

उत्तराखण्ड शासन
श्रम एवं सेवायोजन विभाग
संख्या:- 1434/VIII/10-23(श्रम)/2007
देहरादून, दिनांक 23 जुलाई, 2010

अधिसूचना

राज्यपाल, ठेका श्रम (विनियमन और उत्पादन) अधिनियम, 1970 (केन्द्रीय अधिनियम संख्या 37 सन् 1970) की धारा 10 की उपधारा (1) सपटित साधारण खण्ड अधिनियम, 1897 (केन्द्रीय अधिनियम संख्या 10 सन् 1897) की धारा 21 के अधीन शक्ति का प्रयोग करके और उत्तराखण्ड राज्य ठेका श्रम सलाहकार बोर्ड से परामर्श करने के पश्चात् उत्तर प्रदेश, शासन की अधिसूचना संख्या 2162 (एच आर) 36-2-127 (एम0एस0) दिनांक 24 अप्रैल 1990 (उत्तराखण्ड राज्य में यथाप्रवृत्त) में आंशिक संशोधन करते हुये निर्देश देते हैं कि इस अधिसूचना के निर्गत होने की तारीख से उत्तराखण्ड राज्य के समस्त अभियन्त्रण उद्योग की ईकाईयों में सफाई, स्वच्छता, स्कैवेंजिंग, सैनिटेशन, सिक्योरिटी गार्ड्स, हल्के वाहन के चालक, माली और बागवानी सेवा तथा कैंचीन श्रमिकों की सेवाओं में संविदा श्रमिकों का नियोजन किया जा सकता है परन्तु यदि किसी प्रतिष्ठान में पूर्व से श्रम प्राविधानों में नियमित श्रमिक नियोजित है, तो उनका नियमित नियोजन अप्रभावित रहेगा तथा वे श्रम कानूनों में दिये लाभ पूर्ववत् प्राप्त करते रहेंगे।

(डा० रणबीर सिंह)
सचिव

संख्या 1434 (1)/VIII/10-23(श्रम)/2007, तददिनांकित।

प्रतिलिपि निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

1. श्रम आयुक्त, उत्तराखण्ड/निदेशक, कारखाना/ब्यायलर, उत्तराखण्ड हल्द्वानी।
2. समस्त जिलाधिकारी, उत्तराखण्ड।
3. समस्त उप/सहायक श्रम आयुक्त, उत्तराखण्ड।
4. उप निदेशक, कारखाना/ब्यायलर, उत्तराखण्ड हल्द्वानी।
5. सहायक निदेशक, कारखाना/ब्यायलर, उत्तराखण्ड देहरादून/हल्द्वानी।
6. उपनिदेशक, राजकीय मुद्रणालय, रुड़की को अधिसूचना की अंग्रेजी प्रति सहित असाधारण सरकारी राजपत्र के आगामी अंक में प्रकाशन हेतु।
7. गार्ड फाइल।

आज्ञा से,

(किशन नाथ)
अपर सचिव

4912
21-7-2010


in pursuance of the provisions of clause (3) of Article 348 of the Constitution of India, the Governor is pleased to order the publication of the following English translation of notification no. /VIII/10-23(Shram)/2007, Dehradun, Dated July, 2010 for general information:

UTTARAKHAND SASHAN
Department of Labour and Employment
No. 1434/VIII/10-23(Shram)/2007
Dehradun, Date 23 July, 2010

Notification

In exercise of the powers under sub-section (1) of section 10 of Contract Labour (Regulation and Abolition) Act, 1970 (Central Act no. 37 of 1970) read with section 21 of the General Clauses Act 1897 (Central Act no. 10 of 1897) and in the partial amendment of notification no. 2162 (H.I.) 36-2-127 (S.M.) dated 24 April, 1990 (as applicable to the State of Uttarakhand) the Governor, after consultation with the Uttarakhand State Contract Labour Advisory Board, is pleased to order from the date of issue of this notification, contract labour can be employed in all the engineering Industries situated in Uttarakhand in trades like Cleaning, Sweeping, Scavenging & Sanitation, Security Guardes, Drivers of Light Vehicles, Gardener and Gardening Services and Canteen Employees but if regular employees exist in any of the above trades in any organisations from before, their regularity will not be affected and they would continue to enjoy all benefits as before.

By Order,


(Dr. Ranbir Singh)
Secretary

- (b) in the case of an establishment the registration in respect of which has been revoked under Section 8,

employ contract labour in the establishment after the expiry of the period referred to in clause (a) or after the revocation of registration referred to in clause (b), as the case may be.

10. Prohibition of employment of contract labour.—(1) Notwithstanding anything contained in this Act, the appropriate Government may, after consultation with the Central Board or, as the case may be, a State Board, prohibit, by notification in the Official Gazette, employment of contract labour in any process, operation or other work in any establishment.

(2) Before issuing any notification under sub-section (1) in relation to an establishment, the appropriate Government shall have regard to the conditions of work and benefits provided for the contract labour in that establishment and other relevant factors, such as—

- (a) whether the process, operation or other work is incidental to, or necessary for the industry, trade, business, manufacture or occupation that is carried on in the establishment;
- (b) whether it is of perennial nature, that is to say, it is of sufficient duration having regard to the nature of industry, trade, business, manufacture or occupation carried on in that establishment;
- (c) whether it is done ordinarily through regular workmen in that establishment or an establishment similar thereto;
- (d) whether it is sufficient to employ considerable number of whole time workmen.

Explanation.—If a question arises whether any process or operation or other work is of perennial nature, the decision of the appropriate Government thereon shall be final.

NOTIFICATION

English translation of Shram Anubhag-2, Noti. No.

2162(HI)/XXXVI-2—127(SM)-90, dated April 24, 1990, published in the U.P.

Gazette, Extra., Part 4, Section (kha), dated 24th, April, 1990

In exercise of the powers under sub-section (1) of Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 (Act No. 37 of 1970), the Governor, after consultation with the Uttar Pradesh State Contract Labour Advisory Board and also after having regard to the conditions of work and benefits provided for the contract labour and other relevant factors enumerated in sub-section (2) of this section is pleased to prohibit the employment of contract labour in all the Units of Engineering Industry situate in Uttar Pradesh, except M/s. Jai Vijay Metal Industrial Estate, Ramnagar, Varanasi and M/s. Bharat Heavy Electricals Uttar Pradesh, Ranipur Unit Haridwar, in respect of such operations processes and by such designations as are mentioned in the Schedule below :

SCHEDULE ENGINEERING INDUSTRY

Processes operations in respect of which employment of contract labour is prohibited :—

1. Fabrication, Forging and all types of assembling;
2. Buffing, Chipping, Cutting, Skin cutting and other types of cutting and polishing;
3. Turning and Finishing;
4. Welding and Grinding;
5. Foundry, moulding and shaping;
6. Punching, Drilling, Numbering and Bundling;
7. Galvanizing;
8. Cleaning, Scavenging, Sweeping, and sanitation;
9. Soldering;
10. Press;
11. Testing;
12. Hammering;
13. Feeding and Gorging;
14. Sheet and Metal Plate Rolling and Rolling Mill work;
15. Security Guards;
16. Drivers of light/heavy vehicles and operators of Life, Crane etc.;
17. Mali, Gardener, Carpenter;
18. Canteen Employees.

English translation of Shram Anubhag-2, Noti. No. 2163(HI)/XXXVI-2—127(SM)-90, dated April 24, 1990, published in the U.P. Gazette, Extra., Part 4, Section (kha), dated 24th, April, 1990, p. 2

In exercise of the powers under sub-section (1) of Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 (Act No. 37 of 1970), the Governor, after consultation with the Uttar Pradesh State Contract Labour Advisory Board and also after having regard to the conditions of work and benefits provided for the contract labour and other relevant factors enumerated in sub-section (2) of this section is pleased to prohibit the employment of contract labour in all the Textile Industry situate in Uttar Pradesh in respect of such operations, processes and by such designations as are mentioned in the Schedule below :

SCHEDULE TEXTILE INDUSTRY

Name of operations and processes of textile mills situated in Uttar Pradesh in respect of which Contract Labour is prohibited—

1. Bobbin Clearing;
2. Yarn-Reeling;
3. Cleaning, Scavenging and sweeping, Sanitation;
4. Engraving of Copper rolls;
5. Boiler firing;

6. Removal of Ash;
7. Security Guards;
8. Drivers of Light/Heavy Vehicles and operators of Lift, Crane etc.;
9. Mali, Gardener, Carpenter;
10. Canteen Employees.

English translation of Shram Anubhag-2, Noti. No. 1431/XXXVI-2-2000-117-2000, dated January 9, 2000, published in the U.P. Gazette, Extra, Part 4, Section (kha), dated 9th January, 2000

In exercise of the powers under sub-section (1) of Section 10 of the Contract Labour (Regulation and Abolition) Act, 1970 (Act No. 37 of 1970), read with Section 21 of the General Clauses Act, 1897 (Act No. 10 of 1897), and in partial supersession of Notification No. 2162/(HI)/XXXVI-2-2000-127(SM)-90, dated April 24, 1990, the Governor, after consultation with the Uttar Pradesh State Contract Labour Advisory Board, is pleased to order that from the date of issue of this notification, contract labour can be employed in all the Engineering Industries situated in Uttar Pradesh in trades like cleaning, sweeping, scavenging, sanitation, security guards, drivers of light vehicles, gardener and gardening services and canteen employees.

If regular employees exist in any of the above trades in any organisation from before, their regularity will not be affected and they would continue to enjoy all benefits as before.

NOTES

In *Air India Statutory Corporation v. United Labour Union*, (1997) 9 SCC 377, this Court had held that though there is no express provision in the CLRA Act for absorption of contract labour, when engagement of contract labour stood prohibited on issuance of a notification under Section 10(1) of the CLRA Act, a direct relationship was established between the workers (the contract labour) and the erstwhile principal employer, and the principal employer is obliged to absorb the workers. It also held that if the High Court finds that the workmen were engaged in violation of the provisions of the CLRA Act or were continued as contract labour, in spite of the prohibition notification issued under Section 10(1) of the CLRA Act, the High Court can, in exercise of its power of judicial review, mould the relief properly and direct the principal employer to absorb the contract labour, instead of leaving the workmen in the lurch, and it was not necessary for the workmen to seek a reference of the dispute relating to their absorption under Section 10 of the Industrial Disputes Act, 1947.¹

What is conferred under Section 10 of the said Act is to be exercised having regard to the relevant factors which are mentioned in clauses (a) to (d) of sub-section (2) thereof.²

The words 'shall have regard to' in Section 10(2) of the Act could not be taken as to mean 'having regard to' or as not being mandatory.³

1. *A.P. SRTC v. G. Srinivas Reddy*, (2006) 3 SCC 674.
2. *Sarva Shramik Sangh v. Indian Smelting & Refining Co. Ltd.*, (2003) 10 SCC 455.
3. *Karnataka Co-op. Milk Producers Federation Ltd. v. Government of Karnataka*, 2006 (109) FLR 673.