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Sind Ordinance NO. V of 1986.

THE SIND EMPLOYEES SPECIAL ALLOWANCE (PAYMENT) ORDINANCE, 1986.

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THE SIND EMPLOYEES SPECIAL ALLOWANCE (PAYMENT) ORDINANCE, 1986.

[2nd October,1986.]

An ordinance to provide for payment of a Special allowance to employees.

Preamble.

WHEREAS it is expedient to provide for payment of a Special allowance to employees and for matters ancillary thereto, in the manner hereinafter appearing;

AND WHEREAS the Provincial Assembly is not in session and the Governor of Sind is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, the Governor of Sind is pleased to make and promulgate the following Ordinance:-

Short title and commencement.

1. (1) This Ordinance may be called the Sind Employees Special Allowance (Payment) Ordinance, 1986.

(2) It shall come into force at once and shall be deemed to have taken effect on and from 1st day of July, 1968.

Definition.

2. In this Ordinance unless there is anything repugnant to the subject or contexts:-

(a) "employee" means any person employed, whether directly or through or by any other person for wages, to do any skilled or unskilled, intellectual, technical, clerical, manual or other work in, or in connection with the affairs or, an undertaking under any contract of service or apprenticeship, whether written or oral, express or implied and includes such a person when laid off;

(b) "employer" in relation to an undertaking, means any persons who employs, either directly or through or by any other person, whether on behalf of himself or any other person, any employees, and includes—

(i) a body of persons, whether incorporated or not;

(ii) a person who has ultimate control over the affairs of an undertaking, including the owner of the undertaking or where the affairs of any undertaking are entrusted to any other person (whether called a managing agent, director, manager, agent, superintendent, secretary, representative of the owner or by any other name), such other person, or in any other case, any person responsible to the owner for supervision and control of an employee or for payment of his wages; and

(iii) an heir, successor, administrator or assign, as the case may be, of such person or association of persons;

(c) "Government" means the Government of Sind;

(d) "Special allowance" means an amount payable under the provisions of this Ordinance;

(e) "undertaking" means—

(i) an establishment to which the West Pakistan Shops and Establishment Ordinance, 1969, for the time being applies, and, notwithstanding anything contained in section 5 thereof, includes clubs, hotels and messes not maintained for profit or gain and establishments for the treatment or care of the sick, infirm, and destitute or mentally unfit persons;

(ii) a construction industry to which the West Pakistan Industrial and Commercial Employment (Standing Orders)Ordinance, 1968, for the time being applies;

(iii) a factory as defined in the Factories Act, 1934;

(iv) a mine as defined in the Mines Act, 1923;

(v) a road transport service as defined in the Road Transport Workers Ordinance, 1961; and

(vi) a newspaper establishment as defined in the

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Newspaper Employees (Conditions of Service) Act, 1973; and

includes any class of establishments which Government may by notification in the official Gazette, declare to be undertakings for the purposes of this Ordinance;

(f) "wages" means remuneration for services payable in cash to an employee without taking account of deductions for any purpose, under a contract of service or apprenticeship, written, oral, express or implied and includes any dearness allowance or other addition in respect of the cost of living playable under any law for the time being in force; but does not include-

(i) any payment for overtime; or
(ii) any sum paid to an employee to defray special expenses entailed by the nature of his employment; or
(iii) contribution of Provincial Fund; or
(iv) any gratuity playable on discharge; or
(v) any sum paid as bonus;

3. Every employee whose wages do not exceed one thousand rupees shall, in respect of his employment on or after the 1st day of July, 1986, be paid by his employer as special allowance-- **Special Allowance.**

(a) equal to fifty rupees per month, if his wages do not exceed one thousand rupees; or

(b) at such rate as, together with his wages, make a total of one thousand rupees per month, if his wages are more than nine hundred fifty rupees.

4. Every employer shall be responsible for the payment of the special allowance required to be paid under this Ordinance. **Responsibility for payment of Special Allowance.**

5. The special allowance shall be paid alongwith wages in accordance with any custom, usage, practice or law applicable to the undertaking. **Time for payment of special allowance.**

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6. **Claims for recovery, or delay in payment of special allowance.**

Where contrary to the provisions of this Ordinance, the special allowance of any employee has been withheld or delayed such worker himself or through any other person authorized by him in this behalf may apply-

(a) in the case of an establishment to which the West Pakistan Shops and Establishment Ordinance, 1969, for the time being applies, to the authority appointed under sub-section(1) of section 12 thereof having jurisdiction and the provisions of the said section and sections 11, 13, 21, 23, 30 and 32 of that Ordinance shall, so far as may be and with the necessary modifications, apply for the purposes of recovery of the special allowance; and

(b) in any other case, to the authority appointed under sub-section (1) of section 15 of the Payment of Wages Act, 1936, having Jurisdiction and the provisions of the said section and sections 6, 16, 17, 18, 19, 22, 23 and 26 of the said Act shall so far as may be and with the necessary modifications, apply for the purposes of recovery of the special allowance.

7. **Special allowance shall not to form part of wages.**

Notwithstanding anything contained in this Ordinance or any other law for the time being in force, the special allowance shall not form part of wages of a worker for the purposes of any other law, including the purposes of contribution to provident fund, gratuity, bonus and calculating wages for overtime work.

8. **Penalty.**

Any employer who contravenes any provision of the Ordinance shall be punishable with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

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9. No court shall take cognizance of any offence under this Ordinance save on a complaint made by an aggrieved employee or by an officer of a registered trade union of which such employee is a member, or by any person authorized in this behalf by Government. **Cognizance of offences.**

1. The said ordinance has been repealed by Sindh Act No. X of 1986.