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MASTER CIRCULAR

Master Circular No. 26

Contract Labour under Contract Labour (Regulation & Abolition) Act, 1970.

Contract Labour under Contract Labour (Regulation & Abolition) Act, 197

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CONTRACT LABOUR UNDER CONTRACT LABOUR (REGULATION & ABOLITION) ACTS, 197

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Master Circular No. 26/91, on the subject cited above was last circulated to the Railways vide Railway Board's Circular No. E(LL)91/AT/CNR/1-13 dated 24.4.91 (RBE 86/1991) which has now been up-dated and issued as under :-

2. The Central Government, in order to regulate the employment of contract labour, brought out the Contract Labour (Regulation and Abolition) Act, 1970 and the Rules made thereunder in 1971, effective from 10.02.1971.

(Authority: Contract Labour (Regulation & Abolition) Act, 1970 and the Rules made thereunder and Amendments issued from time to time.)

Some of the important provisions of the Act and the rules made thereunder are reproduced below for convenience sake: —

2(1) Applicability: - It applies

- a. To every establishment in which 20 or more workmen are employed or were employed on any day of the preceding 12 months as contract labour, and
- b. To every contractor who employs or who employed on any day of the preceding 12 months 20 or more workmen.

Note:

- i. The Central Government may, by Notification in the Official Gazette, apply this Act to any establishment or contractor employing less than 20 workmen.
- ii. The above provision shall not apply to establishment in which work only of an intermittent or casual nature is performed.

2(2) Workman:

A workman shall be deemed to be employed as "Contract Labour" in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer.

2(3) Contractor:

"Contractor", in relation to an establishment, means a person who undertakes to produce a given result for the establishment other than a

mere supply of goods or articles of manufacture to such establishments, through Contract Labour or who supplies Contract Labour for any work of the establishment and includes a sub-contractor.

2(4) Establishment:

- i. Any office or department of the Government or a local authority; or
- ii. Any place where any industry, trade, business, manufacture or occupation is carried on.

2(5) Principal Employer: - Principal employer means: —

- i. In relation to any office or department of the Government or a local authority, the head of that office or department or such other officer as the Government or local authority, as the case may be, may specify in this behalf;
- ii. In a factory, the owner or occupier of the factory and where a person has been named as the Manager of the factory under the Factories Act, 1948, the person so named.

2(6) Registration of an establishment:

Every Principal employer of an establishment to which the Contract Labour (R&A) Act applies shall, within such period as the appropriate Government may, by notification in the Official Gazette, fix with respect to each establishment, make an application to the registering officer in the prescribed manner for registration of the establishment.

3. On the Railways the Divisional Officers in the Divisions, Senior Mechanical Engineers, Deputy Chief Mechanical Engineers or Works Managers (as the case may be) in respect of workshops, District Controllers of Stores in respect of Stores Depots, Executive Engineers in respect of constructions, Heads of Departments in respect of contracts directly controlled by the Headquarters have been nominated "Principal Employer". They are answerable for fulfilling the requirements of the Act and the Rules as representatives of the Railway Establishments under their administrative control.

[Railway Board's letter No. [E\(LL\)70AT/CNR/1-3 dated 15.10.1971](#)]

4. In accordance with the provisions of Rule 17 and Form I, prescribed for registration of establishment under the Contract Labour (R&A) Act and Rules 1971, it is not necessary for a "Principal Employer" to apply for registration separately for each and every establishment where contract labour is employed. The "Principal Employer" is required to register all his establishments collectively at a time where contractors are engaged and which fall within the jurisdiction of the same Registration Officer. However, if some of the establishments under "Principal Employer" fall under the jurisdiction of two or more Registration Officers, separate application to each Registration Officer has to be sent.

[Railway Board's letter No. [E\(LL\)73AT/CNR/1-15 dated 14.09.1973](#)]

5. Rule 18(4) of the Contract Labour (R&A) Rules, 1971, require that if, in relation to an establishment, there is any change in the particulars specified in the certificate of registration, the "Principal Employer" of the establishment should intimate to the Registering officer within thirty days from the date when such change takes place, the particulars of and the reasons for such change. Failure to do this would mean prosecution of the "Principal Employer".

[Railway Board's letter No. [E\(LL\)73AT/CNR/1-15 dated 24.10.1973](#)]

6. Contract Labour (Regulation & Abolition) Act, 1978 is applicable to RDSO/ Lucknow also.

[Rly. Board's letter No. E(LL)74/AT/CNR/1-15 dated 10.74]

7. Employment of Contract Labour on and from 01.03.1977 for sweeping, cleaning, dusting and watching of buildings owned and occupied by establishments in respect of which the appropriate Government is the Central Government is prohibited.

[Railway Board's letter Nos. [E\(LL\)77 AT/CNR/1-1 dated 14.01.1977](#) & [E\(LL\)82AT/CNR/1-28 dated 06.01.1983](#)]

7.1. With effect from 28.07.1987, employment of Contract Labour in the work of cleaning in Catering establishments and pantry cars on Railways is prohibited.

[Railway Board's letter No. [E\(LL\)87AT/CNR/1- 27 dated 15.09.1987](#)]

8. Provisions of Contract Labour (R&A) Act and the Rules made thereunder do not apply to establishments like Vegetarian/Non-vegetarian Refreshment Rooms, other Refreshment Rooms, Tea-stalls curio shops run by private individuals on obtaining licenses from the Railways.

[Railway Board's letter No. [E\(LL\)70AT/CNR/1-3 dated 06.04.1973](#)]

9. Employment of Female workers under contractors, including Co-operative Societies, in Railway premises in the night between 10 p.m. and 6 a.m. should be avoided.

[Railway Board's letter No. [81/E\(Co-op\)/11/3 dated 18.09.1981](#)]

10. The provisions of Contract Labour (R&A) Act, 1970, should be kept in view when rates for Labour Contract Societies are decided.

[Nos. [72/E\(Co-op\)L/10/4 dated 28.09.1972](#) & [84/E\(Co-op\)/14/14 dated 15.11.85](#) (RBE 300/85)]

11. Under the Contract Labour (R&A) Act, 1970 and the Rules 1971 the Contractor who employs the labour is required to provide certain basic amenities like canteens, rest rooms, drinking water, urinals, First Aid etc. It is the "Principal Employer's" responsibility to see that the contractor comply with the requirements of the Act. In case these facilities are not provided by the contractor, the same will be provided by the Principal Employer and all the expenses incurred will be recovered from the contractor.

[Authority: Chapter V of Contract Labour (R&A) Act, 1970]

11.1 Similarly, the Principal Employer should ensure that payment of wages is made by the contractor to all the workmen employed falling which the Principal Employer should make the payment and recover the same from the contractor subsequently.

11.2 Wherever the work done by the contract labour and the Casual/Temporary workers on the Railways is same or of similar kind, for the purpose of determining what should be payable to contract labour, comparison should be made with wages etc. paid by the "Principal Employer" to the casual labour employed by him directly.

[Railway Board's letter No. [E\(LL\)75 AT/CNR/1-7 dated 06.04.1977](#)]

10.3 Where, however, such a comparison is not possible on account of non-employment of Casual Labour/Temporary workers by the "Principal Employer" and the "Principal Employer" is of the view that the wages paid by the contractor is unreasonably low, i.e., even lower than the rates paid under the Minimum Wages Act, and where the Minimum Wages Act is not applicable

to such employees, the wages, on being reported by the "Principal Employer", will be fixed by the Chief Labour Commissioner (Central).

12. In the case of contracts awarded to the Labour Co-operative Societies also it should be ensured, during the currency of the contract, that the contractor provide all the amenities/ conveniences as laid down in the Contract Labour (R&A) Act, 1970. Failure on the part of the Labour Co-operative Society to do so will lead to action being taken against them under the Act.

[Railway Board's letter No. [82/E\(Co-op\)/12/15 dated 24.9.87](#) (RBE 233/87)]

13. Every "Principal Employer" is required to maintain and exhibit such registers and records giving particulars of contract labour employed, the nature of work performed, the rates of wages paid etc., in such forms as prescribed under the Act & Rules.

[Authority: Para 29 of Chapter VII of the Act 1970 & Rules 1971]

14. The Railways (if they are not already having) should make arrangements to have an up-to-date copy of the Contract Labour (R&A) Act, 1970 and the Rules 1971 with all the amendments issued from time to time and follow the provisions as laid down in consultation with their FA & CAOs strictly.

[Railway Board's letter No. [E\(LL\)70AT/CNR/1-3 dated 15.10.1971](#)]

15. Employment of contract labour in painting of signals and signal posts on Indian Railways is prohibited. A copy of Ministry of Labour's Notification No. U-23013/33/86-LW dated 27.12.90 was circulated to all Indian Railways.

[Rly. Board's letter No. E(LL)87/AT/CNR/1-52 dated 1. 1991]

16. Abolition of Contract Labour. System in Railways at Sabarmati Dump

The Central Government (Ministry of labour) has decided not to prohibit employment of contract labour at Sabarmati Transport Coal Dump. A copy of Ministry of labour's No. 5-16014/10/91-LW dated 4/9-1-95 was forwarded to Western Railway, Mumbai.

[Rly. Board's letter No. E(LL)92/AT/CNR/71 (K/W) dated 23.1.95]

17. Privatisation of sanitation work in Railway Colonies.

In the case of residential quarters for officers of Reserve Bank of India, the Hon'ble High Court have held that the residential quarters are not covered by the definition of 'Establishment' in the Contract Labour (R&A) Act, 1970. A copy of the judgment dated 29.7.92 delivered by the high Court of Kerala (1992-II-CLR-593) was circulated to all Indian Railways and Production Units.

[Rly. Board's letter No. [E\(LL\)94/AT/CNR/47 dated 1. 3.95](#) (RBE 21/1995)]

18. Working of contract labour system in the work of loading and unloading in Southern Railways.

The Central Government (Ministry of labour) has decided not to prohibit employment of contract labour in the work of loading and unloading in Southern Railways. In this regard, a copy of Ministry of Labour's letter No. U-23013/10/89-LW dated 4.1.96 was forwarded to Southern Railway.

[Rly. Board's letter No. E(LL)92/AT/CNR/2 dated 25.1.1996]

19. General:

- a. While referring to this Circular, the original letters referred to herein should be read for a proper appreciation. This circular is only a consolidation of the

instructions issued so far and should not be treated as a substitution to the originals. In case of doubt, the original circular should be relied upon as authority.

- b. The instructions contained in the original circulars referred to have only prospective effect from the date of issue unless specifically indicated otherwise in the concerned circular. For dealing with old cases, the instructions in force at the relevant time should be referred to; and
- c. If any circular on the subject, which has not been superseded, has not been taken into consideration while preparing this consolidated letter, the said circular, which has been missed through oversight, should be treated as valid and operative. Such a missing circular, if any, may be brought to the notice of the Railway Board.

List of circulars from which the consolidation has been made.

1. [E\(LL\)70AT/CNR/1-3 dated 15.10.1971](#)
2. [72/E\(Co-op\)L/10/4 dated 28.09.1972](#)
3. [E\(LL\)70AT/CNR/1-3 dated 06.04.1973](#)
4. [E\(LL\)73AT/CNR/1-15 dated 14.09.1973](#)
5. [E\(LL\)73AT/CNR/1-15 dated 24.10.1973](#)
6. [E\(LL\)77 AT/CNR/1-1 dated 14.01.1977](#)
7. [E\(LL\)75 AT/CNR/1-7 dated 06.04.1977](#)
8. [81/E\(Co-op\)/11/3 dated 18.09.1981](#)
9. [E\(LL\)82AT/CNR/1-28 dated 06.01.1983](#)
10. [84/E\(Co-op\)/14/14 dated 15.11.85 \(RBE 300/85\)](#)
11. [E\(LL\)87AT/CNR/1- 27 dated 15.09.1987](#)
12. [82/E\(Co-op\)/12/15 dated 24.9.87 \(RBE 233/87\)](#)

Notification of Ministry of Labour circulated vide letter No. [E\(LL\)77 AT/CNR/1-1 dated 14.01.1977](#) quashed vide Hon'ble Supreme Court Judgement and other guidelines circulated vide Railway Board's letter No. [E\(LL\)2000 AT/CNR/8 dated 04.04.2002](#).

At present the orders relating to "Contract Labour" are contained in a number of office circulars/orders issued from time to time. The question of consolidation of these existing orders/circulars into one Master Circular has been under the consideration of the Ministry of Railways (Railway Board). They have now decided to issue consolidated instruction on the subject as below for the information and guidance of all concerned.

2. The Central Government, in order to regulate the employment of contract labour, brought out the Contract Labour (Regulation and Abolition) Act, 1970 and the Rules made thereunder in 1971, effective from 10.02.1971.

(Authority: Contract Labour (Regulation & Abolition) Act, 1970 and the Rules made thereunder and Amendments issued from time to time.)

Some of the important provisions of the Act and the rules made thereunder are reproduced below for convenience sake: –

2.1. Applicability: - It applies

- a. To every establishment in which 20 or more workmen are employed or were employed on any day of the preceding 12 months as contract labour, and

- b. To every contractor who employs or who employed on any day of the preceding 12 months 20 or more workmen.

Note:

- i. The Central Government may, by Notification in the Official Gazette, apply this Act to any establishment or contractor employing less than 20 workmen.
- ii. The above provision shall not apply to establishment in which work only of an intermittent or casual nature is performed.

2.2. Workman:

A workman shall be deemed to be employed as "Contract Labour" in or in connection with the work of an establishment when he is hired in or in connection with such work by or through a contractor, with or without the knowledge of the principal employer.

2.3. Contractor:

"Contractor", in relation to an establishment, means a person who undertakes to produce a given result for the establishment other than a mere supply of goods or articles of manufacture to such establishments, through Contract Labour or who supplies Contract Labour for any work of the establishment and includes a sub-contractor.

2.4. Establishment:

- i. Any office or department of the Government or a local authority; or
- ii. Any place where any industry, trade, business, manufacture or occupation is carried on.

2.5. Principal Employer: - Principal employer means: —

- i. In relation to any office or department of the Government or a local authority, the head of that office or department or such other officer as the Government or local authority, as the case may be, may specify in this behalf;
- ii. In a factory, the owner or occupier of the factory and where a person has been named as the Manager of the factory under the Factories Act, 1948, the person so named.

2.6 Registration of an establishment:

Every Principal employer of an establishment to which the Contract Labour (R&A) Act applies shall, within such period as the appropriate Government may, by notification in the Official Gazette, fix with respect to each establishment, make an application to the registering officer in the prescribed manner for registration of the establishment.

3. On the Railways the Divisional Officers in the Divisions, Senior Mechanical Engineers, Deputy Chief Mechanical Engineers or Works Managers (as the case may be) in respect of workshops, District Controllers of Stores in respect of Stores Depots, Executive Engineers in respect of constructions, Heads of Departments in respect of contracts directly controlled by the Headquarters have been nominated "Principal Employer". They are answerable for fulfilling the requirements of the Act and the Rules as representatives of the Railway Establishments under their administrative control.

[Railway Board's letter No. [E\(LL\)70AT/CNR/1-3 dated 15.10.1971](#)]

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[Authority: Chapter V of Contract Labour (R&A) Act, 1970]

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10.3 Where, however, such a comparison is not possible on account of non-employment of Casual Labour/Temporary workers by the "Principal Employer" and the "Principal Employer" is of the view that the wages paid by the contractor is unreasonably low, i.e., even lower than the rates paid under the Minimum Wages Act, and where the Minimum Wages Act is not applicable to such employees, the wages, on being reported by the "Principal Employer", will be fixed by the Chief Labour Commissioner (Central).

11. In the case of contracts awarded to the Labour Co-operative Societies also it should be ensured, during the currency of the contract, that the contractor provide all the amenities/conveniences as laid down in the Contract Labour (R&A) Act, 1970. Failure on the part of the Labour Co-operative Society to do so will lead to action being taken against them under the Act.

[Railway Board's letter No. [82/E\(Co-op\)/12/15 dated 24.9.87](#) (RBE 233/87)]

12. Every "Principal Employer" is required to maintain and exhibit such registers and records giving particulars of contract labour employed, the nature of work performed, the rates of wages paid etc., in such forms as prescribed under the Act & Rules.

[Authority: Para 29 of Chapter VII of the Act 1970 & Rules 1971]

13. The Railways (if they are not already having) should make arrangements to have an up-to-date copy of the Contract Labour (R&A) Act, 1970 and the Rules 1971 with all the amendments issued from time to time and follow the provisions as laid down in consultation with their FA & CAOs strictly.

[Railway Board's letter No. [E\(LL\)70AT/CNR/1-3 dated 15.10.1971](#)]

14. General:

- a. While referring to this Circular, the original letters referred to herein should be read for a proper appreciation. This circular is only a consolidation of the instructions issued so far and should not be treated as a substitution to the originals. In case of doubt, the original circular should be relied upon as authority.
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