

Bill No. 203 of 2022

THE TERMINATED EMPLOYEES (WELFARE)
BILL, 2022

By

SHRI DILESHWAR KAMAIT, M.P.

A

BILL

*to provide for the welfare measures for the employees who have been terminated
by the employers and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventy-third Year of the Republic of
India as follows:—

1. (1) This Act may be called the Terminated Employees (Welfare)
Act, 2022.

Short title and
application.

5 (2) Save as otherwise provided in this Act, it shall not apply to
employee who has been terminated for any of the following reasons:—

- (a) proven misconduct;
- (b) cheating;
- (c) indulging in fraudulent means or misappropriation of money; or
- 10 (d) having been found guilty by a criminal court of justice.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) ‘employer’ means the owner or the director of any establishment or any organization which is not owned by the Central Government or a State Government or which is not the undertaking of or controlled by the Central Government or a State Government or funded by the Central Government or a State Government but includes the owner or director of a private establishment where not less than ten persons are employed; 5
- (b) “fund” means the Corpus Fund established under section 4;
- (c) “prescribed” means prescribed by rules made under this Act; and
- (d) “terminated employee” means any employee who was employed by any employer, whether regular or temporary or casual or on contract and whose services have been terminated by the employer. 10

Benefits to terminated employees.

3. (1) Notwithstanding anything contained in any law for the time being in force, every employee whose employment has been terminated by the employer for the reasons of the winding up of the organization or the establishment due to:— 15

- (i) economic slowdown; or
- (ii) change in technology in the respective field; or
- (iii) the owner or director managing the affairs of the establishment becoming insolvent; or 20
- (iv) the orders of any court; or
- (v) incurring losses making it unviable to carry on the business; or
- (vi) the change in Government policy;

shall be entitled to such unemployment compensation, health insurance benefits or any other benefits as may be prescribed if such benefits are not part of the employee-employer agreement, for a period of nine months or till the time he gets employed elsewhere, whichever is earlier. 25

Explanation I— The period of nine months shall include the notice period to be served by the employer before termination. 30

Explanation II— The unemployment compensation shall be admissible if the employer does not provide any severance package to the terminated employee or the severance package is less than the compensation provided under this Act.

(2) The unemployment compensation under sub-section (1) shall not be less than sixty per cent. of the gross salary of the terminated employee or as per the terms of the employee-employer agreement, whichever is higher and it shall be borne by the employer. 35

(3) The health insurance benefit shall continue till the period as specified in sub-section (1) with the same terms and conditions which prevailed during his employment. 40

(4) A terminated employee shall also be entitled to such terminal benefits which would have been available to him on the cessation of employment including provident fund, gratuity and leave encashment.

(5) The benefits notified under sub-section (1) shall be paid to the terminated employee from the month following the month on which termination notice is communicated to the employee or on completion of the notice period, if any:

5 Provided that if due to any reason, the employer is not able to pay the benefits within one month from the date of the termination of the employment, the employer shall pay to the terminated employee an interest at the rate of twelve per cent. per month for such delay.

10 (6) Nothing in this Act shall apply to any terminated employee if benefits admissible under the employee-employer agreement, are higher than the benefits prescribed under this Act.

4. (1) Every employer shall create a corpus fund to which at least five per cent. of the net profit of the organization shall be credited, which shall be used for the welfare of terminated employees under this Act.

Corpus fund for welfare of terminated employees.

15 (2) Every employer shall be entitled to solicit contribution from any organization, individual or trust for the purpose of maintaining the fund, in such manner as may be, prescribed.

20 (3) Without prejudice to the generality of the provision contained in sub-section (1) the fund shall also be utilized for the following purposes, namely:—

(a) payment of expenditure in connection with the education of the children of the terminated employees; and

(b) medical facilities, free of cost, in such a manner as may be prescribed.

25 **5. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide adequate funds for carrying out the purposes of this Act.**

Central Government to provide funds.

6. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

30 (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, Parliament agrees in making any modification in the rule or Parliament agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

In an era, when the space for Public Sector has substantially shrunk and role of Private Sector has expanded, many questions relating to the welfare of employees attached to Private Sector and employer-employee relations have become significant. It has been observed that employees face undiminished threat of losing jobs and live in a climate of uncertainty. Things become worse when they are relieved from jobs without any substantive compensation. Hundreds and thousands of people in their midage with family responsibilities and economic liabilities face unprecedented challenges to survive. It not only affect their lives but also the social and cultural process too. Moreover, laying off due to change in management policies or the Government policies or due to the losses incurred due to inefficient management are all the events where the employee doesn't have much control but is the one who suffers the most.

Neo liberalisation has increased the uncertainties in the lives of people. It also justifies inequality to an extent on the one hand and indoctrinates the employers to become insensitive to their employees. In fact, it has revived the rejected doctrine 'survival of the fittest'. This concern needs to be essentially addressed. Any welfare State cannot give primacy to profit making. Indian Constitution aspires, idealizes and also inspires to make endeavour to achieve equality. This cannot be treated as dead ideal. The State has to strive for it. No economic system can endure or can yield greater good of greater number and protect the interests of working people if it follows the blind path of development and allows the concentration of wealth. The goal of New India is to maximise egalitarianism and to minimise inequality. In this context protection of economic interests and dignity of employees of private sector is both moral and constitutional duty of the Indian State.

At present there is no law to ensure that the employers provide terminal benefits in time and which makes provision for education, medical facilities etc., to the families of employees who have been terminated. The Bill provides for minimum nine months of assured income including medical benefits to the terminated employees which will give them enough time to reassign themselves to new employment without disturbing the existing set up of their family. After employment a person often takes few loans to meet his need, gets their children admitted at a certain level of school. All this cannot come to a halt without any of his fault. The family of the employee should not suffer because of such events. The Bill seeks to achieve the above objective.

Hence this Bill.

NEW DELHI;
18 July, 2022.

DILESHWAR KAMAIT

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides that the Central Government shall provide funds for carrying out the provisions of the Bill. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees ten thousand crore per annum.

A non-recurring expenditure of rupees five thousand crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

LOK SABHA

A

BILL

to provide for the welfare measures for the employees who have been terminated
by the employers and for matters connected therewith or incidental thereto.

(Shri Dileshwar Kamait, M.P.)