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कर्मचारी भविष्य निधि संगठन
(श्रम मंत्रालय भारत सरकार)
Employees' Provident Fund Organisation
(Ministry of Labour, Govt. Of India)
मुख्य कार्यालय/Head Office

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(CENTRAL ANALYSIS & INTELLIGENCE UNIT)

No.CAIU/011(33)2015/HQ/Vol.III

Date: 06.02.2018

To

All Additional Central P.F. Commissioner (Zones),
All Regional P.F. Commissioner In-charge of ROs.

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

Ref:- i) No. CAIU/011(29)2016/Railway Estt./18339 dated 25.01.2017.
ii) No. CAIU/011(33)2015/HQ/Vol.II/28445 dated 02.02.2017.
iii) No. CAIU/011(29)2016/Railway estts./19433 dated 20.02.2017.
iv) No. CAIU/011(33)2015/HQ/4662 dated 05.06.2017.
v) No. CAIU/011(33)2015/HQ/Vol.II/11834 dated 06.09.2017.
vi) No. CAIU/011(52)2016/PEP/14776 dated 13.10.2017.
vii) No. CAIU/011(52)2016/PEP/14932 dated 17.10.2017.

Madam/Sir,

Please find enclosed herewith a copy of letter No.2018/E(LI)/AT/CNR/3 dated 24.01.2018 received from Railway Board, Ministry of Railways, Government of India on the subject cited above.

2. In this regard, a letter is being issued to all General Manager of Indian Railways (all Zones), Kolkata Metro Corporation, Director General, RDSO and Chairman & Managing Director, IRCTC for ensuring compliance in respect of contract workers being Principal Employers.

3. In view of above, it is requested to take steps to cover all eligible contract workers and ensure compliance by the all offices of Indian Railways, Kolkata Metro Corporation, Director General, RDSO and Chairman & Managing Director, IRCTC which comes under your jurisdiction as per the provisions of EPF & MP Act, 1952.

This may be given **TOP PRIORITY**.

Yours faithfully,

Encl: as above.


(K.L. Taneja)
Addl. Central P.F. Commissioner-HQ (CAIU)

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

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

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

अ.के.म.नि. आयुक्त-11 (अनुपालन)
Addl. C.P.F.C.-11 (Compliance)
डायरी सं./Dy. No. 294
दिनांक/Date 01/02/2018

dated : 24.01.2018

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:-

- Minimum Wages Act (MWA), 1948 and Minimum Wages Rules (MWR), 1950, wherever applicable;
- 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.
- Employees' State Insurance Act (ESIA), 1948, Employees' State Insurance Rules (ESIR), 1950 and Employees' State Insurance (General) Regulations, 1950, wherever applicable;
- The Employees' Compensation Act (ECA), 1923, wherever applicable;
- "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

अ.के.म.नि.आयुक्त (मुख्यालय)
डायरी सं. 1085
दिनांक 01/02/18

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अ.के.म.नि.आ.-1 (सी.ए.आई.यू.)
R.P.F.C.-1 (CAIU)
डायरी सं./Dy. No. 560
दिनांक/Date 11/2/18

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
(Manju)

Joint Director(E(LL))
Railway Board.