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मध्यप्रदेश राजपत्र

प्राधिकार से प्रकाशित

क्रमांक 8]

भोपाल, शुक्रवार, दिनांक 25 फरवरी 2011—फाल्गुन 6, शक 1932

भाग ४

विषय-सूची

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| (क) (1) मध्यप्रदेश विधेयक, | (2) प्रवर समिति के प्रतिवेदन, | (3) संसद में पुरःस्थापित विधेयक. |
| (ख) (1) अध्यादेश, | (2) मध्यप्रदेश अधिनियम, | (3) संसद के अधिनियम. |
| (ग) (1) प्रारूप नियम, | (2) अन्तिम नियम. | |

भाग ४ (क)—कुछ नहीं

भाग ४ (ख)

संसद् के अधिनियम

विधि और विधायी कार्य विभाग

Bhopal, the 8th February 2011

No. 897-43-21-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section 1, dated the 22nd December, 2009 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 22nd December, 2009.

By order and in the name of the Governor of Madhya Pradesh,
RAJESH YADAV, Addl. Secy.

THE ESSENTIAL COMMODITIES (AMENDMENT AND VALIDATION) ACT, 2009

(Act No. 36 of 2009)

An Act further to amend the Essential Commodities Act, 1955 and to make provisions for validation of certain orders issued by the Central Government determining the price of levy sugar and actions taken under those orders and for matters connected therewith.

WHEREAS a Bench of three Judges of the Hon'ble Supreme Court in the case of Modi Industries Ltd. and Another *versus* Union of India and Others on the 20th February, 1996 reported in (1999) 9 SCC 245, accepted the statement made on behalf of the Union of India that while determining the minimum cane price of levy sugar, regard had been given only to the minimum cane price referred to in section 3(3C) of the Essential Commodities Act, 1955 and that the additional cane price payable under clause 5A of the Sugarcane (Control) Order, 1966 had not been taken into account and held that the case was not covered by the decision of the Supreme Court dated 22-9-1993 in Shri Malaprabha Coop. Sugar Factory Ltd. *versus* Union of India [(1994) 1 SCC 648 Malaprabha (1)];

AND WHEREAS subsequently the decision of a Bench of three Judges of the Supreme Court dated 28-1-1997 in the case of Shri Malaprabha Coop. Sugar Factory Ltd. *versus* Union of India (Malaprabha 2) (1997) 10 SCC 216 held that the decision in Modi Industries' case did not have any bearing on the fixation of price of levy sugar for the year 1975-1976 to 1979-1980;

AND WHEREAS the decision of the Bench of three Judges in Modi Industries Ltd. and Another *versus* Union of India and others was followed in the case of Bharat Sugar Mills Ltd. and another *versus* Union of India, (decided on 19th August, 1998) after noticing the judgments in Shri Malaprabha Coop. Sugar Factory Ltd. (Malaprabha 1) and Shri Malaprabha Coop. Sugar Factory Ltd. [(Malaprabha 2)];

AND WHEREAS in the case of Union of India and Others *versus* Triveni Engineering Works Ltd. (1999) 9 SCC 244, by judgment dated 2-2-1999, the appeal of the Union of India was allowed relying upon the decision in Modi Industries Ltd. and the decision of the Bench of two Judges of the Supreme Court in Bharat Sugar Mills Ltd.;

AND WHEREAS in Shri Malaprabha Coop. Sugar Factory Ltd. *Versus* Union of India, [(2002) 9 SCC 716] (Malaprabha 3) Contempt Petitions filed against the Union of India for alleged non-compliance with the decision in Malaprabha 1 and Malaprabha 2, were dismissed by order dated 16-11-2000 and the working statement given before the Hon'ble Court showed that the retention of fifty per cent. being a factor which can be taken into consideration in determining element (d) in section 3(3C) of the Essential Commodities Act was taken into account, not to the extent as desired by the petitioners, but the result of this was that the levy price fixed at Rs 163,780 in respect of West U.P. had gone up to Rs. 172,430, the Hon'ble Supreme Court held that "the said fixation is in accordance with law and the directions given by this Court have been complied with. Neither a case for contempt has been made out nor is there any justification, in our opinion, for giving any direction to the Government to re-fix the levy price under section 3(3C) of the Essential Commodities Act.";

AND WHEREAS notwithstanding the judgment in the Modi Industries case, the Bharat Sugar Mills case, and the Triveni Engineering Works Ltd. case and the judgment of a Bench of three Judges of the Hon'ble Supreme Court in Shri Malaprabha Coop. Sugar Factory Ltd. (Malaprabha 3), a Bench of two Judges of the Hon'ble Supreme Court in Mahalakshmi Sugar Mills Coop. Ltd. and Anr. *Versus* Union of India and Others (2008) 6 SCALE 275, in a judgment dated 31st March, 2008, in relation to sugar seasons 1983-1984 and 1984-1985, held that the actual price payable to cane growers was absolutely relevant for determining the price of levy sugar;

AND WHEREAS there are thus conflicting decisions as to the factors to be taken into consideration in determining the price of levy sugar;

AND WHEREAS it has become necessary to make suitable amendments to the Essential Commodities Act, 1955 to clarify and reiterate the underlying principles and the factors that needed to be taken into consideration in determining the price of levy sugar and to give effect accordingly;

10 of 1955.

AND WHEREAS in order to remove doubts and ambiguities it has become necessary to make such provisions with retrospective effect to validate the determination of the price of levy sugar by the Central Government from time to time pursuant to the provisions of the Essential Commodities Act, 1955.

10 of 1955.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Essential Commodities (Amendment and Validation) Act, 2009.

(2) It shall be deemed to have come into force on the 21st day of October, 2009.

Amendment of section 3.

2. In section 3 of the Essential Commodities Act, 1955 (hereinafter referred to as the principal Act)—

10 of 1955.

(a) in sub-section (3C), the existing *Explanation* shall be numbered as *Explanation I*, and after *Explanation I* as so numbered, the following *Explanation* shall be inserted and shall be deemed to have been inserted, with effect from the 1st day of October, 1974, namely:—

Explanation II.—For the removal of doubts, it is hereby declared that the expressions "minimum price" referred to in clause (a), "manufacturing cost of sugar" referred to in clause (b) and "reasonable return on the capital employed" referred to in clause (d) exclude the additional price of sugarcane paid or payable under clause 5A of the Sugarcane (Control) Order, 1966 and any price paid or

payable under any order or enactment of any State Government and any price agreed to between the producer and the grower of sugarcane or a sugarcane growers' co-operative society.';

(b) for sub-section (3C) and the *Explanations* thereunder, the following shall be substituted, and shall be deemed to have been substituted, on and from the 1st day of October, 2009, namely:—

'(3C) Where any producer is required by an order made with reference to clause (f) of sub-section (2) to sell any kind of sugar (whether to the Central Government or to a State Government or to an officer or agent of such Government or to any other person or class of persons) whether a notification was issued under sub-section (3A) or otherwise, then, notwithstanding anything contained in sub-section (3), there shall be paid to that producer only such amount as the Central Government may, by order, determine, having regard to—

(a) the fair and remunerative price, if any, determined by the Central Government as the price of sugarcane to be taken into account under this section;

(b) the manufacturing cost of sugar;

(c) the duty or tax, if any, paid or payable thereon; and

(d) a reasonable return on the capital employed in the business of manufacturing of sugar:

Provided that the Central Government may determine different prices, from time to time, for different areas or factories or varieties of sugar:

Provided further that where any provisional determination of price of levy sugar has been done in respect of sugar produced up to the sugar season 2008-2009, the final determination of price may be undertaken in accordance with the provisions of this sub-section as it stood immediately before the 1st day of October, 2009.

Explanation.— For the purposes of this sub-section,—

(a) "fair and remunerative price" means the price of sugarcane determined by the Central Government under this section;

(b) "manufacturing cost of sugar" means the net cost incurred on conversion of sugarcane into sugar including net cost of transportation of sugarcane from the purchase centre to the factory gate, to the extent it is borne by the producer;

(c) "producer" means a person carrying on the business of manufacturing sugar;

(d) "reasonable return on the capital employed" means the return on net fixed assets plus working capital of a producer in relation to manufacturing of sugar including procurement of sugarcane at a fair and remunerative price determined under this section.'.

3. (1) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority—

(a) all things done or all actions taken by the Central Government under the specified orders shall be deemed to be and deemed to have always been done or taken in accordance with law;

(b) no suit, claim or other proceedings shall be instituted, maintained or continued in any court, tribunal or other authority for the payment or adjustment of any payment in relation to the determination of price of levy sugar under any specified order:

Validation of action taken, etc., under specified orders issued under sub-section (3C) of section 3 of the principal Act.

(c) no court shall enforce any decree or order directing any payment in relation to the determination of price of levy sugar under any specified order;

(d) no claim or challenge shall be made in, or entertained by any court, tribunal or other authority on the ground that the Central Government did not take into consideration any of the factors specified in sub-section (3C) of section 3 of the principal Act in the determination of price of levy sugar under any specified order.

(2) In this section, "specified order" means any order relating to the determination of price of sugar issued under sub-section (3C) of section 3 of the principal Act before the 21st day of October, 2009, in relation to sugar produced in any sugar season up to and including the sugar season 2008-2009.

Repeal and saving.

4. (1) The Essential Commodities (Amendment and Validation) Ordinance, 2009, is hereby repealed.

Ord. 9 of 2009.

(2) Notwithstanding the repeal of the Essential Commodities (Amendment and Validation) Ordinance, 2009, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall, subject to the provisions contained in sub-section (3), be deemed to have been done or taken under the principal Act, as amended by this Act.

Ord. 9 of 2009.

(3) Nothing contained in sub-section (2) shall apply to clause 3B of the Sugarcane (Control) Order, 1966, as inserted by the Government of India in the Ministry of Consumer Affairs, Food and Public Distribution Order number S.O. 266 (E)/Ess Com./Sugarcane dated the 22nd October, 2009 or any thing done or any action taken thereunder.

Bhopal, the 8th February 2011

No. 897-43-21-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section 1, dated the 23rd December, 2009 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 22nd December, 2009.

By order and in the name of the Governor of Madhya Pradesh,
RAJESH YADAV, Addl. Secy.

THE REPRESENTATION OF THE PEOPLE (AMENDMENT) ACT, 2009

(Act No. 41 of 2009)

An Act further to amend the Representation of the People Act, 1950 and the Representation of the People Act, 1951.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2009. Short title and commencement.
(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

CHAPTER II

AMENDMENTS TO THE REPRESENTATION OF THE PEOPLE ACT, 1950

43 of 1950.

2. In section 24 of the Representation of the People Act, 1950,— Amendment of section 24.
(i) in clause (a), for the words “chief electoral officer”, the words “district magistrate or additional district magistrate or executive magistrate or district collector or an officer of equivalent rank” shall be substituted;

(ii) after clause (a), the following clause shall be inserted, namely:—

“(b) to the chief electoral officer, from any order of the district magistrate or the additional district magistrate under clause (a).”.

Amendment of the Second Schedule.

3. In the Second Schedule to the Representation of the People Act, 1950, against serial number 18 relating to the State of Mizoram, in column 7, for the entry “38”, the entry “39” shall be substituted. 43 of 1950.

CHAPTER III

AMENDMENTS TO THE REPRESENTATION OF THE PEOPLE ACT, 1951

Amendment of section 8A.

4. In the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), in sub-section (1) of section 8A, for the words “as soon as may be after such order takes effect”, the words “as soon as may be within a period of three months from the date such order takes effect” shall be substituted. 43 of 1951.

Amendment of section 34.

5. In section 34 of the principal Act, in sub-section (1),—

(i) in clause (a), for the words “a sum of ten thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of five thousand rupees”, the words “a sum of twenty-five thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of twelve thousand five hundred rupees” shall be substituted;

(ii) in clause (b), for the words “a sum of five thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of two thousand five hundred rupees”, the words “a sum of ten thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of five thousand rupees” shall be substituted.

Amendment of section 123.

6. In section 123 of the principal Act, in clause (7),—

(i) for the words “from any person in the service of the Government”, the words “from any person whether or not in the service of the Government” shall be substituted;

(ii) after sub-clause (g), the following sub-clause shall be inserted, namely:—

“(h) class of persons in the service of a local authority, university, government company or institution or concern or undertaking appointed or deputed by the Election Commission in connection with the conduct of elections.”.

Insertion of new sections 126A and 126B

7. After section 126 of the principal Act, the following sections shall be inserted, namely:—

Restriction on publication and dissemination of result of exit polls, etc.

126A. (1) No person shall conduct any exit poll and publish or publicise by means of the print or electronic media or disseminate in any other manner, whatsoever, the result of any exit poll during such period, as may be notified by the Election Commission in this regard.

(2) For the purposes of sub-section (1), the Election Commission shall, by a general order, notify the date and time having due regard to the following, namely:—

(a) in case of a general election, the period may commence from the beginning of the hours fixed for poll on the first day of poll and continue till half an hour after closing of the poll in all the States and Union territories:

(b) in case of a bye-election or a number of bye-elections held together, the period may commence from the beginning of the hours fixed for poll on and from the first day of poll and continue till half an hour after closing of the poll:

Provided that in case of a number of bye-elections held together on different days, the period may commence from the beginning of the hours fixed for poll on the first day of poll and continue till half an hour after closing of the last poll.

(3) Any person who contravenes the provisions of this section shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

Explanation.— For the purposes of this section,—

(a) “exit poll” means an opinion survey respecting how electors have voted at an election or respecting how all the electors have performed with regard to the identification of a political party or candidate in an election;

(b) “electronic media” includes internet, radio and television including Internet Protocol Television, satellite, terrestrial or cable channels, mobile and such other media either owned by the Government or private person or by both;

(c) “print media” includes any newspaper, magazine or periodical, poster, placard, handbill or any other document;

(d) “dissemination” includes publication in any “print media” or broadcast or display on any electronic media.

126B. (1) Where an offence under sub-section (2) of section 126A has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purpose of this section,—

(a) “company” means any body corporate, and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.’.

Bhopal, the 8th February 2011

No. 897-43-21-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section 1, dated the 23rd December, 2009 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 22nd December, 2009.

By order and in the name of the Governor of Madhya Pradesh,
RAJESH YADAV, Addl. Secy.

THE WORKMEN'S COMPENSATION (AMENDMENT) ACT, 2009

(Act No. 45 of 2009)

An Act further to amend the Workmen's Compensation Act, 1923.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Workmen's Compensation (Amendment) Act, 2009.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

- Amendment of long title. 2. In the long title to the Workmen's Compensation Act, 1923 (hereinafter referred to as the principal Act), for the word "workmen", the word "employees" shall be substituted. 8 of 1923.
- Amendment of preamble. 3. In the principal Act, in the preamble, for the word "workmen", the word "employees" shall be substituted.
- Amendment of section 1. 4. In section 1 of the principal Act, in sub-section (1), for the word "Workmen's", the word "Employee's" shall be substituted.
- Substitution of references to certain expressions by certain other expressions. 5. Throughout the principal Act, for the words "workman" and "workmen", wherever they occur, the words "employee" and "employees" shall respectively be substituted, and such other consequential amendments as the rules of grammar may require shall also be made.
- Amendment of section 2. 6. In section 2 of the principal Act, in sub-section (1),—
 (i) after clause (d), the following clause shall be inserted, namely:—
 '(dd) "employee" means a person, who is—
 (i) a railway servant as defined in clause (34) of section 2 of the Railways Act, 1989, not permanently employed in any administrative district or sub-divisional office of a railway and not employed in any such capacity as is specified in Schedule II; or 24 of 1989.
 (ii) (a) a master, seaman or other member of the crew of a ship,
 (b) a captain or other member of the crew of an aircraft,
 (c) a person recruited as driver, helper, mechanic, cleaner or in any other capacity in connection with a motor vehicle,
 (d) a person recruited for work abroad by a company,
 and who is employed outside India in any such capacity as is specified in Schedule II and the ship, aircraft or motor vehicle, or company, as the case may be, is registered in India; or
 (iii) employed in any such capacity as is specified in Schedule II, whether the contract of employment was made before or after the passing of this Act and whether such contract is expressed or implied, oral or in writing; but does not include any person working in the capacity of a member of the Armed Forces of the Union; and any reference to any employee who has been injured shall, where the employee is dead, include a reference to his dependants or any of them;';
 (ii) clause (n) shall be omitted.
- Amendment of section 4. 7. In section 4 of the principal Act,—
 (a) in sub-section (1),—
 (i) in clause (a), for the words "eighty thousand rupees", the words "one lakh and twenty thousand rupees" shall be substituted;
 (ii) in clause (b), for the words "ninety thousand rupees", the words "one lakh and forty thousand rupees" shall be substituted;
 (iii) after clause (b), the following proviso shall be inserted, namely:—
 "Provided that the Central Government may, by notification in the Official Gazette, from time to time, enhance the amount of compensation mentioned in clauses (a) and (b).";
 (iv) after clause (b), Explanation II shall be omitted;

(b) after sub-section (1A), the following sub-section shall be inserted, namely:—

“(1B) The Central Government may, by notification in the Official Gazette, specify, for the purposes of sub-section (1), such monthly wages in relation to an employee as it may consider necessary.”;

(c) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The employee shall be reimbursed the actual medical expenditure incurred by him for treatment of injuries caused during the course of employment.”;

(d) in sub-section (4),—

(A) for the words “two thousand and five hundred rupees”, the words “not less than five thousand rupees” shall be substituted;

(B) the following proviso shall be inserted, namely:—

“Provided that the Central Government may, by notification in the Official Gazette, from time to time, enhance the amount specified in this sub-section.”.

8. In section 20 of the principal Act, in sub-section (1), after the words “appoint any person”, the words “who is or has been a member of a State Judicial Service for a period of not less than five years or is or has been for not less than five years an advocate or a pleader or is or has been a Gazetted Officer for not less than five years having educational qualifications and experience in personnel management, human resource development and industrial relations” shall be inserted.

Amendment of section 20.

9. After section 25 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 25A

“25 A. The Commissioner shall dispose of the matter relating to compensation under this Act within a period of three months from the date of reference and intimate the decision in respect thereof within the said period to the employee.”.

Time limit for disposal of cases relating to compensation.

10. In Schedule II to the principal Act,—

Amendment of Schedule II

(i) for the word, figures, brackets and letter “section 2(1)(n)”, wherever they occur, the word, figures, brackets and letters “section 2(1)(dd)” shall be substituted;

(ii) in item (i), for the words “employed, otherwise than in a clerical capacity or on a railway”, the words “employed in railways” shall be substituted;

(iii) in item (ii), the words “otherwise than in a clerical capacity” shall be omitted;

(iv) in item (iii), the words “wherein or within the precincts whereof twenty or more persons are so employed” shall be omitted;

(v) in item (v), the words “other than clerical work” shall be omitted;

(vi) in item (vi),—

(a) clause (b) shall be omitted;

(b) in clause (c), the words, brackets and letter “or sub-clause (b)” shall be omitted;

(vii) in item (v), the words “otherwise than in a clerical capacity” shall be omitted;

(viii) in item (xiv), the words “otherwise than in a clerical capacity” shall be omitted;

(ix) in item (xvi), the words “in which on any one day of the preceding twelve months more than twenty-five persons have been employed” shall be omitted;

(x) for item (xviii), the following item shall be substituted, namely:—

“(xviii) employed on any estate which is maintained for the purpose of growing cardamom, cinchona, coffee, rubber or tea; or”;

(xi) in item (xix), the words “otherwise than in a clerical capacity” shall be omitted;

(xii) in item (xxvi),—

(a) in clause (a), the words “and in which on any one day of the preceding twelve months ten or more persons have been so employed” shall be omitted;

(b) in clause (b), the words “in which on any one day of the preceding twelve months fifty or more persons have been so employed” shall be omitted;

(xiii) in item (xxx), the words “otherwise than in a clerical capacity” shall be omitted;

(xiv) in items (xl) and (xli), the words “in which on any one day of the preceding twelve months more than twenty-five persons have been employed” shall be omitted;

(xv) the *Explanation* occurring after item (xlix) at the end shall be omitted.

Bhopal, the 8th February 2011

No. 897-43-21-A(Dr).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section 1, dated the 31st December, 2009 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 31st December, 2009.

By order and in the name of the Governor of Madhya Pradesh,
RAJESH YADAV, Addl. Secy.

THE NATIONAL RURAL EMPLOYMENT GUARANTEE
(AMENDMENT) ACT, 2009

(Act No. 46 of 2009)

An Act to amend the National Rural Employment Guarantee Act, 2005.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the National Rural Employment Guarantee (Amendment) Act, 2009.

(2) It shall be deemed to have come into force on the 2nd day of October, 2009.

42 of 2005.

2. In the National Rural Employment Guarantee Act, 2005, in sub-section (1) of section 1, for the words "the National Rural Employment Guarantee Act", the words "the Mahatma Gandhi National Rural Employment Guarantee Act" shall be substituted.

Amendment of section 1.

The above Bill has been passed by the Houses of Parliament.

Dated the

Chairman.

I assent to this Bill.

Dated the

President.

Bhopal, the 8th February 2011

No. 897-43-21-A(Dr.).—The following Act of the Parliament, published in the Gazette of India, Extra-ordinary Part II, Section 1, dated the 31st December, 2009 is hereby republished for general information. The Bill as passed by the House of Parliament received the assent of the President on 31st December, 2009.

By order and in the name of the Governor of Madhya Pradesh,
RAJESH YADAV, Addl. Secy.

THE PAYMENT OF GRATUITY (AMENDMENT) ACT, 2009

(Act No. 47 of 2009)

An Act further to amend the Payment of Gratuity Act, 1972.

BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Payment of Gratuity (Amendment) Act, 2009.

Short title and commencement.

(2) It shall be deemed to have come into force on the 3rd day of April, 1997.

39 of 1972.

2. In the Payment of Gratuity Act, 1972 (hereinafter referred to as the principal Act), in section 2, for clause (e), the following clause shall be substituted, namely:—

Amendment of section 2.

'(e) "employee" means any person (other than an apprentice) who is employed for wages, whether the terms of such employment are express or implied, in any kind of work, manual or otherwise, in or in connection with the work of a factory, mine, oilfield, plantation, port, railway company, shop or other establishment to which this Act applies, but does not include any such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity;'

Insertion of
new section
13A.

Validation of
payment of
gratuity.

3. After section 13 of the principal Act, the following section shall be inserted, namely:—

"13A. Notwithstanding anything contained in any judgment, decree or order of any court, for the period commencing on and from the 3rd day of April, 1997 and ending on the day on which the Payment of Gratuity (Amendment) Act, 2009, receives the assent of the President, the gratuity shall be payable to an employee in pursuance of the notification of the Government of India in the Ministry of Labour and Employment *vide* number S.O. 1080, dated the 3rd day of April, 1997 and the said notification shall be valid and shall be deemed always to have been valid as if the Payment of Gratuity (Amendment) Act, 2009 had been in force at all material times and the gratuity shall be payable accordingly:

Provided that nothing contained in this section shall extend, or be construed to extend, to affect any person with any punishment or penalty whatsoever by reason of the non-payment by him of the gratuity during the period specified in this section which shall become due in pursuance of the said notification."

The above Bill has been passed by the Houses of Parliament.

Dated the

Chairman.

I assent to this Bill.

Dated the

President.

भाग ४ (ग)—कुछ नहीं