

**Government of Karnataka**

No. LD 51 LWA 2017

Karnataka Government Secretariat,
Vikassoudha,
Bengaluru, dated: 29-12-2017**Circular**

Sub: Paying minimum salary to the personnel appointed on outsourcing basis in various departments-Reg.

- Ref:** 1. Government order No: DPAR 20 SeStaAa 94, dated: 21.11.1994 of the Department of Personnel and Administrative Reforms
2. Circular No: Ka Ei 173 LW 2006, dated: 30.04.2007 of the Labour Department.

It is instructed in the order referred at reference (1) above that if the daily wage employees who have been appointed in the various departments of the Government are discharging their works/ duties in their respective posts and the said works / duties are equivalent to the works/ duties of the posts coming under the Minimum Wages Act notification, such daily wage employees shall also be paid the salary at the rate of not less than the minimum wages, notification.

The minimum wages are revised by Labour Department from time to time for the employments coming under the Minimum Wages Act, 1948 and the notification is being issued accordingly. But, in the circular referred at reference 2 above, it was instructed that payment of daily wage and subsistence allowance shall be made in respect of certain posts which have not been fixed with the daily wages in the Notifications of minimum wages i.e., Stenographers/ Typists/ Second Division Assistants by applying the rates of minimum wage fixed to the employees of cinema industries and in respect of group "D" employees by applying the rates of minimum wage fixed to the employees of Shops and Commercial establishments.

At present, several departments have sought clarification of the Labour Department with regard to the minimum wages payable to the personnel appointed and working on outsourcing basis in the various departments of the Government, Boards and Corporation of the Government, Universities, Colleges, Schools, Local Bodies, Statutory Bodies, Societies, Councils and in any other such subordinate/ autonomous institutions of the State Government.

Since the order of the D.P.A.R referred at reference (1) above and the circular of the Labour Department referred at reference (2) above are more than 10 years old, a circular has been issued to adopt the rates of minimum wages issued in respect of the following enterprises as much as applicable to the present scenario.

1. If outsourcing staff have been appointed through Security Agency, the minimum wages fixed for "Security Agency" scheduled enterprises shall be paid at the rates of minimum wages as stated in the Government notification No:KaEi 123 LWA 2015, dated: 29.02.2016.
2. If outsourcing staff have been appointed from other Human Resources Agencies, the minimum wages fixed for "Urban Local Bodies and Panchayat Raj Institutions" scheduled enterprises shall be paid at the rate of minimum wages as stated in the Government Notification No: KaEi 71 LWA 2015, dated: 05.08.2016.
3. For the workers who are engaging in cleaning of Drainage, Bathrooms and Toilets and in such other works, minimum wages fixed for "**Private Safai Karmachari**" scheduled enterprises shall be paid at the rate of minimum wages as stated in the Government Notification No: KaEi 82 LWA 2015, dated: 04.08.2016.
4. If there is no clarity about the nature of work of the workers, a committee shall be constituted consisting of competent authorities of the Department/ Subordinate Institutions to reach a clear-cut conclusion in this regard and after conducting a study and reaching a conclusion regarding what nature of works are equivalent to nature of works mentioned in the notification, wages may be adopted for the respective nature of works.
5. While appointing employees on out sourcing/ contract basis, the Government should act as an ideal employer.
6. Rates of any variable Dearness allowance revised from time to time shall be at the rates that may be actually considered as minimum.
7. Minimum rates shall be at base level rates. The Department shall have liberty while fixing additional over the minimum. It may be decided by fixing the wages near to the basic rates fixed for the same type of works of designated employees.
8. Minimum wages is fixed for Eight hours of duty per day including leisure. Excess allowance for overtime of work beyond the prescribed eight hours of duty will be paid at two times of normal rates on par

with each extra hour of work. Average amount will be deducted for less than 8 hours of work done in a day.

9. Daily wages will be calculated including 4 days of paid leave days in a month.

$$\frac{\text{Monthly wage}}{26 \text{ days}} = \frac{\text{Daily wage}}{8 \text{ hours}} = \text{Hourly Wage}$$

10. If employee desires to work during the four leave days in a month, he/she will an additional daily wage per day.
11. The monthly salary shall be paid by calculating the allowance for actual days of working only.
12. The Employers shall pay the salary to the employees by transferring directly to their bank account after deducting the ESI/ PF contribution of employees share.
13. The Employers, after adding the ESI/PF contribution of their share with that of employee's share, shall credit the same to the employee's ESI/PF account.
14. The principal employers shall pay the attention about the following aspects with regard to the contract agencies which are providing the human resources:-
- The salary should be paid as per the above Rules.
 - The salary amount should be credited to the employee's bank account within 5th of every month.
 - No unlawful deductions should be made.
 - It should be ensured whether the contractor has deducted the ESI/PF contribution amount in conformity with the registered ESI/PF registration numbers of the employees and the records maintained by the contractor in this regard are related to the current periods.
- 15) The attendance of the employees should be maintained through the Aadhaar Enabled Bio-metric attendance system (AEBAS) and the attendance of the employees who are working in the fields where the attendance cannot be maintained through Aadhaar Enabled Bio-metric system (AEBAS) shall be maintained by making proper arrangements.
- 16) If the workers who are working in any region or agency are receiving salary more than the rates of minimum wages, the

workers are eligible to receive the said higherwages and the Employers are liable to pay the same.

- 17) Since the minimum wage rates come under statutory regulations, the tender shall be notified subject to the condition to make a provision in favour of Human Resources Providing Agencies for mentioning only the "Service fee" in the tender document without mentioning the minimum wage rates. After checking the track record of all Human Resources providing Agencies who are participating in tender, (a) some previous years records shall be verified to ensure that the said agencies had made payment of employee's ESI/ PF contribution properly in the past; (b) It should be checked and ensured that they obeyed the other applicable labour rules (c) It should be ensured that the said contractors were not subjected to Penalties for violation of Labour Laws by any Competent Court earlier. The tender documents shall be published after incorporating all the points mentioned above in the tender records compulsorily.

Sd/-
(Amlan Aditya Biswas)
Secretary to Government
Labour Department

To,

The Complier, Government press, Bengaluru-A request to publish this circular in Gazette extraordinary and send 200 copies of the said publication to the Secretary to Government, Labour Department, 4th floor, VikasaSoudha, Bengaluru-01.

Copies to:-

1. The Chief Secretary to Government, VidhanaSoudha, Bengaluru
2. The Accountant General, Accounts/ Audits, Karnataka, Bengaluru
3. The Secretaries/ Principal Secretaries/ Additional Chief Secretaries to Government of all departments of the Government.
4. The Labour Commissioner, Karmika Bhavana, Bannerghatta road, Bengaluru.
5. All district Deputy Commissioners (through Labour Commissioner)
6. The Chief Executive Officers, Zilla Panchayat of all the Districts (through Labour Commissioner)
7. The Assistant commissioners of all the Districts.
8. Private Secretary to Hon'ble Minister for labour, VidhanaSoudha, Bengaluru.
9. Personal Secretary to the Secretary to Government, VikasaSoudha, Bengaluru.
10. Personal Section of Joint Secretary to Government, VikasaSoudha, Bengaluru.
11. Personal Section of Deputy Secretary to Government, VikasaSoudha, Bengaluru.