

**MANUAL  
ON  
RIGHTS OF  
TEA PLANTATION WORKERS  
VOL. I**



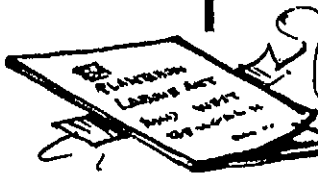
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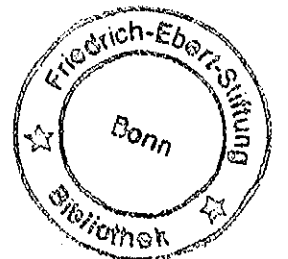
C 95 - 00961

*Prepared by:*  
**Sharit K. Bhowmik,  
Virginus Xaxa**

# Manual on Rights of Tea Plantation Workers



C 95 - 00961



Prepared by:  
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## Foreword

Tea Plantations located in the states of Assam, Kerala, Tamil Nadu and West Bengal employ about one million regular workers. As such they are the largest employers in the organised private sector.

There are a number of legislations aimed at protecting and regulating the employment of plantation workers. The plantation workers are, however, unaware of the most of these legislative provisions, primarily, due to their relative isolation. The present publication, which is in the form of manual, is intended to inform the workers in tea Plantation industry about their rights and responsibilities in an understandable manner. The manual, which is being produced in two volumes, is jointly prepared by Dr. Sharit K. Bhowmik of the University of Bombay, Dr. Virginius Xaxa of the University of Delhi, Dr. Sarath C. Davala of the Indian Institute of Management-Bangalore, and Mr. Tapan K. Deb a trade unionist based at Birpara in West Bengal. The draft manuals were extensively discussed with trade unionists during meetings held at Darjeeling and Birpara in West Bengal and in Tamil Nadu. First volume of the manual covers The Plantation Labour Act, Maternity Benefit Act and Minimum Wages Act as also related standing Orders issued by the Government and Collective Agreement Awards. The second volume would cover the Industrial Dispute Act, the Factories Act and Payment of Gratuity Act.

Friedrich Ebert Stiftung [Friedrich Ebert Foundation] is a non profit research and educational institution committed to the concepts and basic values of Social Democracy. Its wide ranging activities in the field of education and assistance to partners in developing countries include, among others, comprehensive projects in the areas of social development, labour relations, business science and culture.

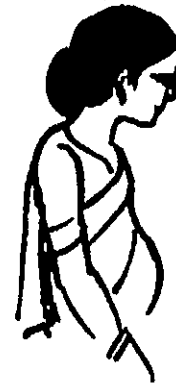
**Gerd Botterweck,**  
Friedrich Ebert Stiftung,  
New Delhi.  
December, 1994

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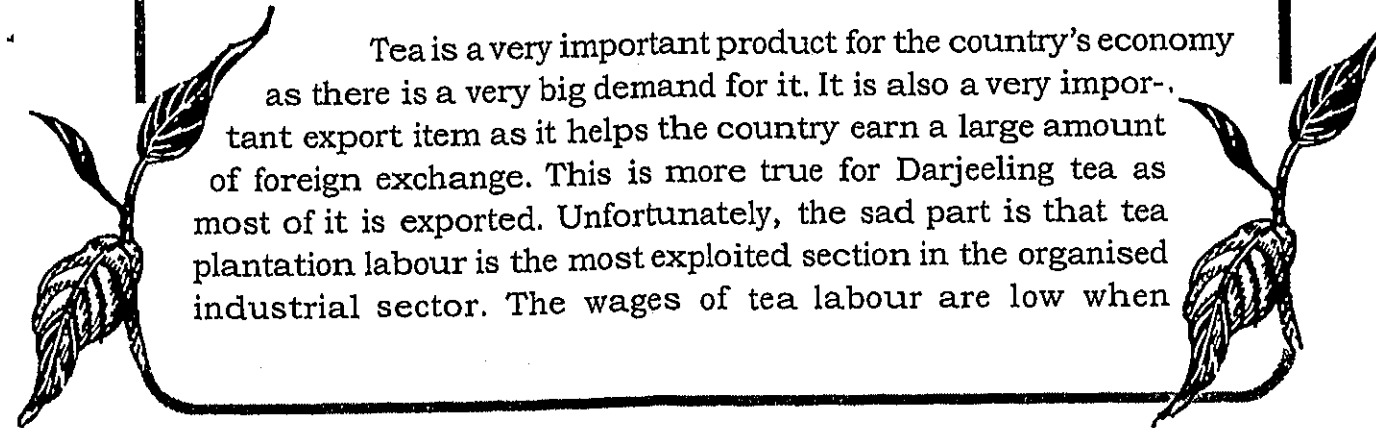


# Introduction

Tea plantations in India employ around 10 lakh permanent workers. This makes the Indian tea industry the largest employer in the organised production sector. The total number of permanent workers employed in the organised production sector (large factories, mines, etc.) is around 70 lakhs. This means that the tea industry, with its 10 lakh permanent workers, constitute one-seventh of this work force. In other words, one out of every seven workers in the organised production sector is a tea plantation worker. Apart from the permanent worker this industry has around 5 lakh temporary workers also.

Tea plantations in West Bengal employ more than 2.5 lakh permanent workers which means that one-fourth of the tea plantation workers in the country is in this state. According to the Tea Board of India, in 1991 there were 1,15,218 male, 1,21,107 female, 7,136 adolescent and 9,459 children working as permanent workers in the tea plantations in the Jalpaiguri and Darjeeling districts of West Bengal.

Tea is a very important product for the country's economy as there is a very big demand for it. It is also a very important export item as it helps the country earn a large amount of foreign exchange. This is more true for Darjeeling tea as most of it is exported. Unfortunately, the sad part is that tea plantation labour is the most exploited section in the organised industrial sector. The wages of tea labour are low when



compared to other workers in the organised sector. For example, a worker in a coal mine gets three times the wage of a tea worker. The wages of mine workers are less than those of workers in factories such as steel, heavy engineering, etc. The level of literacy of tea workers is much lower than the rest of the population of West Bengal. The tea gardens are situated in remote areas as such the workers are isolated. They do not have access to information about their rights as workers in more developed, urban sectors have. However, it is definitely true that the living and working conditions of tea plantation labour has improved considerably after the country attained independence from British Rule. In the pre-independence period, the government did not provide any protection to plantation workers. Further, trade unions were not allowed to exist. The workers were, thus, totally under the control of the employers. There was no regulation on the type of work to be done or on the hours of work.

This crude form of exploitation ended after independence. The new government tried to impose some regulations on the employers through legislations. Laws were passed which granted some legal protection to workers. Alongside, the trade union movement started to spread rapidly. The workers were now able to form or join trade unions which would protect them and would also ensure that the legal rights which were granted to them were enforced. Some of these legislations were, Industrial Disputes Act, Minimum Wages Act, Maternity Benefit Act, Factories Act and so on.

The most important legislation affecting plantation workers is the Plantation Labour Act of 1951 which came into effect in 1954. This Act provides for regulations of work and several welfare measures for plantation worker.

However, even though these legislations were passed with the intentions of providing protection and benefits to the workers

they did not achieve the desired effect among plantation labour. There were several reasons for their failure but the most important reason, we feel, is that in many cases the workers were themselves not fully aware of the provisions of the laws. The employers could often mislead them about the actual provisions of the laws. If the workers have the knowledge of the contents of these different legislations they would be able to pressurise their employers to implement the provisions or they could seek redressal from the government or through their trade unions in a more effective manner.

We, therefore, feel that access to knowledge is a very important aspect in improving the conditions of tea plantation workers. It is with this view that we have decided to bring out this manual. The present manual is the first of a series. In this manual, we have chosen three of the more important legislations. The Plantation Labour Act, which we mentioned earlier, is the most important legislation for the tea plantation workers. We have therefore explained the main provisions of this Act, especially those sections which are of use to the concerned workers. The West Bengal Plantation Labour Rules have also been included wherever necessary. Since half of the plantation workers are women, we feel that it is necessary to include an Act which is meant specifically for women workers. This is the Maternity Benefit Act. A proper understanding of this Act would help women workers in knowing their rights in the field of motherhood. Wages are also a very important aspect in the workers' lives. The wages given to the workers are low and it is quite often found that even these are deducted on the slightest pretext. Therefore, we have decided to include the Minimum Wages Act in this edition. In the future volumes, we will cover the Industrial Disputes Act, Payment of Gratuity Act and the Provident Fund Act.

## The Plantation Labour Act

The manual has been written in a simple and clear style which we hope will be understood by the workers. We have deliberately avoided using complicated legal terminology as this may confuse the reader. We have, however, given references to the sections and sub-section of the concerned Acts while explaining the laws. The manual has been written in the form of question and answer as we feel this will make the Acts easier to understand. We hope this work will be of use to plantation workers in their struggle for a better life.

**Sharit K. Bhowmik**  
**Virginus Xaxa**

The Plantation Labour Act (PLA) is the most important legislation affecting the plantation workers in the country. It is considered as a landmark in the development of plantation because this was the first major attempt by the government to provide some protection to plantation workers. This Act did so by making specific provisions for regulating the working and living conditions of the workers. It imposed controls on the employers with regards to their relationship with the workers.

The PLA was passed by parliament in October 1951 but it came into force only in 1954. The passing of the PLA was widely welcomed by the workers and their trade unions but there was very strong opposition from the employers. The employers associations such as the Indian Tea Association, Indian Tea Planters' Association and others made representations to the Government of India stating that the additional financial burden caused by implementing the PLA would cause financial losses to the industry. A few years later the report of the Menon Commission on Tea Industry (1957), after taking into



account the actual costs of the additional facilities, found that the financial burden would in fact be very low—12 paise per kg. of tea. However, at the time the Act was passed the tea industry was going through a period of crisis as tea prices had fallen sharply. The government, therefore, accepted the pleas of the employees for the time being. In 1953-54 tea prices started rising again and the government decided to enforce the Act with effect from 1 April 1954. We must note here that even though forty years have passed since the PLA came into force it is very difficult to find a single tea plantation in West Bengal where all the provisions of the Act have been effectively implemented.

We will attempt to explain the main provisions of the PLA now. It should be noted that the PLA has been amended twice so far, [1971 and 1982] in order to include new provisions. Another Bill was placed before the Parliament in 1991 to provide further amendments. This bill covers new areas relating to health and safety of workers while they are working in the field and factory. It also restricts employment of children below the age of 14. However, this bill



***'A Plantation worker is any person who has been employed by the management to do any work which is skilled, unskilled, manual or electrical.'***

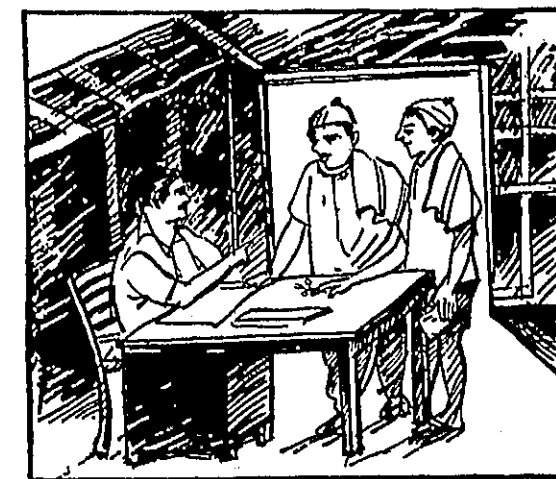
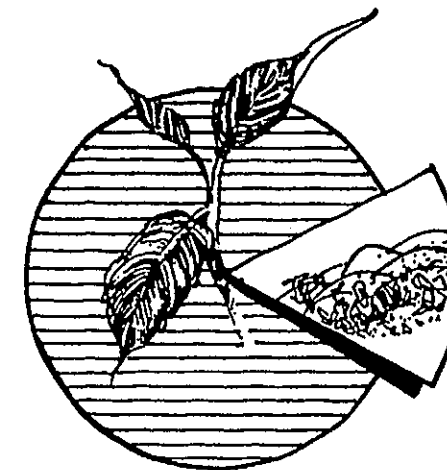
has not yet been discussed by the Members of Parliament. We are, therefore, presenting the Act as it exists after the two amendments. The Sections and Clauses of the Act have been mentioned in brackets. Sections are mentioned as Sec. and Clauses as C1. The West Bengal Plantation Labour Rules have been mentioned as WBPLR.

**Q. What is a plantation?**

A plantation, as per the PLA, is a piece of land of five hectares (fifteen acres) or more in size which is being used for growing tea, coffee, rubber, cinchona or cardamom and on which fifteen or more persons have been employed for even one single day during the previous twelve months [Sec.1 Cl.4(a) and (b)].

**Q. Who is a plantation worker?**

A plantation worker is any person who has been employed by the management to do any work which is skilled, unskilled, manual or electrical. This person must not draw a wage which is more than Rs.750 per month. However, people in the managerial categories and medical offic-





ers are not workers even if they are drawing less than Rs.750. In addition, any person who is engaged in temporary work such as construction of buildings, roads, bridges, drains etc. within the plantation is not included as a worker (Sec. 2, Cl. k).

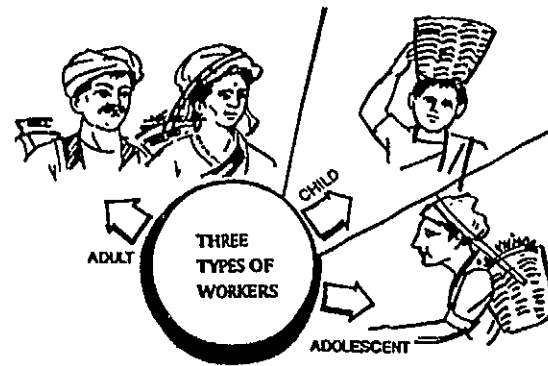
The PLA states that there are three types of workers who can be employed. These are:

1. Adult: Any male or female worker who has completed 18 years of age [Sec.2(b)].
2. Adolescent: A worker who is either male or female and has completed 14 years of age [Sec.2(a)].
3. Child: A worker who is either male or female and is less than 14 years of age [Sec.2(c)].

In West Bengal, child workers are paid at the rate of half the wages of adults but in the southern states of India, such as Tamil Nadu and Kerala, child workers are paid at around two-thirds of the wages, paid to an adult worker.

**Q. How many hours must a worker work to get the minimum wage?**

The PLA has laid regulations on the working time of each category of

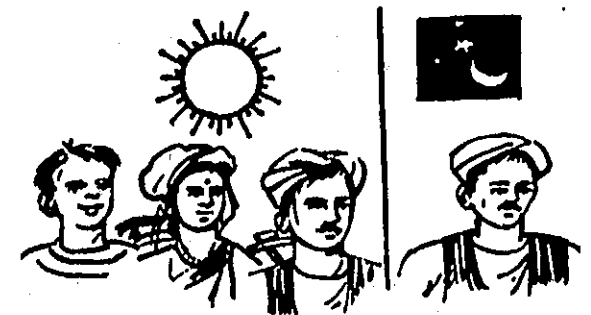
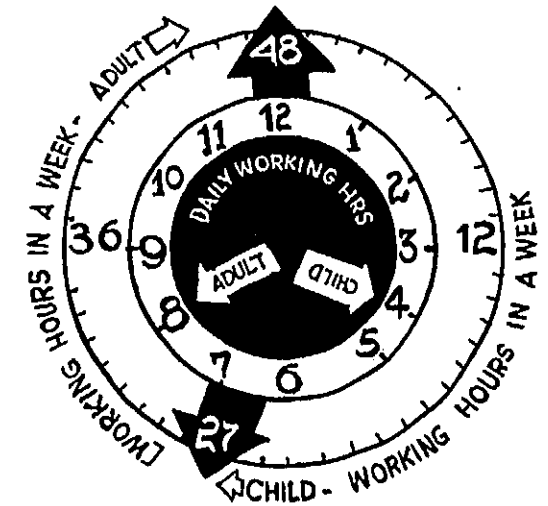


***An adult worker must not work for more than 48 hours and a child/adolescent worker for not more than 27 hours in a week.***

workers. An adult worker must not work for more than 48 hours in a week for his or her minimum wage. This means that a worker must not work for more than 8 hours every day for a 6 days week. Child and adolescent workers must not work for more than 27 hours a week or 4 hours and thirty minutes every day for a 6 days week [Sec.19(1) and (2)]. The PLA also states that no adult worker can be made to work for more than 5 hours at a stretch. Workers must be provided atleast half an hour rest period during each working day (Sec.21).

**Q. Can a worker be made to work at any time during the day or night?**

The PLA permits adult male workers for working at either day or night. This may include working on night shift in the factory or in any other place with in the plantation. However, no adult female or child worker can be engaged for work at night. These workers have to be employed to work only between 6 a.m. and 7 p.m.(Sec.25).



**Q. Can the management ask workers to work at any time and at any place at short notice?**

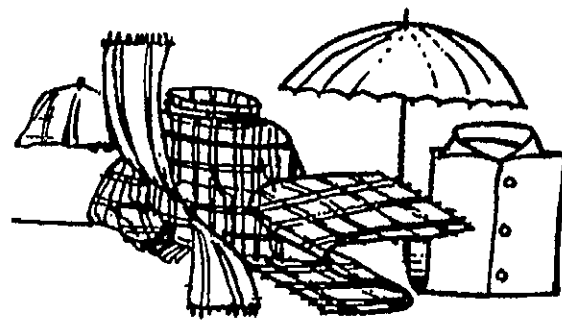
No. It is mandatory for the management of every plantation to notify the period of work so that the workers know the timing and place of work well in advance [Sec.23(1)]. Rule 74 of the WBPLR states that the notice has to be given through Form 6 in which the time, place of work and rest intervals are clearly stated. This notice has to be displayed at prominent places so that all workers could see it.

The notice has to be in, atleast, two languages—English and a language easily understood by the majority of the workers.

**Q. Plantation workers have to work mainly out-doors. Is there any protection given to them while working in extreme weather conditions?**

Section 17 of the PLA states that the employer has to provide protective clothing against rain and cold. In the plantations of West Bengal workers have to be provided with blankets or pullovers for protection

*Management must give prior notice to worker regarding time and place of work.*



against cold while umbrellas or rain-coats for protection against rain. Rule 72 of WBPLR states that these must be supplied to the workers at free of cost and at regular intervals (usually once in two years).

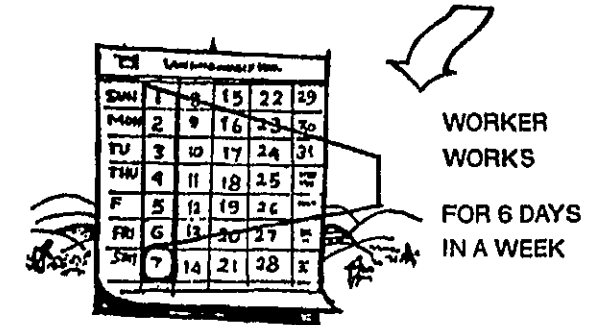
**Q. What about holidays and leave?**

An employer cannot make his workers work for more than 6 days in a week. The workers are entitled to one rest day after every 6 days of work. Rule 73 of WBPLR states that Sunday will be the weekly holiday. The employer may, however, substitute another day of the week. If any worker works on the day of rest he or she will be paid over time at his/her rate of twice the daily wage.

Every plantation worker is entitled to earned leave. An adult worker will get one day earned leave for every 20 days work during one year. Adolescent and child workers are entitled to one day earned leave for every 15 days work during one year. Even half day work will be counted as one day for calculating the period of earned leave. Moreover, the leave entitled will not include the regular holidays (Sec.30).

If a worker does not utilise his or

WHAT ABOUT HOLIDAYS AND LEAVE



*An adult worker will get one day earned leave for every 20 days worked and child/adolescent workers for every 15 days worked during a year.*

her leave fully during the year, the excess leave will be carried over to the next year. However, the total number of days of carried over earned leave cannot exceed 30 days [Sec.30(2) and (3)].

When a worker is availing his or her earned leave the management has to pay the leave wages before the worker goes on leave [Sec.31(a)]. The workers will also be paid the cash value of the other facilities such as rations, fuel etc. for the leave period. The leave wage for time-rated (monthly-rated) workers will be the wage he or she draws just before availing of leave [Sec.31(a)]. For workers whose wages are both time-rated and piece-rated (daily-rated workers) the leave wages will be the average wage during the past calendar year, but this will not include overtime payment or bonus [Sec.31(b) and Explanation of this Section].

When a worker retires or his services are terminated, he will be entitled to receive the cash value of his earned leave due.

**Q. Is it compulsory for the management to provide housing to the workers? If so, what will be the rent charged?**

*On retirement or termination, a worker is entitled to receive cash value of his earned leave due.*

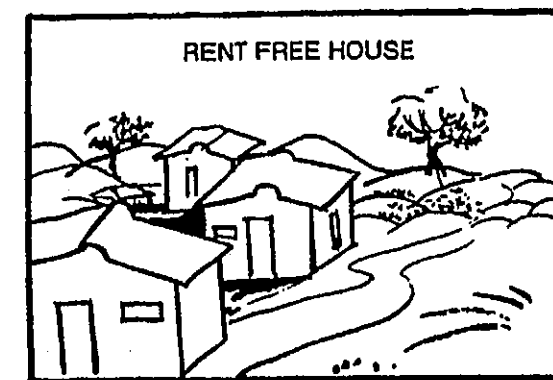
*Any worker who has put in six or more months of service is entitled to rent free housing facilities within plantation.*

Yes, workers are entitled to housing. Any worker who has put in six months or more of service is entitled to housing facilities within the plantation. The worker has to inform the management in writing that he or she wants to reside within the plantation. The employer has to provide a separate house for each worker and his family (Sec.15).

The standards and specifications of the houses are set by the Housing Advisory Committee of the Government of West Bengal under the WBPLR. This committee consists four representatives each of government, trade unions and employers (Rule 57). At present the specifications of workers' houses are: two rooms, one of 10 feet x 12 feet and the other of 8 feet x 10 feet, one kitchen of 4 feet x 6 feet, one verandah of 4 feet x 6 feet. Houses must have separate latrines. The houses will have walls of cement and brick with roof of corrugated iron or asbestos. No rent will be charged for these houses (Rule 53).

The PLA also makes it compulsory for the employer to maintain the houses properly and conduct repair (Sec.16A). The WBPLR states that the employers must wash the walls with

***Workers house specification: two rooms, one kitchen, one verandah and a separate latrine.***



lime once a year (Rule 52).

In case a worker is injured or dies due to poor maintenance of the house he or she or the person's kin can claim compensation under the Workmen's Compensation Act or at the recommendation of the Labour Commissioner. In order to claim this compensation the worker or his next of kin must write to the Labour Commissioner within 6 months of the incident (Sec.16C).

**Q. Does the employer have to provide health facilities or do workers have to depend on the government for this?**

According to the PLA, health does not mean only medical facilities for all workers. Other facilities, such as drinking water and sanitation, are also included.

The employer is bound to provide sufficient drinking water at places nearer to the workers' residence (Sec.8). The WBPLR state that water provided for drinking should be from the taps connected with a public water supply system or from any other source (eg. wells) approved by the Chief Inspector of Plantations (Rule 10). If the drinking water is



supplied from a tank or well, then these have to be free from pollution (Rule 12). This means that the water tanks and wells must be covered and they must be used only for the purpose of drinking and not for washing clothes or bathing. The workers will be supplied drinking water at their work sites also through paniwallas or by water tankers (Rule 14).

The PLA also states that the labour lines must have separate latrines and urinals for males and females. These must be properly maintained and cleaned. [Sec.9(1) and (2)]. The WBPLR specify that every plantation must have one latrine for every 50 acres of cultivated land and half of these latrines must be for females (Rule 15). These latrines must be made with the approval of the Public Health Authority and the employers must make arrangements to clean them daily (rule 16). The employers must also ensure that pucca drains are constructed for clearing of waste and dirty water (Rule 20).

All workers are entitled to free medical facilities for themselves and their families. According to the PLA the family includes the worker and his or her spouse, dependent chil-

***'Facilities in the Labour lines must be provided by the employer as approved by the Public Health Authority.'***

***All workers are entitled to free medical facilities for themselves and their families, including dependent parents.***

dren (those who are less than 18 years of age) and dependent parents (Sec.10). The employers have to ensure that the plantation has proper medical facilities which are available free of cost to the workers and their families. In addition workers are also entitled to medical allowance in case they are sick and cannot report for duty. We shall explain this later.

The WBPLR deal at length with the medical facilities provided to the workers. Rule 21 states that there shall be two types of hospitals in the tea growing areas (Darjeeling, Jalpaiguri and Terai). Firstly, there will be garden hospitals which will deal with the cases not requiring major treatment and care. Secondly, there will be Group Hospitals which will deal with more serious cases of illness.

Rule 22 lays down the details of the medical facilities available at the plantation. Any plantation employing 1000 or more workers will have to provide a hospital for its workers. This hospital will have atleast 15 beds. A plantation with less than 1000 workers may share a hospital with another plantation nearby but at the rate of 15 beds for every 1000 workers. At the same time, even if a

***A plantation employing 1000 or more workers will have to provide a 15 bed hospital for its workers.***

plantation is sharing a hospital with another plantation it has to run its own dispensary. Plantations which have less than 200 workers may not have their own dispensaries but they must have a first-aid box with medicines which are specified by the Chief Inspector of Plantations. It must be noted that all plantations, irrespective of the number of workers they employ, must provide free hospital facilities to their workers and the family members.

The same Rule (22) further clarifies the type of medical staff to be employed. Plantation hospitals will have atleast one qualified doctor who will be assisted by atleast one trained nurse, one trained mid-wife, a qualified compounder and a trained health assistant. The services of these staffs must be available at all times of the day and night. Plantations which have only dispensaries must have a trained compounder, nurse and medical assistant.

The WBPLR also consider the needs of workers in small plantations which are situated in interior areas. These plantations may not be able to run their own hospitals and may not be able to share the facilities with another hospital because of the dis-

***'Plantation hospitals and dispensaries should have qualified medical staff and their services must be available at all times.'***

tance. The same Rule states that in case of plantations employing 350 workers or less and are facing the above conditions, will have to provide dispensaries with 5 detention beds under the charge of a full-time qualified compounder.

The medicines and other equipment available in the hospitals and dispensaries will be specified by the Medical Advisory Board set up by the state government. This board will have representatives of the government, the unions, the employers and the Doars Branch of the Indian Medical Association (Rule 31). This Board will also review the progress of health facilities in the plantations and will make recommendations.

Every worker is entitled to sickness allowance during the period he or she is absent from work due to illness provided this is certified by a qualified medical practitioner (Sec.31). Women workers are entitled to maternity benefit allowance during the time of pregnancy. The extent of leave and allowances to be received will be as per the provisions of the Maternity Benefit Act, which is discussed in the next section.

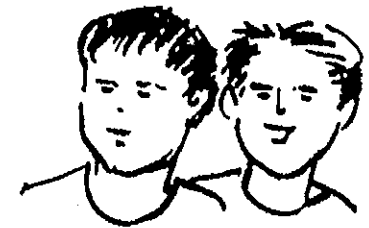
The Rule 75 of the WBPLR states that every worker can get sickness

***'The health facilities provided in the hospitals in the plantation areas are subject to review by the Medical Advisory Board, a State Government body.'***

allowance for a period of 15 days in every year. This allowance will be at the rate of two-thirds of the worker's wage but will not be less than Rs. 1 per day for adults and Paise 75 per day for others. The certificate of sickness has to be given by a qualified medical practitioner (Medical Officer of the plantation or a government doctor of the rank of assistant surgeon) in Form 7 of the WBPLR. This form will be supplied free of cost to the worker by his employer. In case a worker does not use his or her sickness allowance for one year this will be carried over to the next year. However, the total number of days of sick leave cannot be more than 30 days (Rule 75A).

**Q. Are all facilities only for workers? Are there no facilities for their children?**

Yes, there are facilities for children of plantation workers. The PLA lays down that if, in any plantation, there are atleast 50 women workers or 20 children below the age of 6 years the plantation will have to provide a creche for the children. These creches will be under the charge of qualified attendants. The creches will



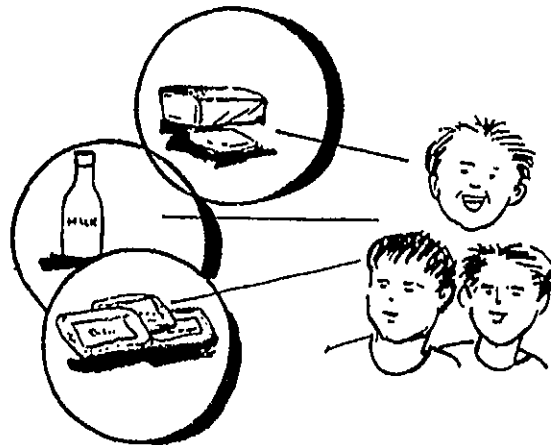
***A plantation having 50 women workers or 20 children below the age of 6 years must provide a creche.***

have to be clean and airy and will function while the mothers are at work. The creches will be situated near to the work site of the mothers (Sec.12).

The WBPLR (Rule 35) lays down that the creches must be situated in pucca houses which have good walls and plinth. There will be suitable furniture and cradles in the creche. Rule 36 states that there must be a wash room for washing the children's clothes and a latrine.

Rule 37 states that the employers have to provide 175 ml. of clean milk and refreshments (biscuits or bread) to each child daily. The creche staff will be provided with clean clothes by the employers (Rule 38).

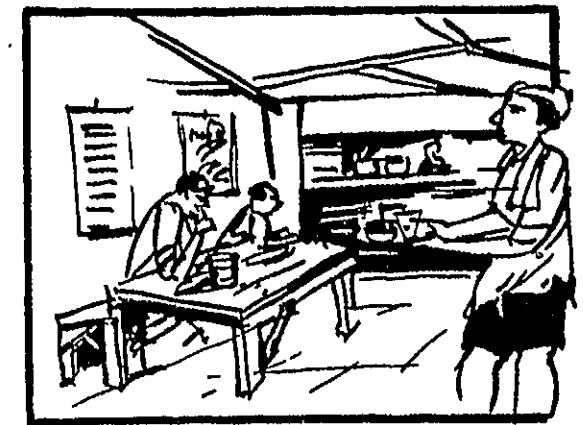
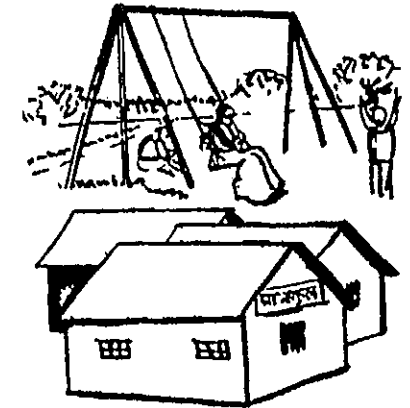
In order to serve the educational needs of the children between ages 6 and 12 years, the employers have to provide free primary schools within the plantation area. These schools will have qualified teachers. However, a primary school will be setup only if there are 25 or more children in the age group 6 to 12 years in the plantation (Sec.14 and Rule 41 of WBPLR).



**Q. Are there any other facilities which the employers must provide?**

Any plantation employing 150 workers or more must have one or more canteens from where the workers can buy tea and snacks at reasonable rates (Sec.11). Rule 34 of WBPLR states that the eatables served in the canteen will be on no-profit basis and the prices of all items will be displayed in every screen. There will be a functioning of canteen committee which will supervise the functioning of canteen. The committee will have representations of workers also.

The PLA also directs the employers to provide recreational facilities for workers (Sec.13). The WBPLR (Rule 39) directs employers to provide and maintain recreation centres for workers which will have provisions for indoor and outdoor games suitable for adults and children. Where space is available, the employer must build play ground for adult and child workers with the necessary sports equipments for outdoor games. Two or more plantations can share a common recreational ground but only if this is located near the



quarters of all workers concerned (Rule 40).

We have explained the main provisions of the Plantation Labour Act and the Plantation Labour Rules of West Bengal. We hope that after going through these provisions plantation workers will have a better understanding of the facilities they are entitled to as their right. We agree that the PLA is not an ideal Act and there is need for more improvement. For example, the Act does not provide any protection for workers who are handling dangerous chemicals such as pesticides, weedicides, etc. The health of these workers will be affected if proper protective clothing is not given to them. However, we feel that if the existing provisions of the PLA and the Rules had been implemented fully by the employers the living and working conditions of this vast section of the working class could have improved considerably.



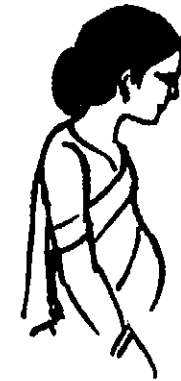
## Maternity Benefit Act

The Maternity Benefit Act (MBA) is an important Act for women workers. It grants protection to these workers at the time of their pregnancy and child delivery. Since half the number of workers employed in plantations are women, we feel that explanation of the main provisions of this Act would be of help to a majority of the workers. We find that several times women workers are not given their proper dues during the period of pregnancy. They are cheated of their proper wages during this period. It is, therefore, important that women workers are made aware of the actual provisions of this Act. They can then be alert about their actual dues.

While explaining this Act, we have noted relevant sections in brackets as has been done in the case of the Plantation Labour Act. The Sections are mentioned as Sec.

### **Q. What does Maternity Benefit mean for the worker?**

When a woman worker is pregnant, she is entitled to leave with full





pay for a certain period before and after her delivery. The payment of her full wage for this period will be made by her employer [Sec.5(1)]. In addition, she will be given an additional amount in cash. All this, and some more features constitute maternity benefit.

**Q. What is the period of leave a woman is entitled to?**

Any pregnant worker, as per MBA, is entitled to six weeks leave before the expected date of her delivery and six weeks of leave after the time of her delivery [Sec.5(3)]. In other words, a woman will get a total period of 12 weeks leave with pay for each delivery.

**Q. What will be the wage which she will receive during this period?**

The employer will have to pay the wages based on the average of the woman's wages payable for the days she has worked during the three months preceding the date from which she takes leave. Overtime payment will not be included in calculating the average daily wage [Sec.5(1) and Explanation of Section].



Wage Payable on 3 months average  
 6 Weeks leave before expected due date of delivery  
 6 Weeks after delivery  
 Total 12 Weeks leave with pay for each delivery

It must be noted here that for plantation labours the average wage includes both time (hazri) as well as piece (doubly) wages. Therefore, while calculating the average, the employer has to take into account both wages.

The worker is also entitled to free medical care before and during delivery. In case the employer does not provide for this care, or if the worker does not avail of it on her own, she has to be given a medical bonus of Rs.250 (Sec.8).

**Q. Are there any conditions for availing of maternity benefits?**

Any woman worker who has worked for a minimum period of 80 days in the year preceding the date of her expected delivery is entitled to maternity benefit [Sec.5(2)].

**Q. How does a worker claim maternity benefits?**

The worker has to give a notice to her employer stating the expected date of her delivery. In this notice she must nominate someone who can receive the amount due if she is unable to receive herself [Sec.6(1)]. She

*Average wage payable during the maternity leave period included both time (hazri) and piece (doubly) wages.*



must also state the date from which she will avail of the leave [Sec.6(2)].

In case woman has not give this notice earlier, she can do so after her delivery [Sec.6(3)]. However, even if the woman does not give any notice she will still be entitled to maternity benefits if she provides proof of her delivery [Sec.6(6)].

On receiving the notice her employer will have to pay her wages for the period preceding the date of her delivery within 48 hours [Sec.6(5)].

**Q. In case of miscarriage or if the mother dies during pregnancy, will maternity benefit be paid?**

Yes. In case of miscarriage the woman will be entitled to the entire period prescribed for leave, but she must produce proof of her miscarriage (Sec.9). In case the woman dies during the period of pregnancy or after delivery maternity benefit will be paid till the time of her death. Her nominee will be paid the amount [Sec.5(3) and Sec.7].

***Any woman worker who has worked for a minimum period of 80 days in the year preceding the date of her expected delivery is entitled to maternity benefits.***

**Q. Does maternity benefits cover only the six weeks before and six weeks after delivery?**

No. There are other facilities the woman is entitled to. Even before availing maternity leave the woman has to be protected. The employer cannot engage the woman in work which is arduous. This means that the woman cannot be engaged in any work which involves standing for long periods of time or carrying heavy loads etc. for one month prior to the six weeks preceding the delivery [Sec.4(3)].

When the woman resumes her work after delivery she is entitled to two breaks daily for nursing her child. This is in addition to the regular rest interval. She will be allowed this facility till her child is fifteen months old (Sec.11). The employer cannot make deductions from her wage for the time allowed for nursing her child [Sec.13(b)].

The Act states clearly that a woman who is absent from work due to pregnancy cannot be dismissed from her work on account of being absent (Sec. 12). This means that if a pregnant woman has not given notice to her employer but is absent

***A pregnant worker can not be engaged in any work involving long period standing or carrying of heavy loads etc.***

***A nursing mother is entitled to two breaks daily for nursing her child till the child becomes fifteen months old.***

from work due to her pregnancy cannot be dismissed from service for this. She should, however, give notice as soon as possible.

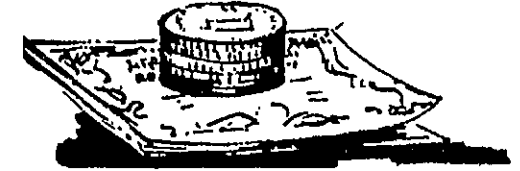
In case a woman is not given her wages during the period of leave permissible or if she is given less than the actual wages due she must appeal to the Assistant Labour Commissioner (ALC) for redressal. If her claim is found correct but if the employer persists in not giving her dues the ALC can ask the Collector to recover the amount from the employer as arrears of land revenue.



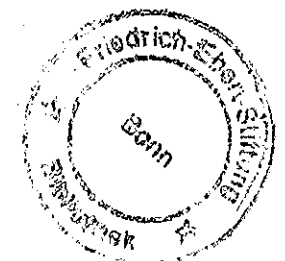
## Minimum Wages Act

Every worker knows that wages are paid by the employer for doing work. The wage is an obligation which the employer must fulfill to his worker. The wage is not something given as charity by the employer but it is a worker's right to receive a wage for doing work. In the plantations the minimum wages of the various types of workers is fixed by an official committee and backed by the state government. The employers are bound to pay the minimum wage as fixed by the state government. Therefore, wages are not given at the whims of the employer but rather they are something which the employer has to give under the law.

It is important that plantation workers understand this aspect of wage. We will also explain that there are certain rules fixed by the government for payment of minimum wages. The employer has to follow these rules. He cannot violate them or even change them according to his liking. It is more important to understand that the employer cannot make any deductions from the notified minimum wage, except under certain



***The wage is not something given as charity by the employer but it is a worker's right to receive a wage for doing work.***



cases which are clearly stated in the Act and the rules made by the state government.

In this section, we shall discuss the different aspects of the Minimum Wages Act (MWA) and the West Bengal Minimum Wages Rules. We will discuss only those sections which directly affect plantation workers. It must be noted here that the Plantation Labour Act and the Plantation Labour Rules also deal with some aspects of minimum wages. These are maximum hours of daily work, overtime, part wages in kind (rations etc.) and house rent. These aspects will therefore not be covered in this section because in such cases the provisions of the Plantation Labour Act and its Rules will hold for plantation workers. For example, the Minimum Wages Act allows the employer to make deductions for house rent if housing is provided by the employer. The Plantation Labour Rules on the other hand state that workers will not be charged rent for their houses. Therefore, the employers cannot use the MWA and deduct house rent from the workers' wages.

In this section too we have explained provision of the Act and the rules and have mentioned the rel-

***'Employers must pay the minimum wage as fixed by the State Government.'***

evant Section or Rule in brackets. Sections are mentioned as Sec. and West Bengal Minimum Wages Rules as Rule. The Minimum Wages Act is referred to as MWA and the West Bengal Minimum Wages Rules as WBMWR.

#### **Q. What is meant by Wage?**

According to the MWA "wage" means all remuneration payable to the worker in cash and kind but which can be expressed as cash. It does not include house accommodation, supply of electricity, water or medical attendance. This means that even if the employer provides house, water and medical facilities the cost of these cannot be included in the minimum wage payable to the worker.

The employer's contribution to the worker's Provident Fund cannot be included as part of minimum wage and so is the case with payment of Gratuity at the time of retirement. If the worker is provided with travelling allowance or concession for travel this too cannot be included as wage [Sec.2(h)]. There can be no deduction of wages for the protective clothing or any tools supplied by the

***Minimum wage does not include the cost of providing house, water, medical facilities, etc. to workers.***



employer and which are needed by the workers for performing his duty. These will include hessian cloth or baskets for collecting leaves or tools required by electricians, mechanics, etc.

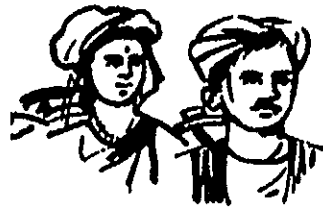
**Q. How are the minimum wages fixed?**

The fixing of minimum wages is done by an Advisory Board formed by the Government of West Bengal (Sec.5 and Rule 3). This board consists of representatives of the state government, employers and trade unions. Usually, the state Labour Minister is the chairman of the board. This board will discuss the various aspects of the cost of living of the workers and will, then, decide on what the minimum wages for each category of workers should be.

**Q. What constitutes the minimum wage of plantation workers?**

Wages of plantation workers are of three kinds. Firstly, the worker is paid a time-rated wage (hazri or daily wage) and secondly, a piece rated wage (doubly or extra leaf piece). Thirdly, the worker is also given food

*The employer's contribution to the worker's Provident Fund cannot be included as minimum wage.*



grains at subsidised rates. All these three together constitute his minimum wage (Sec.4). The Advisory Board has to fix the rate of each of these while deciding the minimum wage.

**Q. Can the employer make any deductions from the worker's wages if he does not complete his assigned work?**

In most cases, the employer cannot make deductions from the worker's wage on the ground of not completing work. The Act is very clear on this aspect. Section 15 of the Act states that even if a worker works less than the normal working day he or she will have to be given wages for the full day. In case the employer wants to deduct his wage, he will have to prove that the worker could not complete his work because he was unwilling to do so. This will have to be done through the methods prescribed by the Industrial Disputes Act.

Section 17 of the Act further clarifies that when workers are employed on piece rate and time rate and they are unable to fulfill the minimum quota of work (thika) they will have



to be paid their full time rate wage. This means that the employers cannot make any pro-rata deduction on wages if the worker is unable to complete his minimum quota. We are stressing on this point because it is often found that employers make pro-rata deductions from wages when a worker is unable to complete his thika. This, it should be noted, is illegal on the part of the employer.

We have noted above the main points relating to minimum wages of plantation workers. We hope that this will help them in receiving the right amount of wages they are to get. A very important question which comes up here is: why are wages of plantation workers so low, especially when compared to wages of other workers?

The main reason for low wages lies in the computing of minimum wages for plantation workers. It should be noted that the official minimum wages are calculated not only on the capacity of the employers to pay. They are calculated on the basis of the minimum requirements of the worker and two members of his family. In other words, while computing the minimum wage the Advisory Board has to take into account the minimum needs (food, clothing

***'The employer cannot make any deductions from the notified minimum wage, except in certain cases. These cases are clearly stated in the PLA and the Rules set by the State Government.'***

and shelter) of three persons. Unfortunately, in the case of tea plantation workers, the minimum wages are fixed on the basis of one and one half units of consumption. This is because of the belief that each family on the plantation will have atleast two workers, hence the total income will be more. This logic is very strange. In other areas, we find that when both husband and wife work their wages are not lowered. In fact, they get same wages based on three units of consumption. So, why are plantations workers' wages not decided in the same manner? We have no explanation for this, but we can only say that as long as wages of plantation workers are determined in the present manner they will continue to be paid lower wages.



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