

SCHEDULE

STANDING ORDERS

[Section 2(g)]

1. **Classification of Workmen:** (a) Workmen shall be classified as--

- (1) permanent,
- (2) probationers,
- (3) badlis,
- (4) temporary,
- (5) apprentices.

¹[(6) contract worker.]

(b) A "permanent workman" is a workman who has been engaged on work of permanent nature likely to last more than nine months and has satisfactorily completed a probationary period of three months in the same or another occupation in the industrial or commercial establishment, and includes a *badli* who has been employed for a continuous period of three months or for one hundred and eighty-three days during any period of twelve consecutive months, including breaks due to sickness, accident, leave, lock-out, strike (not being an illegal lock-out or strike) or involuntary closure of the establishment and includes a *badli* who has been employed for a continuous period of three months or for one hundred and eighty-three days during any period of twelve consecutive months, including breaks due to sickness, accident, leave, lock-out, strike (not being an illegal lock-out or strike) or involuntary closure of the establishment and includes a *badli* who has been employed for a continuous period of three months or for one hundred and eighty-three days during any period of twelve consecutive months, including breaks due to sickness, accident, leave, lock-out,

strike (not being an illegal lock-out or strike) or involuntary closure of the establishment and includes a badli who has been employed for a continuous period of three months or for one hundred and eighty-three days during any period of twelve consecutive months.

✓ (c) A "probationer" is a workman who is provisionally employed to fill a permanent vacancy in a post and has not completed three months' service therein. If a permanent employee is employed as a probationer in a higher post he may, at any time during the probationary period to three months, be reverted to his old permanent post.

✓ (d) "Badli" is a workman who is appointed in the post of a permanent workman or probationer, who is temporarily absent.

✓ (e) A "temporarily workman" is a workman who has been engaged for work which is of an essentially temporarily nature likely to be finished within a period not exceeding nine months.

✓ 1[(f) An "apprentice" is a person who is an apprentice within the meaning of the Apprenticeship Ordinance, 1962 (LVI of 1962).

✓ 2[(g) A contract worker means a workman who works on contract basis for a specific period of remuneration to be calculated on piece rate basis.]

COMMENTS

Applicability: Although electrician employed by the Railway Department is "workman", yet it is doubtful whether Ordinance, VI of 1968 would be applicable to such employee because Railway Department is governed by the Pakistan Railway (Efficiency and Discipline) Rules which are not statutory Rules having been not approved by the Federal Government. Question relating to applicability of Act, VI of 1968 was left undecided by the Labour Appellate Tribunal. 1986 PLC 747.

1. Clause (f) subs. by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act. XXIII of 1973.

2. III 0006

Classification of workmen: For regulating the conditions of employment the workmen have been classified in five classes enumerated in clause (a) of this Order. Subsequent clauses define these five classes. This was essential for determining their respective rights and obligations and ancillary matters covered by various Standing Orders especially termination of service, punishment procedure or financial benefits. Nature of work and time factor are the deciding elements. Satisfactory completion of three months' probation is required for a worker to earn the status of permanent workman. The work must be of permanent nature likely to last more than nine months. Removal during probation gives no cause of action because the satisfaction of employer is the deciding factor. The period is inclusive of breaks due to reasons beyond one's control but voluntary closure has been omitted though that may be illegal lock-out with not fault of the employees.

Employment whether on daily wages or on weekly, or fortnightly or monthly remuneration is to be made by written order. Appointment order has to show terms and conditions of service. Termination order has to explicitly state reasons. Neither appointment order made in writing nor termination order issued in writing, appeal against Labour Court's order of re-instatement, in circumstances, was rejected and the Director of Labour Welfare was asked by the Labour Appellate Tribunal to take appropriate legal action against employer for infringement of the provisions of S.Os. 2-A and 12(3). 1982 PLC 436.

Workman in the Sugar Mills continuing in service even after crushing season. No evidence that job was essentially of temporary nature to be finished within a period not exceeding nine months, is not a temporary workman. Services terminated on account of unsatisfactory record. Plea that workman being temporary no charge-sheet and enquiry was required. Plea was rejected. The Labour Court's order accepted the grievance petition and awarded the re-instatement upheld by the Appellate Tribunal. 1986 PLC 402.

Permanent workman: The essential ingredient of a permanent employment is that the work must be permanent. Where a person was employed for a specified work he cannot claim to be permanent after completion of some months' service even if the work remained unfinished. 1975 PLC 177.

Probation period of 3 months need not necessarily be of active service in the establishment. Leave period is also included within the probation period. 1975 PLC 40.

Job was permanent and continuing for more than nine months. Incumbent, in circumstances a permanent workman. Termination was on grounds that services no longer required. Order of the Labour Court awarding re-instatement, in circumstances was upheld by the Appellate Tribunal. 1986 PLC 292.

Bus pass issued showing the employee as a permanent workman. Plea that employment was of temporary nature and workman was not permanent, was repelled. 1988 PLC 387.

The probationer completing three months' service becomes permanent worker. Extension of probation period is not permissible. Termination of such worker verbally and without written order stating reasons is invalid. 1985 PLC 1080.

The termination of service allegedly was through gate stoppage verbally without written order. Plea of employer that employees were merely working on daily wages and termination of service denied. Employees having already completed more than 9 months service and probationary period of 3 months had attained status of permanent workers. Termination of service, could be made by written order mentioning reasons thereof. Practice of dismissing employees without written orders was detestable and depreciated being in violation of the Standing Orders Ordinance, VI of 1968. Order of the Labour Court directing employer to re-instate employees with full back benefits was maintained by the Appellate Tribunal. 1986 PLC 795.

Terminations on grounds of decrease of work and re-employment on fresh applications with gaps of seven to ten days each time. Party could by legal means avoid provisions of law. Employees could be deemed to have been in continuous service only if terminations and re-employment were fictitious. There was no evidence of continuous service for 9 months. Employee, in circumstances could not claim permanency from date of initial appointment. 1988 PLC 251.

Probation period in terms and conditions of service fixed as more than 3 months. Such detrimental conditions contrary to S.O. 1 is illegal. Appointment order describing appointment as temporary. Another document in custody of employer indicating appointment on work charge basis. Such document is not reliable and employer, in circumstances, coming to Court not with clean hands. Temporary appointment pressed to have been made for reason but continuing for more than one year. No evidence that work for which appointment made ceased before completion of nine months.

Workman, in circumstances, had become permanent. Termination of service purportedly made considering him work charge, in circumstances, is illegal and re-instatement awarded with back benefits by the Appellate Tribunal. Delivery of one month's pay in lieu of notice would not be proper remedy against such order being illegal from its very inception. Payment of salary is not from permanent budget but from contingency head. Workman having no control over budget matter no rule of estoppel would apply against him. **1984 PLC 812.**

Provisions of the Ordinance are applicable notwithstanding any terms to the contrary in the terms of contract. Terms of contract of service cannot override the provisions of the Ordinance where the appointment letter indicated the services as temporary and terminable without notice in case of misconduct or serious complaint and the worker had served for more than 3 months and his job was of a permanent nature, the worker was held to have become a permanent workman whose service could not be terminated without observing the procedure laid down in Standing Orders 12 and 15. **PLD 1975 Kar. 312.**

Employee of Mechanised Construction of Pakistan Ltd., putting in more than 9 months (7 years) service is a permanent worker. He was transferred for service on a Project in Iraq mentioning in transfer order that "his services should stand terminated from date of his departure to Iraq". Such condition in circumstances, was illegal. On repatriation reporting for duty in Pakistan but refused to join duty on plea that services stood terminated on departure for Iraq. Cause grievances, in circumstances, arose on date of refusal to join duty. Grievance notice served immediately within 3 days. Grievance petition filed on the basis of such grievance notice, in circumstances was rightly accepted by the Labour Court. **1985 PLC 874.**

Job should be of permanent nature and likely to continue for 9 months and satisfactory completion of probation period of 3 months. Appointment for fixed period mentioning that job was purely temporary and appointee paid daily wages. Definition of permanent job, in circumstances was not applied. Termination without notice as contemplated in appointment order, in circumstances was not objectionable. Dismissal of grievance petition by the Labour Court against such termination order was upheld by the Appellate Tribunal. **1985 PLC 433.**

Daily Wager employed for work in morning and freed after working hours. No order required to appoint or terminate such employee and could not claim to be a permanent workman for mere fact that post lasted for more

than nine months. Such person could not be said to have been employed but was only put to work if there was work for him. He has no guaranteed right to be enforced under Sec. 25-A of the Industrial Relations Ordinance, 1969. Order of the Labour Court dismissing grievance petition for re-instatement was upheld by the Appellate Tribunal. 1984 PLC 1232.

WAPDA employee (Meter Clerk) is a worker. West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968, applicable to such employees becomes permanent under S.O. 1(b) of Ordinance, 1968 after service of three months. Condition in appointment letter contemplating liability to removal from service before expiry of probationary period of one year could not take away statutory right accruing under S.O. 1(b) of Ordinance, 1968 hence could not be invoked for termination of service after satisfactory completion of probationary period of three months provided under S.O. 1(b) of Ordinance, 1968. Termination order passed purportedly in terms of appointment letter, in circumstances, was set aside by the Service Tribunal. 1985 PLC (CS) 382.

Character of being permanent workman was denied stating that employment was of temporary nature. Workman admittedly was issued Bus Pass showing him as a permanent workman. Workman in circumstances was permanent and termination of his services for alleged misconduct without enquiry was not sustainable. Order of the Labour Court awarding reinstatement was maintained but back benefits were allowed only to the extent of 25%. 1988 PLC 385.

In the case of *Pakistan International Airlines v. Sindh Labour Court No. 5 PLD 1980 SC 323* the High Court's view was that the respondents had become permanent workmen solely because they had been in the appellant's employment for more than nine months. It was held that:

"finished within a period not exceeding nine months." Redundancy is not to be attributed lightly to the Legislature and the words "likely to be" were inserted, because, given the nature of human beings, "work" expected to be finished within nine months might not be finished during that period, because of human error, miscalculation, negligence or any other cause. And the insertion of the words "likely to be" make it clear that a workman cannot become a permanent workman, if the work for which he was employed was expected to be finished within nine months, but was in fact completed after the expiry of nine months.

Badlis: There is a fine distinction too between a temporary workman and a *badli*. The latter can be considered not more than transitory or temporary substitute.

Person appointed as *Badli* for one month and on termination of that appointment was appointed temporarily for one month. Record containing his applications for both such appointments and orders passed thereon duly signed by him in token of acceptance of terms and conditions as such *Badli* and temporary appointment. He claimed to have served for considerably long time and having attained status of permanent workman. Burden of proof, in circumstances lay upon claimant to establish his assertion. Such claim put forward for first time only in affidavit-in-evidence before the Labour Court and neither in his grievance notice to employer nor in grievance petition to Labour Court. No documentary evidence was adduced. Claim of being a permanent workman, in circumstances, was not accepted. 1984 PLC 549.

Number of employees exceeding 20. Standing Order 1 is applicable. *Badli* conductor rendering service of more than 283 days in a year, becomes a permanent worker. 1986 PLC 624.

Notice not necessary but reason must be mentioned in written order of termination. *Badli* workman on termination has right of cause of action to come before the Labour Court and the Labour Court has to see whether termination was in accordance with law and discretion based on judicial can be on daily wages or otherwise but such appointment is of purely stopgap, *ad hoc* nature creating no vested right of the permanency though a *Badli* workman can claim to be given preference on basis of good performance and suitability if incumbent of post not returning back. *Badli* conductor engaged on daily wages. Services terminated before the serving for 90 days. Termination order stating "service no longer required". Such words suffice to indicate ((i) actual incumbent returned, or (ii) vehicles were short, or (iii) administrative convenience. Termination order, in circumstances, is not exceptional. Termination made without written order indicating reasons. Termination, in circumstances, is illegal. Management however directed to give preference to ousted *Badli* workers in case of future vacancies. 1988 PLC 247.

Serving for more than 183 days in a year would become permanent *Badli* workman from date of appointment. 1988 PLC 479.

Badli appointed due to temporary absence of a permanent worker would become permanent if serves continuously for 90 days and for more than 183 days with breaks within one year. *Badli* conductor in Road

Transport Board serving continuously for 192 days, would become permanent. 1988 PLC 518.

Employee appointed as Badli workman against a permanent post incumbent whereof was temporarily absent. Appointment of Badli worker would carry presumption that post was permanent and incumbent was temporarily absent. Badli workman would become permanent badli workman if he served continuously for 90 days or for 183 days in a year with gaps. Bus conductor appointed as Badli. Appointment order not mentioning post as temporary and no such evidence even produced. Such employee serving for more than 183 days in a year. Non-payment of wages for Fridays and holidays would be immaterial. Such *badli* conductor was rightly declared by the Labour Court as permanent *badli* conductor. 1988 PLC 456.

Conductor of P.T.U.C. was on list of Badli Conductors and given duty against leave vacancy on daily wages basis and completed more than 3 months' continuous service. Employee had attained status of permanent worker and disallowing duty amounted to termination of service hence entitled to reinstatement as permanent Conductor. Order of the Labour Court that petitioner be taken back as Badli Conductor, in circumstances, modified by the Appellate Tribunal as reinstatement as permanent Conductor from date of termination. 1986 PLC 469.

Badli Conductor having successfully completed period of three months or 183 days during period of 12 successive months, became a permanent workman. Plea that S.O. 1 was not included in S. 7 of the Road Transport Workers Ordinance, 1961, in circumstances was repelled. 1986 PLC 478.

Badli conductor of Government Transport Service completing 90 days continuous service would become a permanent worker. 1986 PLC 666.

Bus conductor was purportedly appointed as *Badli*. Appointment was neither in leave vacancy nor on account of absence of any regular appointed could not be treated as *Badli*. Probation period of 3 months not yet completed, could not be treated as permanent. Termination of service of even a temporary worker required explicit reasons to be mentioned in termination order. "Service no longer required" was no reason. No case that post ceased to exist. Termination order mentioning "no longer required", in circumstances was not legal and was not sustainable. 1986 PLC 622.

The Industrial & Commercial Employment (Standing Orders) Amendment Act, XXIII of 1973 provides that a workman shall include a badli who has been employed for a continuous period of three months or for one

hundred and eighty-three days during any period of twelve consecutive months.

Ad hoc appointment: Person appointed on *ad hoc* basis against a permanent post continuing as such indefinitely qualifies himself to satisfy condition given in S.O. 1 and is a "workman". 1984 PLC 1430.

Ad hoc appointment is an appointment for a fixed period against temporary post. 1984 PLC 1430.

Claim of promotion: No issue of direction could be issued when appellant was no longer in service. 1984 PLC 1528.

Contractual appointment: Contractual employee on completion of three months satisfactory service can claim continuity in service till expiry of the contract period and not entitled to serve beyond such period. Employee serving on contract for about two years and subsequently brought in regular cadre against permanent post. Probation, in circumstances was rightly treated from date of appointment on regular basis, against permanent post and period of contractual service not countable towards probation. 1986 PLC 1128.

Jurisdiction: Workers appointed on purely temporary basis for project of about 2 years period. Question whether after serving of more than 9 months such workers became entitled to be declared as permanent. Adjudication involving interpretation of the Service Rules of establishment and provisions of the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 was not within the jurisdiction of the National Industrial Relations Commission. 1987 PLC 124.

Misconduct: Simply shortage does not amount to misconduct unless there is a *mala fide* intention. 1984 PLC 1502.

8. Leave: 1(1) Holidays and leave with pay shall be allowed as hereinafter specified:--

1. Sub-section (1), subs. by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973.

- (a) Annual holidays, festival holidays, casual leave and sick leave as provided for in Chapter IV-A of the Factories Act, 1934 (XXV of 1934), and
- (b) other holidays in accordance with the law, contract, custom and usage.]

(2) A workman who desires to obtain leave of absence shall apply to the employer, who shall issue orders on the application within a week of its submission or two days prior to the commencement of the leave applied for, whichever is earlier, provided that if the leave applied for is to commence on the date of the application or within three days thereof, the order shall be given on the same. If the leave asked for is granted, a leave pass shall be issued to the workman. If the leave is refused or postponed, the facts of such postponement or refusal and the reasons therefor shall be recorded in writing in a register to be maintained for the purpose, and if the workman so desires, a copy of the entry in the register shall be supplied to him. If the workman after proceeding on leave desires an extension thereof he shall apply to the employer who shall send a written reply either granting or refusing extension of leave to the workman if his address is available, and if such reply is likely to reach him before the expiry of the leave originally granted to him.

(3) & (4) [Omitted by the Industrial and Commercial Employment (Standing Orders) (Amendment) Act, XXIII of 1973, S. 6(e).]


COMMENTS

Leave: Annual leave is the same as privilege leave. This has been provided for in the Factories Act, 1934. According to Section 49-B of this Act every worker who has completed a period of twelve months' continuous service in a factory shall be allowed during the subsequent period of twelve months holidays for a period of ten or, if a child, 14 continuous days, exclusive of the day or days, if any, on which he is entitled to a holiday under Section 35(1) with pay. 1962 PLC 286.

The provisions of S.O. 8(2) do not contemplate any notice for three months. The leave application submitted on same day from which leave was to commence. The rejection of application after 5 days on plea that a notice of three days was to be given, in circumstances, had no blessing of law. 1984 PLC 1703.

Employees of the Industrial Development Bank receiving bonus since establishment of Bank (1961). Bonus not dependent upon or linked with profit. Rate of bonus increased under settlement from 1969 and the employees continuously receiving same at the enhanced rate upto 1975 at uniform rates. Employees in circumstances, became entitled to such bonus according to terms and conditions of service on the basis of usage and agreement. 1981 PLC 429.

11. Stoppage of work: (1) The employer may, at any time, in the event of fire, catastrophe, breakdown of

machinery or stoppage of power supply, epidemics,, civil commotion or other cause beyond his control, stop any section or sections of the establishment, wholly or partially for any period or periods or without notice. 

(2) In the event of such stoppage during working hours, the workmen affected shall be notified by notices put up on the notice board in the departments concerned or in the office of the employer, as soon as practicable, when work will be resumed and whether they are to remain or leave their place of work. The workmen shall not ordinarily be required to remain for more than two hours after the commencement of the stoppage. If the period of detention does not exceed one hour, the workmen so detained shall not be paid for the period of detention. If the period of detention exceeds one hour, the workmen so detained shall be entitled to receive wages for the whole of the time, during which they are detained as a result of the stoppage. In the case of piece-rate workers, the average daily earning for the previous months shall be taken to be the daily wage. Wherever practicable reasonable notice shall be given of resumption of normal work.

¹[(3) In cases where workmen are laid-off on account of failure of plant, a temporary curtailment of production or any stoppage of work for reasons mentioned in clause (1), they shall be paid by the employer an amount equal to one-half of their daily wages during the first fourteen days of lay-off as compensation. When, however, the workmen have to be laid-off for an indefinite period beyond the above-mentioned fourteen days, their services may be terminated after giving them due notice or pay in lieu thereof.]

(4) The employer may in the event of a strike affecting either wholly or partially any section or department of the establishment close down, either wholly or partially, such section or department and any other section or department affected by such closing down. The fact of such closure shall be notified by notices put on the notice board in the section or

department concerned and in the time-keeper's office, if any, as soon as practicable. The workmen concerned shall also be notified by a general notice, prior to resumption of work, as to when work will be resumed.

COMMENTS

This Order has to be read with Order 11-A.

Stoppage of work: In the event of fire catastrophe, breakdown of machinery, stoppage of power supply, epidemics, civil commotion, or other cause beyond his control, the employer may stop any section or sections of the establishment, either wholly or partially, for any period and without notice. If such stoppage of work takes place during working hours, the workmen affected shall be informed by notices on the notice board in the department concerned, or in the employer's office, when the work is to be resumed and whether they have to remain or leave the place of their work. Ordinarily the workmen shall not be required to stay for more than two hours. If the period of detention does not exceed one hour the detained workmen shall not be paid for the period of detention but if detention exceeds one hour the detained workmen shall receive wages for the period of their detention.

In the case of piece-rated workers, their average daily earning for the previous month shall be considered to be their daily wage. Resumption of work shall, when it is practicable, be previously notified in a reasonable manner.

When workmen are laid off for reasons above-stated they shall be paid an amount equal to one-half of their daily wages during the first fourteen days of lay off as compensation. If they have to be laid off for an indefinite period beyond 14 days their services may be terminated after giving them due notice or pay in lieu thereof.

The employer, in the event of a strike affecting either wholly or partially any section or department of the establishment, may either wholly or partially close down such section or department as well as such other section or department as may be affected by such closing down. The fact of such closing down shall be notified by notices on the notice boards in the section or department concerned and in the time-keeper's office, if any, as soon as it is practically possible. The workmen affected shall also be notified by a general notice as to when the work is to be resumed. No employer shall, however, close down the whole of the establishment without prior permission of the Labour Court except in the event of fire catastrophe, stoppage of power supply, epidemics or civil commotion. Close down in this connection includes lay off of workmen beyond fourteen days where such lay off results in closure of an establishment but does not include lock-out

(d) "go-slow" means on organised, deliberate and purposeful slowing down of normal output of work by a body of workers in a concerted manner and which is not due to any mechanical defect, breakdown of machinery, failure or defect in power supply, or in the supply of normal materials and spare parts of machinery;

(e) "Government" means the ¹[Provincial Government];

) "industrial establishment" means--

- (i) an industrial establishment as defined in clause (ii) of Section 2 of the Payment of Wages Act, 1936 (IV of 1936); or