

EASTERN RAILWAY

No. E.250/0/Vol. III

Kolkata, Dated 02.02.2018

ALL CONCERNED

Sub: Compliance to statutory provisions of applicable Labour Laws relating to "Contract Labour" hired by Railways either directly or through Contractors.

The copy of Railway Board's letter No. 2018/E(LL)/AT/CNR/3 dated 24.01.2018 on the above subject is attached herewith for information, guidance and strict compliance.

Railway Board's earlier letters mentioned therein may be connected as under:

Copy of Board's letter dated 10.11.2005 is enclosed.

Copies of Board's letters dated 29.08.2006, 14.12.2012, 20.10.2015 & 05.06.2017 are available under following URL Nos.:

www.indianrailways.gov.in/railwayboard/uploads/directorate/establishment/ELL/2017/Offloading_02062017.pdf,

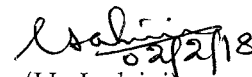
www.indianrailways.gov.in/railwayboard/uploads/directorate/civil_engg/pdf/Con_arbit/2012/2012_CE-I_CT_O_22.pdf

www.indianrailways.gov.in/railwayboard/uploads/directorate/establishment/ELL/provisions_201015.pdf. &

www.er.indianrailways.gov.in/cris//uploads/files/1500640638429-Untitled.pdf
(CPO's Serial Circular No. 62/2017)

This Serial Circular is also available on Eastern Railway's official website viz. URL No. <http://www.er.indianrailways.gov.in> under **About us → Department → Personnel → CODEs, MANUALs, CPO's Serial Circulars → CPO's SERIAL CIRCULARS.**

DA: As above.


(U. Lahiri)

Dy. Chief Personnel Officer/R
for Principal Chief Personnel Officer

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

dated : 24.01.2018

No. 2018/E(LL)/AT/CNR/3

The General Manager
All Indian Railways and PUs
(as per standard list)

Sub: Compliance to statutory provisions of applicable Labour Laws relating to "Contract Labour" hired by Railways either directly or through Contractors.

- Ref: (i) Board's letter No. E(LL)2005/AT/CNR/64 dated 10.11.2005
(ii) Board's letter No. E(LL)2005 AT/CNR/16 dated 29.08.2006
(iii) Board's letter No. 2012/CE-I/O/22 dated 14.12.2012
(iv) Board's letter No. E(LL) 2015/PNM/AIRF/1 dated 20.10.2015
(v) Board's letter No. 2016/E(LL)/AT/MW/1 dated 05.06.2017

Apropos the subject cited above. As the Railways are aware, Indian Railways executes a wide range of works for creation, repair and maintenance of its various assets including stations, coaches, wagons, coaching depots, locomotives, tracks, etc. Sometimes, Contracts are also entered for rendering services too. Some of these works/services are executed by way of outsourcing to external agencies. The external agencies (Contractors) work for the Railways and engage workmen towards execution of these contracts. A large number of these workmen are classifiable under the term 'Contract Labour'. It is to be noted that the statutory provisions of many beneficial legislations for protection of such 'Contract Labour' cast obligations both on the 'Contractors' as well as on relevant departmental heads of Zonal Railways, Divisions, Units etc. as "Principal Employer" (wherever defined in various Labour Laws).

2. One of the principal legislations for protection of contract labour is "Contract Labour (Regulation and Abolition) Act (CLRA), 1970" read with "Contract Labour (R&A) Rules, 1971". Moreover, attention is also drawn to few of the important legislations/provisions:-

- (i) Minimum Wages Act (MWA), 1948 and Minimum Wages Rules (MWR), 1950, wherever applicable;
- (ii) Employees' Provident Fund and Miscellaneous Provisions Act (EPF and MPA), 1952 and Employees' Provident Fund Scheme (EPFS), 1952, wherever applicable. It is to be noted that though as per Section 1(3), read with Section 16 of this Act, and notifications issued thereunder, the Indian Railways are not directly covered, however, Contractors working in Indian Railways are covered under the provisions of the Act. In this connection, para 2 of the Board's letter no. 2012/CE-I/CT/O/22 dated 14.12.2012 refers.
- (iii) Employees' State Insurance Act (ESIA), 1948, Employees' State Insurance Rules (ESIR), 1950 and Employees' State Insurance (General) Regulations, 1950, wherever applicable;
- (iv) The Employees' Compensation Act (ECA), 1923, wherever applicable;
- (v) "General Conditions of Contract (GCC) of Indian Railways as amended vide Railway Board's letter No. 2012/CE-I/CT/O/22 dated 14.12.2012. These specifically lay down the

24/01/2018

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All concerned to be
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role and responsibility of the Zonal Railways etc. as Principal Employer under aforesaid Acts.

Hence, violation of any of aforesaid legislations/anyother applicable Labour Legislations would entail punitive/penal proceedings under relevant laws against Contractors as well as against Principal Employers.

3. However, it has been recently brought to the notice of the Apex level and Board that Contractors have been indulging in many irregularities especially in payment of wages to Contract Labour. It has also been brought to attention that Contract Labour employed in various Railway departments are not being paid Minimum Wages as per the latest Minimum Wages orders (w.e.f. 01.04.2017). It may be recalled that orders of Ministry of Labour and Employment on Minimum Wages have been circulated vide Railway Board's letter No. 2016/E(LL)/AT/MW/1 (RBE No. 50/2017) dated 05.06.2017. Moreover, recently, there has been allegations that some unscrupulous Contractors are resorting to various stratagem to deceitfully deprive Contract Labour of their rightful wages. Such deceitful practices include (i) Payment of less wages through cash; and (ii) forcibly grabbing, beforehand, of ATM/Debit Cards of Contract Labour so that Contractors can withdraw, unauthorisedly, part of the wages (paid in the bank directly) received by Contract Labour. Non-payment of minimum wages to the workers is a criminal offence since it violates the statutory provisions. In order to curb/eliminate such malpractices, Railway Board have been repeatedly issuing detailed instructions on the subject matter. Some of these are cited in reference of this letter. Keeping in view of the fact violation of Minimum Wages Act, 1948 and related orders, deprive Contract Labour of their just and legal rights and also leads to violation of conditions of Contract (exposing Principal Employer to the risk of proceedings under these Acts), these unscrupulous Contractors are liable to be taken up under relevant punitive/penal proceedings. It is directed that whenever any complaint in this regard is received, stringent deterrent ~~penal~~ actions should be taken by following due procedure.

4. In view of the fact that the Contract Labour are engaged by various departments of Zonal Railways, PUs, etc., it is incumbent on the Principal Heads of the departments to put in place a robust mechanism so that no violation of labour laws takes place in their respective departments. It is, therefore, directed that if any such/other complaints are received, the guilty contractors should be black-listed and their Contract should be terminated following the due procedure, apart from initiating criminal proceedings against them with the help of Labour department officials. Since, non-compliance of terms and conditions of GCC entails violation of contractual obligations, any reluctance on the part of a contractor to award minimum wages to contract labour, for the period during which he had admittedly worked, is violative of contract conditions, illegal, unfair and violates the Fundamental right of the Right to Life. Therefore, the Railways are directed to ensure the compliance of the labour laws (particularly registration as Principal Employer, ensuring that Contractors have requisite license and ensuring other beneficial provisions) and related orders as well as to see that payment of minimum wages to the contract labour engaged directly (Such as Para-medical staff etc.) or through Contractors is ensured, both in letter and spirit.

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(Manju)
Joint Director(E(LL))
Railway Board.



सर्वोच्च न्यायालय

भारत सरकार GOVERNMENT OF INDIA
रेल मंत्रालय MINISTRY OF RAILWAYS
(रेलवे बोर्ड RAILWAY BOARD)



रेल भवन, नई दिल्ली-110001, दिनांक
Rail Bhavan, New Delhi-110 001, dated

No. E(LL)2005/AT/CNR/64

10.11.2005

The General Manager
All Indian Railways/Production Units.

circulated
P. 8/c

**Sub : Violation of Contract Labour(R&A) Act/Rules
by issuing orders for letting out certain works
by Railway without consulting Personnel Branch.**

During the course of the 34th Meeting of the PREM Group at the Apex Level, the Federations raised the issue and voiced their concern that the various Departments on the Railways like Engineering, Mechanical, Electrical etc. are contracting out activities without consulting the Personnel Department as a result of which at times the provisions of the Contract Labour(Regulation & Abolition) Act are being violated. This must stop.

Railways are requested to ensure that the Personnel Department is invariably consulted before contracting out activities so that there is no violation of the Contract Labour(Regulation & Abolition) Act. All out efforts must be made to abide by the Contract Labour(Regulation & Abolition) Act in letter and spirit.

Copy to :

(B. Majumdar)
Director Establishment(LL)

1. The General Secretary, AIRF, 4 State Entry Road, New Delhi 110055.
2. The General Secretary, NFIR, 3 Chelmsford Road, New Delhi 110055.
3. The Secretary General, IRPOF, Room No. 268, Rail Bhavan, New Delhi 110001.
4. The Secretary General, FROA, Room No. 256 A, Rail Bhava, New Delhi 110001.
5. The General Secretary, AIRPFA, Room No. 256 D, Rail Bhavan, New Delhi 110001.