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PART I

Acts, Ordinances, President's Orders and Regulations

NATIONAL ASSEMBLY OF PAKISTAN

Islamabad, the 9th February, 1973

The following Acts of the National Assembly received the assent of the President on the 9th February, 1973, and are hereby published for general information :—

ACT NO. XXIX OF 1973

An Act further to amend the Industrial Relations Ordinance, 1969

WHEREAS it is expedient further to amend the Industrial Relations Ordinance, 1969 (XXIII of 1969), for the purposes hereinafter appearing :

It is hereby enacted as follows :—

1. Short title and commencement.—(1) This Act may be called the Industrial Relations (Amendment) Act, 1973.

(2) It shall come into force at once.

2. Amendment of section 2, Ordinance XXIII of 1969.—In the Industrial Relations Ordinance, 1969 (XXIII of 1969), hereinafter referred to as the said Ordinance, in section 2,—

(1) for clause (vii) the following shall be substituted, namely :—

“(vii) “Conciliator” means,—

(a) in respect of disputes which the National Industrial Relations Commission is competent to adjudicate and determine, a person appointed as such under sub-section (2) of section 27 ; and

(b) in respect of other disputes, a person appointed as such under sub-section (1) of that section ;” ;

(2) after clause (xiv), the following new clause (xiva) shall be inserted, namely :—

“(xiva) “Junior Labour Court” means a Junior Labour Court established under section 36A ;” ;

(3) in clause (xxviii),—

(i) after the word “dispute” at the end, the following commas, words, brackets and letters shall be added, namely :—

“ ; but does not include any person—

(a) who is employed mainly in a managerial or administrative capacity, or

(b) who, being employed in a supervisory capacity, draws wages exceeding eight hundred rupees per mensem or performs, either because of the nature of duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature” ; and

(ii) the *Explanation* shall be omitted.

3. Amendment of section 6, Ordinance XXIII of 1969.—In the said Ordinance, in section 6, in clause (a), after sub-clause (iv), the following new sub-clause (iva) shall be inserted, namely :—

“(iva) the name of the establishment or group of establishments, or the industry, as the case may be, to which the trade union relates :” .

4. **Amendment of section 7, Ordinance XXIII of 1969.**—In the said Ordinance, in section 7, in sub-section (2), the words, figure and letter “and the constitution thereof provides for the manner of election of the workers’ representatives provided for in section 23B” shall be omitted.

5. **Amendment of section 8, Ordinance XXIII of 1969.**—In the said Ordinance, in section 8,—

- (a) in sub-section (1), for the word “sixty” the word “fifteen” shall be substituted;
- (b) in sub-section (2), after the brackets and figure “(1)”, the words “and issue a certificate of registration in the prescribed form within three days of the date of the objections having been so met” shall be inserted;
- (c) in sub-section (3),—
 - (i) for the words, brackets and figures “after settlement of the objections delayed disposal of the application beyond the period of sixty days provided in sub-section (1)” the words, brackets, figures and commas “delayed disposal of the application beyond the period of fifteen days provided in sub-section (1) or has not issued a certificate of registration within a period of three days as provided in sub-section (2), as the case may be,” shall be substituted; and
 - (ii) for the word “their” the word “its” shall be substituted; and
- (d) after sub-section 3, the following new sub-sections (4), (5), (6) and (7) shall be added, namely :—
 - “(4) Notwithstanding anything contained in any other provision of this Ordinance, every alteration made in the constitution of a registered trade union and every change of its officers shall be notified by registered post by the trade union to the Registrar within fifteen days of such change.
 - (5) The Registrar may refuse to register such change or alteration if it is in contravention of any of the provisions of this Ordinance, or if it is in violation of the constitution of the trade union.
 - (6) Subject to the provisions of sub-section (5), every inclusion or exclusion of any constituent unit of a federation of trade unions shall be notified by registered post by the federation to the Registrar within fifteen days of such inclusion or exclusion.
 - (7) In case there is a dispute in relation to the change of officers of a trade union, or any trade union is aggrieved by the refusal of the Registrar under sub-section (5), any officer or member of the trade union may apply or appeal to the Labour Court, who shall within seven days of receipt of the application or appeal, as the case may be, pass an order either directing the Registrar to register the change or alteration in the constitution or in the officers of the trade union or may, for reasons to be recorded in writing, direct the Registrar to hold fresh elections of the union under his supervision.”

6. **Insertion of section 8A, Ordinance XXIII of 1969.**—In the said Ordinance, after section 8 amended as aforesaid, the following new section 8A shall be inserted, namely :—

“8A. *Transfer, etc., of officer of trade union during pendency of application for registration.*—Save with the prior permission of the Registrar, no officer of a trade union of workmen shall be transferred, discharged, dismissed or otherwise punished during pendency of an application for registration of the trade union with the Registrar, provided that the union has notified the names of its officers to the employer in writing.”

7. **Amendment of section 10, Ordinance XXIII of 1969.**—In the said Ordinance, in section 10, in sub-section (1), in clause (iii), for the full stop at the end the semi-colon and word “; or” shall be substituted and thereafter the following new clause (iv) shall be added, namely :—

“(iv) dissolved itself or has ceased to exist.”

8. **Amendment of section 13, Ordinance XXIII of 1969.**—In the said Ordinance, in section 13, in clause (b), after the word “lodge”, the commas and words “, or authorise any person to lodge,” shall be inserted.

9. **Amendment of section 15, Ordinance XXIII of 1969.**—In the said Ordinance, in section 15, in sub-section (1), in clause (d), after the words “from employment” twice occurring, the words “or transfer” shall at both places be inserted.

10. **Amendment of section 21, Ordinance XXIII of 1969.**—In the said Ordinance, in section 21, in sub-section (2), after the words “also with”, the comma and words “, a statement of the total paid membership and” shall be inserted.

11. **Amendment of section 22, Ordinance XXIII of 1969.**—In the said Ordinance, in section 22,—

(a) in sub-section (2),—

(1) after the word “hold”, the commas and words “, within fifteen days from the making of the application,” shall be inserted; and

(2) for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

“Provided that the Registrar may, in the case of a large establishment having its branches in more than one town, hold the secret ballot within thirty days from the making of the application.”;

(b) in sub-section (10), after the word “declaration” at the end, the comma and words “, except where the registration of such a registered trade union is cancelled before the expiration of that period” shall be added; and

(c) after sub-section (12), the following new sub-section (13) shall be added, namely :—

“(13) The Registrar may authorise in writing an officer to perform all or any of his functions under this section.”

12. **Amendment of section 22A, Ordinance XXIII of 1969.**—In the said Ordinance, in section 22A,—

- (a) in sub-section (1), after the word "hereafter", the words "in this section" shall be omitted;
- (b) in sub-section (8),—
 - (i) in clause (c), after the words "a federation of", the word "such" shall be inserted; and
 - (ii) in clause (g), for the words and commas "initiate, in such manner as may be prescribed, proceedings" the words and commas "take, in such manner as may be prescribed, measures" shall be substituted;
- (c) in sub-section (9), for the proviso the following shall be substituted, namely :—

"Provided that the Commission may also,—

 - (a) of its own motion, take action with regard to any matter relating to its functions; and
 - (b) of its own motion, or on the application of a party, withdraw from a Junior Labour Court or Labour Court any application, proceedings or appeal relating to unfair labour practice.";
- (d) for sub-section (10) the following shall be substituted, namely :—

"(10) For the purpose of dealing with a case of unfair labour practice of which the Commission is seized, the Commission may—

 - (a) proceed directly with the case, or
 - (b) ask the Registrar within whose jurisdiction the case has occurred or is likely to occur to enquire into it and submit a report, or
 - (c) refer the case to a Junior Labour Court or Labour Court within whose jurisdiction the case has occurred or is likely to occur, either for report or for disposal.

(10a) The Junior Labour Court or Labour Court to whom the case is so referred shall enquire into it and, if the case was referred to it for report, forward its report thereon to the Commission or, if the case was referred to it for disposal, continue the proceedings and dispose of the case as if the proceedings had originally commenced before it.";
- (e) in sub-section (11), for the word, brackets and figures "sub-section (10)" the words, brackets and figures "sub-sections (10a) and (12)" shall be substituted;
- (f) for sub-section (12) the following shall be substituted, namely :—

"(12) Nothing in this section shall be deemed to exclude the jurisdiction of a Junior Labour Court or a Labour Court to entertain cases of unfair labour practices on the part of employers or workmen, whether individually or collectively :

Provided that no court, including a Junior Labour Court and Labour Court, shall take any action or entertain any application or proceedings in respect of a case of unfair labour practice which is being dealt with by the Commission.”;

- (g) sub-section (13) shall be omitted ; and
- (h) in the *Explanation*, for the word, figure and letter “section 34A” the words “the succeeding provisions of this Ordinance” shall be substituted.

13. Insertion of sections 22B, 22C, 22D, 22E and 22F, Ordinance XXIII of 1969.—In the said Ordinance, after section 22A amended as aforesaid, the following new sections 22B, 22C, 22D, 22E and 22F shall be inserted, namely :—

“22B. *Benches of the Commission, etc.*—(1) The Chairman of the Commission shall exercise general superintendence over its affairs.

(2) For the efficient performance of the functions of the Commission, the Chairman shall constitute—

- (a) a Full Bench of the Commission which shall consist of not less than three members of the Commission ; and
- (b) as many other Benches of the Commission consisting of one or more members of the Commission as he may deem fit.

(3) The Benches shall,—

- (a) in relation to cases based on allegations of unfair labour practices brought before the Commission for enforcement of, or for redress of individual grievances in respect of, any right guaranteed or secured to any employer or worker by or under any law or any award or settlement, perform such functions and exercise such powers as are performed and exercised by a Junior Labour Court or a Labour Court in respect of proceedings under section 25A or, as the case may be, section 34 ; and
- (b) in relation to industry-wise trade unions, federations of such trade unions, federations at the national level and cases referred to the Commission, perform such functions and exercise such powers as are performed and exercised by a Registrar, a Labour Court or a Tribunal in relation to trade unions and Federations of trade unions within a Province,

and, for this purpose, any reference in this Ordinance to a “Registrar”, “Junior Labour Court”, “Labour Court”, or, as the case may be, “Tribunal” shall be deemed to be a reference to the appropriate Bench of the Commission to which such functions are assigned :

Provided that, in the performance of those functions and in the exercise of those powers, the Benches shall, unless otherwise provided in this Ordinance, follow the procedure laid down in the regulations to be made under section 22F.

- (4) If any member of the Commission is absent from, or is otherwise unable to attend any sitting of the Commission or of a Bench consisting of more than one members of which he is a member, the proceedings of the Commission or Bench may continue, and the decision or

award may be given or judgment or sentence may be passed in the absence of such member; and no act, proceedings, decision, or award of the Commission or Bench shall be invalid or be called in question merely on the ground of such absence or of the existence of vacancy in or any defect in the constitution of the Commission or Bench.

- (5) If the members of a Bench differ in opinion as to the decision to be given on any point—
- (a) the point shall be decided according to the opinion of the majority, if there is a majority; and
 - (b) if the members are equally divided, they shall state the point on which they differ and the case shall be referred by them to the Chairman for hearing on such point by one or more of the other members of the Commission, and such point shall be decided according to the opinion of the majority of the members of the Commission who have heard the case, including those who first heard it :

Provided that if, upon any matter requiring the decision of a Bench which includes the Chairman of the Commission as one of its members, there is a difference of opinion among its members and the members so constituting the Bench are equally divided, the opinion of the Chairman shall prevail and the decision of the Bench shall be expressed in terms of the views of the Chairman.

- (6) Any order or decision made, award given, sentence passed, power exercised, functions performed or proceedings taken by any Bench of the Commission in accordance with this Ordinance and the order constituting the Bench shall be deemed to be the order or decision made, award given, sentence passed, power exercised, functions performed or proceedings taken, as the case may be, by the Commission.

Explanation.—In this section, the expression ‘the Chairman of the Commission’ includes such member of the Commission (to be known as Senior Member) as the Chairman may nominate to perform the functions, and exercise the powers, of the Chairman during his absence.

22C. *Additional powers of the Commission.*—In addition to the powers which the Commission has under section 22B,—

- (a) the Commission shall have power to punish any person who obstructs or abuses its process or disobeys any of its orders or directions, or does anything which tends to prejudice the case of a party before it, or tends to bring it or any of its members in relation to proceedings of the Commission into hatred or contempt, or does anything which, by law, constitutes contempt of court, with simple imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both; and
- (b) for the purposes of any investigation, enquiry or adjudication to be made by the Commission under this Ordinance, the Chairman or any member of the Commission may at any time between

the hours of sunrise and sunset, and any other person authorised in writing by the Chairman or any member of the Commission in this behalf may, after he has given reasonable notice, enter any building, factory, workshop or other place or premises whatsoever and inspect the same or any work, machinery, appliance or article therein or interrogate any person therein in respect of anything situated therein or any matter relevant to matters before the Commission.

- 22D. *Appeals.*—(1) Notwithstanding anything contained in this Ordinance, or in any other law for the time being in force, any person aggrieved by an award or decision given or sentence passed by any Bench of the Commission, other than a Full Bench, may, within thirty days of such award, decision or sentence, prefer an appeal to the Commission.
- (2) An appeal preferred to the Commission under sub-section (1) shall be disposed of by the Full Bench of the Commission which shall have the same powers in relation to the appeal as the Labour Court, the Tribunal or the High Court, as the case may be, would have had if the matter to which the appeal relates were a matter in relation to which an appeal can be preferred to the Labour Court, the Tribunal or the High Court.
- 22E. *Finality of order.*—No Court shall entertain any plea as to the jurisdiction of the Commission or as to the legality or propriety of anything done or purporting to be done by the Commission or any of its Benches, and no order, judgment or sentence of the Commission shall be called in question in any manner, whatsoever, in or before any Court or other authority.
- 22F. *Power to make regulations.*—(1) Subject to the provisions of this Ordinance, the Commission may, with the prior approval of the Federal Government, make such regulations relating to its procedure and the performance of its functions as it may deem fit, and the regulations shall have effect notwithstanding anything inconsistent therewith contained in the Evidence Act, 1872 (*I of 1872*), the Code of Criminal Procedure, 1898 (*Act V of 1898*), the Code of Civil Procedure, 1908 (*Act V of 1908*), or any other law for the time being in force.
- (2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely :—
- (a) registration of industry-wise trade unions, federations of such trade unions and federations at the national level, and the procedure for such registration ;
 - (b) determination of collective bargaining agent from amongst the industry-wise trade unions, federations of such trade unions or, as the case may be, federations at the national level, and the procedure therefor ;
 - (c) procedure, including rules of evidence, for adjudication of industrial dispute ;
 - (d) procedure, including rules of evidence, for trial of offences ;
 - (e) procedure for dealing with unfair labour practices ;

- (f) superintendence of the Chairman over the affairs of the Commission ;
- (g) forms of registers, processes and returns in respect of matters relating to the functions of the Commission ; and
- (h) fixing of places and times of its sittings and deciding whether to sit in public or in private.”.

14. Amendment of section 23A, Ordinance XXIII of 1969.—In the said Ordinance, in section 23A,—

(a) for sub-section (1) the following shall be substituted, namely :—

“(1) In every establishment in which fifty or more workmen are employed, Shop Stewards, from amongst the workmen in a shop, section or department of the establishment, shall,—

- (a) where there is a collective bargaining agent in the establishment, be nominated by it, or
- (b) where there is no collective bargaining agent in the establishment, be elected at a secret ballot held in the prescribed manner :

Provided that any Shop Steward elected before the commencement of the Industrial Relations (Amendment) Ordinance, 1972, shall continue to hold office till the expiry of his term.” ; and

(b) in sub-section (3), after the word “election” at the end, the words and comma “or nomination, as the case may be” shall be added.

15. Amendment of section 23B, Ordinance XXIII of 1969.—In the said Ordinance, in section 23B,—

(a) in sub-section (1), after the word “elected” twice occurring, the words “or nominated” shall be inserted ;

(b) for sub-section (2) the following shall be substituted, namely :—

“(2) The workers’ representatives shall be workmen employed in the same factory and shall,—

- (a) where there is a collective bargaining agent in the factory, be nominated by it, or
- (b) where there is no collective bargaining agent in the factory, be elected by simple majority at a secret ballot by all workmen employed in the factory.” ;

(c) sub-section (3) shall be omitted ;

(d) in sub-section (4), after the word “election” at the end, the words and comma “or nomination, as the case may be” shall be inserted ;

(e) for sub-section (5) the following shall be substituted, namely :—

“(5) The workers’ representatives shall participate in all the meetings of the management committee constituted in the prescribed manner and all matters relating to the management of the factory, except commercial and financial transactions, may be discussed in such meetings.” ;

(f) for sub-section (10) the following shall be substituted, namely :—

“(10) The collective bargaining agent for an establishment which is a factory the number of workers employed in which in any shift at any time during a year is fifty or more may apply to the Provincial Government to nominate an auditor to audit the accounts of the factory once after the closing of every accounting year and for that purpose to inspect the accounts, records, premises and stores of the factory once every year.”; and

(g) in sub-section (11), for the word “five” the word “three” shall be substituted.

16. Amendment of section 25A, Ordinance XXIII of 1969.—In the said Ordinance, in section 25A,—

(a) in sub-section (4),—

(i) for the words “Labour Court” wherever occurring the words “Junior Labour Court” shall be substituted; and

(ii) for the word “twenty” the word “seven” shall be substituted;

(b) in sub-section (5), for the words “Labour Court” the words “Junior Labour Court” shall be substituted; and

(c) after sub-section (5), the following new sub-sections (6) and (7) shall be added, namely :—

“(6) Notwithstanding anything contained in sub-sections (1) to (4) any worker aggrieved by the termination of his employment as a result of retrenchment, dismissal, discharge, lay-off, lock-out, or otherwise not earlier than two months preceding the commencement of the Industrial Relations (Amendment) Ordinance, 1972, may, within a period of two months from the commencement of the Industrial Relations (Amendment) Act, 1973, or the termination of the employment, whichever is later, either himself or through his Shop Steward or trade union, take the matter directly to a Junior Labour Court having jurisdiction in the area in which the establishment is situated.

(7) Where a matter is taken to the Junior Labour Court under sub-section (6) the Junior Labour Court shall give its decision thereon in the manner laid down in sub-sections (4) and (5).”.

17. Amendment of section 26, Ordinance XXIII of 1969.—In the said Ordinance, in section 26, in sub-section (3),—

(a) for the word “three” the word “seven” shall be substituted;

(b) after the word “Ordinance”, for the colon a full stop shall be substituted; and

(c) the provisos shall be omitted.

18. Amendment of section 27, Ordinance XXIII of 1969.—In the said Ordinance, section 27 shall be re-numbered as sub-section (1) of that section and, after sub-section (1) re-numbered as aforesaid, the following new sub-section (2) shall be added, namely :—

“(2) The Federal Government may, by notification in the official Gazette, appoint as many persons as it considers necessary to act as Conciliators in such disputes as the National Industrial Relations Commission is competent to adjudicate and determine under this Ordinance.”.

19. Amendment of section 30, Ordinance XXIII of 1969.—In the said Ordinance, in section 30, in sub-section (2), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

“ Provided that if, in the opinion of the Conciliator, the presence of the employer or any officer of the trade union connected with the dispute is necessary in a meeting called by him, he shall give notice in writing requiring the employer or such officer to appear in person before him at the place, date and time, specified in the notice; and it shall be the duty of the employer or the officer of the trade union to comply with the notice.”

20. Amendment of section 32, Ordinance XXIII of 1969.—In the said Ordinance, in section 32,—

(a) for sub-section (2) the following shall be substituted, namely :—

“(2) where a strike or lock-out lasts for more than thirty days, the Federal Government, if it relates to a dispute which the Commission is competent to adjudicate and determine, and the Provincial Government, if it relates to any other dispute, may, by order in writing, prohibit the strike or lock-out :

Provided that the Federal Government may, with respect to a strike or lock-out relating to a dispute which the Commission is competent to adjudicate and determine and the Provincial Government, with the previous approval of the Federal Government, may, with respect to any other strike or lock-out, by order in writing, prohibit a strike or lock-out at any time before the expiry of thirty days, if it is satisfied that the continuance of such a strike or lock-out is causing serious hardship to the community or is prejudicial to the national interest.” ;

(b) for sub-section (3) the following shall be substituted, namely :—

“(3) In any case in which the Federal Government or the Provincial Government prohibits a strike or lock-out, it shall forthwith refer the dispute to the Commission or, as the case may be, the Labour Court.” ; and

(c) in sub-sections (4) and (5), for the words “Labour Court” wherever occurring, the words and commas “Commission or, as the case may be, the Labour Court” shall be substituted.

21. Amendment of section 33, Ordinance XXIII of 1969.—In the said Ordinance, in section 33, in sub-section (1), for the words “Provincial Government” the words and commas “Federal Government in the case of a strike or lock-out relating to a dispute which the Commission is competent to adjudicate and determine, and the Provincial Government in any other case,” shall be substituted.

22. Amendment of section 34, Ordinance XXIII of 1969.—In the said Ordinance, in section 34, the words “or workman” shall be omitted.

23. Amendment of section 34A, Ordinance XXIII of 1969.—In the said Ordinance, in section 34A,—

(a) in sub-section (1), the following shall be substituted, namely :—

“34A. *Raising of industrial dispute by a federation.*—(1) Notwithstanding anything contained in this Ordinance, a federation of industry-wise trade unions or a federation at the national level may, if it is a collective bargaining agent raise an industrial dispute affecting all employers or workers of the establishments represented by that federation and a decision of the Commission shall be binding on all such employers and workers.”; and

(b) in sub-section (2), the words and figures “determined under section 22” shall be omitted.

24. Amendment of section 35, Ordinance XXIII of 1969.—In the said Ordinance, in section 35,—

(a) in sub-section (1), after the word “which”, the commas and words “, or the industries or classes of cases in respect of which,” shall be inserted;

(b) for sub-section (2) the following shall be substituted, namely :—

“(2) A Labour Court shall consist of one Presiding Officer appointed by the Provincial Government.”;

(c) in sub-section (3), for the word “Chairman” the words “Presiding Officer” shall be substituted; and

(d) sub-sections (4) and (7) shall be omitted.

25. Amendment of section 36, Ordinance XXIII of 1969.—In the said Ordinance, in section 36,—

(a) in sub-section (1), after the word and comma “Ordinance,”, the words and comma “while trying an offence,” shall be inserted; and

(b) in sub-section (3), for the word “under” occurring for the second time the words and figure “specially empowered under section 30 of” shall be substituted.

26. Insertion of new sections 36A, 36B, 36C, 36D, 36E, and 36F, Ordinance XXIII of 1969.—In the said Ordinance, after section 36 amended as aforesaid, the following new sections 36A, 36B, 36C, 36D, 36E and 36F shall be inserted, namely :—

“36A. *Junior Labour Courts.*—(1) The Provincial Government may, by notification in the official Gazette, establish as many Junior Labour Courts as it considers necessary and, where it establishes more than one Junior Labour Court, shall specify in the notification the territorial limits within which each one of them shall exercise jurisdiction under this Ordinance.

(2) A Junior Labour Court shall consist of one Presiding Officer to be appointed by the Provincial Government.

36B. *Procedure and powers of Junior Labour Court.*—(1) A Junior Labour Court shall have the power to—

(a) summon the employer;

(b) summon and enforce attendance of witnesses and examine them on oath; and

- (c) compel the production of documents and material objects.
- (2) A Junior Labour Court shall, after holding such enquiry as it may deem fit, pass an order, in writing, and announce it within seven days from the date of the matter being brought before it.
- (3) If any party does not appear before a Junior Labour Court despite notice, it may proceed to hear and decide the dispute *ex-parte*.
- (4) If the matter brought before it arises out of the dismissal or removal from service of a workman, a Junior Labour Court may direct the reinstatement of the workman and allow consequential benefits to him.
- (5) No legal practitioner shall assist any party before a Junior Labour Court without its permission.

36C. *Transfer of cases.*—Notwithstanding anything contained in section 35 or section 36A, on the application of a party or otherwise,—

- (a) a Labour Court may transfer any application or proceeding under section 25A from a Junior Labour Court under its appellate jurisdiction to any other such Junior Labour Court; and
- (b) a Tribunal may transfer any application, appeal or other proceeding from a Labour Court under its appellate jurisdiction to any other such Labour Court.

36D. *Appeal against the decision of Junior Labour Court.*—(1) Any party aggrieved by a decision of a Junior Labour Court under section 36B may prefer an appeal to a Labour Court within fifteen days of the delivery thereof and a decision of the Labour Court in such appeal shall be final.

- (2) If, in an appeal preferred to it against an order of a Junior Labour Court directing the reinstatement of a workman, the Labour Court makes an order staying the operation of the order of the Junior Labour Court, the Labour Court shall decide such appeal within twenty days of its being preferred :

Provided that any such appeal pending in a Labour Court at the commencement of the Industrial Relations (Amendment) Act, 1973, shall be decided within twenty days of the coming into force of that Act :

Provided further that, if such appeal is not decided within the period aforesaid, the order of the Labour Court shall stand vacated on the expiration of that period.

36E. *Penalty.*—If an order or direction under section 36B or a decision under section 36D is not given effect to or complied with within a week or within a period specified in such order, direction or decision, the defaulter shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both.

36F. *Cognizance of cases.*—No person shall be prosecuted under section 36E except on a complaint in writing—

- (a) by the workman if the order in his favour is not implemented within the period specified in section 36E; or
- (b) by the Junior Labour Court, if a direction given by it under section 36B is not complied with; or
- (c) by the Labour Court, if a decision or a direction in appeal under section 36D is not complied with.”.

27. **Amendment of section 37, Ordinance XXIII of 1969.**—In the said Ordinance,—

- (a) in section 37, in sub-section (3), the words, brackets, figures and letter “ or a decision of the Labour Court under sub-section (4) of section 25A ” shall be omitted; and
- (b) in sub-section (4), the words “ and decisions ” shall be omitted.

28. **Amendment of section 38, Ordinance XXIII of 1969.**—In the said Ordinance, in section 38, in sub-section (3), the words “ or decision ” shall be omitted.

29. **Amendment of section 41, Ordinance XXIII of 1969.**—In the said Ordinance, in section 41,—

- (a) after sub-section (3), the following new sub-section (3a) shall be added, namely :—

“(3a) Proceedings before the Commission in relation to a dispute referred to it under section 32 or section 33 or to a dispute raised under section 34A shall be deemed to have commenced on the date on which the reference is made to it or, as the case may be, the dispute is raised before it.”; and
- (b) in sub-section (4), after the word “ before ”, the words “ the Commission or ” shall be inserted.

30. **Insertion of new section 46A, Ordinance XXIII of 1969.**—In the said Ordinance, after section 46, the following new section 46A shall be added, namely :—

- “ 46A. *Procedure in cases of illegal strikes or lock-outs.*—(1) Notwithstanding anything contained in any other provision of this Ordinance or in any other law for the time being in force, an officer of the Labour Department not below the rank of Assistant Director Labour Welfare, hereinafter in this section referred to as the officer, may make enquiries in such manner as he may deem fit into an illegal strike or illegal lock-out in a factory and make a report to the Labour Court.
- (2) After completing the enquiry the officer shall serve a notice on the employer and the collective bargaining agent or the registered trade

union concerned with the dispute to appear before the Labour Court on a date to be fixed by that Court.

- (3) The Labour Court may, within ten days following the day on which it receives a report under sub-section (1), after considering the report and hearing such of the parties as appear before it, order the strike to be called off or the lock-out to be lifted.
- (4) If the employer contravenes the order of the Labour Court under sub-section (3) and the Court is satisfied that the continuance of the lock-out is causing serious hardship to the community or is prejudicial to the national interest, it may issue an order for the attachment of the factory and for the appointment of an official receiver for such period as it deems fit, and such period may be varied from time to time.
- (5) The official receiver shall exercise the powers of management and may transact business, enter into contracts, give valid discharge of all moneys received and do or omit to do all such acts as are necessary for conducting the business of the factory.
- (6) The Labour Court may, in appointing and regulating the work of an official receiver exercise the powers of a Civil Court under the Code of Civil Procedure (*Act V of 1908*).
- (7) If the workers contravene the order of the Labour Court under sub-section (3), the Court may pass orders of dismissal against all or any of the striking workers :

Provided that the Court may review its orders if good and sufficient cause is shown by an affected worker within seven days of such orders of dismissal.

- (8) Subject to any rules made by the Provincial Government in this behalf, the officer may, for the purpose of enquiry under sub-section (1), within the local limits for which he is appointed, enter with such assistants, if any, being persons in the service of Pakistan, as he thinks fit, in a factory, where he has reason to believe an illegal strike or lock-out to be in progress, and make such examination of the premises and plant and of any registers maintained therein and take on the spot or otherwise such evidence of persons and exercise such other powers as he may deem necessary for carrying out the purposes of this section.
- (9) The officer shall have authority to call any party to such dispute to his office or secure his presence in the factory and shall also have the power to bind any party to the dispute to appear before the Labour Court.
- (10) Where a party to an illegal strike or lock-out, on being required or bound under this section to appear before the officer or the Labour Court, does not so appear, the officer or Labour Court, as the case may be, may, besides taking such other action as may be admissible under this Ordinance, proceed *ex-parte*."

31. **Insertion of section 47A, Ordinance XXIII of 1969.**—In the said Ordinance, after section 47, the following new section 47A shall be inserted, namely :—

“47A. *Removal of fixed assets.*—No employer shall remove any fixed assets of the establishment during the currency of an illegal lock-out or a strike which is not illegal.”.

32. **Amendment of section 51, Ordinance XXIII of 1969.**—In the said Ordinance, in section 51, in sub-section (1), for the words and comma “upon application by the Provincial Government if it is moved in that behalf by the person entitled to the money under that settlement, award or decision” the words and commas “if, upon the application of the person entitled to the money, the Labour Court so directs” shall be substituted.

33. **Amendment of section 53, Ordinance XXIII of 1969.**—In the said Ordinance, in section 53,—

(1) sub-section (1) shall be renumbered as sub-section (IA) of that section and, before sub-section (IA) renumbered as aforesaid, the following sub-section (1) shall be added, namely :—

“ (1) whoever contravenes the provisions of section 8A shall be punishable with imprisonment which may extend to three years, or with fine which may extend to two thousand rupees or with both.”;

(2) in sub-section (IA) renumbered as aforesaid, for the words “one year” the words “four years” shall be substituted;

(3) in sub-section (2), for the words “six months” the words “three years” shall be substituted;

(4) in sub-section (3), for the words “one year” the words “three years” shall be substituted; and

(5) after sub-section (4), the following new sub-section (5) shall be inserted, namely :—

“ (5) Whoever contravenes the provisions of section 47A shall be punishable with imprisonment which may extend to three years, or with fine which may extend to two thousand rupees, or with both.”; and

(6) after sub-section (5), the following new sub-section (6) shall be added, namely :—

“ (6) Nothing in this Ordinance shall be deemed to exclude the jurisdiction of a Junior Labour Court or the Court of a Magistrate to try a case under this section if it is authorised to do so by a general or special order of the Commission.”.

34. **Amendment of section 62A, Ordinance XXIII of 1969.**—In the said Ordinance, for section 62A the following shall be substituted, namely :—

“62A. *Offences to be non-cognizable.*—Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), no

police officer shall be competent to arrest without warrant an employer or a worker for an offence under this Ordinance.”.

35. Substitution of section 65A, Ordinance XXIII of 1969.—In the said Ordinance, for section 65A the following shall be substituted, namely:—

“ 65A. *Registrar, etc., to be public servants.*—A Registrar, a Conciliator, the Presiding Officer of a Labour Court, the Presiding Officer of a Junior Labour Court, the member of a Tribunal, and the Chairman and a member of the Commission shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).”.

36. Substitution of section 66, Ordinance XXIII of 1969.—In the said Ordinance, for section 66 the following shall be substituted, namely:—

- “ 66. *Power to make rules.*—(1) The Federal Government may make rules for carrying out the purposes of this Ordinance in relation to the Commission.
- (2) Except as provided in sub-section (1), the Provincial Government may, in consultation with the Federal Government, make rules for carrying out the purposes of this Ordinance.
- (3) Rules made under this section may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees.”.

37. Savings.—Nothing in this Ordinance or any other law shall be deemed to—

- (a) require the transfer to the Junior Labour Court of any matter under sub-section (4) of section 25A which was pending before a Labour Court immediately before the commencement of the Industrial Relations (Amendment) Ordinance, 1972 (XLVIII of 1972);
- (b) affect any appeal from an order of a Labour Court which was pending before a Tribunal immediately before such commencement.

38. Repeal of Ordinance XLVIII of 1972.—The Industrial Relations (Amendment) Ordinance, 1972 (XLVIII of 1972), is hereby repealed.
