

**Bill No. 272 of 2022**

THE TERMINATED EMPLOYEES (TEMPORARY BENEFITS)  
BILL, 2022

By

SHRI LAVU SRI KRISHNA DEVARAYALU, M.P.

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BILL

*to provide temporary benefits to the terminated employees including payment of unemployment allowance, medical expenses for a certain period after termination of service 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 (Temporary Benefits) Act, 2022.

Short title and commencement.

5 (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

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

(a) “appropriate Government” means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) “employee” means any person employed on wages by an employer, either directly or through a contractor, to do any skilled, semi-skilled or unskilled, manual, operational, supervisory, managerial, administrative, technical, clerical or any other work, whether the terms of employment be express or implied, and also includes a person declared to be an employee by the appropriate Government;

(c) “employer” means the owner or director of any establishment or organisation which is not owned, controlled or funded by the appropriate Government or an undertaking and who directly or indirectly or through an agent or any other person, employs any person on regular, casual, contractual or temporary basis or exercise control over the wages, hours of working and other working conditions of his employees;

(d) “prescribed” means prescribed by rules made under this Act;

(e) “primary health care” means essential health care services including family planning, immunization, prevention of locally endemic diseases, treatment of common diseases or injuries, provision of essential facilities, health education, provision of food and nutrition accessible to individuals and provided by the appropriate Government;

(f) “secondary health care” includes second tier of health care system, in which patients from primary health care are referred to specialists in higher hospitals for treatment; and

(g) “terminated employee” means an employee whose services have been terminated by his employer on any ground other than the following grounds, namely:—

(i) proven misconduct causing physical or mental harm or both; or

(ii) fraud; or

(iii) breach of trust; or

(iv) cheating; or

(v) indulging in misappropriation of money with fraudulent means; or

(vi) having been convicted for an offence by a criminal court; or

(vii) having been convicted for an offence other than a criminal offence punishable by a sentence for a period of more than two years; and

(h) “tertiary health care” includes third level of health care system, in which specialized consultative care including Specialised Intensive Care Units, advanced diagnostic support services and specialized medical personnel is provided on referral from primary and secondary health care.

Benefits to be provided to the terminated employees.

**3.** (1) Notwithstanding anything contained in any other law for the time being in force, every employer shall provide to the terminated employee or his dependant family members the following benefits, namely:—

(a) payment of unemployment allowance at the rate not less than seventy per cent. of the wages which were being paid to such employee prior to his termination in such manner as may be prescribed; and

(b) payment for medical expenses incurred which shall not be less than fifty per cent. of the total cost in case of expenses under primary

health care and not less than one lakh rupees in case of expenses under secondary and tertiary healthcare in such manner as may be prescribed.

(2) The terminated employee shall be eligible for benefits under clauses (a) and (b) only if such an employee had been employed for a period of not less than three hundred and sixty-five days by the same employer.

(3) The medical treatment expenses under clause (b) of sub-section (1) shall also be provided to the dependant family members of the terminated employee for a period of one hundred and twenty days from the month subsequent to the month of termination of the employee.

(4) Any agreement between the employer and employee or the agent of the employee that seek to nullify the provisions of this Act shall be deemed to be null and void *ab initio*.

4. The unemployment allowance under section 3 shall be paid for a period of ninety days from the date of termination of service of employee or until the employee whose employment has been terminated is employed again, whichever is earlier in time:

Duration of payment of unemployment allowance.

Provided that where the terminated employee is a widow, the unemployment allowance shall be paid for a period of one hundred and twenty days.

5. Notwithstanding anything contained in any other law for the time being in force, the benefits provided under section 3 shall not be computed for the purpose of payment of Income Tax.

Benefits to be non-taxable.

6. (1) **The Central Government shall, by notification in the Official Gazette, constitute an Authority to ensure implementation of the provisions of this Act.**

Constitution of Appropriate Authority.

(2) **The composition of and other terms and conditions of the Authority shall be such as may be prescribed.**

(3) The Authority shall, after a period of five years from the date of its constitution, review the benefits referred to in section 3.

(4) Notwithstanding anything in this Act, the Authority may, if it deems necessary, exempt certain category of employers from the application of this Act.

7. **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.

8. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.

9. The provisions of this Act shall have effect notwithstanding anything contained to the contrary in any other law for the time being in force.

Act to have overriding effect.

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

Power to make rules.

(2) Every rule made under this Act by the Central Government 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, both House agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter 5 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.

(3) Every rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before the State Legislature. 10

## STATEMENT OF OBJECTS AND REASONS

The globalised free and capitalist market has evolved into a system requiring adequate regulation and monitoring of employees welfare on the one hand and defining who qualifies as an employer on the other. The tendency to maximize profits at the cost of the welfare of the employees and exploitation of the necessity of the workers has resulted in unfavourable conditions for employees. The rise of the *gig economy*, *gamification* of the employees and the economy, and the ever expanding informal sector in India has on one hand brought success and wealth while, on the other hand but has also introduced uncertainty in the future of the employees.

Today the Indian economy is more than ever exposed to international eventualities and its effect on the daily lives of the people is highly pronounced. In light of this, the existing social security net is required to be strengthened and expanded. Such a step will serve not only the interests of workers but will also provide adequate financial support to them in distressed time. The Government of India must ensure that the Directive Principles stated in articles 38, 39(e) and 42 of Part IV of the Constitution are implemented in keeping with the responsibilities of a welfare State.

The need is to put an obligation on the State to secure a social order for the promotion of welfare of the people, provide public assistance in cases of unemployment, old age, sickness, disablement and also ensure that the health and strength of workers is not abused due to economic necessity.

The Bill, therefore, with a view to ensure social security, seeks to provide for payment of unemployment allowance and medical expenses to the terminated employees and their dependant family members for a certain period of time.

Hence this Bill.

NEW DELHI;  
March 17, 2020.

LAVU SRI KRISHNA DEVARAYALU

### PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117(1) AND 274(1) OF THE CONSTITUTION

[Copies of Letter Nos. DGE-H-11021/28/2021-SS-I and H-11021/28/2021-SS-I dated 12 September and 16 November, 2022 from Shri Bhupender Yadav, Minister of Labour and Employment and Environment, Forest and Climate Change to the Secretary General, Lok Sabha.]

- I. The President, having been informed of the subject-matter of the Terminated Employees (Temporary Benefits) Bill, 2022 by Shri Lavu Sri Krishna Devarayalu, Member of Parliament, recommends the introduction of the Bill in Lok Sabha under clause (1) and the consideration of the Bill under clause (3) of article 117 of the Constitution.
- II. The President, having been informed of the subject-matter of the Terminated Employees (Temporary Benefits) Bill, 2022 by Shri Lavu Sri Krishna Devarayalu, Member of Parliament, recommends the introduction of the Bill in Lok Sabha under clause (1) of article 274 of the Constitution.

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[\*Bill, being printed in 2022, the year in the title of the Bill has been changed from 2020 to 2022.]

## FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for the constitution of an Authority to ensure implementation of the provisions of this Bill. Clause 7 provides that the Central Government shall provide adequate funds for carrying out the purposes of this Act. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees ten crore per annum would involve from the Consolidated Fund of India.

A non-recurring expenditure of about rupees thirty crore is also likely to be involved.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the appropriate 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.

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*(Shri Lavu Sri Krishna Devarayalu, M.P.)*