

**AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW & PARLIAMENTARY AFFAIRS, SECRETARIAT,
MUZAFFARABAD.**

No. 3483/SL/74/74. The following Ordinance made by the President on, the 29th of November 1974, is hereby published for general information:-

(ORDINANCE XXVII OF 1974)

AN ORDINANCE to regulate the hours of work and other conditions of employment of road transport workers in Azad Jammu and Kashmir

WHEREAS it is expedient to regulate the hours of work and other conditions of employment of road transport workers in Azad Jammu and Kashmir;

AND WHEREAS, the Legislative Assembly is not in session and the President is satisfied that circumstances exist which renders it necessary to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by section 41, of the Azad Jammu and Kashmir Interim Constitution, Act, 1974 the President of Azad Government of the state of Jammu and Kashmir is pleased to make and promulgate the following Ordinance:-

1. **Short title, extent act commencement.**- (1) This Ordinance may be called the Azad Jammu and Kashmir Road Transport workers Ordinance 1974.
 - (2) It extends to the whole of Azad Jammu and Kashmir.
 - (3) it shall come into force at once.
2. **Definitions:** In this ordinance, unless there is any thing repugnant in the subject or context.-
 - (1) "Day" means a period of 24 hours beginning at midnight;
 - (2) "Employer" means the owner of any road transport service in which workers are employed, and where the business of such service is not directly managed by the owner, means the Manager, Agent or Representative of such owner in the said service and where the owner is a minor, the guardian of such minor, and in relation to any vehicle which is the subject of hire

purchase agreement, the person in possession of the vehicle under that agreement;

(3) "Government" means the Azad Government of the State of Jammu and Kashmir;

(4) "Hours of work" means the time during which the workers employed are at the disposal of the employer excluding any interval allowed for rest and meals;

(5) "Prescribed" means prescribed by Rules made under this Ordinance;

(6) "Public Place" means a road, street, way or other place, whether a thorough fare or not, which the public have a right of access, and includes any place or stand at which passengers are picked up or down by a vehicle;

(7) "Road transport service" means a service carrying passengers or goods or both by road in vehicle for hire or reward;

(8) "vehicle" means any mechanically propelled vehicle, used or capable of being used for the purposes of road transport and includes a trame car a trolley vehicle and a trailer;

(9) "Week" means a period of seven days;

(10) "Workers" means a person engaged on mobile duty, and includes drivers, cleaners, conductors and checkers employed by or in road transport service;

(11) "Year" means a period of twelve months starting from the date a worker is employed in a road transport service and ending on the date immediately preceding in the following year.

3. **Age Limit:-** (1) No person, other than a driver, shall be employed in any road transport service unless he has attained the age of fifteen years.

(2) No person shall be employed in any road transport service for the purposes of driving a vehicle unless he has attained the age of twenty one years.

4. **Hours of work and rest:** (1) No workers shall be employed on a vehicle;

(a) For more than five hours at a time before he has had an

interval for rest of at least half an hour nor more than eight hours before he has had at least two such intervals;

- (b) For more than nine hours in a day; and
 - (c) For more than fifty-four hours in a week.
- (2) Every worker shall be entitled to have at least twenty-four hours of consecutive rest in week.
- (3) The Government may, by rules made under section 10, grant such exemptions from the provisions of sub-section (1) and sub-section (2) as it thinks fit, to meet cases of emergency or of delay by reason of circumstance which could not be foreseen:

Provided that:

- (a) No worker shall be employed over time in any year in excess of one hundred and fifty working hours; and
 - (b) The worker employed overtime shall be paid remuneration at the rate of his normal wages calculated by the hours.
- (4) Whereas a result of the making of a rule exempting any worker from the provision of sub-section (2) a worker is deprived of any of the weekly hours of rest for which provision is made in the sub-section he shall be allowed, as soon as circumstances permit, compensating hours of rest of equal number so lost:

Provided that no worker shall be caused or allowed to work for more than ten consecutive days without compensative rest for at least twenty hours at one time.

- (5) The Government or if, authorize in this behalf by the Government by rules made under section 10, the competent authority, may require an employer to fix before hand the hours of work of the workers so as to conform with the provisions of sub-section (1) and may provide for the recording of the hours so fixed.

- (6) No worker shall or cause or allow any other worker to work outside the hours fixed or recorded of the work of the said worker in compliance with any rules made under sub-section (2)

- 5. Restriction on cumulative hours of work:** No worker shall work or be allowed to work on a vehicle or two or more vehicle

in excess of the period during which he may be law-fully employed under this Ordinance.

- 6. Leave:** (1) In a added to the period of daily and weekly rest, every worker, who has been in continuous employment for a period of one year, shall be entitled to not less than 14 days leave with full pay or, if he has been continuously employed for a period of six months, he shall be entitled to not less than seven day's leave with full pay.

(2) For the purposes of computing the period during which a worker has been in continuous employment with in the meaning of sub-section (1), the period during which he was on leave under this section shall be included.

- 7. Restriction on termination of service etc:** (1) The service of a worker shall not be terminated without sufficient cause not unless and until one months previous notice or one months pay in lieu thereof has been given to him and he has been paid his pay for any period of leave admissible to him of which he did not avail himself while in service.

(2) Nothing in sub-section (1) shall apply to the case of a worker whose service are terminated on account of his having been found guilty of miss-conduct.

Explanation: For the purposes of this-subsection the following act, and omissions shall be treated as misconduct, namely:-

- (a) Willful insubordination or disobedience, whether alone or in combination with others, to any lawful and reasonable order of a superior;
- (b) Theft, fraud, or dishonesty in connection with the employer's business or property;
- (c) Willful damage to or loss of employer's goods or property;
- (d) Taking or giving bribes or any illegal gratification.
- (e) Habitual absence without leave or absence without leave for more than 10 days.
- (f) Habitual late attendance.
- (g) Habitual breach of any law applicable to the establishment;

- (h) Riotous or disorderly behavior during working hours at the establishment or any act subversive of discipline.
 - (i) Habitual negligence or neglect of work.
 - (j) Sticking work or inciting others to strike work in contravention of the provisions of any law or rules having the force of law.
- (3) If in any case instituted for the contravention of the provision of sub-section (1) the services of a worker are found to have been terminated without sufficient cause the amount payable as compensation under this section shall be in addition to any fine as payable under section 11.
- (4) No person who has been awarded compensation under this Section shall bring a civil suit in respect of the same claim.
8. **Maintenance of Register etc:** (1) Every employer shall, in the prescribed form and in the prescribed manner, keep in the office of the road transport service a record of the hours worked and the amount of leave taken by, and of the intervals allowed for rest and meals to, every worker in accordance with the provision of this Ordinance and particulars of all employment overtime shall be separately entered in the record.
- (2) Every employer shall for the purposes of this Ordinance maintain such other records and registers and display such notice or other documents as may be prescribed.
9. **Inspection of registers and calling for information:** It shall be the duty of every employer to produce for inspection of such inspectors as may be appointed by the Government all accounts or other records required to be kept for the purposes of this Ordinance and to give such officer any other information in connection therewith as may be required.
10. **Powers to make rules:** The Government may make rules for the purposes of carrying into effect the provisions of this Ordinance.
11. **Penalties:** Whoever contravenes any of the provisions of this Ordinance, or any of the rules made thereunder shall be liable on first conviction to a fine not exceeding fifty rupees for the first offence and two hundred rupees for every subsequent offence provided that-

- (a) In the case of any contravention of the provisions of section 8, the employer shall be liable, on conviction, to a fine not exceeding ten rupees for every day on which the contravention occurs or continues, and
 - (b) If any employer, with intent to deceive makes or causes or allows to be made in any record, register, notice or other document as provided under section 8 an entry which is to his knowledge false in any material particular, or willfully omit or causes or allows to be omitted from any such record, register, notice or document an entry required to be made therein, shall be liable on conviction to simple imprisonment for a term not exceeding six months or to a fine not exceeding five hundred rupees or both.
12. **Protection of action taken under the Ordinance:** No suit, prosecution or other proceeding shall lie against any person for any thing which is in good faith done or intended to be done in pursuance of this Ordinance or rules made there under.

Sd/-
(Sardar Mohammad Abdul Qayyum Khan)
President,
Azad Government of the State of J&K.