

**HARYANA GOVERNMENT
LABOUR DEPARTMENT
NOTIFICATION**

The August 17, 2017

No. 11/45/2017-4lab:- Whereas in the Judgment given by Hon'ble Madras High Court in Case No. W.P.4604-06 of 1999 and in other matters, it has been declared that Section 66(1)(b)of the Factories Act, 1948 is unconstitutional and has been struck down. By virtue of which, now women can be employed in factories in the night shifts i.e. from 07:00 P.M. to 06:00 A.M. Hon'ble High Court in this judgment has also laid down certain conditions for employing women in night shift in respect of their security and safety so as to safeguard the interest of the women workers.

Since the Hon'ble Madras High Court has declared Section 66(1)(b) of the Factories Act, 1948 as violative of Articles 14, 15 and 16 of the Constitution. Therefore, now the said provision will not create any obstruction to the working of women in the factories during night shifts. In view of the above decision, the State Government of Haryana will allow to employ women workers in the factories during night shifts i.e. from 07.00 P.M. to 06.00 A.M. Any factory in the State, registered under the Factories Act, 1948 may apply for this exemption. Such exemption will be valid for one year from the date of its publication in the Official Gazette. The exemption shall be granted on the following conditions:-

1. It shall be the duty of the employer or other responsible persons at the work places or institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, statement or prosecution of acts of sexual harassment by taking all steps required.
2. All employers or persons in charge of work place or factory should take appropriate steps to prevent sexual harassment and they should take the following steps:
 - (i) Express prohibition of sexual harassment in any form such as unwelcome sexually determined behaviour either directly or by implication or advances or contact to gain contact or demand sexually favours or make sexually coloured remarks or showing pornography or any other unwelcome physic verbal or non-verbal contact of sexual nature:
 - (ii) The Rules or regulations shall be framed by the factory managements relating to conduct and discipline prohibiting sexual harassment and provide for appropriate penalties in such rules against the offenders

- and also introduce amendments wherever necessary which are existing in the Standing Orders;
- (iii) Provide appropriate working conditions in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at workplaces and no woman employee should have reasonable grounds to believe that she is disadvantaged in connection with her employment.
3. In case of any criminal case the employer shall initiate appropriate action in accordance with the penal law without delay and also ensure that victims or witnesses are not victimised or discriminated while dealing with the complaints of sexual harassment and wherever necessary, at the request of the affected worker, shift or transfer the perpetrator, if circumstances so warrant. The employer shall take appropriate disciplinary action if such conduct amounts to misconduct in employment.
 4. The employer shall maintain a complaint redressal mechanism in the factory itself and the said mechanism should ensure time-bound treatment of complaints. Such mechanism should be at any rate to provide, when necessary a Complaint Committee, a special counsellor or other support services including the maintenance of confidentiality.
 5. Such Complaint Committee should preferably be headed by a woman and not less than half of its members should be women besides a non-governmental organisation's representation in the committee. Such person should be familiar with the issues of sexual harassment.
 6. The Female employees should be allowed to raise issues of sexual harassment to workers in the Workers' meeting and other appropriate forums.
 7. The female employee should be made aware of their rights in particular by prominently notifying the guidelines on the subject.
 8. Wherever there is a harassment at the instance of a third party, either by an act or omission the employer and person in charge of the factory should take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.
 9. The employer shall provide proper lighting not only inside the factory, but also surrounding of the factory and to all places where the female workers may move out of necessity in the course of such shift.
 10. The employer shall see that the women workers are employed in a batch not less than ten and the total of the women workers employed in a night shift shall not be less than 2/3rd of the total strength.

11. Sufficient women security shall be provided during the night shift at the entry as well as exit point.
12. Sufficient number of work sheds shall be provided for the female workers to arrive in advance and also leave after the working hours.
13. Separate canteen facility shall be provided for the female employees.
14. The employer shall provide transportation facility to the women workers from their residence and back (for the night shift) and security guards (including female security guard) and each transportation vehicle shall also be equipped with CCTV cameras.
15. Apart from the facilities, which are permissible under the Factories Act, an additional holiday shall be permitted for the women workers during their menstruation period, which shall be a paid holiday for the night shifts.
16. The factory shall provide appropriate medical facilities and also make available at any time of urgency by providing necessary telephone connections and where more than hundred women workers are employed in a shift, a separate vehicle be kept ready to meet the emergent situation such as hospitalization, whenever there is a case of injury or incidental acts of harassment etc.
17. Wherever the factory provides boarding and lodging arrangements for the women workers, the same shall be kept exclusively for the women under the control of women wardens or supervisors.
18. During night shift not less than $1/3^{\text{rd}}$ of strength of the supervisors or shift-in-charge or foreman or other supervisory staff shall be women.
19. There shall be not less than twelve consecutive hours of rest or gap between the last shifts and the night shift wherever a women worker is changed from day shift to night shift and so also from night shift to day shift.
20. In order respects, the provisions of the Factories Act and the rules of other statutory provisions with respect to the hours of work and the Payment of Equal Remuneration Act and all other Labour Legislations shall be followed by the employer.
21. The employer shall appoint not less than two female wardens per night shift who shall go around and work as Special welfare Assistants.
22. The female workers who work in night shifts and regular shifts shall have a monthly meeting through their representatives with principal employer once in eight weeks as grievance day and the employer shall try to comply all just and reasonable grievances.

23. The employer shall be at liberty to employ women workers as a whole or in part during night shift, provided, the above directions be complied with.
24. The employer shall send a fortnightly report to the Inspector of Factories about the details of employees engaged during night shifts and shall also send express report whenever there is some untoward incident to the Inspector of Factories and local Police Station as well.

Dated, Chandigarh
The, 09.08.2017

VIJAI VARDHAN,
Additional Chief Secretary to Government, Haryana,
Labour Department.

No. 11/45/2017-4Lab

Dated, Chandigarh 17.08.2017

A copy is forwarded to the Controller, Printing and Stationary Department, Haryana, Chandigarh with the request that this notification may be published in the Haryana Government (Extraordinary) Gazetted and 50 printed copies may be supplied to the office of the Labour Commissioner, Haryana, Chandigarh.

SDV

Superintendent, Labour,
for Additional Chief Secy. to Govt. of Haryana,
Labour Department.

Endst. No. 11/45/2017-4Lab

Dated, Chandigarh 17.08.2017

A copy is forwarded to the following for information and necessary action:-

1. Principal Accountant General (A&E), Haryana, Chandigarh.
2. Labour Commissioner, Haryana Chandigarh.
3. Additional Director (IS&H), Headquarter O/o Labour Commissioner, Haryana, Chandigarh.
4. IT Cell Headquarter O/o Labour Commissioner, Haryana, Chandigarh.

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Superintendent Labour,
for Additional Chief Secy. to Govt. Haryana,
Labour Department.