prevented from attending work due to the organizers of the bandh.

This section has a loophole in the proviso of sub-section 2 where the deduction may include such an amount not exceeding his wages for eight days, but it is not clear that in cases of

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<sup>29</sup> Ibid

<sup>30</sup> The Payment of Wages Act, S9

<sup>31</sup> Ibid

<sup>32</sup> *Kothari (Madras) Ltd. v Second A.J. cum Appellate Authority & Ors* (1991) II LLJ 604 AP

absence of more than eight days, the deduction amount would be the wages of the total days of absence or would be capped at the wages of eight days. \_\_\_\_

### 3.2.3 Damages or loss

Deductions made under certain clauses, specifically clause (c) or clause (o) of sub-section 2 of section 7, must not exceed the actual amount of damage or loss caused to the employer which is directly attributable to the employed person's neglect or default. This ensures that deductions are proportionate to the harm caused. Additionally, an important safeguard is introduced in sub-section 1A. It mandates that deductions under clauses (c), (m), (n), or (o) of sub-section 2 of section 7, cannot be made until the employed person has been provided with an opportunity to show cause against the deduction. This opportunity must be given in accordance with prescribed procedures, ensuring a fair and transparent process<sup>33</sup>.

All the deductions made and funds collected through these deductions must be meticulously recorded in a register. This register is the responsibility of the person in charge of wage payments under section 3 and must follow the prescribed format<sup>34</sup>. This recording ensures transparency and accountability in the deduction process, protecting the rights of both employers and employees.

### 3.2.4 Services Rendered

Deductions from the wages of employed individuals under clause (d) or (e) of sub-section 2 of section 7 can only be made if the employed person has willingly accepted house accommodation, amenity, or service as part of their employment terms or through some other agreement. Importantly, the deducted amount should not exceed the value of the house accommodation, amenity, or service provided. Additionally, in the case of deductions under clause (e), these deductions are subject to any conditions that may be imposed by the Appropriate Government.<sup>35</sup>

It aims to protect the rights of employed individuals by ensuring that any deductions related to these benefits are made only with their consent and that the deduction amount is reasonable and directly related to the value of the benefit received. It provides a framework for fair and

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<sup>33</sup> The Payment of Wages Act, S10

<sup>34</sup> Ibid

<sup>35</sup> The Payment of Wages Act, S11

transparent wage deductions in situations involving house accommodation, amenities, or services.

### 3.2.5 Other deductions

Some other deductions from wages are for the recovery of advances, loans granted, payments to cooperative societies, and insurance schemes.

If an employee receives an advance before starting their employment, the recovery of this advance can only commence with the first wage payment for a complete wage period. However, advances for traveling expenses are exempt from recovery deductions. In cases where advances are given after employment has begun, the conditions for recovery are subject to the rules set by the appropriate government<sup>36</sup>.

Deductions for the recovery of loans granted under clause (fff) of sub-section (2) of section 7. are subject to specific rules established by the appropriate government. These rules regard the extent to which loans can be granted and prescribe the applicable interest rates<sup>37</sup>.

For payments to cooperative societies and insurance schemes, as outlined in clauses (j) and (k) of sub-section (2) of section 7, the deductions are subject to rules set by the appropriate government<sup>38</sup>. This ensures that these deductions are carried out in a manner compliant with the established guidelines.

## 4. AUTHORITIES UNDER THE ACT

### 4.1 Inspectors

Inspectors are pivotal figures in the enforcement of labor laws, ensuring that workplaces adhere to statutory requirements. They wield substantial powers to verify compliance and act against violations. Their role is critical in upholding labor standards, safeguarding workers' rights, and maintaining the integrity of workplaces.

An Inspector appointed under the Factories Act, 1948 for factories is also designated as an Inspector for the purposes of the Payment of Wages Act, 1936 for all the factories within the

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<sup>36</sup> The Payment of Wages Act, S12

<sup>37</sup> The Payment of Wages Act, S12A

<sup>38</sup> The Payment of Wages Act, S13

geographical limits assigned to them where, they shall be deemed to be a public servant<sup>39</sup> within the meaning of the Indian Penal Code, 1860<sup>40</sup>.

For the persons employed in railway, to whom this Act applies, the Appropriate Government can appoint inspectors for the purposes of the 1936 Act, and for the same, the Appropriate Government can appoint anyone as it deems fit as inspectors by notification in the Official Gazette and define the local limits and the class of factories and industrial establishments, in respect of which they shall exercise their functions. They are authorized to conduct examinations and inquiries to verify compliance with the Act and its associated rules. This includes inspecting premises, supervising wage payments, demanding the production of relevant records, and even seizing or copying documents in cases of suspected violations. However, no individual shall be compelled to provide self-incriminating statements, preserving their rights. The Code of Criminal Procedure, 1973, is applicable to searches and seizures conducted by inspectors under this Act, ensuring a legal framework for these actions.<sup>41</sup>

#### **4.2 Authority to make and hear claims**

The authority responsible for hearing and deciding on claims arising from wage deductions or payment delays is appointed by the appropriate Government which includes Commissioners for Workmen's Compensation, officers of the Central Government such as Regional Labor Commissioners or Assistant Labor Commissioners with a minimum of two years of experience, officers of the State Government not below the rank of Assistant Labor Commissioner with similar experience, presiding officers of Labor Courts or Industrial Tribunals established under the Industrial Disputes Act, 1947, or any corresponding state laws concerning industrial disputes. Additionally, individuals with experience as a Civil Court Judge or a Judicial Magistrate may also be appointed to this role. These designated authorities have the jurisdiction to hear and adjudicate upon claims related to wage deductions and payment delays within specified areas<sup>42</sup>.

An application may be made by an employed person himself, a legal practitioner, an official of a registered trade union with written authorization to act on the person's behalf, an Inspector under this Act, or any other person acting with the permission of the appointed authority. These

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<sup>39</sup> Indian Penal Code, 1860, S 21

<sup>40</sup> The Payment of Wages Act, S14

<sup>41</sup> Ibid

<sup>42</sup> The Payment of Wages Act, S15 (1)

applications must be presented within twelve months, from the date when the wage was deducted or when the wage payment was due<sup>43</sup>.

In the case of *Union of India v Kameshwar Dubey*<sup>44</sup>, the issue before the Court was to distinguish between deducted wages and delayed wages. The Court's ruling clarified that this distinction is based on the intent of the employer. If the employer's intention is to repudiate the obligation to pay wages or to challenge the workers' entitlement to receive them, this would constitute a case of wages deducted. However, if the employer acknowledges the responsibility to pay and doesn't dispute the worker's right to receive wages, it falls under the category of delayed payment. The term deduction within Section 15 of the Payment of Wages Act carries a broader interpretation as it encompasses actions by the employer aimed at either wholly or partially withholding wages.

In *Karnataka Central Co-operative Bank Ltd. v Karpi*<sup>45</sup>, an employee was suspended pending disciplinary action and received a subsistence allowance equivalent to one-fourth of their basic salary. An application under Section 15(2) asserting that the employee was entitled to full salary and that the partial payment constituted a wage deduction was filed. The court ruled that for application of Section 15(2), the deductions must be contrary to the Act's provisions. Section 7 of the Act clarifies that wage loss due to suspension is not considered a wage deduction under Section 15(2). Subsistence allowance is granted to support the employee during the suspension period and is not payment for services rendered, thus not qualifying as wages. Therefore, subsistence allowance does not amount to wages delayed or deducted.

#### 4.2.1 Procedure and related provisions

The act outlines a structured process for addressing claims related to wage reductions or delayed wage payments. When an application is submitted under this Act, the relevant authority is mandated to facilitate a hearing. This hearing is a crucial step in the resolution process as it provides both the applicant and the employer, or the person responsible for wage payments an opportunity to be heard. Furthermore, the authority possesses the discretionary power to conduct additional inquiries if it deems them necessary to make well-informed decisions. If the authority imposes compensation, it cannot exceed 10 times the deducted amount for wage deductions and should range between 3000 Rupees and 1500 Rupees for delayed wages. Even

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<sup>43</sup> The Payment of Wages Act, S15 (2)

<sup>44</sup> *Union of India v Kameshwar Dubey & Ors* (1988) II LLJ 302 (Delhi)

<sup>45</sup> *Karnataka Central Co-operative Bank Ltd. v Karpi*, (1987) I LLJ 179 (Karn)

if the deducted or delayed wages are paid before the application is resolved, the authority can still impose compensation, not exceeding two thousand rupees. These remedies are designed to provide redress to employees who have faced wrongful wage deductions or delays<sup>46</sup>.

To ensure prompt resolution, a claim should be disposed of within three months from the date of registration. However, it also allows for flexibility if both parties agree and provide valid reasons, the authority can extend this period to ensure a just and thorough resolution. To ensure fairness and consider circumstances that are beyond the control of the employer exceptions where compensation may not be directed are provided. If the authority is convinced that the delay in wage payment was due to reasons like a genuine error or dispute over the amount, an emergency, exceptional circumstances, or the employee's failure to apply for or accept payment, it may choose not to impose compensation<sup>47</sup>.

An unpaid group is a group of employed individuals with a shared workplace, unlawful wage deduction, or unpaid wages for the same wage period or for the same reason. To avoid the multiplicity of cases, there is a provision to file a single application under section 15 on behalf of multiple individuals in such a group. It also gives the appropriate authority the power to consolidate the separate applications related to the same unpaid group streamlining this resolution process.<sup>48</sup>

An appeal against an order or direction under Section 15(2), (3) or (4) can be filed within thirty days from the order's date, with appeals in Presidency towns going to the Court of Small Causes and elsewhere to the District Court. Employers can appeal if the total directed payment for wages and compensation exceeds three hundred rupees or imposes a liability exceeding one thousand rupees, while employed individuals, their representatives, authorized trade union officials, Inspectors, or other approved individuals could appeal if wages withheld exceed twenty rupees for an individual or a group. Those directed to pay a penalty under Section 15(4) can also appeal. An appeal under clause (a) necessitates a certificate from the authority confirming the deposited amount. The court can refer legal questions to the High Court for a decision if it deems fit, and it must abide by the High Court's decision on such matters.<sup>49</sup>

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<sup>46</sup> The Payment of Wages Act, S15 (3)

<sup>47</sup> The Payment of Wages Act, S15 (3) Proviso

<sup>48</sup> The Payment of Wages Act, S16

<sup>49</sup> The Payment of Wages Act, S17

## 5. NEW WAGE CODE

The definition of ‘employee’ in the code has widened the scope by removing the quantitative bar of minimum wages as required by the 1936 Act<sup>50</sup>.

Similarly, the definition of ‘wages’ has been made more comprehensive as it provides a list of remunerations that are to be included and excluded from the term wages while providing for the computation of wages and stressing equal wages to all genders<sup>51</sup>.

The Act makes an express mention of the time limit for payment of wages for various wage periods securing the interests of the employees. These limits are: on a daily basis, at the end of the shift; weekly basis, on the last working day of the week i.e., before the weekly holiday; fortnightly basis, before the end of the second day after the end of the fortnight and, on monthly basis, before the expiry of the seventh day of the succeeding month.<sup>52</sup>

It also makes an exception of applicability by stating that it shall not apply to Government establishments unless the Appropriate Government, by notification, applies such provisions to the Government establishments mentioned in the notification.<sup>53</sup>

## 6. AUTHOR’S NOTE

The Payment of Wages Act, 1936 is a central legislation that serves as a cornerstone of labor law in India. The Act’s origins are traced back to the dire need to protect workers from wage exploitation and irregular payments in India’s burgeoning industries. It was enacted to ensure timely and complete payment of wages to employees and prohibit unfair wage deductions. This Act has been essential in upholding workers’ rights in a variety of establishments. Its requirements, which include guidelines on wage payment, permitted deductions, and record-keeping, are intended to enhance openness and fairness in wage payment. In conclusion, the Payment of Wages Act stands as a pivotal and enduring piece of legislation in safeguarding the rights of workers and ensuring equitable wage practices in India’s dynamic labor landscape.

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<sup>50</sup> The Code on Wages, 2019, S 2 (k)

<sup>51</sup> The Code on Wages, 2019, S 2 (y)

<sup>52</sup> The Code on Wages, 2019, S 17

<sup>53</sup> The Code on Wages, 2019, S 25