

The Labour Court (Gorakhpur) Rules of Procedure, 1959

Notification No. 848 (19)/Act-I dated July 27, 1959.—In exercise of the powers conferred by Section 5-C (1) of the U. P. Industrial Disputes Act, 1947, as amended by the U. P. Industrial Disputes (Amendment and Miscellaneous Provisions) Act, 1956, the Labour Court, Gorakhpur, have framed the following rules of procedure :

1. Title and application. These Rules shall be called the Labour Court (Gorakhpur) Rules of Procedure, 1959 and the Provisions of the U. P. Industrial Disputes Rules, 1957.

2. Definitions. In these Rules of Procedure, unless there be anything repugnant in the subject or context, the term—

- (a) "Rules" means the U. P. Industrial Disputes Rules, 1957 ;
- (b) "Pleading" includes an application in the nature of claim, counter-claim, complaint and written statement ;
- (c) "Registrar" means the Registrar of the Industrial Tribunals appointed by the Government ;
- (d) "Court" means the Labour Court at Gorakhpur ;
- (e) Words and expressions not defined in these Rules of Procedure have the same meanings as are assigned to them in the U. P. Industrial Disputes Act, 1947.

3. Place and time of sittings. The sitting of the Industrial Tribunal and Labour Court shall ordinarily be held in their headquarters from 10.10 a. m. to 4.30 p.m. on all working days with a break of one hour from

1 p.m. to 2 p.m. The Industrial Tribunal may, if it considers necessary, hold sitting at any place throughout the State of U. P. and Labour Court may sit at any place within its territorial jurisdiction.

4. Office hours. The office of the Court shall be open on all working days during following months as follows :

November to February-

10 a.m. to 4.30 p.m. with half an hour break for recess. March to October-

10 a.m. to 5 p.m. with half an hour break for recess.

The office hours on first and third Saturday of each month shall be from 10 a.m. to 1.30 p.m. :

Provided that the Presiding Officer concerned may alter the time of the Court and of the office due to seasonal conditions or nature of the case.

5. Holidays. Such holidays shall be observed in the office and Court as are observed in Civil Courts in Uttar Pradesh (except the annual vacation).

6. Hearings. The hearing of the Court shall be open to public provided that the Presiding Officer concerned may, at any stage, direct that any sitting shall be held in *camera*.

Provided further that he may direct that particular proceedings, even though held in public, may not be reported in the press, without the previous sanction of the Presiding Officer concerned.

7. Language.—The language of the Court shall, for the time being, be English.

8. Presentation of applications, pleadings and petitions.—An application, pleading or petition may be sent to the Court by registered post or may be presented before it or in its office by the party concerned personally or by his duly authorized agent.

9. Verifications.—All pleadings shall be verified and signed by the party concerned or his duly authorized agent and a petition or application may be signed by the petitioner or applicant or his duly authorized agent.

10. Registration of references, etc.—On receiving a reference or petition which is in order it shall be registered as a case in the appropriate register in Form B, C, D or E.

11. Authority to represent. —The duly authorized agent shall file in Court written authority of appointment in Form 'A' appended to these orders duly signed or marked by the party to entitle him to represent the party mentioning the extent of this power. Provided further that when an agent is appointed by an official of a Union, Association, Federation or Company, duly attested copy of the rule or the authority entitling the official to appoint agent, shall also be filed by the agent, along with his authority.

12. Addresses of the parties.—With every initial, pleading or petition shall be filed the postal address of the party and a communication sent to him by such postal address or to his agent shall be deemed to have been

served on him. Any change in postal address must also be intimated to the Industrial Tribunal or Labour Court as the case may be.

13. Agent's rights.—The agent shall have the right to examine, cross-examine and re-examine witnesses, to make a statement on fact and to address the Court after the close of evidence and even earlier if so desired and permitted by the Court.

14. Defective pleading or petition.—If a petition or pleading is not in order, the Court shall note the defect on it and return it to the petitioner or the agent to remove the defect within a specified time.

15. Copies of pleadings.—A party or petitioner shall file with the pleading or petition as many copies thereof the number of opposite party and two more copies.

16. Form of summons.—Summons issued to workmen in general shall be in Form "F".

17. Files to be summoned.—The Court may summon from the Regional Conciliation Officer or the authority concerned the relevant file of the Conciliation Board and the same shall be returned when done with.

18. Issues.—After the written statements and rejoinders (if any) of both the parties are filed and after oral examination (if any) the Court may frame the issues, if necessary.

19. Documentary evidence.—The parties or their authorised representative shall produce at the first hearing of the case all the documentary evidence in their possession on which they intend to rely and which had not already been filed in the court and all such documents which the Industrial Tribunal or Labour Court had ordered them to produce. Except the special leave of the court, no document shall be allowed to be filed afterwards. The documents shall be accompanied by an accurate list thereof.

20. Parties to explain relevancy.—The court may, at any stage, if it considers necessary, call upon the parties to disclose the relevancy of oral and documentary evidence sought to be tendered.

21. Summons.—Summons to witness shall issue to Form 'G'.

22. Payment to witness.—A party shall, while applying for summoning a witness deposit, for payment to him daily allowance and travelling expenses as follows :

(a) If the witness is a Government servant, his pay and travelling allowance according to the Rules contained in Financial Handbook, Volume HI will be realised from the party summoning him and the same will be deposited in the Government Treasury in relevant head and the summoned Government servant will be issued a non-payment certificate in the Form "H" and he will draw his travelling allowance from his department.

(b) if the witness is not a Government servant, he would be entitled to travelling allowance, daily allowance, etc., as detailed in the Schedule I.

Note.—The time spent in the journey by a witness coming from outside shall also be counted for the purpose of his daily allowance

Provided, however that if a party undertakes to pay the expenses of the witness direct him, he need not deposit the expenses in the court but that fact shall be mentioned in his application and in the summons and the party shall do so at his own risk.

23. Oath or solemn affirmation. —Oath or solemn affirmation shall be administered to a witness by a peon or official of the court.

24. Recording of oral evidence.—Oral evidence shall be recorded in a narrative form but the court may order any portion of the evidence to be recorded in the form of question and answer.

25. Depositions.—Deposition shall be read over, or translated to, or may be read by a witness, as the case may be. Any *bona fide* error discovered to have been made in deposing or recording shall be rectified at that stage. The court will certify that it has been so read over or translated to or read by the witness and admitted to be a correct record of his statement. It shall then be signed or marked by the witness, the parties or their agents if there be any and the Presiding Officer.

26. Exhibiting the documents.—Documentary evidence tendered on behalf of the employers shall be marked as Ex. E-1, Ex. E-2, etc. and the same series of Employer's documents shall be marked Ex. E-1 Ex. E-1(a), E-1 (b), etc.. and of workers' documents Ex. W-1, Ex. W-1, (a) Ex. W-1(b), etc. Along with the exhibit mark shall also be endorsed the name of the persons filing the documents, the date of filing it, date of exhibiting it and the endorsement shall be initialled by the Presiding Officer.

27. Rejected document. —When a document is rejected as inadmissible or is not proved, it shall before the decision of the case be returned to the party or person who produced it and if that party or

person be not in attendance, it shall be placed in a sealed cover on which shall be written the words. 'Not part of the Records' and shall on request be returned to the party or person who produced it or his successor in interest. This envelope shall be tagged to file B 3.

28. Particulars of the cases to be mentioned on each paper.—Each paper brought on the record of the court shall bear on the left hand margin the particulars of the case, *e. g.*, Reference, Number, Name of. the Court and Name of Parties.

29. Right to argue.—After the close of evidence normally the party who led evidence shall first argue and the opposite party may reply and thereafter the former party may further reply.

30. Correspondence.—All official correspondence meant for court shall be addressed to the Presiding Officer by designation.

31. Preparation of records.—A record shall consist of 5 files, each file shall have an index of the papers contained therein as follows :

File "A" shall, besides the index, contain the order sheet of the whole case, the reference, pleading of the parties, issues, other orders and the award or decision.

File "B" shall consist of 3 parts given below :

B-1 shall contain employer's exhibits.

B-2 shall contain workers exhibits.

B-3 shall contain all other documentary evidence summoned by the court and not tendered by any party.

File "C" shall contain oral evidence adduced by the parties. _ File "D" shall contain all other papers.

On the cover of each file shall be noted the name of the court and all the particulars of the case, the date of decision and number of papers contained in it. At the close of the case, the Reader shall total the number of leaves included in a file and shall note the same at the foot of the index and shall verify and sign this note.

32. Consignment of records.—The Reader of the court shall within one month from the date of publication of the award, complete the record and consign it to the Record room and shall obtain from the Assistant concerned and acknowledgment of receipt of the Record in the Despatch and Receipt Register. Records, thereafter shall be entered in the Register in form "1".

33. Preservation of records.—File "A" shall be preserved for 15 years from the date of enforcement of the award.

File "B" and "C" shall be preserved for 6 years from the date of enforcement of the award.

File "D" shall be preserved for 3 years form the date of enforcement of the award.

After the expiry of the aforesaid periods, the assistant concerned shall obtain orders of the Presiding officer in writing for weeding. After weeding papers shall be destroyed and auctioned as waste paper. A note about each weeding shall be made in the index of file "A" and when file "A" is also weeded, a note about it shall be made in the remarks column of the. Register of cases.

34. Preservation of Forms and Registers.—Register in Forms B, C, D, E and H shall be preserved permanently and all other forms for three years only.

35. Inspection of records.—(1) On the date of hearing the court may, in its discretion, without a written order in this behalf, permit a party to a case or his authorised representative even without a written application to inspect the record of the case fixed for hearing.

(2) Any party to a case or their authorised representative may apply in Form "J" for an order to inspect the record or any paper in such case or proceedings.

(3) When the inspection is over, a note to that effect shall be made by the person making the inspection. No person while making inspection shall make any mark on the record or in any respect mutilate any record or paper. He can make short notes of the contents of documents which he inspects but shall on no account make a copy or translation of any paper or record.

(4) No stranger to a case shall be entitled_Is of right to claim inspection of a record of 'proceedings without the previous permission of the Presiding Officer.

(5) The Register of Inspection shall be maintained in Form "K".

(6) With each application for inspection, a fee of 12 Paise and an additional fee of 50 Paise per hour of inspection shall be deposited in cash before hand or as inspection proceeds from hour to hour in the office for which a receipt shall be issued and the amount shall be noted on the application for inspection and also in column 5 of the Register and shall be deposited in Government Treasury under Head "XXXVI—Miscellaneous Department—Miscellaneous Receipt—Inspection charges."

36. Oath Commissioner.—The official authorised to verify the affidavit will maintain a register in Form "L". He shall endorse on the affidavit or counter affidavit a certificate of verification in Form "M."

(For Forms and Schedule see Gazette).