

Code on Wages Rules, 2020

Inconsistency between Rule 6(1) & Rule 6(2) regarding working hours: “Is Spread Over a thing of the Past”

Central government has framed rule 6, 7, 8 & 9 in connection with Section 13 of the Wage Code. Rule 6(1) says that the normal working day of an employee shall comprise of Eight hours work and one or more interval of rest which in total shall not exceed one hour. Rule 6(2) says that working day of an employee shall be so arranged that inclusive of intervals of rest, if any, it shall not spread over for more than 12 hours on any day. Prima facie there appears to be inconsistency between rule 6(1) & 6(2) of the Central Rules. If we read Rule 6(1) meticulously, we draw a conclusion that normal working day including interval of rest (*one or more interval of rest which in total shall not exceed one hour*), shall be of nine hours including interval of rest of one hour. Contrary to this, Rule 6(2) clarify that working day of an employee shall be so arranged that inclusive of interval of rest, it shall not spread over more than twelve hours on any day. In other words Rule 6(2) permits eight hours duty on every day during a span of twelve hours. Use of word “Spread over” in Rule 6(2) of the Central Rules means the total period of time on any day during which eight hours duty can be taken. Meaning thereby, that employer is not permitted to take 8 hours duty beyond the period of 12 hours of spread over. If we focus on rule 6(1) we find that normal working day including period of rest is 9 hours (8 hours duty plus one hour rest) and if we focus on Rule 6(2) we find that normal working day including period of rest of 12 hours (8 hours duty during spread over of 12 hours). This inconsistency between Rule 6(1) and Rule 6(2) relating to “total period of normal working day including period of rest” cannot coexist simultaneously. This inconsistency requires interpretation by higher courts or reconsideration of Rule 6(1) & 6(2) by the Central Government. However, Authors in view of similar provision in other acts are of the opinion that this inconsistency can be resolved by permitting 8 hours duty during spread over of 12 hours on any day of work. The final opinion on this issue can only be given by higher courts competent to interpret the provisions of the statute.

Wishing our readers a very Happy Diwali !!

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