

CS No: 000705/2017-0569
P.O. No: 2738/2017
Director, Deptt. of Labour
Gurgaon, Haryana

GURGAON, PIN: 122001 भारतीय डाक

o/c

To,

Date:- 11.01.18

The Assistant Labour Commissioner
Circle- , Mini Secretariat,
Gurgaon, Haryana.
122001

Subject:- Reminder letter in relation to the Memorandum given by the Garment and Allied Workers Union Dated 13.10.2017 to the Addl. Labour Commissioner, Gurgaon, for the implementation of the Minimum Wages Notification since November 2015, published under Minimum Wages Act, 1948.

Respected Sir,

This letter is to remind you that on 13.10.2017, a Memorandum was given to Additional Labour Commissioner, Gurgaon, Haryana, by the Garment and Allied Workers Union and endorsed by several other unions, against the wide scale minimum wages violation by companies/employers in the Gurgaon Industrial District. Several demands were raised in this letter.

1. Garment and Allied Workers Union organized a grand rally in Udyog Vihar on 4th September, 2017 to implement the Provisions of the Minimum Wages Act. The union had given a memorandum to the Additional Labour Commissioner, Gurgaon, Haryana, demanding, to stop the contract labour practice in the area and implement the minimum wages notifications issued by the state

government. Numerous workers attended this rally and registered their concern over the violation of the Minimum Wages Act in the area and the illegal & unjust practices by the companies in not implementing the Minimum Wages Act in the Gurgaon and Manesar Industrial Area.

2. In the garment industry is the biggest violator of the Minimum Wages Act are Big Manufacturers like Richa & Co, Gaurav International, Modelama, Style Stich, Orient Craft, Magsons etc. Being in-charge of your respective circle it is your responsibility to prosecute & penalize the violators and to enforce the law and rules made by the government.
3. Minimum Wage is an aspect of fundamental right to equality & work for the workers and our constitution is the guarantor of the fundamental rights. This is not the first time when the companies are found not complying with the provisions of the Minimum Wages Act, they are into the practice/habit to violate the Minimum Wages Norms. The workers are entitled for the minimum wages fixed by the Haryana government as their legal right. To not implement the Minimum Wages Law is a blatant theft done by the companies of the Garment Sector in Gurgaon and Manesar, and by other Companies as well.

4. According to the memorandum, the Garment companies are not paying the minimum wages as fixed by the Haryana Government to the workers. According to the paragraph number 4 of the memorandum, the appointment date of the workers is not specified in the salary slips issued at the M/s Richa & Company, Richa Global and Gaurav International which makes it impossible for the workers to calculate their seniority. Because the workers are not able/access to calculate their seniority, and because of this they are compelled to work on the wages decided by the employer.

5. Under this memorandum, we demanded from the Additional Labour Commissioner, Gurgaon, Haryana:-

- The companies/employers should be directed to stop the minimum wages violation with immediate effect and implement the minimum wages Act in the area.
- The workers should be given proper increment and promotions as per their skill and experience as mandated by the minimum wages Notification(s), by the employers.
- Regularization of Contractual workers and to stop practice of contract workers in the area.

On 31-10-2017 the Additional Labour Commissioner through a letter directed all the Assistant Labour Commissioners of different circles to

conduct an investigation into the matter and punish the companies found guilty.

6. According to the memorandum, the Salary Slips of Modelama Exports shows that the company is also paying less 13.53 percent of the basic wage and less overtime of 85.39 percent. The dearness allowance has not been mentioned on the wage salary slips of the workers. Similarly, the workers of Jyoti Apparels are affected by the non-mentioning of the joining dates on the salary slips, due to which it makes impossible to calculate the seniority. Even the minimum wage is paid 17.29 percent less and the overtime is paid 76.92 percent less to the workers. Dearness allowance is not mentioned by the company. Dearness allowance is not paid according to the changes made by the Haryana government time to time. The inflation is increasing day by day and the workers are not paid according to the inflation rate.
7. Likewise, the minimum wage is being given 15% less in Magsons Export, the overtime 100 percentage is being reduced. Similarly Tete N Rai and Rajat International are not paying the minimum wage and overtime to the workers. No dearness allowance is being paid to the workers. This is a serious matter, the companies are not paying the minimum wages as fixed by the state government.

8. As per the Minimum Wages Act, Payment of minimum rate of wages (i) where in respect of any scheduled employment a notification under section 5 is in force, the employer shall pay to every employee engaged in a scheduled employment under him wages at a rate not less than the minimum rate of wages fixed by such notification for that class of employee in that employment without any deduction except as any be authorized within such time and subject to such conditions as may be prescribed.

9. Under "section 19 of the Minimum Wages Act" you are empowered to (a) enter any premises or place where employees are employed, or work is given out to out-workers in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, for the purpose of examining any register, record of wages or notices required to be kept, (d) seize or take copies of such register, record of wages or notices or portions thereof as he may consider relevant in respect of an offence under this Act.

10. Delhi High Court recently said Industry not paying minimum wages has no right to continue:- An industry which does not pay the minimum wages to its workers has "no right to continue", the Delhi high court has said, terming non-payment of such wages as

“unconscionable and unpardonable”. The employment of workmen without paying them the minimum wages constitutes a criminal offence for which punitive sanctions are provided under the Minimum Wages Act, 1948, the high court said. **“Non-payment of minimum wages, to a workman is unconscionable and unpardonable in law,”** the court said, adding **“...the matter leaves no manner of doubt that minimum wages are the basic entitlement of the workman, and an industry which employs workmen without paying them minimum wages has no right to continue.”** **“Such an attitude erodes the very foundations of a socialist society which the preamble of the Constitution professes us to be, and belies the promises held out to every citizen by the Constitution,”** it said.

Therefore, you are requested to diligently pursue the matter and take immediate action on all the companies found non-compliant of the minimum wages notification as per the rules and regulations set by the state government. Kindly expedite the matter and seriously pursue the matter and take appropriate action on the companies which are found in violation of the minimum wages as fixed by the Haryana Government under the Minimum Wages Act of 1948.

The directions were issued on 31.10.2017 by the Additional Labour Commissioner, Gurgaon to all the Assistant Labour Commissioner, Gurgaon to check the violation and if found guilty the companies

should be punished as per the law. So you are required to take action on the companies falling under your circle in Gurgaon or Manesar.

The copy of the Memorandum dated 04.09.2017 is attached to this letter along with the copy of directions issued the Additional Labour Commissioner, Gurgaon Haryana.

It is therefore also requested that:

1. This Authority conducts a thorough investigation of these violations and conduct thorough inspections of all the companies engaged in garment manufacture and also of other industries in Gurgaon and Manesar. The companies which are found non-compliant, the owners and erring personnel of these companies must be prosecuted.
2. That the minimum wages notification(s) of the Haryana Government be directed to be enforced with immediate effect in industries across Gurgaon and Manesar.
3. The companies/employers be directed to provide proper proof of employment to workers and to avoid employing workers through contractors as far as possible. Investigation of misappropriation of service records of workers by companies must be carried out by this authority across its Jurisdiction.
4. This Authority should conduct proper inspection of the registers maintained by the garment companies and the actual amount paid to

the workers should be verified. The authority needs to document the investigation and all the evidence collected at the time of inspection. It also needs to be checked whether the industries followed the previous notifications issued by the state government. A copy of the investigation conducted by the authorities and copy of all the evidences should be provided to Garment and Allied Workers' Union.

अमरनाथ शर्मा

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(General Secretary)

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