



# भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

साप्ताहिक

WEEKLY

सं. 8]

नई दिल्ली, फरवरी 19—फरवरी 25, 2017, शनिवार/माघ 30—फाल्गुन 6, 1938

No. 8]

NEW DELHI, FEBRUARY 19—FEBRUARY 25, 2017, SATURDAY/MAGHA 30—PHALGUNA 6, 1938

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

वित्त मंत्रालय

(राजस्व विभाग)

(केंद्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 21 फरवरी, 2017

**का.आ. 398.**—आयकर अधिनियम, 1961 (1961 का 43) की धारा 138 की उपधारा (2) के तहत प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार, सभी सुसंगत कारकों पर विचार करते हुए, एतद्वारा, भारत सरकार, वित्त मंत्रालय, राजस्व विभाग (केंद्रीय प्रत्यक्ष कर बोर्ड) की अधिसूचना, जिसे का.आ. 576(अ), दिनांक 23 मई, 2003 के तहत भारत के राजपत्र के भाग II, खण्ड 3, उपखण्ड (ii) में प्रकाशित किया गया था, में और आगे निम्नलिखित संशोधन करती है, यथा:-

उक्त अधिसूचना में, परंतुक में उपवाक्य (ii) में शब्द और अंक, "धारा 138 के अंतर्गत समय-समय पर जारी अधिसूचनाओं" के स्थान पर शब्द, कोष्ठक और अंक, "इस अधिनियम की धारा 138 की उपधारा (1) के प्रावधानों" को प्रतिस्थापित किया जाएगा और इनके लिए यह माना जाएगा कि ये 23 मई, 2003 से प्रतिस्थापित हुए हैं।

[अधिसूचना संख्या 12/2017/फा.सं. 225/120/2016-आईटीए. II]

रोहित गर्ग, निदेशक-आईटीए. II, सीबीडीटी

स्पष्टीकरण ज्ञापन अनुबंध में संलग्न है।

'In the instant case, there is no evidence on record of espousal of the dispute of the petitioner. There was no evidence that either the aggrieved workman had approached the union and asked the union to take up his cause or that union, at any point of time, or any appreciable number of employees, had taken up the cause of the workman with the management. If the union had passed a resolution or appreciable number of workmen had approached the union and raised the demand in respect of regularization of the workmen, it could be said that there was an espousal of the cause of the workman. Espousal can be expressed in many ways. The secretary of the union, who appeared as a witness has not uttered a single word that the union or any appreciable number of workmen had espoused the cause of the workmen. He simply stated that he had met the management (in his individual capacity). Under these circumstances, it could not be held that an industrial dispute existed between the employer and the workmen to enable the appropriate Government to make an order under Section 10 of the Industrial Disputes Act for referring it for adjudication to the Labour Court.

16. There are observations in the above judgement to the effect that the Tribunal has jurisdiction to adjudicate only an industrial dispute which is duly sponsored or espoused through their Union of the workman. Once the Tribunal came to the conclusion that case of the workman was not espoused, the Tribunal loses its jurisdiction to adjudicate the dispute since no industrial dispute exists.

17. In the above case, High Court has also dealt with the meaning of the expression 'espousal of the cause' as well as necessity for the same. It was held that espousal means that the dispute of individual workman is adopted by the union as its own dispute or large number of workmen give support to the cause of such dispute; Use of the expression 'union' merely indicates the union to which the employee belongs, even though it may be union of minority of workmen. Further, Section 10 of the Act authorizes the appropriate Government to refer to a Tribunal or a Labour Court only an industrial dispute which is duly espoused or sponsored by the union. Thus, there is considerable merit in the contention of the management that there is no espousal of the case as required under the law.

18. Yet again, in Lord Krishna Textile Mills case (supra) Hon'ble High Court even went to the extent of observing that the issue of espousal goes to the root of the matter and an industrial Tribunal or Labour Court is required to adjudicate it first before giving findings on merits of the case. Thus, a dispute would become an industrial dispute only where there are sufficient workmen involved when it is espoused through the union or substantial number of fellow workmen irrespective of the fact whether the union is recognized or not. In the case in hand, there is no evidence on record to suggest that case of the workmen herein was ever taken up for discussion by the union, i.e. All India Bank Staff Association, nor there is even a whisper in the statement of any of the witness examined on behalf of the claimant. Therefore, in the absence of any evidence, oral or documentary, on record it is held that there was no espousal of the case of the workman regarding the present dispute through its union, All India Bank Staff Association.

19. Be it clarified here that fate of the present case has been decided purely from legal angle qua maintainability of the case for want of espousal through the union of the claimants and there is no adjudication of the case on merits regarding the question claimants herein are entitled for pension and other benefits like their counterparts who are employed in Mumbai branch. The Tribunal is not required to touch merits as held in Lord Krishna Mills case (supra) when the reference has been held to be not maintainable.

20. As a sequel to my above discussion made herein, it is held that in the absence of evidence, oral or documentary, regarding espousal of the cause of the claimants through their union, the same is held to be illegal and not maintainable. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : February 10, 2017

A. C. DOGRA, Presiding Officer

नई दिल्ली, 21 फरवरी, 2017

**का.आ. 480.**—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मार्च, 2017 को उस तारीख के रूप में नियत करती है, जिसे उक्त अधिनियम के अध्याय IV (धारा 44 व 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) तथा अध्याय V और VI [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं] के उपबन्ध पश्चिम बंगाल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“बीरभूम जिले (पश्चिम बंगाल) के सभी क्षेत्र/संपूर्ण क्षेत्र”।

[सं. एस-38013/01/2017-एस.एस.-I]

अजय मलिक, अवर सचिव



New Delhi, the 21st February, 2017

**S.O. 480.**—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2017 as the date on which the provisions of Chapter-IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following Areas in the State of West Bengal namely :—

“All the areas of the District Birbhum, West Bengal.”

[No. S-38013/01/2017-S.S.-I]

AJAY MALIK, Under Secy.

नई दिल्ली, 21 फरवरी, 2017

**का.आ. 481.**—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मार्च, 2017 को उस तारीख के रूप में नियत करती है, जिसे उक्त अधिनियम के अध्याय IV (धारा 44 व 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) तथा अध्याय V और VI [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं] के उपबंध पश्चिम बंगाल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“ पश्चिम मिदनापुर एवं बर्दवान जिले (पश्चिम बंगाल) के सभी क्षेत्र/संपूर्ण क्षेत्र ” ।

[सं. एस-38013/01/2017-एस.एस.-I]

अजय मलिक, अवर सचिव

New Delhi, the 21st February, 2017

**S.O. 481.**—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st March, 2017 as the date on which the provisions of Chapter-IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force] of the said Act shall come into force in the following Areas in the State of West Bengal namely :—

“All the areas of the District Paschim Midnapore and Burdwan, West Bengal.”

[No. S-38013/01/2017-S.S.-I]

AJAY MALIK, Under Secy.

नई दिल्ली, 21 फरवरी, 2017

**का.आ. 482.**—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 मार्च, 2017 को उस तारीख के रूप में नियत करती है, जिसे उक्त अधिनियम के अध्याय IV (धारा 44 व 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) तथा अध्याय V और VI [धारा 76 की उप-धारा (1) और धारा 77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी हैं] के उपबंध हिमाचल प्रदेश राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

क्रमांक	राज्यों के नाम	जिले का नाम
1.	हिमाचल प्रदेश	ऊना
2.	हिमाचल प्रदेश	कांगड़ा
3.	हिमाचल प्रदेश	मण्डी
4.	हिमाचल प्रदेश	सिरमौर
5.	हिमाचल प्रदेश	शिमला
6.	हिमाचल प्रदेश	सोलन
7.	हिमाचल प्रदेश	बिलासपुर

[सं. एस-38013/05/2017-एस.एस.-I]

अजय मलिक, अवर सचिव