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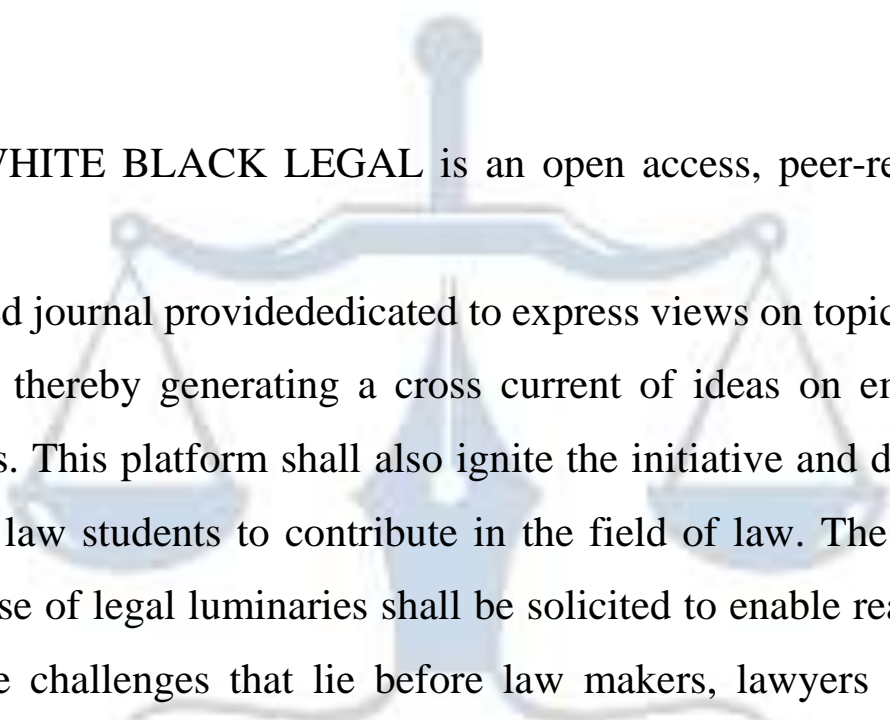


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With this thought, we hereby present to you

DEDUCTIONS IN WAGES UNDER THE PAYMENT OF WAGES ACT, 1936

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ABSTRACT:

The Payment of Wages Act, 1936 is one of the oldest legislations existing in India to regulate payment of wages to workers. The law contemplates seeing that there is punctual recovery of wages and no unauthorized deduction from the wages of the worker. This act applies to persons employed in factories, railways and other specified establishments. It deals with many significant provisions regarding the deduction of wage, so that employers can make only permitted deductions and workers will be safeguarded from such malpractices. This article will critically analyze the notion of wage deductions as envisaged by the Payment of Wages Act, 1936, the various permissible deductions permissible, and the consequent implication arising out of non-compliance.

Keywords: Wage, Deduction, Appropriate Government, Lawful, Employee.

1. INTRODUCTION:

The historical struggle for labour rights and the enactment of the Payment of Wages Act in India will always be a milestone, as it depicts the recognition of the needs of workers by the government at large in this line of widespread exploitation and working conditions. This journey begins with the reassessment of critical issues of worker accommodation, tools, raw materials, and penalties of violations, particularly owing to a Commission Report³. In February 1933⁴, there was a Bill to address these very concerns that was presented and gazetted for public opinion. But, during the Delhi Session of 1933-34 a motion was moved to refer the Bill to a Select Committee. That again came to nothing as the Assembly was dissolved in 1934, and so many workers were left without all the protections he needed.

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³ G.M. Kothari, loc, cit, pp. 346-47

⁴ PL Malik's Handbook of Labour and Industrial Law.

The very idea of a comprehensive framework to govern wage payment posed grim challenges, exemplifying the general crisis in the workers' movements at this stage. While workers were kept at the mercy of exploiting them, they were never paid appropriate wages and were subjected to risky conditions of work. It was solely through the voices of labour unions and other social reformers that opinion among the general people was awakened and the government was compelled to incorporate superior rights and welfare for the workers⁵.

With a long history in the laws, the Payment of Wages Act was passed in 1936, which became operational on March 28, 1937. This piece of legislation marks a significant step forward within labour law since it aimed at ensuring that wages were paid in a proper time and arbitrary deductions were not made. This act, though less talked about, tends to be emblematic of the struggle for labour rights as it proposed legal protection against exploitation for workers. But the original provisions of this Act were meagre, and it received quite a lot of criticism that "it did not meet the diverse realities of the labour force".

It was further amended by a number of amendments over time to suit changing needs of workers and give response to criticisms. In fact, the 2005 amendment was a particularly dramatic manifestation in that it significantly expanded the scope of protection under the Act and thereby brought within its fold more employees. The wage limit at which coverage reaches the employee increased to Rs. 6,500 from Rs. 1,600 from November 9, 2005, and then increased further to Rs. 10,000 from August 8, 2007. This change was a reaction to increasing inflation coupled with economic pressures on the working populace; therefore, this would enhance insurance coverage for the employees.

Amendment Act 41 of 2005 has also brought some significant definitions and amendments. One such amendment is the insertion of the term "appropriate Government" in Section 2 (i). This has brought to the light many of the responsibilities of the Central Government relating to specific sectors, such as railways and mines, and other responsibility to the State Governments. This improved the administrative responsibility.

Of course, beyond its immediate provisions, the Payment of Wages Act is significant; in fact,

⁵ Dr. Goswami, Labour & Industrial Law.

it provides foundational legal structure paving the way for workers' rights in India. Thus, the act plays a role that enables or facilitates workers receiving fair compensation in due time for their work, which promotes economic security and dignity at one level, then it acts as a tool of accountability whereby the worker can seek justice if the worker faces disputes over wage or exploitation.

Besides, the Act reflects more commitment on the part of the Indian government towards labour rights and a more just labour market. This is evident from the fact that the repeated amendments in the span of decades of incessant amendment indicate a recognition of the dynamic nature of labour relations and the necessity for Legislations to be changed to adapt to changing realities of the workforce. In this regard, the Payment of Wages Act fits well into its place as one of the testaments to the historical struggle for labour rights and continuous efforts to make the welfare and dignity of workers in India better.

Above all, the Act is important not only because of its immediacy in changing wage payment practices but also on account of being a milestone in promoting the universal cause of labour rights in India. It espouses values that are fundamental, and, in turn, it sets a precedent for further legislation passed in the interests of workers in transforming this economic order into a just one.

2. OBJECTS OF THE ACT:

The Act is intended to regulate wage payments to certain kinds of employees in specific industries. Its primary objective is a prompt and effective redress for employees relating to claims arising as regards illegal or unjustified delays in their wages. Whereas the Act has made it easy to recover unpaid wages, it provides no relief in relation to disputes concerning the employment contract itself⁶.

The general aim of the Act is that wages should be provided to employees at such intervals, in a particular manner, and free from unauthorized deductions⁷. Thus, the three broad objectives of the Act are as follows:

⁶ A.C Arumugham v. Manager, Jawahar Mills Ltd., AIR 1956 Mad 79; Delhi Transport Corpn v. D.D. Gupta, (1984) II LLJ 79 (Delhi)

⁷ Arvind Mills Ltd., v. K.R. Gadgil, AIR 1941 Bom. 26, General Manager, India Cements Ltd. V. Subramanian N.S., (19980 I LLJ 584 (Mad).

1. Wages payable must be paid in some specified mode or manner.
2. Payments should be at regular intervals.
3. No unlawful or unauthorized deductions of wages are allowed under the Act.

In *Laxmi Industrial Corporation v. K. K. Tewari*⁸, the Rajasthan High Court observed: "The whole intention of the Act is to see that wages are paid in time and nothing less than this should be allowed to be deducted by the employers. Such intention is adverse to the provisions of the Act as they are enacted as social welfare measures to shield the employees from exploitative practices."

Moreover, the legislature amended the Act in 1982 to expand its scope of protection and make it more effective for a more extensive category of workers. The Supreme Court has further opined that the Act was enacted to govern wage payments for specific classes of employees in factories, railway administrations or any industrial establishments notified by the State Government.

3. DEFINITION OF WAGES AND OTHER RELEVANT PROVISIONS UNDER PAYMENT OF WAGES ACT, 1936 (Ss.3-6):

3.1 Applicability:

The Payment of Wages Act is applicable all over India. This act comes into force on a date to be notified by the Central Government in the Official Gazette. It mainly deals with the payment of wages of employees working in factories and railway administrations and other specified industrial institutions⁹. The proper Government can also extend the provisions of the Act to other classes of employees, if three months' notice is issued in the Official Gazette, and for Central Government-owned establishments, if so allowed by them¹⁰.

The Act covers the employees whose salary does not exceed Rs. 18,000 per month, this was established through an amendment of 2012. In the case of *Panther Power Kamgar Sanghathan v. Jhalani, Y. C*¹¹, the Bombay High Court held that where an alternate remedy under the Act is not applicable, it need not be exhausted.

⁸ 1995 II LLJ 276 (278)

⁹ S.1(4), S. 2(ii)(a)-(g) , Payment of Wages Act, 1936.

¹⁰ S.2(ii) (h), Payment of Wages Act, 1936.

¹¹ 1998 (1) LLJ 884

The Act also covers working journalists¹² and motor transport workers¹³, and extends to employees on monthly salaries without any distinction on wage period. Historically, it did not cover those earning more than Rs. 200 per month prior to the amendment in 1957, although Dearness Allowance (D.A.) is included as part and parcel of wages. It does not define who constitutes workers, but refers to the Industrial Employment (Standing Orders) Act, 1946¹⁴, for clarification. It has been applied to several sectors in different states that include motor omnibus services, tramways, plantations, and inland navigation, whereby there is a total coverage of regulations concerning wage payment from various kinds of industries.

3.2 Responsibility for Payment of Wages

Section 3 of the Payment of Wages Act, 1936, laid responsibility on the employers as regards the payment of wages. Every employer is obliged to ensure all the wages are paid in due time to the employees. Clarification about above responsibility as regards 2005 amendment to the provision added the person for whom the manager is responsible holds the responsibility for payment in factory areas while in industrial enterprises, by the person responsible or directing and controlling that establishment. For railways, there is a nominated person from the railway administration. In the case of a contractor, a designated person by the contractor may be accountable; otherwise, any designated person by the employer is held accountable.

Importantly, even if the contractor or appointed person does not pay, the employer is responsible. The Act specifies particular circumstances when a manager is leaving, has died, or has been dismissed, whereby the employer is liable for the wages¹⁵. The Act does not define "employer," but within a private limited company, the directors are usually the employers liable to make wage payments¹⁶.

It was brought out from the judgment delivered by the Supreme Court in the case of P.C. Agarwala v. Payment of Wages Inspector that no provision of the said Act is similar to that existing in S.2(n) of the Factories Act relating to the liability of the employer. The High Court

¹² Manager, Searchlight Press, Patna v. Factories Inspector, Patna, AIR 1960 Patna 33.

¹³ S. 25, Motor Transport Workers Act, 1961.

¹⁴ (1964) 5 Fac. L.R. 391 (All)

¹⁵ DM Godse v. State and Anr. AIR All. 652 ; Chiranjit Lal Modi v. SR Chakravathy and others, (1963) (1) LLJ 724.

¹⁶ Bhal Gore Coal Co. Ltd and others V. Indrajit Singh and others AIR 1964 Pat. 292.

held that directors of a company do not personally come under the liability of this Act unless they are so appointed as managers. In this case, it was determined that the right to make a payment on wages rested with the statutory appointed manager and the employer unless otherwise determined. In itself, the Act is aimed to protect the rights of wage earners by clearly defining the parties responsible for making the payments.

3.3 Wage Periods and Time of Payment of Wages: (S.4 & S.5)

The Payment of Wages Act details specific examples that guide payment on time regarding wages for workers. The applicable regulation states that wages should be paid at intervals agreed upon depending on the number of employees working in a given establishment. If the workers in a factory, railway, or establishment number less than 1,000, then wage payments must be made seven days after the date of termination of a given wage period. In an establishment with over 1,000 workers, such wage payments must be made within ten days.

The Act specifies a "wage period" as the duration of time that the employer decides wages should be paid, with no wage period to be more than one month. Therefore, wages are not strictly paid on a monthly basis but are possibly paid on a daily, weekly, bi-weekly, or monthly basis¹⁷. Provisions in 1964 specified that wages should be paid for workers employed in docks or mines within seven days after completion of such periods. In case the contract of an employee is terminated, wages must be paid within two working days.

The proper government has powers to exempt some employers from such rules, especially on daily-rated workers, but such exemptions require the consultation of the Central Government. The rules are intended to discourage time lags in wage payments and curb unfair labour practices upon workers in factories, railways, and other pertinent establishments. In general, the Act hopes to achieve a more regular and timely payment of wages to employees.

3.4 Definition of Wages:

A wage is compensation, usually financial, received by workers in exchange for their labour. Compensation in terms of wages is given to workers and compensation in terms of salary is given to employees. Compensation is a monetary benefit given to employees in return for the

¹⁷ Bhimsen Saxena V. Brijnandan Bajpai, AIR 1959 MP 401

services provided by them¹⁸.

According to Black's Law Dictionary, wages means "to give security for a performance of a thing".

According to Section 2 (vi) of Payment of Wages act, wages means all remuneration, whether by way of salaries, allowances or otherwise, expressed in terms of money or capable of being so expressed which would, if the terms employment, express or implied were fulfilled, be payable to a person employed in respect of his employment or of work done in such employment¹⁹.

4. OBJECT AND DEFINITION OF DEDUCTIONS:

4.1 Definition:

The term "deduction" refers to the act of subtracting a sum or amount from a total, thereby reducing it. Under the Payment of Wages Act, 1936, any payment made by an employee to the employer is considered a deduction for the purposes of the Act. The Act does not explicitly define "deduction," but it is interpreted broadly to include any unpaid wages that should have been paid.

4.2 Rationale behind Deductions:

The rationale behind deductions is primarily to ensure the proper functioning of the workplace while balancing the interests of both employers and employees.

Employer's Perspective: Deductions can help maintain productivity and manage operational costs, allowing employers to ensure that resources are allocated efficiently and that employees remain accountable for their performance.

Employee's Perspective: Authorized deductions can also benefit employees by facilitating services such as loan repayments, insurance premiums, or contributions to cooperative societies, which can enhance their financial stability and access to necessary resources.

Legal Framework: The Payment of Wages Act allows for deductions that are deemed just, fair, and reasonable, aiming to protect workers from arbitrary or excessive deductions that could jeopardize their livelihood.

5. DEDUCTIONS:

¹⁸ <http://en.wikipedia.org/wiki/Wage>

¹⁹ Trivedi, M. (Year). *Deduction from wages*.

5.1 Unauthorised Deductions:

Unauthorized deductions are made from the employee's wages without express authorization made by law or through a contract. According to the Payment of Wages Act of 1936, all earnings of an employee will be free from any deductions unless if such deductions are permitted by Section 7 of the Act. Indeed, it prohibits employers from doing any kind of arbitrary deductions that might take advantage of their employees.

Illegal Deductions with Different Types:

1. In case of fresh contract: In case the employer cancels the existing contract of the employee and proposes re-employment at a lesser wage, the Act forbids this act, and this act is not considered as deduction under the Act²⁰. According to Section 15 of the Act, if penalty or punishment causes a deduction of wages without a new contract which fixes that reduced wage, it is considered as deduction. The employers, however, are liable for refund of any amounts deducted that are not covered in Sections 7 and 8 of the Act²¹.

There is a definition in the Act which states that "wages" include any allowance to which an employee is entitled according to agreement made a term of or connected with his employment. Whilst parties are free to vary their contract, Section 23 of the Act specifically excludes an employee from releasing their rights under the Act. Thus, any wage change valid in employer-employee relations under a mutually accepted agreement will not violate this section provided they are bargained and agreed upon²². Courts have held that a lower wage substituted for a higher wage is not a deduction if it is the result of a valid contractual agreement²³

2. Fines for Misbehaviour: Fines were allowed to be levied arbitrarily by employers even prior to the coming into force of the Payment of Wages Act. The Act has curtailed such arbitrary deductions. Fines are permitted only for specific acts approved by the State Government.²⁴
3. Deductions for Loss or Damaged Property: Losses incurred by damage to, as well as loss of, employers' property cannot be deducted from wages unless there has

²⁰ Srivastava.K.D : Commentaries on the Payment of Wages Act,1936.p.174.

²¹ Mohd.Haji Umar v. Div.Supt.N.Railways AIR 1941 Sind,191.

²² Dinram Chautiya & others V.Div.Manager.A.I.R.1958 Assam 77

²³ M.P.Jadhav V, W.M.Bapat & others (1982)-IL.L.J.144 Bom

²⁴ S.7(2)(a) and S.8 Payment of Wages Act 1936.

been direct causation based on the employee's negligence or fault. The lack of negligence evidence will prevent deductions if such have not been authorized²⁵.

4. Deductions from Wages for Claims Irrelevant of Employment: Wages shall not be withheld to settle claims arising from dealings extraneous to the employment. This is to say, personal debts cannot affect wage payments²⁶.
5. Forbidden Deductions of Commodities or Services: Any required commodity or service to the employees cannot be deducted from wages, such as tools or uniforms, except if authorized by law. The cost of such necessities must be recovered through judicial process and not through deduction from wages²⁷.
6. Deductions for Income Tax: though employers are permitted to deduct taxes as per statutory provisions, such deductions are made strictly according to the legal standards under Section 7(2)(h) of the Act.
7. Recovery by Railway Administration: In case the employee's acts lead to losses for the railway administration due to miscalculated rebates or refunds, the recovery is possible only when there is direct accrual of loss due to neglect or default on the part of the employee. In other cases, such deduction is illegal²⁸.
8. Deductions of Life Insurance Premiums: The employee should give in writing an authority to deduct the life insurance premium. Without such authorization from the employee himself, such deductions are illegal²⁹.
9. Remittances to Co-operative Societies: remittances to co-operative societies can only amount to 75% of wages if wholly or partly made, with others not exceeding 50% of wages³⁰. These are an illegal deduction if the percentages are exceeded³¹. In the case of Arumugham³², it supported the view that while it is exhaustive, no other deduction is legally allowable under Section 7(2) of deductions. Any deduction not covered under Section 7 of the Payment of Wages Act, 1936 would be construed as an unauthorized deduction. This implies that the employers could make deductions only under heads derived by this enactment. Unauthorized deductions would thereby relate to arbitrary penalties, illegal fines, and so on

²⁵ S. 7(2)(c) and S.7(2)(o), Payment of Wages Act, 1936.

²⁶ Halsbury's Law of England, Vol.17 p.142,138

²⁷ Hindustan Journal v.. Govindram (1962)-II.L.L.J.242 M.P

²⁸ S.7(2) (m), (n), (o), S.10(1A)

²⁹ S.7(2)(k) and S.13

³⁰ Bulchandani,K,R.I Industrial Law,p,13-

³¹ S.7(2)(j) and S.13

³² Arumugham V. Jawahar Mills.A.I.R. 1956 Mad.83

deducted without any proper justification. The employees have the right to challenge such deductions whereby the employers can be liable to be penalized for indulging in such practices.

Protection and Rights of Employee:

Wage Payment Act grants employees broad protection against unauthorized deductions:

- Consent requirement: Deductions are allowed only with the consent of an employee or as authorized under particular statutory provisions³³.
- Authority and Orders: Deduces only on the orders from an authority that is proper such as a court or a statutory body. Without such allowance sought illegal deductions are not permissible³⁴.
- Transparency: The employers should notice the legally allowed deduction in the workplace. The same is therefore communicated and known by the employees themselves.

Effects of Unauthorized Deductions:

The impact on the employee's resulting from unauthorized deductions is devastating:

- Financial Burden: Unauthorized deductions are highly likely to cause a severe financial burden, especially if the amount deducted is even slightly higher than what the worker earns with very low wages.
- Perceived Injustice: Imposition of unauthorized fines would lead to the workforce feeling a pervasive sense of injustice and resentment, thus negatively affecting morale and productivity.
- Legal redress: Employees whose wages are subjected to unauthorized deductions are fully entitled to redress in court through complaining to labour authorities or suits in court.

In order to prohibit such practices that would hurt the interest of employees, the Payment of Wages Act, 1936 strictly regulates unauthorized deductions from wages. For fair labour standards, it is thus important to know the categories of such unauthorized deductions and the rights of employees; therefore, knowledge in this respect is called for, with the observance of all legal measures. An employer has also to be prudent in such matters that keep such regulations at bay to avoid lawsuits and maintain a fair atmosphere at the workplace.

5.2 Authorised Deductions:

Section 7 further states that no employer shall, without the leave of the employee make any

³³ M.P.Jadhav V, W.M.Bapat & others (1982)-IL.L.J.144 Bom.

³⁴ Kundan LaL V.Union Of India A.I.R1961. All.567.

deduction from the wages of an employee under a standing order. The section is meant for the better protection of employees whose bargaining powers may be behind compared to the employers' powers. Any authorization by employer or employee of any deduction inconsistent with this section is void. Effective settlements, however-resulting in reduced wages, are not deductions under the Act because they do not involve a subtraction from wages owed³⁵.

The decision in *Mysore Sugar Co. Employees Union*³⁶ clarified that though Section 7 prohibits deductions from payable wages, it does not prohibit the making of a smaller wage by agreement between the employer and the employees. The court held that if a wage agreed is of lesser amount, it will not be considered as a deduction falling within the purview of Section 7. The Act has also enumerated the permissible deductions specifically mentioned in Section 7(2) like income tax, absence from duty, and compensation for damage to goods entrusted to the employee, etc.

The reasons to prohibit unauthorized deductions are the retention of wages sufficient for employees to pay for the most basic living expenses so that arbitrary deductions do not lead to monetary hardship, increased indebtedness, or injustice in workers' pay. General Social Insurance Act is intended to protect a fair standard of living for employees from employers making inappropriate and excessive deductions.

These deductions should thus be made in line with the procedures provided under sections 8 to 13 of the Act, which are explanations of how the law applicable to the making of such deductions is.

The list of deductions listed in Section 7(2) of the Payment of Wages Act is diversified, and mainly serves the cause of employers. However, other deductions represent entitlements for employees. They can be broadly classified into two categories: those that benefit employers, and those that protect the rights of workers.

Employer-Interest Deductions:

While deductions from wages are essential for the smooth running of industrial establishments,

³⁵ Ahmed, A. (1984). *Law of deductions: The Payment of Wages Act, 1936 — A critical study* (Master's dissertation). Aligarh Muslim University, India.

³⁶ *Mysore Sugar Co. Employees Union V. Commissioner of Labour*, (1968)-I L.L.J. 491 (Mys)

they may be against the interests of the individual worker. Such deductions rarely benefit workers immediately but can, in the long term, greatly contribute to the national economy in important ways. The argument here is that although deductions are serviceable for productivity and organisational efficiency, their immediate effect on employees is negative because they do not pay forthwith.

(a) Deduction by way of Fines:

This was a common action of employers in the pre-labour laws arena. They would often withhold unauthorized deductions from wages of their employees in terms of fines imposed arbitrarily. However, with the establishment of labour laws, this was made impossible as Section 7(2)(a) and Section 8 of the Payment of Wages Act impose some limitations and conditions on the imposition of fines.

Section 7(2)(a) permits fines. The provision giving circumstances under which a fine is leviable is contained in Section 8. The circumstances are as under: -

- i. Acts or Omissions: A fine can be imposed only for acts or omissions specified by the employer and approved in advance by the State Government.
- ii. Notice: There must be a notice implying such acts or omission, which is displayed at the workplace. In case of railway employment, such notice must be displayed at a notified place.
- iii. Right to Defense: The employees are entitled to a reasonable opportunity to raise a defense against any imposition of a fine.
- iv. Age Bar: No penalty can be invoked against an employee who is under 15 years of age.
- v. (v). Recovery Period: No recovery can be made from an employee in installments after 60 days from the date the fine was imposed.
- vi. (vi). Amount of Fine: The total amount of fines in any wage period must not exceed 3% of the employee's wages for that period (this was changed from the earlier limit of half an anna per rupee).
- vii. (vii). Date of deeming service A fine be deemed to be imposed on the date of which the act or omission had been done for which it was imposed³⁷.

The essential purpose of fines is to impose discipline at the workplace. Fines can be imposed on an employee only when the acts or omissions for which fines are being imposed are specifically mentioned and such acts result in or are likely to result in loss

³⁷ Goswami, V.G. ,Labour and Industrial Laws.p.98.

to the employer or disruptive operation of business. Fines must be reasonable in proportion to the circumstances of the case.

1. *Squire v. Bayet & Co.*³⁸: It was held that a notice given to the workmen which warns them that they may be fined for failing to maintain good order and decorum is enough. Here, Dancing in a workroom is held to be an act causing injury to machinery and materials due to dust raised and hence liable to fine.
2. *Mir Mohammad Haji Umar v. Div. Supdt. N. Railway*³⁹: Held, a cut in salary comes within the definition of a fine. In this case, Mir Mohammad's salary had been reduced to Rs 68 from Rs 61 per month for three months as a punishment for misconduct. The court, with Weston, J., held that an authorized deduction of future salary as a penalty without any new contract was an unauthorized deduction and, therefore, awarded the difference deducted as refundable.
3. *K.P. Mushran's Case*⁴⁰: It was held that if a worker is suspended pending inquiry, then he is entitled to full wages. If paid a reduced amount as subsistence allowance, the difference between it and the proper wage amounts to a fine, no matter what the employer calls it.

They may not impose fines unless and until the acts or omissions for which that fine has been imposed are stated in a notice served by an inspector under Section 8. That section indicates that the list of punishable acts should be approved by the Chief Inspector of Factories. All fines recovered by way of deduction should be entered in a register kept by the employer. The fines gathered can only be utilized for purposes that benefit the employees and are approved by the pertinent authority⁴¹. In some establishments, like railways, factories, or industries of the same management, fines are deposited into a common fund for the staff; however, this fund shall not be utilized unless pertaining to an approved purpose.

In the states of Maharashtra and Gujarat, the Bombay Labour Welfare Fund Act, 1953 applies. Under this act, all fines realised under certain industries must be paid into a

³⁸ (1901) 2 K.B. 299

³⁹ A.I.R. 1941 Sind. 91

⁴⁰ K.P.,Mushran V. B.C.Patil A.I.R.1952 Bom.235

⁴¹ Chopra,D.S.,The Payment of Wages Act ,1936.

Labour Welfare Fund. The U.P. Labour Welfare Fund Act, 1965 also requires all fines realised in factories or establishments under its jurisdiction to be paid into a welfare fund established under the Act⁴².

In *Mir Mohammad Haji Umar*⁴³, the Supreme Court held that fines under section 8 of the Payment of Wages Act are governed. According to the Court, fines collected with this provision should be entered in a separate register and must be used for the welfare of the employees. The court stated that the funds compounded by the fines form a trust fund. The employers are considered as a trustee of that fund.

The court further dealt with the grievance of the appellant relating to the Bombay Welfare Act, where the fines may be used for persons other than employees of the appellant. Once again, the appellant submitted that this was depriving them of their rights as trustees, but the court held that since a trust is a creature of legislation, a legislature can modify it also. It held that there was no infringement of rights relating to the 'property' of employees within Article 31(2) of the Constitution or arbitrary restraint on property rights within Article 19(1)(f).

This construction was consistent with the earlier judgment of *State of W.B. v. Subodh Gopal*⁴⁴, wherein it had been held that the extension of the class of beneficiaries did not infringe constitutional rights for the simple reason that the trust was enacted by legislation.

(b) Deduction by absence from duty:

Under Section 7(2)(b) of the Payment of Wages Act, 1936, deductions could be made from an employee's wages for being absent from duty. This should, however be read against Section 9 which deals with not only the quantum but also the manner in which the deductions may be made when an employee is absent from his place of employment. Absence can either be for an entire work period or be part of the work period. Whether or not an employee is absent is a fact of record that can only be determined based on an available evidence.

Explanation to Section 9 states that an employee is deemed absent while physically present in the work place, refusing to work due to no justifiable cause. For instance, if

⁴² U.O.Labour Welfare Fund Act,1965 S.23.

⁴³ *Mir Mohammad Haii Umar V. Div. Supdt. N. Railway.* AIR.1958 S.C. 328.

⁴⁴ 1954 S.C.R. 587

the employee goes on a stay-in strike or any other irresponsible act, then it should also be treated as absent.

1. Buxton Lime Firm Co. v. Howe⁴⁵ (1900):

In this category of case, a workman applied for three days leave which was refused for two days. The worker retorted saying he would take "French leave" and he did absent himself for all the three days. The court under Darling J held that the workman had in fact committed an act justifying the employer's deduction from wages for the unauthorized absence.

2. R.K. Bhattacharya & Others v. M.D. Mining & Allied Machinery Corp. Ltd⁴⁶. (1971):

The Calcutta High Court held that the employees who resorted to a tool-down strike without any cause were considered absent from duty and warranted wage deductions by the employer from the employees under Section 9.

3. Mangement of Jawahar Mills Ltd. v. Industrial Tribunal⁴⁷ (1969):

It held that Sub-section (1) of Section 9 and the proviso to the section cannot be applied together. This case has ruled on the principle that the application of deductions for absence from duty.

4. Visakhapatnam Port Trust's Case⁴⁸:

The court concluded after the Jawahar Mills case that even the employees who actually went on strike had, in fact, absented themselves and that their wages could be deducted by the employer under Section 9(2), without considering whether this is a justified strike in terms of the principles of industrial law.

Under the proviso to Section 9, there are further deductions besides the wage deduction that is permissible under this section for individual absence. Under concerted action such as a strike, up to eight days' wages can be deducted. This can, in effect, be considered as a punishment for failure to give due notice of absence.

⁴⁵ Buxton Lime Firm Co. V. Howe. (1900) 2.Q.B.232.

⁴⁶ M.D.Minning & Allied Machinery Corp.Ltd. V. R.K.Bhattacharva & Others, (1971)-II.L.L.I.C.1339(Cal)

⁴⁷ Mangement of Jawahar Mills Ltd. V. Industrial Tribunal. A.I.R. 1969.A.P.195.

⁴⁸ Vishakapatnam Port Trust V, Authority. A.I.IR.1969 A.P.195

5. Visakhapatnam Port Trust Case⁴⁹:

This case also mentioned that in any case, though the strike is not justified, the employer is entitled to withhold the wages paid for the period of absence on the proviso to Section 9.

6. Electro Mechanical Industries v. Industrial Tribunal⁵⁰ (1950):

The court held that an Industrial Tribunal has the jurisdiction to decide disputes relating to deductions under the Payment of Wages Act, not even justified strikes. It further held that even if workers were on an unjustified strike, deductions shall be strictly within the legal limits, and a tribunal may order a refund of any excess deductions.

7. Engineering Mazdoor Sabha v. S.T. Bilgarami⁵¹ (1972):

The Supreme Court held in this case that no court is liable to award back wages for the period of an illegal lock-out. In such a case, the court can consider the defense advanced by the employers and think that the misbehavior of the workmen justified the deductions made on wages.

8. Kalasashi Banerjee v. Hamilton & Co. Ltd.⁵² (1955):

The court held that when the employees were absent for one day due to a local celebration, the employer was entitled to deduct one day's wages. However, because the absence was not concerted, the deduction was only good for just one day.

If the absence of an employee is resultant out of the conduct or actions of the employer, then deductions cannot be made. For instance, if the actions of the employer compel the worker to refrain from attending work, then the deduction would be unjustified.

9. Anant Ram v. District Magistrate⁵³ (1956):

The decision was arrived at the view that no deduction of wages can be permitted while an employee is dismissed and reinstated within the period of absence, as he has suffered involuntary absence.

⁴⁹ Vishakapatnam Port Trust V, Authority. A.I.R.1969 A.P.195

⁵⁰ Electro Mechanical Industries V. Industrial Tribunal A,I.R. 1950 Mad. 839.

⁵¹ Engineering Mazdoor Sabha V. S.T.Bilgarami 72 Bom.L.R477.

⁵² Kalasashi Banerjee V. Hamilton & Co. Ltd (1955) II LLJ 346

⁵³ Anant Ram V. District Magistrate.A.I.R, 1956 Raj. 145.

10. Viswanath Tukaram v. General Manager, Central Railway⁵⁴ (1957):

This case dealt with the distinction between reinstatement and re-employment. If the employee continues to be in employment during the relevant period, then the original contract regulates wage claims. In case they are not, then the situation is considered as re-employment and might alter wage terms.

11. Shatrughan Sahay v. Industrial Tribunal⁵⁵ (1984):

Recently, in one such case, the High Court of Patna ordered compensation to a suspended worker who was reinstated later. The court asked him to reconsider back wages, along with other demands, under the said law, insisting that he cannot defeat the very purpose of the Payment of Wages Act by not paying the back wages of the worker .

(c) Deductions for damage or losses:

Under Section 7(2)(c) of the Payment of Wages Act, it is permissible to deduct from an employee's wage on account of damages or losses to or of, or injurious to the employer's property, subject to certain conditions. *The two essential conditions for this type of deduction are:*

1. Actual Loss to the Employer: The deduction cannot exceed the amount of actual damage or loss sustained by the employer.
2. Neglect or Default of the Employee: The loss must be due to the neglect or default of the employee. He should prove it to his satisfaction⁵⁶.

1. K. Ramaswami Case⁵⁷ (1958):

In this case, the Madras High Court elaborated what "expressly" means in Section 7(2)(c) of the Payment of Wages Act. The court held that "expressly" is used not technically but merely as the antithesis of "impliedly." It means "clearly." The term "custody" in this connection does not mean "safe custody." Thus, if a driver be put in charge of a vehicle even for its use on the highway, it comes well within the purview

⁵⁴Visawanath Tukaram V. General Manager. C. Rly. (1957) LLJ 250 Bom.

⁵⁵ Shatrughan Sahav V.Industrial Tribunal (1984)-17 L.I.C647.

⁵⁶ Halsbury's ,Laws of England,p,147,

⁵⁷ State of Madras V. K.Ramaswami.A,I,R.1958 Mad.585

of "expressly entrusted to the employee for custody," and damage caused by the negligence of the employee vests the employer with the right to withhold wages for the loss to the vehicle.

2. The Rampur Engineering Co. Ltd. Case, 1966⁵⁸:

The Allahabad High Court rightly expanded the ambit of Section 7(2)(c) substantially, holding deductions for loss of items like electric bulbs and tools distributed among the employees for personal use quite justified.

The court determined that the absence of definition of "goods" in the Payment of Wages Act means that the term should be construed with a definition provided by the Sale of Goods Act, such that it covers any movable property. Even where such goods are delivered to employees for use, they remain in their "custody" and deductions may be made in case of loss or damage.

3. Sulekha Works Ltd. v. Continental Builders⁵⁹ (1983): It involved an employee who is a driver of a vehicle and has been entrusted with the responsibility of making purchases on behalf of the company. The said amount of Rs. 16,000 was not accounted for, and the employer made a deduction from his wages. Held: The judgment states that deduction from wages on account of unaccounted money is permitted under Section 7(2)(c) of the Payment of Wages Act, especially if the employee is entrusted with a financial responsibility.

The Code covers wage deductions for losses traceable to employees within the railway administration under sections 7(2)(m), (n), and (o). Such are deductions authorized on account of:

Losses resulting from acceptance of fictitious or mutilated currency; and

Failure to present invoice, bill, collect, or account for charges; for example, fares, freight, demurrage, or wharfage.

Clause (o): Payment of wrong rebates or refunds, but only on account of any loss directly imputable to any employee due to his negligence or default.

Deductions under clause (o) can be made only in case the loss is caused by the employee's negligence or default. However, clauses (m) and (n) deductions do not require any such reason to make the deduction.

⁵⁸ M/s Rampur Engineering Co.Ltd. V. City Magistrate A.I.R.1966 All.544.

⁵⁹ Sulekha Works Ltd. V. Baren Das (1983)-II,L.L.J.501 (Cal).

Section 10(1-A) holds that no deductions under such clauses shall be made without affording the employee an opportunity of being heard which also includes following the prescribed procedure and the principle of natural justice.

4. Binapani's Case⁶⁰:

The Supreme Court decided that any kind of administrative order which affects the rights of an individual has to fulfill the requirements of natural justice principles. The person involved must be informed of the case against them and must be given a fair opportunity to present their case before arriving at an adverse decision about them.

Section 10(2) stipulates that all the deductions made because of this section ought to be done in a register kept under the authority of and payable to the responsible person who pays wages. This, therefore achieves observance of the rule of law.

Employee-Interest Deductions:

These are some of the arrears that are applicable to specific rights or protections of the employees. The deduction is given to the employee in a manner that he or she gets the wages free of unauthorized deductions.

(d) Deduction for Service Rendered:

Section 11 of the Payment of Wages Act deals with the permitted deductions under sections 7(2)(d) and 7(2)(e), mainly in the case of house accommodation and other services. Section 11 of the Payment of Wages Act dealt with the permitted deductions under:

- Section 7(2)(d): Permitted deduction in the case of house accommodation provided by the employer.
- Section 7(2)(e): Permitted deductions for services rendered or facilities provided by the employer.

1. Consent Clause: Deductions are not commonly done for house accommodation, amenities, or services unless the employee has accepted the house accommodation, amenities, or services as a term of employment or has agreed to receive them;

2. Fair Value: The value of house accommodation, amenities, or services provided must

⁶⁰ State of Orissa V. Binapani, A.I.R.1967.S.C.1269.

be commensurate with what is deducted. For example, the employer cannot deduct more than what is actually worth;

3. Government Authorization: Services or amenities provided by the employer: The deduction in terms of Section 7(2)(e) shall have prior authorization of the State Government. The deductions are subject to any conditions imposed by the government⁶¹.

(i) House Accommodation (Section 7(2)(d)):

Deductions can be made regarding house accommodation furnished by the employer, the government, or a housing board. The same can be made if the accommodation is provided by any other authority which is involved in furnishing subsidized accommodation, as envisaged by the state government.

- Requirement for Allowable Deduction: He has agreed on housing as part of his conditions of service. If the employer is legally obliged to provide free accommodation, he is not allowed to deduct it. For instance, an employer cannot later regard free housing provided to an employee as part and parcel of wages.

- Dilbagh Spinning & Weaving Mills Case⁶²: Punjab High Court held that if the employees were provided free of cost accommodation prior to the fixation of their wages by the tribunal, the employer cannot alter this position and recover the cost of accommodation as part of wages for the employees.

- Re Mysore Spun Silk Mills Case⁶³: The High Court observed that in cases of retrenchment, the employers can at their option debit such amounts from the retrenchment compensation which amount to arrears of rent or taxes due in respect of the accommodation provided to the retrenched employee. Deductions are permissible only when they are permissible under a written contract with the consent of the employee concerned.

(ii) Deductions for Amenities and Services Rendered (Section 7(2)(e)):

- It grants exemption for the conveniences and welfare that an employer offers or, on authorization by a state government. However, light, water, or medical attendance cannot be considered a wage unless authorized by a special order issued by the state

⁶¹ Kautilya : Labour Laws,p.315.

⁶² Dilbagh Spinning & Weaving Mills V. Sher Singh.23-F.J.R. 606.Punj.

⁶³ Re Mysore Spun Silk Mills Case (1965) -.I.L.L.J.662.Mys

government.

Mahadeo Raghoo's Case: The court held that if house rent allowance is compulsorily payable under the rules of employment, it forms part of the wages of an employee. However, if the rules do not give the employee absolute right to get a house rent allowance, it can never be regarded as wages.

Dharma Ram's Case⁶⁴ : The petitioner, who met the specified conditions under the railway rules, was entitled to get a house rent allowance along with his wages. The house rent allowance was given to the employees posted in the more costly regions to make them balance the exorbitant rent they had to pay.

These deductions are controlled to avoid undue penalties on employees and proper justification of all the made deductions.

(e) Deductions for Recovery of Advances

Under Section 7(2)(f) of the Payment of Wages Act, recoveries are allowed to be made for advances given to employees so as to cover travelling or conveyance allowances, interest payable on such advances, and overpayment of wages. Section 12 imposes some conditions in respect of such recoveries by employers. The details of those conditions are given below:

Types of Advances

1. Advances Before Employment:- These can be further segregated as,

- (a) Advances toward traveling expenses.
- (b) Advances for other expenses.

Recoveries for these advances should be collected from the first payment of wages for a full wage period.

Significantly, there can be no recovery of advances granted before employment specifically for traveling expenses.

2. Advances After the Commencement of Employment:

Advances given after employment has begun are subject to rules made by the State Government. Such rules must be complied with while exercising recovery of such advances.

3. Advances Against Future Wages:

Recovery of advances for wages not yet earned also is subject to regulations made by

⁶⁴ Dharija Ram V. Union of India A.I.R. 1961 Punj. 178.

the State Government⁶⁵. These arrangements normally allow recovery at the discretion of the employer throughout the term of employment. Generally, the amounts of such recoveries should not exceed two calendar months' earnings. In exceptional cases, with the prior authorization of an Inspector or Supervisor this can extend to four calendar months' earnings.

The Maharashtra and Gujarat rules provide that interest charged on advances shall not exceed 6% per annum⁶⁶. Advances are also allowed to be set off against bonus liabilities payable in respect of previous years⁶⁷, however it would be remembered that though unemployment compensation is not salary within the meaning of Section 2(vi) of the Act, in this regard, recoveries of overpayment cannot be made under Section 7(2)(f). Although the Act does not prescribe the restrictions towards the adjustments for overpayment of wages, employers should consider the economic conditions of the employee and the amount advanced without causing undue hardship.

These provisions balance the interests of employers in recovering advance with the protection of employees from excessive deduction that could affect their financial stability.

(f) Recoveries of Loans Made for House Building:

Section 7(2)(fff) of the Payment of Wages Act allows deductions from wages which an employee may make for recovery of loans advanced for purposes of house building or for any other purposes approved in this behalf by a State Government, but also includes any interest payable in respect of such loans. However, Section 12-A imposes restrictions on such deductions, loans for this sub-section must be subject to all provisions that the State Government may make concerning permissible limitation on such loans and potential interest rates.

(g) Deductions for Payments to Cooperative Societies

Section 7(2)(j) covers amongst other things, payments to cooperative societies approved by the State Government or any specified officer as well as contributions made towards insurance schemes maintained by the Indian Post Office. All these are

⁶⁵ S. 12(b)

⁶⁶ Chopra, D.S., The Payment of Wages Act, 1936, p.97.

⁶⁷ Grahams Trading Co. Ltd. V. Second Industrial Tribunal (1953)-II. L.L.J.153 (Cal).

also subject to the conditions imposed by the State Government⁶⁸. Payments into cooperative societies will be set apart to clear pending debts or demands against the societies. This means that such payments cannot be made except on an assertion or claim that a member owes money to the society.

The legal precedent established in the case of *Majdoor Sahakari Bank Ltd*⁶⁹. is that the deduction must be for the satisfaction of a debt which is confirmed and outstanding and not because of an allegation or a claim of debt from a cooperative society. These provisions ensure that the deductions made are just and only when debt is actual and proved and also safeguard employees from arbitrary or unjust deductions from wages.

(h) Deductions for Payment of Any Premium:

Section 7(2)(j) of the Payment of Wages Act deals with deductions of an employee's wages with the written authorization of the employee for the following:

1. Life Insurance Premiums: This will cover premiums on life insurance policies issued by the Life Insurance Corporation of India, established under the Life Insurance Corporation Act, 1956.
2. Government Securities: Deductions can also be made for premiums related to securities of the government.
3. Post Office Savings: Employees may authorize deductions for deposits into any post office savings bank in accordance with government service schemes.

The amount so deducted will be subject to such terms and conditions that may be specified by the State Government or an officer authorized thereto⁷⁰.

(i) Deductions towards Fidelity Guarantee Bonds:

Section 7(2)(k) of the Act permits employers to recover from the employee's wages for the payment of premiums for insurance taken out by employers as a hedge against loss they incur due to:

- Embezzlement: The fraudulent appropriation and paying away of funds by an employee.
- Fraudulent Acts: Any acts by the employees that are likely to result in any losses for

⁶⁸ S.13 of the Payment of Wages Act, 1936.

⁶⁹ *Majdoor Sahakari Bank Ltd. V. Jasmat Gopal & Others*(1965) II L.L.J.245.

⁷⁰ Sections 7(2)(k) and 13

the employer⁷¹.

(j) Recovery of Loans Advanced from Welfare Fund Deductions:

Section 7(2)(ff) enables deductions from wages in respect of loans advanced from a welfare fund established for the benefit of labourers. The key features include:

1. Loans from the Welfare Fund: Loans advanced to employees who require financial assistance and are as per the rules approved by the State Government.
2. Loan Interest: These provisions also include any interest payable on these loans so that through this process of deduction from wages, wages are charged with the right to pay both the principal and interest.

These provisions operate to bring balance between the need for employers and employees such that deductions are made with the explicit mandate of the employee concerned and strictly for permissible purposes.

(k) Provident Fund Deductions:

Section 7(2)(i) of the Payment of Wages Act, inter alia, permits employers to withhold wages of employees as follows, at the discretion of the employer:

1. Provident Fund Subscription Contributions towards any provident fund may be deducted as contributions.
2. Repayment of Advances Repayment of any advance drawn under the following head, namely:
 - Provident Fund Act, 1952.
 - Any provident fund recognized by virtue of Section 58-A of the Income Tax Act, 1922.
 - Any provident fund approved by the State Government.

These can be deducted only to the extent of the period when the approval given by the State Government is valid.

Recognized Provident Fund

The Employees' Provident Fund Act, 1952 provides for a provident fund recognized under Chapter IX-A of the Income Tax Act, 1922. Payments made as contributions or repayments from this provident fund are consequently taxable under Section 7(2)(i).

⁷¹ Jowitt's-The Dictionary of English Law.p799.

The case of S.K. Mazumdar v. Union of India⁷² (1983) pointed to the issue of provident fund deductions. The facts of the case were as follows:

- The employee was removed from service in 1957 but reinstated in 1966.
- The employee had withdrawn special contributions and provident fund money on termination.
- The date of reinstatement, he paid Rs. 1,000 in cash and promised in writing to pay the arrears within a period of six months.
- But this agreement for repayment could not be implemented by the employee when the fixed salary was ordered after the period of reinstatement had begun and without payment of arrears.

The judgment by Pathak, C.J. et al., did seem sympathetic to the cause of the employee, observing: We are of the definite view that in a matter like this one, when the petitioner prayed for deducting the balance dues of the Special Fund and Provident Fund from the arrears due to him, the authority should have looked upon it with favor. The whole hitch with the inability of the petitioner to refund the balance by instalments was because of the factor of non-fixation of salary and non-payment of arrears dues.

In this case, the court has aligned itself with judicial pronouncements about considering the nature of economic conditions of employees and relating it to fair requests related to provident fund deductions, which have also been impeded by practical conditions for workers.

(I) Deductions towards repayment of funds formed by employers or trade unions

The new dimension for traditional employment in the modern "Welfare State" calls for employers to stop being portrayed as exploiters of their employees. It is increasingly realized that when employees are more than satisfied to be at work, they have a tendency to enable higher productivity for the organization as a whole.

This change has enabled employers to play more caring and managerial roles as guardians of the welfare of their employees rather than just as overseers of their employees. To facilitate this change, employers in all industries have started coming up with funds aimed at enhancing the welfare of their employees. This includes monetary contributions to plans meant to assist their employees and their dependents.

Legal Structure for Contributions

⁷² S.K.Mazoomdar V. Union of India.(1983) 16-L.I.C.1185(H/c).

In view of this development, there has been a new provision by way of allowing employers and trade unions to do more work together in promoting employee welfare. A new clause (kk) has been introduced as a part of section 7(2) of the Payment of Wages Act, which declares that:

-Deductions from Wages: The employer can deduct from a worker's wages any contributions required to be made by him or his family to any fund which is either established by the employer or by a trade union registered under the Trade Unions Act, 1926.

- For: The funds are to be for employees' welfare or that of their family members, or both.

- Approval Requirement: The State Government or an officer empowered by it should sanction such deductions. Such deductions can be made only during the period the sanction is in force⁷³.

This statutory requirement seeks to standardize and promote employee financial contributions for welfare funds, and thereby once again affirms the role of employers as well as the role of trade unions as custodians of the employees' interests.

(m) Deductions for Memberships Fees:

In addition, Clause (kkk) has been incorporated into Section 7(2) of the Payment of Wages Act, to introduce another sub-clause and further enlarges upon the anatomy of deductions. It precisely explains that:

- Trade Union Membership Fees: The fees towards trade union membership may be collected directly from employees by wage deduction by the trade unions.

- Conditions: Only those unions are allowed to collect membership fees by wage deduction, which are registered under the Trade Unions Act, 1926.

This provision is important for the very reason that it enhances the financial position of the trade unions. The financial position needs to be strong so that the trade union can fight well for its members and the accomplishment of goals. As time passes, with Clause (kkk), the bargaining power of the trade unions will be improved; thus, they will be able to bargain aggressively with the employer.

Other Deductions:

⁷³ Cl.(kk) inserted by Act No. 38 of 1982.

(n) Deductions by Order of the Court

Section 7(2)(h) Payment of Wages Act empowers an employer to recover from the employees the amount so required by an order of a court or other "competent authority." Again, the phrase "competent authority" has not been defined anywhere within the Act. In *Kundan Lal v. Union of India*⁷⁴, the court pronounced that not all employers are an authority. An agreement by an employer with an employee allowing deductions is not competent authority. Therefore, employers cannot invoke their own agreement to justify deductions under Section 7(2)(h).

In *Gopichand Khoobchand Sharma v. Works Manager*⁷⁵, the Court examined the wording of the provision and held that any deduction made by virtue of any order of a court or any other authority legally empowered is permissible. This would mean if an employer makes a deduction on account of any valid court order, it is justified under law.

Key Takeaways from Judicial Rulings:

- Order should emanate from a court or a statutory authority.
- The statutory authority must be so empowered by statute or enactment.
- There must be an authority to make deductions under a valid order, irrespective of such order, whether later declared legal or void.

For example, in *Ganeshi Ram v. District Magistrate*⁷⁶, it was held that the Supreme Court ratified the deductions made under the statutory rules like the Railways Establishment Code, if they are sanctioned by the relevant authority. In the same matter, an order from the Assistant Personal Officer or Divisional Personnel Officer fell within the mandates prescribed under Section 7(2)(h).

(o) Deductions for Income Tax

Section 7(2)(h), Payment of Wages Act, provides for income tax-deduction provisions with regard to income tax payable by an employed person. It is determined by the Income Tax Act.

Moreover, to avoid unduly prejudicing the employees, total amount of income-tax should not be deducted from any individual month; instead, the monthly deductions can be spread over a maximum period of twelve months. This staggered approach

⁷⁴ *Kundan Lai V. Union Of India* A.I.R.1961. All.567.

⁷⁵ *Gopichand Khoobchand Sharma & Others V, Works Manager* W.Rlv. (1965)-II.623 (H.C.)

⁷⁶ *Ganeshi Ram v: District Magistrate* A.I.R. 1969 S.C.356.

would ensure manageability in deductions and prevent from causing significant financial stress to the employees.

(p) Deductions for Payment to Prime Minister's Fund

The Payment of Wages (Amendment) Act, 1976 confers the following right on the employed: It allows deductions from wages for contribution to the Prime Minister's Relief Fund. Deductions that require written authorization from the employed:

The quantity, therefore, deductible under the relief fund comprises also contributions to other funds as notified by the Central Government with the official notification in the Gazette. This provision allows the government to raise financial support for several causes and initiatives, but that such finances are collected with employees' consent⁷⁷.

Quantum of Allowed Total Deductions:

The permissible total deductions that the employer can take from the employee's wages for any wage period are governed by Section 7(3) of the Payment of Wages Act, as follows:

1. Deductions towards cooperative societies:

The aggregate deduction wholly or partly made towards the payment for cooperative societies can be allowed up to only 75% of the wages.

2. Other deductions:

- In every other case, the aggregate deductions shall not exceed 50% of the wages.

Where the deductions made allowable under different heads exceed such limits, rules may be made providing for the recovery of the excess amount. The employed person is not debarred from recovering any amount that the employed person is legally liable to pay under any law in force, except the Indian Railways Act, 1880⁷⁸.

Maintenance of Registers and Records:

As per Section 13-A of the Act, it shall be the responsibility of the employers to maintain the following registers and records in such form as the Central Government

⁷⁷ S.7(2)(p).

⁷⁸ S.7(4).

may prescribe:

1. Persons Employed: A record of all persons employed by the employer.
2. Work Done: Register of work done by the employees.
3. Wages Paid: Wages register.
4. Receipts for Wages: A register of receipts issued in respect of wages paid.
5. Other Details: Any other details may be as prescribed by the rules.

The particular rules will usually provide for the maintenance of registers of fines, deductions on account of losses or damage and deductions under Section 7, which also show the heading of the clause under which each deduction is made together with the amount of any advances and their recoveries.

All registers and records, if any, maintained under the Act or any rules framed thereunder, the employer shall preserve them for a period of three years from the date of the last entry made in those records. This structured approach provides transparency with regard to wage deductions and mandates proper documentation, thus safeguarding the rights of employees while allowing employers to comply with legal requirements⁷⁹.

6. PENALTY FOR UNAUTHORISED DEDUCTIONS

Section 20 of the Payment of Wages Act states that penalties prevail in case employers make deductions without the consent of the employees or delay payment to employees. The penalties may be imposed, depending on the nature and frequency of the offenses, be either by way of fines or imprisonment. The same would be fined ₹1,500 in case of the first offense, and if it is repeated, the fine may be on a higher side, or even the employer may face imprisonment of up to six months.

7. ROLE OF THE INSPECTORS AND AUTHORITIES:

In addition, the Act empowers inspectors to inspect wage records and seek action into complaints related to wage deductions on regular inspection of wage records and complaint inquiry into matters falling within the purview of the Act. The Act also grants employees the right to file complaints before authorities designated under the Act if they feel that deductions

⁷⁹ Chopra, D.S. The Payment of Wages Act, 1935. p.98.

are not only unauthorized but also excessive.

8. CONCLUSION:

Provisions relating to deduction under the Payment of Wages Act, 1936 are relevant in protecting the system of wage payment in India from vagaries of oppression and improper practices and ensuring a fair and transparent system of wage payment. On the one hand, guidelines have been given to employers in respect of the deductions lawfully made so that the employees are saved from such oppressive measures. Still much depends on awareness among the people and enforcement.

The notion of a renewed requirement to review and expand the scope of the Act can be of utmost importance as the Indian labour landscape continues to change further and particular developments such as contractual and gig economy workers gain prominence. A modernized and more expansive framework law would deal with more contemporary challenges and possibly improve wage protection further in India.



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