

Dear Comrades,

Sub :-Expert Committee to examine the amendments to the Factories Act, 1948.

Ref: Govt. of India, Ministry of Labour & Employment Notice No.S-25012/1/96-ISH-II (Vol.IX) dated 13.01.2011.

Govt. of India (Prime Minister Office) has constituted an Expert Committee under the Chairmanship of Shri Narendra Jadhav, Member, Planning Commission with Shri Prabhat Chaturvedi, Secretary (L&E) as one of the two members to examine the issue of Comprehensive Amendments to the Factories Act, 1948 with particular reference to the following:-

1. Concerns arising out of disaster like the Bhopal Gas Tragedy such as –
 - Industrial Disaster Mitigation,
 - Rehabilitation and Compensation for Industrial Workers and other affected persons
 - Toxic waste disposal
 - Site remediation
 - Long term health problem
 - Criminal liability etc.
2. The Role and Accountability of Public Servants like Inspector of Factories and other Stake Holders.
3. General Enforceability of the Act.

There have been two meetings of the Committee but thereafter the Committee decided to have wider consultations with the Tripartite Stake Holders. Accordingly, vide MOL&E letter of 13.01.2011 referred to above a consultation meeting was fixed and held on 19.01.2011.

The meeting was Chaired by Shri Jhadhav himself and Shri Prabhat Chaturvedi, Labour Secretary with officials from MOL&E., Planning Commission, DGFASLI etc. attended. All the five Central Trade Unions invited (BMS, INTUC, AITUC, HMS & CITU) except INTUC attended.

Detailed discussions have been held in general clause by clause discussion also started but we could discuss upto item No.8 of the proposed amendments only. Rest of the amendments will be discussed on 10th February, 2011.

The main amendments involving workers are as under:-

Existing Provision	Contents of Proposed Amendments
Section - 64: Power to make exempting rules- (i) xx xx xx (2) xx xx xx (3) xx xx xx (4) (i) xx xx xx (ii) xx xx xx (iii) xx xx xx (iv) The total number of hours of overtime shall not exceed fifty for any one quarter. (5) Rules made under this section shall remain in force for not more than five years.	In Section 64 of the principal Act – (a) In sub-section (4), in sub-clause (iv), for the word “fifty”, the words “one hundred” shall be substituted; (b) In sub-section (5), for the words “Rules made”, the words, brackets and figures “Rules made before the commencement of the Factories (Amendment) Act, 2010” shall be substituted.
Sec.65: Power to make exempting orders – (i) xx xx xx (2) xx xx xx (3) (i) xx xx xx (ii) xx xx xx (iii) xx xx xx (iv) No worker shall be allowed to work overtime, for more than seven days at a stretch and the total number of hours of overtime work in any quarter shall not exceed seventy five.	In section 65 of the principal Act, in sub-section (3), in clause(iv) – (a) For the words “seventy-five”, the words “one hundred and fifteen” shall be substituted; (b) After Explanation, the following proviso shall be inserted, namely:- “Provided that the State government on the Chief Inspector may, subject to the prior approval of the State Government, by order further enhance the total number of hours of overtime work in any quarter to one hundred and twenty-five in the public interest.”
Sec.66: Further restriction on employment of women- (1) The provision of this chapter shall, in their application to women in factories, be supplemented by the following further restrictions, namely:- (a) no exemption from the provisions of Section 54 may be granted in respect of any women, (b) no women shall be required or allowed to work in any factory except between the hours of 6 A.M. and 7 P.M. Provided that the State Government may, by notification in the Official Gazette, in respect of any factory or group or class or description of factories, vary the limits laid down in clause	For section 66 of the principal Act, the following section shall be submitted, namely:- “66. The provisions of this chapter shall, in their application to women in factories, be supplemented by the following further restrictions, namely – (a) No exemption from the provisions of section 54 may be granted in respect of any women; (b) There shall be no change of shifts except after a weekly holiday or any other holiday; and (c) No woman shall be required or allowed to work in any factory except between the hours of 6 A.M. and 7 P.M.

(b), but so that no such variation shall authorize the employment of any woman between the hours of 10 P.M. and 5 A.M. (c) there shall be no change of shift except after a weekly holiday or any other holiday. (2) The State Government may make rules providing for the exemption from the restrictions set out in sub-sec. (1), to such extent and subject to such conditions as it may prescribe, of women working in fish-curing or fish-canning factories, where the employment of women beyond the hours specified in the said restrictions is necessary to prevent damage to, or deterioration in, any raw material. (3) The rules made under sub-section (2) shall remain in force for not more than three years at a time.	"Provided that where the State Government or any person, authorized by it in this behalf, is satisfied that adequate safeguards exist in a factory as regards occupational safety and health, provision of shelter, rest rooms, lunch rooms, night crèches and ladies' toilets, equal opportunity for women workers, adequate protection of their dignity, honour and safety, protection from sexual harassment, and their transportation from the factory premises to the nearest point of their residence, it may, by notification in the Official Gazette, after due consultation with, and obtaining the consent of, the women workers, workers, the employer, representative organization of the employer and representative organization of the workers of the concerned factory, allow women to work between 7.00 P.M. and 6.00 A.M. in such factory subject to such conditions as may be specified therein; Provided further that no such permission shall be granted to a women worker during a period of sixteen weeks before and after her childbirth, of which at least eight week shall be before the expected childbirth, and for such additional period, if any, as specified in the medical certificate stating that it is necessary for the health of the woman workers or her child. Provided also that the restriction contained in the preceding proviso may be relaxed at the express request of a woman worker on the basis of the medical certificate stating that neither her health nor that of her child will be endangered."
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With a view to form Hind Mazdoor Sabha response on these amendments, it is proposed to organize a meeting in HMS Office on 2nd February, 2011 at 2.00 P. M. You are, therefore, requested to participate in the meeting positively and give your views on the subject. However, if for any serious reason you are unable to attend the meeting you may send your views in writing well before 2nd February, 2011 so that the same are discussed in the meeting and a unanimous opinion is formed.

Please treat it **as MOST IMPORTANT**.

With greetings,

Yours sincerely,

(R.A.Mital)
Secretary