

THE TAMIL NADU PAYMENT OF SUBSISTENCE ALLOWANCE RULES, 1981

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(G.O. Ms. No. 2838, Labour and Employment, 29th December, 1981.)

No. SRO. A-384 (a)/81: In exercise of the powers conferred by section 12 of the Tamil Nadu Payment of Subsistence Allowance Act, 1981 (Tamil Nadu Act 43 of 1981), the Governor of Tamil Nadu hereby makes the following rules:

1. Short title and extent

- (1) These rules may be called the Tamil Nadu Payment of Subsistence Allowance Rules, 1981.
- (2) These rules extend to the whole of the State of Tamil Nadu.

2. Definitions

In these rules, unless there is anything, repugnant in the subject or context —

- (a) "Act" means the Tamil Nadu Payment of Subsistence Allowance Act, 1981 (Tamil Nadu Act 43 of 1981)
- (b) "Form" means a form appended to these rules ;
- (c) "Section" means a section of the Act ;
- (d) Words and expressions not defined in these rules, -shall have the meanings assigned to them under the Act.

3. Conditions for payment of subsistence allowance

The payment or subsistence allowance to an employee shall be subject to the following conditions, namely:

- (i) The subsistence allowance shall be paid either in person or by postal money order. If subsistence allowance is sent by postal money order, the cost of postal

- commission for the money order shall be borne by the employer;
- (ii) The subsistence allowance payable under the Act shall be paid in full subject to the restrictions under the Act and it shall not be liable for any deduction;
 - (iii) The employer shall maintain a register in respect of employees placed under suspension in Form 1. The signature of the employee shall be obtained for each payment of subsistence allowance. If subsistence is sent by postal money order, the postal receipt shall be affixed in the register.

¹["Provided that no separate register in Form I need be maintained if the particulars required to be maintained therein are contained in any other records maintained by the employer under any other labour Law.".]

4. Particulars of employees placed under suspension to be furnished at the end of each half year

Every employer shall send half yearly return in Form 2 so as to reach the ²[**] Deputy Commissioner of Labour concerned not later than fifteen days from the close of the half year.

Explanation: Half year for the purpose of the rule means "a period of six months commencing from the 1st January or 1st July of every Year ".

5. Application for recovery of money due to an employee

- (1) The application under section 4 of the Act shall be made in duplicate in Form 3 or Form 4, as the case may be.
- (2) The application in Form 3 or Form 4 shall be sent by registered post acknowledgement due.
- (3) One copy of the application in Form 3 or Form 4 shall also be sent by registered post acknowledgement due to the employer by the applicant.
- (4) On receipt of application referred to in sub-rule (1) as early as possible, a notice in Form 5 shall be sent to the employer and the applicant calling them to appear on such date and time specified therein. The employer by himself or through his representative shall appear and furnish all information and material relevant to the question of payment of subsistence allowance to the employee. The applicant or through his representative shall appear and produce all relevant documents available with him and furnish relevant information.
- (5) Any person desiring to act on behalf of the applicant or employee shall present a letter of authorisation in Form 6 or Form 7 as the case may be. The letter of authorisation shall be duly signed by applicant or the employer as the case may be and attested by two witnesses.
- (6) ³[After completion of hearing on the date fixed under sub-rule (4) or after such further evidence, examination of documents, hearing of witnesses and enquiry, as may be deemed necessary, an order shall be passed determining the amount if any, that is

payable to the employee with a direction that it shall be paid within thirty days of the receipt of such order.]

- (7) If any of the parties fail to appear on the specified date of hearing after due service of notice without sufficient cause, the application shall be determined as ex-parte and orders shall be passed on merits:

Provided that an order under this sub-rule may, on good cause being shown within thirty days of the said order, be reviewed and the application re-heard after giving not less than fourteen days' notice to the opposite party, of the date fixed for re-hearing of the application.

⁴[5A. Appeal

- (1) Any person aggrieved by the orders passed by an authority authorised under sub-section (1) of section 7 of the said Act may, within 60 days from the date of receipt of such orders, appeal to the Deputy Commissioner of Labour within the local limits assigned to him under sub-section (1) of section 15 of the Payment of Wages Act, 1936 (Central Act IV of 1936) in the form of memorandum of appeal.

⁵[Provided that no appeal shall be admitted unless at the time of preferring the appeal, the appellant produced a certificate from the authority against whose orders the appeal has been made to the effect that the appellant had deposited with him the amount determined by him as payable to the employee under rule 5:

Provided further that where an employer makes an appeal under rule 5-A, the authority may and if so directed by the Deputy Commissioner of Labour, pending decision of the appeal, withhold payment of any sum in deposit with him.

- (2) The memorandum of appeal under sub-rule (1) shall be submitted to the Deputy Commissioner of Labour with a copy thereof to the opposite party and the authority authorised under sub-section (1) of section 7 of the Act either through delivery in person or under registered post with acknowledgement due.
- (3) The memorandum of appeal shall contain the facts of the case, the decision of the authority concerned, the grounds of appeal and the relief sought.
- (4) There shall be appended to memorandum of appeal, a certified copy of the finding of the authority concerned and his direction pertaining to the payment of subsistence allowance.
- (5) On receipt of the copy of the memorandum of appeal, the authority concerned who passed the order appealed against shall forward the records of the case to the Deputy Commissioner of Labour concerned.
- (6) Within 14 days of the receipt of the copy of the memorandum of appeal, the opposite party shall submit his comments on each paragraph of the memorandum with additional pleas, if any to the Deputy Commissioner of Labour with a Copy to the

appellant.

(7) The Deputy Commissioner of Labour shall record after giving the parties to the appeal a reasonable opportunity of being heard. A Copy of the decision shall be given to the parties to the appeal and the authority who passed the order appealed against returning his record of the case.

(8) On receipt of the decision of the Deputy Commissioner Labour, the authority who passed the order appealed against, shall take further action in accordance with the decision of the Deputy Commissioner of Labour, as if it were an order passed under sub-rule (6) of rule 5.

⁶[⁷[***]]

Provided ⁸[***] that the Commissioner of Labour may, by order writing, on the representation made by either of the parties in this belt or on his own accord, withdraw any case under this Act, pending before an authority and transfer the same to another authority for disposal. Su(authority to whom the case is so transferred may, subject to the special direction in the order of transfer proceed either de novo or from the stagy. at which it was so transferred.)

⁹[***]

6. The period for which register and forms under the rules should be preserved

The register and forms required to be maintained by the employer under the rules shall be preserved by him in original for a period of five years after the completion of final payment of the money due to employee under the Act.

¹The Proviso added by No. SRO A-16/2020. Dated 25-02-2020.

²The words " Deputy Chief Inspector or Factories or " omitted by G.O. Ms. No 2196, Labour, dated the 6th October. 1985. 3 Subs. by 6.O. (D) No. 572, Labour and Employment, 9th November, 1990.

⁴ Ins. by G.O. Ms. No. 2104, dated the 1st October, 1985.

⁵ The proviso added by G.O. Ms. No. 780, Labour and Employment, dated the 25th April, 1989, has been subsequently amended by G.O. (D) No. 281, Labour and Employment, dated the 15th March, 1991.

⁶First Proviso Omitted by S.R.O. A-36/2001 dated the 18th April, 2001

⁷ Added by G.O. Ms. No. 1631, Labour and Employment, dated the 2nd September, 1989.

⁸ The word "further" omitted by S.R.O. A-36/2001 dated the 18th April, 2001

⁹ Rule 5B omitted by G.O. Ms. No. 236, Labour and Employment, dated the 16th February, 1990.