



ALL INDIA BANK EMPLOYEES' ASSOCIATION

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CIRCULAR LETTER No. 28/136/2019/20

22-6-2019

TO ALL OFFICE BEARERS, STATE FEDERATIONS AND ALL INDIA BANKWISE ORGANISATIONS

Dear Comrades,

**Reg: Gazette Notification dated 10th June, 2019 by Govt. of India
regarding reference of disputes to Tribunals/Labour Courts.**

Units are aware that when an industrial dispute before the conciliation officer ends in a failure, the matter is referred to the Ministry of Labour, who takes a decision whether the issue merits reference to a Tribunal/Labour Court for adjudication.

By an amendment to the Industrial Disputes Act, in 2010 **Section 2-A** was added to the Act which provided for direct reference to a Tribunal/Labour Court in cases of discharge, dismissal, retrenchment or termination of service of an employee and where the disputes is not resolved within 45 days.

Section 2A of Industrial Disputes Act 1947 : "Dismissal, etc., of an individual workman to be deemed to be an industrial dispute"

2A. (1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

(2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).

Now, on 10th June, 2019, Gazette Notification has been issued by which the disputes relating to loss of employment can be referred to a Tribunal/Labour Court by Conciliation Officers, ALC/RLC, DyCLC, CLC, without referring the matter to the Labour Ministry at Delhi.

MINISTRY OF LABOUR AND EMPLOYMENT
NOTIFICATION

New Delhi, the 10th June, 2019

S.O. 1936(E).—In exercise of the powers conferred by section 39 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby directs that **where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman** and any industrial dispute between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination **is referred by the workman** by making application under sub-section (2) of section 2A of the said Act to the jurisdictional Conciliation Officer holding the rank of Labour Enforcement Officer or Assistant Labour Commissioner (Central) or Regional Labour Commissioner (Central) or Deputy Chief Labour Commissioner (Central) or Additional Chief Labour Commissioner (Central) or Chief Labour Commissioner (Central) and where such conciliation fails, then, **such Conciliation Officer shall, instead of making the Failure of Conciliation Report to the Central Government, exercise the powers of the Central Government himself** under section 10 read with section 2A of the said Act and **make such report directly to the Labour Court or Tribunal** for adjudication subject to the following conditions, namely:-

(i) where such Conciliation Officer is of the rank of Labour Enforcement Officer or Assistant Labour Commissioner (Central) or Regional Labour Commissioner (Central), he shall at the first instance make such Failure of Conciliation Report to his Regional head holding the rank not below the Deputy Chief Labour Commissioner (Central), who shall examine the said Report and if he is of the opinion that the said industrial dispute under such Failure of Conciliation Report is not fit for adjudication, then, he shall send such Report to the Central Government for necessary action, otherwise refer the said industrial dispute under the Failure of Conciliation Report to the Labour Court or Tribunal for adjudication; and

(ii) where such Conciliation Officer is of the rank of Deputy Chief Labour Commissioner (Central) or Additional Chief Labour Commissioner (Central), he shall at the first instance make such Failure of Conciliation Report to the Chief Labour Commissioner (Central), who shall examine the said Report and if he is of the opinion that the said industrial dispute under such Failure of Conciliation Report is not fit for adjudication, then, he shall send such Report to the Central Government for necessary action, otherwise refer the said industrial disputes under the Failure of Conciliation Report to the Labour Court or Tribunal for adjudication; and

(iii) where such Conciliation Officer is of the rank of Chief Labour Commissioner (Central) and if he is of the opinion that the said industrial dispute under such Failure of Conciliation Report is not fit for adjudication, then, he shall send such Report to the Central Government for necessary action, otherwise refer the said industrial dispute under the Failure of Conciliation Report to the Labour Court or Tribunal for adjudication.

2. Nothing in this notification shall affect the powers of the Central Government to exercise the powers under section 10 read with section 2A of the said Act consecutively irrespective of such delegation.

[F. No. S-11012/1/2019-IR(PL)]
KALPANA RAJSINGHOT, Jt. Secy.

Units may take note of the above provisions while dealing with industrial disputes relating to loss of employment.

Reproduced by :

Union Bank Employees' Union - Tamilnadu

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Yours comradely,



C.H. VENKATACHALAM
GENERAL SECRETARY