

Office of Labour Commissioner, Uttarakhand, Shram Bhawan, Nainital Road, Haldwani

Letter No. : 1163 4-122/2018-19 The Industrial Relations Code, 2020

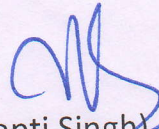
Dated : 25/2/2021

The following draft rules, which the State Government proposes to make in exercise of the powers conferred by section 99 of the Industrial Relation Code, 2020 (35 of 2020) read with section 24 of the General Clauses Act, 1897 (10 of 1897) and in supersession of the

- (i) UP Industrial Disputes Rules 1958;
- (ii) UP Industrial Employment (Standing Order) Rules, 1946;
- (iii) The U P Trade Union Regulations, 1927;
- (iv) Industrial Tribunal and Labour Courts Rules of Procedure 1967.
(under sec. 5C of the UP Industrial Disputes Act, 1947)

except as respect things done or Omitted to be done before such supersession are hereby published, as required by section 99 of the above code for information of all persons likely to be affected thereby and notice is hereby given that the said draft rules will be taken into consideration after the expiry of a period of 15 days from the date on which the copies of these draft rules are made available to the public electronically or otherwise.

Objections and suggestions, if any, may be addressed to Labour Commissioner, Uttarakhand, Shram Bhawan, Nainital Road, Haldwani through registered post or via mail on lcukhd0@gmail.com.


(Deepti Singh)

Labour Commissioner, Uttarakhand

CHAPTER-1
PRELIMINARY

1- Short title, application and commencement- (i) These rules may be called The Uttarakhand Industrial Relation Rules, 2021.

(ii) They extend to whole of Uttarakhand state in respect of the industrial and commercial establishments for which the state Government is the appropriate Government.

(iii) They shall come into force on the date of their publication in the Official Gazette.

1A. Definition.-(1) In these rules, unless the context otherwise requires,-

(a) "Code" means the Industrial Relations code, 2020"

(b) "Section" means the section of the Code,'

(c) "Electronically" means any information submitted by email or uploading on the designated portal or digital payment in any mode for the purpose of code;

(d) Conciliation officer means any officer notified by the State Government under section-43(1) & (2) of the Industrial Relation Code, 2020.

(2) The words and expressions used in these rules which are not defined therein, but are defined in the code, shall have their respective meaning as assigned to them in the code.

2- Written Agreement for the settlement before the conciliation officer under clause (zi) of section(2) - The Agreement under clause (zi) of Section 2 for written agreement between the employer and worker shall be in the form specified in **Form-A** and shall be signed by the parties in the agreement and a copy thereof shall be sent to the concerned Conciliation officer.

Chapter II
BI-PARTITE FORUMS

3-Constitution of Works Committee etc. under Section 3.- (1) Every employer to whom an order made under sub –section (1) of section 3 relates, shall forthwith proceed to constitute a Works Committee in the manner as is specified in the following sub-rules:-

(2) The number of members constituting the committee shall be fixed so as to afford representation to the various categories, groups and class of workers engaged in, and to the sections, shops or departments of the establishment:

Provided that the total number of members of the works committee shall not exceed twenty:

Provided further that the number of representatives of the worker in the works committee shall not be less than the number of representatives of the employer therein.

(3) Subject to the provisions of this rule, the representatives of the employer in the works committee shall be nominated by the employer and shall, as far as may be possible, be officials in direct touch with, or associated with, the working of the industrial establishment.

(4) (a) where any workers of the industrial establishment are members of a registered trade union, the employer shall ask such Trade Union to inform him in writing as to-

(i) How many of the workers are members of such Trade Union; and

(b) where an employer has reason to believe that the information furnished to him under clause (a) by the registered Trade Union is false, he may, after informing such trade union, refer the matter to the Regional Deputy Labour Commissioner, who shall, after hearing the parties, shall send a report to Labour Commissioner who shall decide the matter and whose decision shall be final.

(5) On receipt of the information called for under sub-rule (4), the employer shall provide for the selection of worker's representative on the committee in two following groups, namely:-

(a) registered Trade Union may choose their representatives as members for works committee in the proportion of their membership.

(b) where there is no registered Trade union, workers may choose amongst themselves representatives for works committee.

(6) (a) The works committee shall have among its office-bearers a Chairman, a Vice-Chairman, a Secretary and a Joint-Secretary to be elected/nominated as provided for in section 6 (b) and 6 (c) and 6 (d) every year.

(b) the Chairman shall be nominated by the employer from amongst the employer's representatives on the Works Committee and he shall, as far as possible, be the head of the industrial establishment.

(c) the Vice-Chairman shall be elected by the members, on the works committee representing the workers, from amongst themselves:

Provided that in the event of equality of votes in the election of the Vice-Chairman, the matter shall be decided by draw of a lot:

- (e) The Works Committee shall elect the Secretary and the Joint Secretary provided that where the Secretary is elected from amongst the representatives of the employers, the Joint Secretary shall be elected from amongst the representatives of the worker and vice versa:-

Provided that the post of the Secretary or the Joint Secretary ,as the case may be, shall not be held by a representative of the employer or the worker for two consecutive years:

Provided that the representatives of the employer shall not take part in the election of the Secretary or Joint Secretary, as the case may be, from amongst the representatives of the worker and only the representatives of the worker shall be entitled to vote in such elections.

- (f) In any election under clause (d), in the event of equality of votes, the matter shall be decided by a draw of lot.
- (7) (a) The term of office of the representatives on the Works Committee other than a member chosen to fill a casual vacancy shall be two years ;
- (b) A member chosen to fill a casual vacancy shall hold office for the unexpired term of his predecessor.
- (c) A member who without obtaining leave from the works committee, fails to attend three consecutive meetings of the Committee shall forfeit his membership.
- (8) In the event of worker's representative ceasing to be a member under clause(c) of sub-rule(7) or ceasing to be employed in the establishment or in the event of his resignation, death or otherwise, his successor shall be chosen in accordance with the provisions of this rule from the same group to which the member vacating the seat belonged.
- (9) The Works Committee shall have the right to co-opt in a consultative capacity, persons employed in the industrial establishment having particular or special knowledge of a matter under discussion. such co-opted member shall not be entitled to vote and shall be present at meetings only for the period during which the particular question is before the Works Committee.
- (10)(a) The Works Committee may meet as often as necessary but not less often than once in six month.
- (b) The Works Committee shall at its first meeting regulate its own procedure.
- (11)(a) The employer shall provide space within the premises for holding meetings of the Works Committee. He shall also provide all necessary facilities to the works committee and to the members thereof for carrying out the works of the Works Committee. The Works Committee shall ordinarily meet during hours of the industrial establishment concerned on any working day and the representative of the worker shall be deemed to be on duty while attending the meeting;
- (b) The Secretary of the Works Committee may with the prior concurrence of the Chairman, put up notice regarding the work of the works committee on the notice board of the industrial establishment both in hindi & english.
- (c) The employer shall provide information regarding the constitution of works committee and any change in an existing committee within two weeks of the said constitution/change to the Regional Deputy Labour Commissioner and the Labour Commissioner of the State.

4. Manner of choosing members from the employers and the workers for Grievance Redressal committee under sub-section (2) of section 4.- The Grievance Redressal Committee shall consist of equal number of members representing the employer and the workers, which shall not exceed ten.

(2) The representatives of the employer shall be nominated by the employer and shall, as far as may be possible, be officials in direct touch with or associated with the working of the industrial establishment, preferably the heads of major department of the industrial establishment.

(3) The representatives of the workers shall be nominated by the registered Trade Union. In case where there is no registered Trade union the members may be chosen by the workers of the industrial establishment:

Provided that there shall be adequate representation of women workers in the Grievance Redressal committee and such representation shall not be less than the proportion of women workers to the total workers employed in the industrial establishment:

Provided further that the tenure of the members of the Grievance Redressal committee shall be co-terminus with the tenure of the members of the registered Trade Union.

Provided further that in the absence of registered Trade Union, the tenure of members of Grievance Redressal committee shall be for a period of two years from the date of the constitution of the Grievance Redressal committee.

(4) Where any workers of the industrial establishment are members of a registered Trade Union, the employer shall ask such Trade Union to inform him in writing as to-

(a) how many of the workers are members of such Trade Union;

(b) Where an employer has reason to believe that the information furnished to him under clause (a) by the registered Trade Union is false, he may, after informing such Trade Union, refer the matter to the Deputy Labour commissioner of the area concerned who shall, after hearing the parties, send a report to the Labour Commissioner who shall decide the matter and whose decision shall be final.

(5) On receipt of the information called for under sub-rule (4), the employer shall provide for the selection of worker's representative on the committee by two following groups, namely:

(a) Registered Trade Union may choose their representatives as members for Grievance Redressal committee in the proportion of their membership.

(b) Such workers those who are not member of registered Trade Union, may elect amongst themselves representatives for the Grievance Redressal committee.

5. Application in respect of any dispute to be filed before the Grievance Redressal Committee by any aggrieved worker under sub-section (5) of section 4.- Any aggrieved worker/employee may file an application stating his dispute therein before the Grievance Redressal committee giving his name, designation, employee Code, Department where posted, length of service in years, category of worker, address for correspondence, contact number, details of grievances and relief sought. Such application may be sent electronically or otherwise. The Grievance may be raised within 1 year from the date on which the cause of action of such dispute arises.

6. Manner of filing application for the conciliation of grievance as against the decision of the Grievance Redressal Committee to the conciliation officer under sub-section (8) of section 4.- Any Worker/Employee who is aggrieved by the decision of the Grievance Redressal Committee or whose grievance is not resolved by the said committee within thirty days of receipt of the application, may file an application by registered post or speed post or electronically within a period of sixty days from the date of the decision of the Grievance Redressal Committee or from the date on which the period specified in sub-section (6) of section 4 expires, as the case may be, to the conciliation officer of the area concerned through the Trade Union of which he is a member or in person

Provided that in case of manual receipt of such application or through registered post or speed post, the conciliation officer shall get the same digitized and enter the particulars of the application in the online mechanism and intimates to the concerned worker.

CHAPTER III TRADE UNIONS.

7. Registrar and other Officers of Trade Union : (1) The State Government may, by notification, appoint a person to be the Registrar of Trade Unions, and other persons as Additional Registrar of Trade Unions, Joint Registrar of Trade Unions and Deputy Registrar of Trade Unions, who shall exercise such power and perform such duties of the Registrar as the State Government may, by notification, specify from time to time under section-5 of the code.

(2) Subject to the provisions of any order made by the State Government, where an Additional Registrar of Trade Unions or a Joint Registrar of Trade Unions or a Deputy Registrar of Trade Unions

exercises the powers and performs the duties of the Registrar in an area within which the registered office of a Trade Union is situated, such Additional Registrar of Trade Unions or a Joint Registrar of Trade Unions or a Deputy Registrar of Trade Unions, as the case may be, shall be deemed to be the Registrar in relation to that Trade Union for the purposes of this Code.

8. Application for Registration (1) Any seven or more members of a Trade Union may, by subscribing their names to the rules of the Trade Union and by otherwise complying with the provisions of this Code with respect to registration, apply for registration of the Trade Union under this Code.

(2) No Trade Union of workers shall be registered unless at least ten percent of the workers or one hundred workers, whichever is less, engaged or employed in the industrial establishment or industry with which it is connected are the members of such Trade Union on the date of making of application for registration.

(3) Where an application has been made under sub-section (1) for registration of a Trade Union, such application shall not be deemed to have become invalid merely by reason of the fact that, at any time after the date of the application but before the registration of the Trade Union, some of the applicants, but not exceeding half of the total number of persons who made the application, have ceased to be members of the Trade Union or have given notice in writing to the Registrar dissociating themselves from the application.

(4) A registered Trade Union of workers shall at all times continue to have not less than ten percent of the workers or one hundred workers, whichever is less, subject to a minimum of seven, engaged or employed in an industrial establishment or industry with which it is connected, as its members.

9. Provisions to be contained in the Rules of a Trade Union : A Trade Union shall not be entitled to registration under this Code, unless the executive thereof is constituted in accordance with the provisions of this Code, and the rules of the Trade Union provide for the following matters, namely:—

(a) the name of the Trade Union;

(b) the whole of the objects for which the Trade Union has been established;

(c) the whole of the purposes for which the general funds of the Trade Union shall be applicable, all of which purposes shall be purposes to which such funds are lawfully applicable under this Code;

(d) the maintenance of a list of members of the Trade Union and adequate facilities for the inspection thereof by the office-bearers and members of the Trade Union;

(e) the admission of ordinary members (irrespective of their craft or category) who shall be persons actually engaged or employed in the industrial establishment, undertaking or industry, or units, branches or offices of an industrial establishment, as the case may be, with which the Trade Union is connected, and also the admission of such number of honorary or temporary members, who are not such workers, as are not permitted under section 21 to be office-bearers to form the executive of the Trade Union;

(f) the payment of a subscription by members of the Trade Union shall not be less than :

(i) 50 rupees per annum for per rural workers

(ii) 100 rupees per annum for per unorganised workers

(iii) 150 rupees per annum per worker in any other case.

(g) the conditions under which any member shall be entitled to any benefit assured by the rules and under which any fine or for forfeiture may be imposed on any member;

(h) the annual general body meeting of the members of the Trade Union, the business to be transacted at such meeting, including the election of office-bearers of the Trade Union;

(i) the manner in which the members of the executive and the other office-bearers of the Trade Union shall be elected once in a period of every three years and removed, and filling of casual vacancies;

(j) Auditors : (1) save as provided in subclause (2), (3), (4) and (5) of this rule. The annual audit of the account of the Trade Union shall be conducted by an auditor authorised to audit the account of companies under section 144(1) of the Indian Companies Act, 2013.

(2) Where the membership of a Trade Union did not any time being during the Financial Year exceed 2500, the annual audit of the account may be conducted-

(a) by any examiner of local fund accounts.

(b) by any local fund auditor appointed by the State Government.

(c) by any person, who having held an appointment under Government is in receipt of a pension not less than Rs. 200 per month.

(3) Where the membership of a Trade Union did not at any time during the Financial Year exceed 750, the annual audit of the account may be conducted-

(a) by any two persons holding office as Magistrates or Judges or as members of any Municipal Council, District Board or Legislative Body, or

(b) by any person who having held an appointment under Government in any audit or accounts department in receipt of a pension from Government not less than Rs. 75 per month, or

(c) by any auditor appointed to conduct the audit of any co-operative society, or

(d) the Registrar of co-operatives society or by any (state co-operative organisation recognised by Government for this purpose)

(4) Where the membership of a Trade Union did not at any time during the Financial Year exceed 250, the annual audit of the account may be conducted by any two members of the union as appointed by the union for this purpose.

(5) Exemptions : Notwithstanding anything contained in Sub-rule J, no person, who, at anytime during the year was entrusted with any part of the funds or securities belonging to the Trade Union shall be eligible to audit the accounts of that Union.

(k) Audit : The auditor or auditors appointed in accordance with the regulations shall be given access to all the books of the Trade Union and shall verify the annual return with the accounts and vouchers relating thereto and shall thereafter sign the auditor's declaration appended to **Form-F**, indicating separately on that form under his signature or their signatures a statement showing in what respect he or they find the return to be incorrect, unvouched or not in accordance with the Act. The particulars given in this statement shall indicate-

(a) every payment which appears to be unauthorized by the rules of the Trade Union or contrary to the provisions of the Act,

(b) the amount of any deficiency or loss which appears to have been incurred by the negligence or misconduct of any person,

(c) the amount of any sum which ought to have been but is not brought to account by any Person.

(l) Audit of political funds : The audit of the political funds of a registered Trade Union shall be carried out along with the audit of the general account of the Trade Union and by the same auditor or auditors,

(m) Inspection : (1) The register of Trade Unions maintained shall be open to inspection by any Person on payment of a fee Rs. fifty.

(2) Any documents in the possession of the Registrar received from a registered Trade Union may be inspected by any member of that Union on payment of a fee of Rs. fifty for each document inspected,

(3) Documents shall be open to inspection every day on which the office of the Registrar is open and within such hours as may be fixed for this purpose by the Registrar.

(4) The Registrar may supply a Certified copy of any such document to a registered Trade Union or a member thereof on payment of @ Rs. 2.00 per page of the document.

10. (1) Every application for registration of a Trade Union shall be in **Form-B** made to the Registrar electronically or otherwise and be accompanied by —

(a) a declaration to be made by an affidavit. The titles, names, ages, address and occupation of the office bearers as per schedule-I.

(b) copy of the rules of the Trade Union together with a copy of the resolution by the members of the Trade Union adopting such rules. The number of rule making provisions for several matters shall be as per schedule-II.

(c) a copy of the resolution adopted by the members of the Trade Union authorising the applicants to make an application for registration;

(d) The fee payable for the registration of a Trade Union shall be Rs. 1000;

(e) in the case of a Trade Union, being a federation or a central organisation of Trade Unions, a copy of the resolution adopted by the members of each of the member Trade Unions, meeting separately, agreeing to constitute a federation or a central organisation of Trade Unions.

Explanation.—For the purposes of this clause, resolution adopted by the members of the Trade Union means, in the case of a Trade Union, being a federation or a central organisation of Trade Unions, the resolution adopted by the members of each of the member Trade Unions, meeting separately.

(2) Where a Trade Union has been in existence for more than one year before the making of an application for its registration, there shall be delivered to the Registrar, together with the application, a general statement of the assets and liabilities of the Trade Union prepared in schedule-III and containing such particulars, as may be prescribed.

(3) The Registrar may call for further information for the purpose of satisfying himself that the application complies with the provisions of this Code and the Trade Union is entitled for registration under this Code, and may refuse to register the Trade Union until such information is furnished.

(4) If the name under which the Trade Union is proposed to be registered is identical with that of an existing registered Trade Union or in the opinion of the Registrar so nearly resembles the name of an existing Trade Union that such name is likely to deceive the public or the members of either Trade Union, the Registrar shall require the persons applying for altering the name of the Trade Union and shall refuse to register the Trade Union until such alteration has been made.

11. (1) Register of Trade Union : The Registrar shall, on being satisfied that the Trade Union has complied with all the requirements of the provisions of this Chapter in regard to registration, register the Trade Union by entering in a register, to be maintained in **Form-C**, the particulars relating to the Trade Union contained in the statement accompanying the application for registration.

(2) Certificate of Registration : Where the Registrar makes an order for registration of a Trade Union, he shall issue a certificate of registration to the applicant Trade Union, in **Form-D**, which shall be the conclusive evidence that the Trade Union has been registered under this Code.

(3) If the Registrar has issued a certificate of registration to a Trade Union, he shall enter the name and other particulars of the Trade Union in a register maintained in this behalf in **Form-C**.

(4) Every Trade Union registered under the Code having valid registration immediately before the commencement of this Code shall be deemed to have been registered under this Code: Provided that such Trade Union shall file with the Registrar a statement that the constitution of the executive of the Trade Union is in accordance with this Code along with the rules of the Trade Union updated in accordance with section 7, and the Registrar shall amend his records accordingly.

(5) Cancellation or Withdrawal of Registration : The certificate of registration of a Trade Union may be withdrawn or cancelled by the Registrar,—

(i) on the application of the Trade Union after verification by the Deputy Registrar; or

(ii) on the information received by him regarding the contravention by the Trade Union of the provisions of this Code or the rules made thereunder or its constitution or rules; or

(iii) if he is satisfied that the members in a Trade Union falls below ten percent of total workers or one hundred workers, whichever is less:

Provided that not less than sixty days previous notice in writing specifying the grounds on which it is proposed to cancel the certificate of registration of a Trade Union shall be given by the Registrar to the Trade Union before the certificate of registration is cancelled otherwise than on the application of the Trade Union.

(6) A certificate of registration of a Trade Union shall be cancelled by the Registrar where a Tribunal has made an order for cancellation of registration of such Trade Union.

(7) While cancelling the certificate of registration of a Trade Union, the Registrar shall record the reasons for doing so and communicate the same in writing to the Trade Union concerned.

12. Appeal : (1) Any person aggrieved by the refusal of the Registrar to grant registration to a Trade Union under section 9 or by cancellation of a certificate of registration under sub-section (5) of the said section, may within sixty days of such decision/refusal, prefer an appeal to the Tribunal:

Provided that the Tribunal may entertain the appeal after the limitation prescribed for preferring the appeal under this sub-section, if the appellant satisfies the Tribunal that such delay has been caused due to sufficient reason or unavoidable circumstances.

(2) The Tribunal may, after giving the parties concerned an opportunity of being heard, dismiss the appeal or pass an order directing the Registrar to register the Trade Union and to issue a certificate of

registration or set aside the order of cancellation of certificate of registration, as the case may be and forward a copy of such order to the Registrar within forty five days of such an appeal being received in his office.

13. Communication and Notices : (1) All communications and notices to a registered Trade Union shall be sent electronically or by registered post to the address of the head office of the Trade Union as entered in the register maintained by the Registrar.

(2) The Trade Union shall inform the Registrar if the members of such Trade Union falls below ten percent of total workers or one hundred workers, whichever is less electronically or by registered post within 21 days of such facts emerging.

(3) The Trade Union shall inform the Registrar of any change in the particulars given by it in its application for registration and in its constitution or rules electronically and through registered post within 21 days of such changes being effected.

14. Every registered Trade Union shall be a body corporate by the name under which it is registered, and shall have perpetual succession and a common seal with power to acquire and hold both movable and immovable property and to contract, and shall by the said name.

15. Certain Acts not to apply to registered Trade Union : The provisions of the following Acts, namely:—

(a) the Societies Registration Act, 1860;

(b) the Co-operative Societies Act, 1912;

(c) the Multi-State Co-operative Societies Act, 2002;

(d) the Companies Act, 2013; and

(e) any other corresponding law relating to co-operative societies for the time being in force in any State, shall not apply to any registered Trade Union and the registration of any such Trade Union under any of the afore mentioned Acts shall be void.

16. (1) There shall be a negotiating union or a negotiating council, as the case maybe, in an industrial establishment having registered Trade Union for negotiating with the employer of the industrial establishment, on all matters pertaining to service conditions and charter of demands of Workers that have been signed by atleast 20% of the total workforce if there is no registered Trade Union or by the executive committee of a registered Trade Union. The details of such negotiating council shall be furnished to the Deputy Registrar of the area and the Registrar of Trade Union within two weeks to constitution of such council.

(2) Where only one Trade Union of workers registered under the provisions of this Chapter is functioning in an industrial establishment, then, the employer of such industrial establishment shall to recognise such Trade Union as sole negotiating union of the workers.

(3) If more than one Trade Union of workers registered under this Code are functioning in an industrial establishment, then, the Trade Union having fifty-one percent or more workers on the muster roll of that industrial establishment, verified by the Deputy Registrar, supporting that Trade Union shall be recognised by the employer of the industrial establishment, as the sole negotiating union of the workers.

(4) If more than one Trade Union of workers registered under this Code are functioning in an industrial establishment, and no such Trade Union has fifty-one percent or more of workers on the muster roll of that industrial establishment, verified by the Deputy Registrar of the region concerned, supporting that Trade union, then, there shall be constituted by the employer of the industrial establishment, a negotiating council for negotiation on the matters referred to in sub-section (1), consisting of the representatives of such registered Trade Unions which have the support of not less than twenty percent of the total workers on the musterroll of that industrial establishment as verified by the Deputy Registrar of the region concerned and such representation shall be of one representative for each twenty percent and for the remainder after calculating the membership on each twenty per cent.

(5) Where any negotiation on the matters referred to in sub-section (1) is held between an employer and a negotiating council constituted under sub-section (4), consequent upon such negotiation, any agreement is said to be reached, if it is agreed by the majority of the representatives of the Trade Unions in such negotiating council to be duly signed and detailed by the members of the negotiating council.

(6) Any recognition made under sub-section (2) or sub-section (3) or the negotiating council constituted under sub-section (4) shall be valid for three years from the date of recognition or constitution or such further period not exceeding five years, in total, as may be mutually decided by the employer and the Trade Union, as the case may be.

(7) The industrial establishment shall provide sufficient space to the representatives during the course of negotiation.

17. General Funds :(1) The general funds of a registered Trade Union shall not be spent on any objects other than such objects as mentioned in the By-laws of the Registered Trade Union verified by the Deputy Registrar of trade union of the concerned area.

(2) A registered Trade Union may constitute a separate fund, from contribution separately levied for or made to that fund, from which payments may be made, for the promotion of the civic and political interests of its members, in furtherance of such objects as mentioned in the By-laws of the Registered Trade Union verified by the Deputy Registrar of the concerned area.

(3) No member shall be compelled to contribute to the fund constituted under sub-section (2) and a member who does not contribute to the said fund shall not be excluded from any benefits of the Trade Union, or placed in any respect either directly or indirectly under any disability or at any disadvantage as compared with other members of the Trade Union (except in relation to the control or management of the said fund) by reason of his not contributing to the said fund; and contribution to the said fund shall not be made a condition for admission to the Trade Union.

18. Immunity from Civil Suit in certain cases : (1) No suit or other legal proceeding shall be maintainable in any civil court against any registered Trade Union or any office-bearer or member thereof in respect of any act done in contemplation or furtherance of an industrial dispute to which a member of the Trade Union is a party on the ground only that such act induces some other person to break a contract of employment or that it is an interference with the trade, business, or employment of some other person or with the right of some other person to dispose of his capital or of his labour as he wills.

(2) A registered Trade Union shall not be liable in any suit or other legal proceeding in any civil court in respect of any tortious act done in contemplation or furtherance of an industrial dispute by an agent of the Trade Union if it is proved that such person acted without the knowledge of, or contrary to express instructions given by, the executive of the Trade Union.

19. No office-bearer or member of a registered Trade Union shall be liable to punishment under sub-section (2) of section 120B of the Indian Penal Code in respect of any agreement made between the members for the purpose of furthering any such object of the Trade Union as is specified in section 15, unless such agreement is an agreement to commit an offence.

20. Enforceability of Agreements : Notwithstanding anything contained in any other law for the time being in force, an agreement between the members of a registered Trade Union shall not be void or voidable merely by reason of the fact that any of the objects of the agreement are in restraint of trade: Provided that nothing in this section shall enable any civil court to entertain any legal proceedings instituted for the purpose of enforcing or recovering damages for the breach of any agreement concerning the conditions on which any members of a Trade Union shall or shall not sell their goods, transact business, work, employ or be employed.

21. Right to inspect rules of Trade Union : The books of account of a registered Trade Union and the list of members thereof shall be open to inspection by an office-bearer or member of the Trade Union at such times as may be provided for in the rules of the Trade Union.

22. Right of minors to membership : Any person who has attained the age of fourteen years and is employed in a non-hazardous industry may be a member of a registered Trade Union subject to any rules of the Trade Union, and may, subject to as aforesaid enjoy all the rights of a member.

23. Disqualification : (1) A person shall be disqualified for being chosen as, and for being, a member of the executive or any other office-bearer of a registered Trade Union, if—

(i) he has not attained the age of eighteen years;

(ii) he has been convicted by a court in India for any offence involving moral turpitude and sentenced to imprisonment unless a period of five years has elapsed since his release;

(iii) the Tribunal has directed that he shall be disqualified for being chosen or for being office-bearer of a Trade Union for a period specified therein.

(2) No member of the Council of Ministers or a person holding an office of profit (not being an engagement or employment in an establishment or industry with which the Trade Union is connected) in the Union or a State shall be a member of the executive or other office-bearer of a Trade Union.

24. Dispute Settlement Mechanism : (1) Where a dispute arises between—

(a) one Trade Union and another; or

(b) one or more workers who are members of the Trade Union and the Trade Union regarding registration, administration or management or election of office-bearers of the Trade Union; or

(c) one or more workers who are refused admission as members and the Trade Union; or

(d) where a dispute is in respect of a Trade Union which is a federation of Trade Unions and office-bearer authorised in this behalf by the Trade Union, an application may be made with details of the particulars of the dispute duly signed by the party/parties raising the dispute within 60 days of such a dispute being effected to the Tribunal having jurisdiction over the area where the registered office of the Trade Union or Trade Unions is located for adjudication of such disputes.

(2) No civil court other than the Tribunal shall have power to entertain any suit or other proceedings in relation to any dispute referred to in sub-section (1).

25. Proportion of office bearers to be connected with Industry : (1) Not less than one-half of the total number of the office-bearers of every registered Trade Union in an unorganised sector shall be persons actually engaged or employed in an establishment or industry with which the Trade Union is connected:

Provided that the State Government may, by special or general order, declare that the provisions of this section shall not apply to any Trade Union or class of Trade Unions specified in the order.

Explanation.—For the purposes of this sub-section, "unorganised sector" means any sector which the appropriate Government may, by notification, specify.

(2) Save as otherwise provided in sub-section (1), all office-bearers of a registered Trade Union, except not more than one-third of the total number of the office-bearers or five, whichever is less, shall be persons actually engaged or employed in the establishment or industry with which the Trade Union is connected.

Explanation.—For the purposes of this sub-section, an employee who has retired or has been retrenched shall not be construed as outsider for the purpose of holding an office in a Trade Union.

26. Change of Name and Amalgamation : (1) Any registered Trade Union may, with the consent of not less than two-third of the total number of its members and subject to the provisions of sub-section (3), change its name.

(2) Any two or more registered Trade Unions may be amalgamated.

(3) Notice in writing of every change of name and of every amalgamation signed in the case of a change of name, by the secretary and by seven members of the Trade Union changing its name, and in the case of an amalgamation, by the secretary and by seven members of each and every Trade Union which is a party thereto, shall be sent to the Registrar and where the head office of the amalgamated Trade Union is situated in a different State, to the Registrar of such State with the particulars of all the members who are signatory to the decision so taken (change of name or amalgamation) within two weeks of such a decision having been finalised and signed by the members concerned.

(4) If the proposed name is identical with that by which any other existing Trade Union has been registered or, in the opinion of the Registrar, so nearly resembles such name as to be likely to deceive the public or the members of either Trade Union, the Registrar shall refuse to register the change of name.

(5) Save as provided in sub-section (4), the Registrar shall, if he is satisfied that the provisions of this Code in respect of change of name have been complied with, register the change of name in the register referred to in sub-section (3) of section 9, and the change of name shall have effect from the date of such registration.

(6) The Registrar of the State in which the head office of the amalgamated Trade Union is situated shall, if he is satisfied that the provisions of this Code in respect of amalgamation have been complied

with and that the Trade Union formed thereby is entitled to registration under section 9, register the Trade Union and the amalgamation shall have effect from the date of such registration.

(7) The change in the name of a registered Trade Union shall not affect any rights or obligations of the Trade Union or render defective any legal proceeding by or against the Trade Union, and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.

(8) An amalgamation of two or more registered Trade Unions shall not prejudice any right of any such Trade Unions or any right of a creditor of any of them.

27. Distribution of Funds after Dissolution : (1) When a registered Trade Union is dissolved, notice of the dissolution signed by seven members and by the secretary of the Trade Union shall, within fourteen days of the dissolution, be sent to the Registrar, and shall be registered by him if he is satisfied that the dissolution has been effected in accordance with the rules of the Trade Union, and the dissolution shall have effect from the date of such registration. The notice of dissolution shall be in

Form-E

(2) Where the dissolution of a registered Trade Union has been registered and the rules of the Trade Union do not provide for the distribution of funds of the Trade Union on dissolution, the Registrar shall divide the funds amongst the members of the Trade Union in proportion to the amounts contributed by the members by way of subscription during the membership.

28. Annual Return : (1) Every registered Trade Union shall—(a) forward annually report to the Registrar, on or before 31st January of the succeeding year, in **Form-F**, audited in such manner and by such person, as may be prescribed, a general statement containing particulars of all receipts and expenditure of such registered Trade Union during the year ending on the 31st day of December and of the assets and liabilities of the Trade Union existing on such 31st day of December;

(b) along with the general statement referred to in clause (a), forward to the Registrar a statement showing changes of office-bearers made by the Trade Union during the year to which such general statement refers, together also with a copy of the rules of the Trade Union corrected up to the date of dispatch thereof to the Registrar.

(2) on receiving a copy of an application made in the rules of a Trade Union under section-99 of the Industrial Relation Code, 2020, the Registrar, unless he has reason to believe that the alteration has not been made in the manner provided by the Uttarakhand Industrial Relation Rules, 2021 shall register the alteration in a register to be maintained for this purpose and shall notify the fact that he has done so to the secretary of the Trade Union. The fee payable for registration of alteration of rules shall be Rs. 50 for each set of alteration made simultaneously.

(3) For the purpose of examining the documents referred to in clauses (a) and (b) of sub-section (1), and sub-section (2), the Registrar or any officer authorised by him, by general or special order, may at all reasonable times inspect the certificate of registration, account books, registers and other documents, relating to a Trade Union, at its registered office or may require their production at such place as he may specify in this behalf, but no such place shall be at a distance of more than fifteen kilometres from the registered office of such Trade Union.

29. Recognition of State Level Trade Union : Where the State Government is of the opinion that it is necessary or expedient that a Trade Union or federation of Trade Unions is to be recognised as State Trade Union at the State level, it may recognise such Trade Union or federation of Trade Unions as State Trade Union after verification of the particulars of such union and its members by the Deputy Registrar Trade Unions. Provided that such a union or a federation must at the time of such verification have 10000 or more members on its membership roll and presence in 50% or more districts of the state where such trade or activity that the union proposes to represent is carried out.

Chapter IV STANDING ORDERS

30. Manner of forwarding information to certifying officer under sub-section (3) of section 30.-

(1) If the employer adopts the model standing order of the Central Government referred to in section 29 with respect to matters relevant to his industrial establishment or undertaking, then, he shall

intimate the concerned certifying officer electronically the specific date from which the provisions of the model standing order which are relevant to his establishment have been adopted.

(2) On receipt of information in sub-rule (1) the certifying officer within a period of thirty days from such receipt may give his observation that the employer is required to include certain provisions which are relevant to his establishment and indicate those relevant provisions of the model standing orders which have not been adopted and shall also direct the employer to amend the standing order so adopted, by way of addition, deletion or modification within a period of thirty days from the date of the receipt of such direction and ask for compliance report only in respect of provisions which the certifying officer seeks to get so amended and such report shall be sent electronically by the employer.

(3) If no observation is made by certifying officer within a period of thirty days of the receipt of the information as specified in sub-rule (1) and (2), then, the standing order shall be deemed to have been adopted by the employer.

31. Manner of choosing representatives of workers of the industrial establishment or undertaking for issuing notice by certifying officer where there is no Trade Union operating, under clause (ii) of sub-section (5) of section 30. –Where there is no such Trade Union as is referred to in clause (i) of said sub-section (5), then, the certifying officer shall call a meeting of the workers to choose three representatives, to whom he shall, upon their being chosen, forward a copy of the standing order requiring objections, if any, which the workers may desire to make to the draft standing order to be submitted within fifteen days from the receipt of the notice.

32. Manner of authentication of certified standing orders under sub-section (8) of section 30.– Standing orders or modification in the standing orders, certified in pursuance of sub-section (8) of section 30 or the copies of the order of the appellate authority under sub-section (1) of section 33 shall be authenticated by the certifying officer or the appellate authority, as the case may be, and shall be sent electronically within a week to all concerned, but there shall not be any requirement of certification in cases of deemed certification under sub-section (3) of section 30 and in cases where the employer has certified adoption of model standing orders.

33. Statement to be accompanied with draft standing orders under sub-section (9) of section 30.–A statement to be accompanied with–(i) draft standing order shall contain, the particulars such as name of the industrial establishment or undertaking concerned, address, e-mail address, contact number and strength and details of workers employed therein including particulars of Trade union to which such workers belong; and (ii) draft modification in the existing standing orders, shall contain the particulars of such standing orders which are proposed to be modified along with a tabular statement containing details of each of the relevant provision of standing order in force and proposed modification therein and reasons thereof and such statement shall be signed by a person authorized by the industrial establishment or undertaking.

34. Conditions for submission of draft standing order in similar establishment under sub-section (10) of section 30.–In cases of group of employer engaged in similar industrial establishment may submit a joint draft standing order under section 30 and for the purpose of proceedings specified in sub-sections (1), (5), (6), (8) and (9) thereof after consultation with the concerned Trade union or the representatives of workers if there is no Unions.

35. Manner of disposal of appeal by appellate authority under section 32:-

(1) An employer or Trade Union or workers desirous of preferring an appeal against the order of the certifying officer given under sub-section (5) of section 30 shall within sixty days of the receipt of such order shall draw up a memorandum of appeal in tabular form stating therein the provisions of the standing orders which are required to be altered or modified or deleted or added and reasons thereof and shall be filed electronically or sent by Registered Post to the appellate authority.

(2) The appellate authority shall fix a date for the hearing of the appeal and direct notice thereof to be given–

(a) Where the appeal is filed by the employer or a worker, to Trade Union of the workers of the industrial establishment or to the representative body of the workers concerned to the employer, as the case may be;

(b) where the appeal is filed by a Trade Union, to the employer and all other Trade Unions of the workers of the industrial establishment; and

(c) where the appeal is filed by the representative of the workers, to the employer and any other worker whom the appellate authority joins as a party to the appeal,

(3) The appellant shall furnish each of the respondents with a copy of the memorandum of appeal,

(4) The appellate authority may at any stage of the proceeding call for any evidence, if it considers necessary for the disposal of the appeal.

(5) On the date fixed under sub-rule (2) for the hearing of the appeal, the appellate authority shall take such evidence as it may have called or consider to be relevant if produced and after hearing the parties pass an order within sixty days of receiving an appeal.

(6) The appellate authority shall, within seven days of its order under sub-section (5) send copies thereof to the Certifying Officer, to the employer and to the trade union or other prescribed representatives of the workmen, accompanied, unless it has confirmed without amendment the standing orders as certified by the Certifying Officer, by copies of the standing orders as certified by it and authenticated in the prescribed manner.

(7) For the purpose of this chapter Deputy Labour Commissioner of the area concerned shall be the Certifying Officer and an officer of the rank of Joint Labour Commissioner and above shall be the Appellate Authority.

36. The language and the manner of maintaining standing order under sub-section (1) and (2) of section 33,-

(1) The standing order finally certified by certifying officer shall be sent electronically or registered post except in the case of deemed certification under section 30.

(2) The text of the standing order as finally certified or deemed to have been certified or adopted model standing order under this chapter shall be maintained by the employer in Hindi and in English and shall be provided to any worker of the establishment on receipt of any such application within one week of receiving such application and or payment of two rupees per page of Standing Order.

37. Register for final certified copy of standing order under section 34.- (1) The certifying officer shall maintain electronically or manually in **Form-G** a register of all standing order certified or deemed to have been certified or adopted model standing orders of all the concerned industrial establishments, inter-alia, containing the details of –

(a) the unique number assigned to each standing order;

(b) name of industrial establishment;

(c) nature of industrial establishment;

(d) date of certification or deemed certification or date of adoption of model standing order by each establishment or undertaking ;

(e) the areas of the operation of the industrial establishment; and

(f) such other details as may be relevant and helpful in retrieving the standing orders and create a data base of such of all standing order.

(2) The certifying officer shall furnish a copy of the certified standing orders or deemed certifying orders to any person applying there of on payment of two rupees per page of the certified standing orders or deemed certified standing orders, as the case may be in the office of the Certifying officer. The payment for such purpose can also be made through electronic mode.

38. Application for modification of standing order under sub-section (2) of section 35-

(1) An application for modification of an existing standing order under sub-section (2) of section 35 shall be made in **Form-H** and submitted electronically or registered post and contain the particulars of such standing orders which are proposed to be modified along with a tabular statement containing details of each of the relevant provisions of standing order in force, and proposed modification therein, reasons thereof and the details of registered Trade union(8) operating therein, and such statement shall be signed by a person authorized by the industrial establishment or undertaking The Certifying Officer shall pass order in the application for modification of standing order within sixty days of receipt of such application.

(2) Where such an application for the modification is received from a workman the Certifying Officer shall where more than one trade union exists among the workmen of the industrial establishment, take one representative each from the registered trade union. If there is no trade union, the procedure given in rule 31 shall be followed to elect the representative of workmen.

(3) The application for modification received from a workman shall thereafter be sent to the representative union or elected representatives, as the case may be, to elicit opinion.

(4) Proceeding to certify the modification sought for shall be undertaken only to the extent these modifications are approved by the representative trade union or elected representative, as the case may be, and such trade union or representative shall be representing the applicant workman during the proceeding for certification

(5) A copy of the application referred to in Rule-38 shall be forwarded to the Labour Commissioner, in case he is not the Certifying Officer.

(6) Manner of service : All notices, notifications and orders under this Code and the Rules shall be served on the parties concerned by registered acknowledgement due letter or by special messenger. In the latter case, an acknowledgement in writing by or on behalf of the other party concerned shall be obtained in respect of such delivery.

Chapter V NOTICE OF CHANGE

39. The manner of giving of notice for change proposed to be effected under clause (i) of section 40.- (1) Any employer intending to effect any change in the conditions of service applicable to any worker in respect of any matter specified in the Third Schedule to the Code, shall give notice in **Form-I** to such worker affected by such change.

(2) The notice referred in sub-rule (1) shall be displayed conspicuously by the employer on the notice board in Hindi and English at the main entrance of the industrial establishment and the office of the concerned Manager of the industrial establishment. A copy of such notice shall be sent electronically or otherwise to conciliation officer and Regional Labour Commissioner on the same day as the notice is issued.

Provided that where there is a registered Trade Union or registered Trade Unions relating to the industrial establishment a copy of such notice shall also be served on the Secretary of such Trade Union or each of the Secretaries of such Unions, as the case may be.

Chapter VI VOLUNTARY REFERENCE OF DISPUTES TO ARBITRATION

40. Form of arbitration agreement and the manner thereof under sub-section (3) of section 42.-

(1) Where the employer and workers agree to refer the dispute to arbitration, the Arbitration Agreement shall be in **Form-J** and shall be signed by the parties to the agreement. The agreement shall be accompanied by the consent either in writing or electronically of arbitrator or arbitrators.

(2) The Arbitration Agreement referred to in sub-rule (1) shall be signed.-

(i) In case of an employer, by the employer himself, or when the employer is an incorporated company or other body corporate, by the agent, manager or other officer of the corporation authorized for such purposes;

(ii) In the case of the workers by the officer of the registered Trade Union authorized in this behalf or by three representatives of the workers duly authorized in this behalf at a meeting of the concerned workers held for such purpose;

(i) In the case of an individual worker, an individual worker by the worker himself or by an officer of registered Trade Union of which the worker is a member:

Explanation.- (1) In this rule, the expression 'officer' means any officer of a registered Trade Union or an association of the employer authorized for such purpose;

(2) In this rule 'officer' means any of the following officers, namely:-

- a) the President;
- b) Vice-President;
- c) the Secretary (including the General Secretary);
- d) a Joint Secretary; and
- e) any other officer of the Trade Union authorized in this behalf by the President and Secretary of the union.

41. Manner of issue of notification under sub-section (5) of section 42.- Where an industrial dispute has been referred to arbitration and the State Government is satisfied that the persons making the reference represent the majority of each party, it shall publish a notification in this behalf in the Official Gazette and electronically or registered/ speed post for the information of the employers and workers who are not parties to the arbitration agreement but are concerned in the dispute and they may present their case before the arbitrators appointed for such purpose.

42. Manner of choosing representatives of workers where there is no Trade Union under sub-section (5) of section 42.- Where there is no Trade Union, the representative of workers to present their case before the arbitrator or arbitrators in pursuance of clause (c) of the proviso to sub-section (5) of section 42, shall be chosen by a resolution passed by the majority of concerned workers in **Form-K** authorizing therein to represent the case. Such workers shall be bound by the acts of representative who have been authorized to represent before the arbitrator or arbitrators, as the case may be.

Chapter VII

MECHANISM FOR RESOLUTION OF INDUSTRIAL DISPUTES

43. Manner of filling up of the vacancy under sub-section (1),(2),(3),(5) and (6) of section 44 and procedure for selection, salaries and allowances and other terms and condition of Judicial Member of the State Industrial Tribunal under sub-section (3) of Section 47.-

(1) The qualification for appointment of the Judicial Member of the State Industrial Tribunal (hereinafter in this chapter referred to as the judicial Member) shall be such as provided in sub-section (2) of section 44.

(2) The judicial member shall be appointed by the State Government on recommendation of a Search- cum- Selection Committee (SCSC) specified in sub rule (3) hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty five years, whichever is earlier.

(3) The Search- cum- Selection Committee (SCSC) shall comprise of the following members namely:-

- (i) Chief Justice Uttarakhand High court or a Judge of High Court nominated by him-
Chairman
- (ii) Sitting Judicial Magistrate of the State Industrial Tribunal- **Member.**
- (iii) Secretary Labour Government of Uttarakhand- **Member.**
- (iv) Secretary Industries Government of Uttarakhand- **Member.**

(1) The Search-cum-Selection Committee (SCSC) shall determine its procedure for making its recommendation and, after taking into account qualification, suitability, record of past performance, integrity as well as adjudicatory experience keeping in view of the requirement of the State Industrial Tribunal recommend a panel of two or three persons as it deems fit for appointment to each post.

(2) No appointment of a Judicial Member shall be declared invalid merely by reason of a vacancy or absence of any member in the Search-cum-Selection Committee.

(6) A Judicial Member shall hold office for a term of four years from the date on which he enters upon his office or till he attains the age of sixty five years, whichever is earlier.

(7) In case of casual vacancy in the office of Judicial Member, the State Government shall appoint the Judicial Member of any other State Industrial Tribunal or any other tribunal in the Uttarakhand to officiate as Judicial Member.

(8) (a) A Judicial Member shall be paid a salary of rupees 2,25,000/- (fixed) per month and shall be entitled to draw allowances as are admissible to an officer of the State Government holding Group A postcarrying the same pay.

(b) In case of appointment of retired High Court Judge, his pay shall be reduced by the gross amount of pension drawn by him.

(9) (a) In case of serving High Court Judges, the service rendered in the State Industrial Tribunal shall be counted for pension to be drawn in accordance with the extant rules of the service to which they belong and they shall be governed by the provisions of General Provident Fund Rules 1960 and the rules for pension applicable to them.

(b) In case of retired High Court Judges, they shall be entitled to join Contributory Provident Fund Scheme as per rules during the period of their re-employment and additional gratuity shall not be paid for the service rendered in the State Industrial Tribunal.

(10) A Judicial Member shall be entitled for rent free furnished accommodation or house rent allowance at the rate as admissible to an officer of the State Government holding Group A post carrying the same pay.

(11) (a) In case of serving High Court Judges, leave shall be admissible as admissible to the serving High Court Judges.

(b) In case of retired High Court Judges, leave shall be admissible as are admissible to an officer of the State Government holding Group A post carrying the same pay.

(12) (a) The State Government shall be the leave sanctioning authority for the Judicial Member.

(b) The State Government shall be the sanctioning authority for foreign travel to the Judicial Member.

(13) State Government Health Scheme facilities as admissible to an officer of the State Government holding Group A post carrying the same pay shall be applicable.

(14) (a) Travelling allowance to a Judicial member shall be admissible as per entitlement of an officer of the State Government holding Group A post carrying the same pay.

(b) In case of Retired High Court Judges Transferred Travelling Allowances for Joining The State Industrial Tribunal from home town to headquarters and vice-versa at the end of assignment shall also be admissible at entitlement of an officer of the state Government holding Group A post carrying the same pay

(15) A Judicial Member shall be entitled for leave travel concession as admissible to an officer of the State Government holding Group A post carrying the same pay.

(16) A Judicial Member shall be entitled for transport allowance as admissible to an officer of the State Government holding Group A post carrying the same pay.

(17) No person shall be appointed as Judicial Member unless he is declared medically fit by an authority specified by the State Government in the behalf.

(18)(a) If a written and verifiable complaint is received by the State Government, alleging any definite charge of misbehavior or incapacity to perform the functions as Judicial Member, it shall make a preliminary scrutiny of such complaint.

(b) If on preliminary scrutiny, the State Government is of the opinion that there are reasonable grounds for making an enquiry into the truth of any misbehavior or incapacity of a Judicial Member, itself make a reference to the Search-Cum-Selection- Committee (SCSC) to conduct the inquiry.

(c) The Search-Cum-Selection- Committee shall complete the enquiry within six month' time or such further time as may be specified by state government.

(d) After conclusion of the enquiry ,the Search-Cum-Selection- Committee self submit its report to the state government stating therein its findings and the reasons therefor on each of the charges separately which such observations on the whole case as it may think fit.

(e) The Search-Cum-Selection- Committee shall not be bound by the procedure laid down by the Code of Civil Procedure,1908 (5 of 1908) but shall be guided by the principles of natural justice and shall have power to regulate its own procedure, including the fixing of date, place and time of its enquiry.

(19) A Judicial Member may, resign his office at any time by giving notice to this effect in writing under his hand addressed to the state government:

Provided that the Judicial Member shall, unless he is permitted by state government to relinquish office sooner, continue to whole office until the expiry of three month from the date of receipt of such notice or until a person duly appointed as successor enters upon his office or until the expiry of his term of the office, whichever is earlier.

(20) The State Government shall, on the recommendation of Search-Cum-Selection- Committee, remove from office any Judicial Member, who, -

(a) has been adjudged as an insolvent; or

(b) has been convicted of an offence which, involves moral turpitude; or

(c) has become physically or mentally incapable of acting as such as Judicial Member; or

(d) has acquired such financial or others interest as is likely to affect prejudicially his functions as a Judicial Members; or

(e) has so abused his position as to render his continuance in office prejudicial to the public interest:

Provided that where a Judicial Member is proposed to be removed on any ground specified in clauses (b) to (e), he shall be informed of the charges against him and given an opportunity of being heard in respect of those charges.

(21) Every person appointed as Judicial Member shall, before entering upon his office, make and subscribe an oath of office and secrecy in the **Form-L** annexed to these rules.

(22) Matter relating to the terms and conditions of services of the Judicial Member with respect to which no express provisions has been made in these rules, shall be referred by State Industrial Tribunal to the State Government for its decision, and the decision of the state government thereon shall be binding.

(23) The State Government may provide such number of officers and other staff as it thinks fit in consultation with the Judicial member of the State Industrial Tribunal which may be required for the due discharge of the functioning of the State Industrial Tribunal Provided that the number of officers so appointed for each tribunal shall not exceed two. The officers so appointed should have had at least 15 years of experience in the State Labour Department including ten years as Conciliation officer. Provided that no such officer shall be appointed, unless he resigns from the service of the State Government or the retired official from the State Government with the above mentioned qualifications. A Retired Government officer so appointed shall hold office for a term of 4 years or till he attains the age of sixty five years, whichever is earlier. The officer so appointed shall be paid a salary equivalent to an officer of the Government of Uttarakhand holding Group A post.

(24) The State Government shall have power to relax the provision of any of these rule in respect of any class of categories of persons for the reasons to be recorded in writing.

44. Manner of filling up of the vacancy under sub-section (3) of Section 44 and procedure for selection, salaries and allowances and other terms and condition of Administrative member of State Industrial Tribunal in Uttarakhand under sub-section (1) of section 44 :-

(1) The qualification for appointment of the Administrative Member of the State Industrial Tribunal in Uttarakhand (hereinafter in this chapter referred to as Administrative Member) shall be such as given in sub-section (4) of section 46.

(2) (a) The Administrative member shall be appointed by the State Government on the recommendation of a Search-Cum-Selection Committee specified in sub-rule (3) of this rule,

(3) The Search-cum-selection committee shall comprise of the following members, namely :-

I. Chief justice of High court of Uttarakhand or a High Court Judge nominated by him-

Chairperson;

II. Sitting Administrative Member of the State Industrial Tribunal – **Member**

III. Secretary, Labour and Employment Government of Uttarakhand -**Member; and**

IV. Secretary, Industries Government of Uttarakhand. – **Member,**

(4) The Search-cum-selection committee shall determine its procedure for making its recommendation and, after taking into account qualification, suitability, record of past performance, integrity as well as experience keeping in view of the requirement of the State Industrial Tribunal and recommend a panel of two or three persons as it deems fit for appointment to said post.

(5) No appointment of Administrative member shall be declared invalid merely by reason of one vacancy or absence of any Member in the Search-cum-Selection Committee.

(6) An Administrative Member shall hold office for a term of four years or till he attains the age of sixty five years, whichever is earlier.

(7) In case of casual vacancy in the office of administrative Member, the State Government shall appoint the Administrative Member of the other State Industrial Tribunal or any other Tribunal of the Uttarakhand State to officiate as Administrative Member.

(8) The Administrative Member shall be paid a salary of rupees 2,25,000/- (fixed) per month and shall be entitled to draw allowances as are admissible to an officer of the Government of Uttarakhand holding Group A post carrying the same pay. In case of retired Government officer, his pay shall be reduced by the gross amount of pension drawn by him.

(9) (a) In case of serving Government officer, the service rendered in State Industrial Tribunal shall be counted for pension to be drawn in accordance with the extant rules of the service which he belongs and shall be governed by General Provident Fund Rules, 1960.

(b) In case of retired Government Officers, they shall be entitled to join Contributory Provident Fund scheme as per extant rules during period of their re-employment. Additional gratuity shall not be admissible for the service rendered by the Administrative Tribunal in State Industrial Tribunals.

(10) Administrative Member shall be entitled for rent free furnished accommodation or house rent allowance at the rate as admissible to an officer of the Government of Uttarakhand holding Group A post carrying the same pay.

(11) (a) In case of serving Government Officers, leave shall be admissible in accordance with the extant rules of the service which he belongs.

(b) In case of retired Government Officers, leave shall be admissible as are admissible to an officer of the Government of Uttarakhand holding Group A post carrying the same pay.

(12)(a) The State Government shall be the leave sanctioning authority for the Member.

(b) The State Government shall be the sanctioning authority for foreign travel to the Administrative Member.

(13) State Government Health Scheme facilities as admissible to an officer of the Government of Uttarakhand holding group A post carrying the same pay shall be applicable.

(14)(a) Travelling allowance to an Administrative Member shall be admissible as per entitlement an officer of the Government of Uttarakhand holding Group A post carrying the same pay.

(b) In case of retired Government Officer, transfer travelling allowance for joining the State Industrial Tribunal from home town to head quarter and vice-versa at the end of assignment shall also be admissible as entitlement of an officer of the Government of Uttarakhand holding Group A post carrying the same pay.

(15) An Administrative Member shall be entitled for leave travel concession as admissible to an officer of the Government of Uttarakhand holding Group A post carrying the same pay.

(16) An Administrative Member shall be entitled for transport allowance as admissible to an officer of the Government of Uttarakhand holding Group A post carrying the same pay.

(17) No person shall be appointed as an Administrative Member, unless he is declared medically fit by an authority specified by the State Government in this behalf.

(18)(a) If a written and verifiable complaint is received by the State Government, alleging any definite charge of misbehavior or incapacity to perform the functions as Administrative Member, it shall make a preliminary scrutiny of such complaint.

(b) If on preliminary scrutiny, the State Government is of the opinion that there are reasonable grounds for making an inquiry into the truth of any misbehavior or incapacity of an Administrative member, it shall make a reference to the Search-Cum-Selection Committee to conduct the inquiry.

(c) The Search-Cum-Selection committee shall complete the inquiry within six months' time or such further time as may be specified by the State Government.

(d) After conclusion of the inquiry, the Search-Cum-Selection Committee shall submit its report to the State Government stating therein its findings and the reasons there for on each of the charges separately with such observation on the whole case as it may think fit.

(e) The Search-Cum-Selection Committee shall not be bound by the procedure laid down by the code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and shall have power to regulate its own procedure, including the fixing of date, place and time of its inquiry.

(19) An Administrative Member may, resign his office at any time by giving notice to this effect in writing under his hand addressed to the State Government:

Provided that the Administrative Member shall, unless he is permitted by the State Government to relinquish office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as a successor enters upon his office or until the expiry of his term of the office, whichever is earlier.

(20) The State Government shall, on the recommendation of the Search-Cum-Selection Committee, remove from office any Administrative Member, who-

(a) has been adjudged as an insolvent; or

- (b) has been convicted of an offence which, involves moral turpitude; or
- (c) has become physically or mentally incapable of acting as such Member; or
- (d) has acquired such financial or other interest as is likely to effect prejudicially his functions as an Administrative Member; or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest;

Provided that where an Administrative Member is proposed to be removed on any ground specified in clauses (b) to (e), he shall be informed of the charges against him and given an opportunity of being heard in respect of those charges.

(21) Every person appointed as Administrative Member shall, before entering upon his office, make and subscribe an oath of office and secrecy in the **Form-L** annexed to these rules.

(22) Matter relating to the terms and conditions of service of the Administrative Member with respect to which no express provisions has been made in these rules, shall be referred by the State Industrial Tribunal to the State Government for its decision, and the decision of the State Government thereon shall be binding.

(23) The Uttarakhand Government shall have power to relax the provision of any of these rules in respect of any class or categories of persons for the reasons to be recorded in writing.

45. Manner of holding conciliation proceedings under sub-section (1), full report under sub-section (4), and application and the manner of deciding such application under section (6) of section 53.-

(1) Where any industrial dispute exists or is apprehended or a notice under section 62 has been given, the conciliation officer on receipt of such application shall examine the application and if he finds that the dispute pertains to the jurisdiction of state Government. In other cases, he will issue first notice to the parties concerned declaring his intention to commence conciliation proceedings.

- (1) The employer or the workers representative in the first meeting shall submit their respective statement in the matter of said dispute.
- (2) The conciliation officer shall hold conciliation proceedings for the purpose of bringing about a settlement of the dispute and may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement.
- (3) **(i)** During the pendency of any conciliation proceeding before a Conciliation Officer or any Proceeding before a Tribunal in respect of and Industrial Disputes, no employer shall –
 - (a) in regard to any matter connected with the dispute, alter to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceeding, or
 - (b) for any misconduct with the dispute, discharge or punish, whether by dismissal or otherwise any workman concerned in such dispute save with the express permission in writing of the authority before which the proceeding is pending.
- (ii)** During the pendency of any such proceeding in respect of an industrial disputes, the employers may, in accordance with the standing orders applicable to a workman concerned in such disputes-
 - (a) alter, in regard to any matter not connected with the disputes the conditions of service applicable to that workman immediately before the commencement of such proceeding, or
 - (b) for any misconduct not connected with the dispute, discharge or punish, whether by dismissal or otherwise, that workman:
 - Provided that no such workman shall be discharged or dismissed, unless he has been wages for the month and an application has been made by employer to the authority before which the proceeding is pending for approval for the action taken by the employer.
- (iii)** Notwithstanding anything contained in sub-section (2) no employer shall during the pendency of any such proceeding in respect of and industrial dispute, take any action against any protected workman concerned in such dispute-

- (a) by altering, to the prejudice of such protected workman , the conditions of service applicable to him immediately before the commencement of such proceeding, or
 - (b) by discharging or punishing , whether by dismissal or otherwise such protected workman,
save with the express permission in writing of the authority before which the proceeding is pending.
 - (iii) Where an employer makes an application to Tribunal under the proviso to subsection (ii) for approval of the action taken by him, the authority concerned shall, without delay, hear such application and pass such order within thirty days of receiving of application in relation thereto as it deems fit.
- (4) Where an employer contravenes the provisions of subsection (3) during the pendency of proceedings before Tribunal, any workman aggrieved by such contravention may make a complaint in writing in the prescribed manner, to the Tribunal as the case may be, and on receipt of such complaint the Tribunal shall adjudicate upon the complaint as if it were a dispute referred to or pending before it, in accordance with this code and shall submit its award to the State Government of this Code shall apply accordingly.
- (5) (i) Where any money is due to a workman from an employer under a settlement or award, or under an award given by an adjudicator or the State Industrial Tribunal appointed or constituted under this Code workman may, without prejudice to any other mode of recovery, made an application to the State Government for the recovery of the money due to him, and if the State Government is satisfied that any money is so due, it shall issue a certificate of that amount to the Collector who shall proceed to recover the same as if it were an arrear of land-revenue.
- (ii) Where any workman is entitled to receive from the employer any benefit which is capable of being computed in terms of money, the amount at which such benefit should be computed may be determined by such Tribunal as may be specified in this behalf by the State Government, and the amount so determined may be recovered as provided for in subsection (i)
- (iii) For the purposes of computing the money value of a benefit, the Tribunal may, if it so thinks fit, appoint a Commissioner in the prescribed manner who shall, after taking such evidence as may be necessary, submit a report to the Tribunal and the Tribunal shall determine the amount after considering the report of the Commissioner and other circumstances of the case.
- (2)** If no settlement is arrived at the conciliation proceeding referred to in sub-rule (1), the conciliation officer shall submit report electronically or by registered post to the Labour Commissioner and to the State Government or the authority notified on behalf of the State Government within thirty days of the commencement of conciliation proceedings and not later than seven days from the date on which the conciliation proceedings are concluded.
- (3)** The report referred to in sub-rule (2) shall be accessible to the parties concerned electronically.
- (4)** The report referred to in sub-rule (2) shall contain inter-alia the submissions of the employer, worker or Trade union, as the case may be, and it shall also contain the efforts made by the conciliation officer to bring the parties to the amicable settlement, reasons for refusal of the parties to resolve the dispute and the conclusion of the conciliation officer,
- (5)** Any dispute which is not settled during the conciliation proceedings, then, either of the concerned party may make an application in **Form-M** before the Tribunal or through registered post within 15 days from the date of the report under sub-rule (2).
- (6)** In case of an industrial dispute which has not been settled during the conciliation proceedings an application may be made before the Tribunal by either of the parties concerned for adjudication, the Tribunal shall direct the party raising the dispute to file a statement of claim with complete details

along with relevant documents, list of supporting documents and witnesses within thirty days from the date on which application is filed. A copy of such statement may be sent electronically or by registered post each of the opposite parties in the dispute.

(7) The Tribunal after ascertaining that the copies of statement of claim and other related document are furnished to the other side by the party raising the dispute, the Tribunal shall fix the first hearing as soon as possible and within a period of one month from the date of receipt of the application. The opposite party or parties shall file their written statement together with supporting documents and the list thereof and list of witnesses, if any, within a period of thirty days from the date of first hearing and simultaneously forward a copy thereof to the opposite party or parties for service.

(8) Where the Tribunal finds that the party raising the dispute, despite its direction, did not forward the copy of the statement of claim and other documents to the opposite party or parties, it shall give directions to the concerned party to furnish the copy of the statement to the opposite party or parties, granting extension of fifteen days for filing the statement, if the Tribunal finds sufficient cause for not filing the statement of claim and other documents within time.

(9) Evidence shall be recorded either in Industrial Tribunal or may be filed on affidavit but in the case of affidavit the opposite party shall have the right to cross-examine each of the deponents filing the affidavit. Where the oral examination of each witness proceeds, the Tribunal shall make a memorandum of the substance of what is being deposed. While recording the oral evidence the Tribunal shall follow the procedure laid down in rule 5 of order XVIII of the First Schedule to the code of Civil Procedure, 1908 (5 of 1908).

(10) Summons. - Summons issued by a Tribunal or an Arbitrator shall be in **Form-N** and may require any person to produce before if any books, papers or other documents and things in his possession or under his control in any way relating to the matter under investigation or adjudication by the Tribunal or Arbitrator which are Tribunal or Arbitrator thinks necessary for the purpose of such investigation or adjudication.

(11) Service of summons or notice. - Any notice, summons, process or order issued by a Tribunal or Arbitrator may be served either by personal delivery or by registered post or in any other manner prescribed in this behalf in the Code of Civil Procedure, 1908 (Act V of 1908).

(12) Proceedings before the Tribunal. - (1) Where the State Government refers an industrial dispute for adjudication to a Tribunal within two weeks of the date of receipt of order of reference, the party representing the workmen, or in the case of individual workman, the workman himself and the employer involved in the dispute shall file before the Tribunal, as the case may be, a statement of the demands relating only to the issues as are included in the order of reference and shall also forward a copy of such statement to each one of the opposite parties involved in the said dispute :

Provided that where Tribunal, as the case may be, considers it necessary, it may, -

(a) extend the time-limit for filing of such statement by two weeks for reasons to be recorded in writing.

(b) reduce the time-limit for filing of such statement to one week in emergent cases for reasons to be recorded in writing; or

(c) where both the parties agree, reduce the time-limit for filing of such statement as per agreement; or

(d) where both the parties agree dispense with the requirement of filing of such statement altogether; or

(e) allow at any stage of the proceedings, amendment of such statement to the extent as may be necessary for the purpose of determining the real issue included in the order of reference.

(2) Within two weeks of the receipt of this statement referred to in sub-rule (1) above the opposite party shall file its rejoinder with the Tribunal, as the case may be, and simultaneously forward a copy thereof to the other party :

Provided that such rejoinder shall relate only to such of the issues as are included in the order of reference.

Provided also that where the Tribunal, as the case may be, considers it necessary, it may, -

(a) extend the time-limit for filing of such a rejoinder by one week or reduce the time-limit for filing of such rejoinder to one week in emergent cases for reasons to be recorded in writing;

(b) permit the workman to file reply to the said rejoinder on a date fixed by the Presiding Officer, and on such date the parties shall file their documents and issues, if any, arising out of the pleadings of the parties shall be framed;

(c) fix a date for filing documents and may on the same date frame such issues, if any, as may arise out of the pleadings of the parties after the written statements and rejoinders have been filed.

(3) The Tribunal, as the case may be, shall ordinarily fix the date for the first hearing of the dispute within six weeks of the date on which it was referred for adjudication :

Provided that the Tribunal, as the case may be, for reasons to be recorded in writing, fix a later date for the first hearing of the dispute.

(4) The hearing shall ordinarily be continued from day to day, and arguments shall follow immediately after the closing of evidence.

(5) The Tribunal, as the case may be, shall not ordinarily grant an adjournment for a period exceeding one week at a time, and not more than three adjournments at the instance of any one of the parties to the dispute shall be granted.

(6) The Tribunal, the Presiding Officer may call upon the parties to state their case in such order as it may think fit

(7) Where reference is pending before the Tribunal, the Tribunal shall proceed to decide such dispute on a priority basis in which it has been brought to the notice of the said the Tribunal that a strike or lock-out is pending or threatened in the establishment concerned.

(8) The written statement filed by the Union or the workmen shall state the grounds on which the claim of the concerned workman is based and the written statement shall be accompanied by an affidavit in which the contents of the written statement are sworn to.

(9) If the affidavit accompanying the written statement of the Union or the workmen is not rebutted by the employers, the Tribunal, as the case may be, shall presume the contents of the affidavit to be true and make an award accepting the facts stated in the written statement.

(10) As and when the application in Form I filed by the espousing Union before the Conciliation Officer is received by the Tribunal, the Presiding Officer concerned shall place on record this document which shall be treated in the proceedings as document of the Union or the workman.

(13) Place and time of hearing. - The sitting of a Tribunal or of an Arbitrator shall be held at such times and places as the Presiding Officer or the Arbitrator, as the case may be, may fix and the Presiding Office or Arbitrator, as the case may be, shall inform the parties of the same in such manner as he thinks fit.

(14) Proceedings before Tribunal. - The proceeding: before a Tribunal shall be held in public :
Provided that the Tribunal may, at any stage, direct that the witness shall be examined or its proceedings shall be held in camera.

(15) On completion of evidence, arguments may be heard immediately or a date may be fixed for arguments, which shall not be beyond a period of fifteen days from the closure of the evidence.

(16) The Industrial Tribunal shall not ordinarily grant an adjournment for a period exceeding a week at a time but not in any case more than three adjournments in all, at the instance of the parties to the dispute, shall be granted;

Provided that the Industrial Tribunal, for reasons to be recorded in writing, may grant an adjournment exceeding a week at a time but not in any case more than three adjournments ,at the Instance of any one of the parties to the dispute, shall be granted.

(17) In case any party defaults or falls to appear at any stage, the Industrial Tribunal may proceed with the case ex- parte, and decide the application in the absence of the defaulting party;

Provided that Industrial Tribunal may on the application of either party filed before the submission of the award, revoke the order that the case shall proceed ex-parte, if it is satisfied that the absence of the party was on justifiable grounds, and proceed further to decide the matter as contested.

(18) The Industrial Tribunal shall communicate its Award electronically or by registered post to the parties concerned and the State Government within fifteen days from the date of the pronouncement of the award.

(19) The Industrial Tribunal may summon and examine any person whose evidence appears to it to be material for deciding the case and shall be deemed to be a civil code within the meaning of section 345, 346 and 348 of the code of criminal Procedure, 1973 (1 of 1974).

(20) Where assessors are appointed to advise a Industrial Tribunal under sub-section (5) of section 49 in relation to proceeding before it, the Industrial Tribunal shall obtain the advice of such assessors, but such advice shall not be binding on such Tribunal.

(21) A party in an award, who wants to obtain a copy of the award or other document, may obtain a copy of the award or other document after depositing the fee electronically in the State Industrial Tribunal, in the following manner, Namely :-

(a) Fee for obtaining a copy of an award or the document filed in any proceedings of the State Industrial Tribunal be charged at the rate of Rs. two per page.

(b) For certifying a copy of any such award or order or documents, a fee of Rs two per page shall be payable.

(c) Copying and certifying fees shall be payable electronically or by depositing cash.

(d) Where a party applies for immediate delivery of a copy of any such award or document, an additional fee equal to one-half of the fee leviable under this rule shall be payable.

(22) The representatives of the parties appearing before a Industrial Tribunal shall have the right of examination, cross-examination and of addressing the Industrial Tribunal when evidence has been called.

(23) The proceedings before Industrial Tribunal shall be held in open court:

Provided that the Industrial Tribunal may direct any proceeding before it to be held by video conferencing.

Provided further that Industrial Tribunal may at any stage direct that any witness shall be examined or its proceedings be held in-camera.

(24) Information to be kept confidential. - All books, papers and other documents or things produced before a Tribunal, whether voluntary or in pursuance of a summons, maybe inspected by such parties a the Tribunal may allow but the information obtained therefrom shall not, except as provided in the Act, be made public, and such parts of the books, papers, documents or things as, in the opinion of the Tribunal, do not relate to the matters at issue, maybe kept in a sealed cover at the discretion of the Presiding Officer.

(25) Tribunal or Arbitrator may proceed *ex-parte*. - (1) If, on the date fixed or on any other date to which the hearing maybe adjourned, any party to the proceedings before the Tribunal or an Arbitrator is absent, though duly served with summons or having the notice of date of hearing, the Tribunal or the Arbitrator, as the case may be, may proceed with the case in his absence and pass such order as it may deem fit and proper.

(2) The Tribunal or an Arbitrator may set aside the order passed against the party in his absence, if within ten days of such order, the party applies in writing for setting aside such order and shows sufficient cause for his absence. The Tribunal or an Arbitrator may require the party to file an affidavit, setting the cause of absence. As many copies of the application and affidavit, if any, shall be filed by the party concerned as there are persons on the opposite side. Notice of the application shall be given to the opposite parties before setting aside the order.

(26) Power of entry and inspection. - The Presiding Officer of a Tribunal or any other person authorized in writing by a Tribunal in this behalf may, for the purposes of any investigation, enquiry or adjudication entrusted to the Tribunal under the Act after he has given reasonable notice, enter any building, factory, workshop or other place or premises whatsoever, and inspect the same or any work, machinery, appliance or article therein or interrogate any person in respect of anything situated therein or any matter relevant to subject-matter of the investigation, enquiry or adjudication.

(27) Description of parties in certain cases. - Where in any proceeding before Tribunal or an Arbitrator, there are numerous persons arrayed on any side, such persons shall be described as follows, -

(i) all such persons as are members of any Union or Association, shall be described by the name of such Union or Association; and

(ii) all such persons as are not members of any Union or Association, shall be described in such manner as the Tribunal or Arbitrator, as the case may be, may determine.

(28) Manner of service in the case of numerous persons as parties to a dispute. - (1) Where there are numerous persons as parties to any proceeding before a Tribunal or an Arbitrator and such persons are members of any Union or Association, the service of the notice on the 'Secretary, or where there is no Secretary, on the Principal Officer of the Union or Association shall be deemed to be the service on such persons.

(2) Where there are numerous persons as parties to any proceeding before a Tribunal or an Arbitrator and such persons are not members of any Union or Association the Tribunal or Arbitrator, as the case may be, shall, where in its/his opinion, personal service is not practicable, cause the service of any notice to be made by affixing the same at or near the main entrance of the establishment concerned and in such other manner as the Tribunal or Arbitrator may deem fit and proper. A notice exhibited in such manner shall also be considered as sufficient in the case of such workmen as cannot be ascertained and found.

(29) Power of Tribunals and Arbitrators. - In addition to the powers conferred by the Act, Tribunals and Arbitrators shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), when trying a suit, in respect of the following matters, namely, -

- (a) discovery and inspection;
- (b) granting of adjournment; and
- (c) reception of evidence taken on affidavit;

and the Tribunal or Arbitrator may summon and examine any person whose evidence appears to it/him to be material.

(30) Expenses of witnesses. - (1) Every person, who is summoned and duly attends or otherwise appears as a witness before a Tribunal or Arbitrator, shall be entitled to receive from the party concerned such allowances for expenses as, subject to such general or special instructions as may be given by Government from time to time, the Tribunal or Arbitrator may determine.

(2) A Tribunal or Arbitrator when summoning a witness at the request of a party, may require the party to deposit expenses of the witness in advance.

(31) Right of representatives. - The representatives of the parties appearing before a Tribunal or an Arbitrator shall have the right of examination, or cross-examination, as the case may be, of a witness.

(32) Papers, records, documents, files, etc., of an arbitration award. - Within fifteen days of submission of an arbitration award to the State Government, the Arbitrator or Arbitrators shall send all papers, records, documents and files relating to the arbitration proceeding, and also the original copy of the arbitration award to the Tribunal which has otherwise jurisdiction over the industrial dispute.

(33) Copies of awards or other documents of Industrial Tribunal or an Arbitrator. - (1) A party to the dispute shall be entitled at any stage to obtain a copy of the records of the case or any portion thereof, including exhibits which have been put in and finally accepted as evidence, but excluding confidential papers and office notes.

(2) A stranger to a dispute, on application may, after the decision, obtain a copy of an award or any document on the record of the case, except confidential documents and office notices :

Provided that a stranger may not be given a copy of exhibits admitted in evidence, except with the consent of the person by whom they were produced or his successor-in-interest.

(3) Every such copy shall be examined and certified as correct before it is issued from the office of the Tribunal or an Arbitrator. No copy shall be certified unless it has been prepared in either of the aforesaid offices.

(4) An application for copies of awards or other documents shall be presented between 11 a.m. and 12 noon on any working day to the Registrar of the Tribunal concerned, or in the case of an arbitration award or documents relating thereto, to the Registrar of the Tribunal which has otherwise jurisdiction over the dispute.

(5) On receipt of an application for a copy, the Head Clerk or Clerk concerned shall inform the applicant of the amount of fee payable and that his application will not be considered complete and the preparation of the copy will not be commenced, until he has deposited the said amount.

The receipts on account of copying and certifying fees shall be credited to the head of account specified by the State Government in this behalf.

(6) If, owing to insufficient or incorrect description, the document of which a copy is sought cannot be traced, that fact shall be endorsed on the application which shall be submitted to the Presiding Officer of the Tribunal concerned.

(7) If the estimated amount of fees is not deposited within seven days of its being notified to the applicant, the application for copy shall be rejected.

(8) If an application has been rejected under sub-section (7) and a copy is still required, a fresh application must be presented and the same will be dealt within the manner prescribed, as though the original application had not been made.

(9) If and when it is ascertained that additional fees are necessary, the amount thereof shall be immediately notified to the applicant and shall be deposited within seven days of receipt of the notice.

(10) The copies shall be prepared in strict order of priority, and where it is proposed to make any departure for any special reason, prior sanction of the Presiding Officer of the Tribunal or the Arbitrator shall be obtained.

(11) In ordinary circumstances, a copy may be furnished up to 4 p.m. on third day after the necessary fee, or additional fee, has been paid.

(12) If the applicant furnishes his address accompanied by sufficient amount (in cash) to cover the costs of registration (Acknowledgement due), a copy may be sent to him by post.

(13) When a copy is granted, the following particulars shall be recorded on the back of the copy :

(i) Date of application for copy.

(ii) Date of notifying the fee payable.

(iii) Date of deposit of fee.

(iv) Date of making over the copy to the applicant.

(14) A register shall be maintained in respect of application for copies in Form VIII and shall be daily checked by the Presiding Officer of the Tribunal or any other person authorized by him in this behalf.

(15) Fees for making a copy of an award of a Tribunal or Arbitrator, or any document filed in any proceeding before a Tribunal or in Arbitrator shall be Rs. 2.00 per page.

Provided further that, if a party applies for urgent delivery of a copy of any such award or document, an additional fee equal to the fee leviable under this rule, shall be payable by such party.

(16) A fee of Rupee 5 shall be payable for certifying a copy of any such award or document.

(17) Copying and certifying fees shall be payable in advance.

(34) Application for registration of settlement. - An application for registration of settlement, arrived at otherwise than in the course of the conciliation proceedings before a Conciliation Officer shall be sent by the parties to the settlement or any one of them, within one month of the date of settlement, to the Conciliation Officer of the area concerned by registered post acknowledgement due, or by personal delivery. A copy of the memorandum of settlement shall be affixed by the parties to the settlement to a notice-board at or near the entrance or entrances of the establishment concerned, and shall remain so affixed for a period of 07 days before making the application for registration.

(35) Procedure for registration of settlement. - On receipt of an application for registration of settlement, the Conciliation Officer or the authority notified by the Government in this behalf may make an enquiry if he/it considers necessary. If after enquiry, the Conciliation Officer or the authority concerned decides to register a settlement, the registration shall be made in **Form-O** and a certificate of registration shall be issued to all the parties to the settlement in **Form-P** within thirty days of receipt of the application for registration. If the registering authority refuses to register the settlement, an intimation to this effect, together with reasons for refusal to register, shall be given to all the parties to the agreement not later than thirty days of receiving the application for registration. The authority notified by the State Government for registering a settlement shall also give intimation of registration of settlement, or of the refusal thereof, as the case may be, to the Conciliation Officer of the area concerned and to the Labour Commissioner, Uttarakhand within seven days of the registration of settlement.

(36) Persons on whom awards are binding. - An award which has become enforceable, shall be binding on,
(a) all parties to the industrial dispute;
(b) where a party referred to in clause (a) is an employer, his heirs, successors or assigns in respect of the establishment to which the dispute relates;
(c) where a party referred to in clause (a) is composed of workmen, all persons, who were employed in the establishment or part of the establishment, as the case may be, to which the dispute relates, on the date of tire dispute and all persons who subsequently become employed in the establishment or part.

Chapter VIII STRIKES AND LOCK-OUTS

46. Number of persons by whom the notice of strike shall be given, the person or persons to whom such notice shall be given and the manner of giving such notice under sub-section (4) of section 62.- The notice of strike referred to in sub-section (1) of section 62 shall be given to the Plant Head or Manager of an industrial establishment in **Form-Q** which shall be duly signed by the Secretary and five elected representatives of the registered Trade Union endorsing the copy thereof electronically or otherwise to the concerned conciliation officer, Regional Deputy Labour Commissioner, Labour Commissioner and State Government. In the absence of a trade union seven representatives of workers shall give the notice.

47. Manner of giving notice of lock-out under sub-section (5) and authority under sub-section (6) of section 62.- (1) The notice of lock-out referred to in sub-section (2) of section 62 shall be given by the employer of an industrial establishment in **Form-R** to the Secretary of every registered Trade Union relating of such industrial establishment endorsing the copy thereof to the concerned conciliation officer, Regional Deputy Labour Commissioner, Labour Commissioner and the State Government electronically or otherwise. The notice shall be displayed conspicuously by the employer on a notice board or on electronic board at the main entrance to the industrial establishment and the workers representatives of the works Commiittee of there is no registered Trade Union.

(2) If the employer of an industrial establishment receives from any person employed by him any notice of strike as referred to in sub-section (1) of section 62 then he shall within fifteen days from the date of receiving of such notice, intimate the same electronically to the conciliation officer and Regional Deputy Labour Commissioner, the Labour Commissioner of the state and the State Government.

(3) If the employer gives to any person employed by him a notice of lock-out, then he shall within five days from the date of such notice, intimate electronically or otherwise the same to the concerned conciliation officer and the Regional Deputy Labour Commissioner.

Chapter IX LAY-OFF, RETRENCHMENT AND CLOSURE

48. Manner of serving notice before retrenchment of the worker under clause (c) of section 70.- If any employer desires to retrench any worker employed in his industrial establishment who has been in continuous service for not less than one year under him then, such employer shall give notice of such retrenchment, in **Form-S** to the State Government, the concerned Conciliation Officer and Regional Deputy Labour Commissioner and the Labour Commissioner of the State through email or by registered post.

49. Manner of giving an opportunity for re-employment to the retrenched worker under Section 72.- Where any vacancy occurs in an industrial establishment and there are worker of such industrial establishment retrenched within one year prior to the proposal for filling up such vacancy, then, the employer of such industrial establishment shall offer an opportunity at least 10 days before by registered post or speed post and through email to such retrenched workers who are citizens of India. If such workers give their willingness for employment then, the employer shall give them preference over other persons in filling up of such vacancy.

50. Manner of serving notice by the employer for intended closure under sub-section (1) of section 74. – (i) If any employer intend to close down an industrial establishment he shall give notice of such closure in **Form-S** to the State Government and a copy thereof to the concerned Regional Deputy Labour Commissioner, and the Labour Commissioner of the State by email or registered post and where the application is sent by registered post the date on which the same is delivered to the State Government shall be deemed to be the date on which the application was made.
(ii) A copy of the said application for prior permission to close down an undertaking of an industrial establishment shall be served on the Presidents or Secretaries of all the registered trade unions working in the establishment through personal service, and where it is not practicable, through registered post acknowledgement due.
(iii) A copy of the said application shall also be affixed at or near the main entrance of the establishment concerned which shall be considered as sufficient service in the case of such workmen as cannot be ascertained and informed.

Chapter X

SPECIAL PROVISIONS RELATING TO LAY-OFF, RETRENCHMENT AND CLOSURE IN CERTAIN ESTABLISHMENTS

51. Manner of making application to the State Government by the employer for the intended lay-off and the manner of serving copy of such application to workers under sub-section (2) of section 78.— (i) If any workman employed in an industrial establishment is laid off than, the employer concerned shall give notices of commencement and termination of such lay-off.
(ii) Such notices shall be given by an employer in every case irrespective of whether, in his opinion, the workman laid off is or is not entitled to compensation.
(iii) An application for permission under sub-section (1) of section 78 shall be made by the employer in **Form-T** stating clearly therein the reasons for the intended lay off and a copy of such application shall be served simultaneously to the worker concerned electronically and by registered post. Such application shall also be displayed conspicuously by the employer on a notice board or on electronic board at the main entrance of the industrial establishment in English and Hindi.

52. Time- limit for review under sub-section (7) of section 78.— The State Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (4) of the section 78 within a period of thirty days from the date on which such order is made.

53. Manner of making application to the State Government by the employer for the intended retrenchment and manner of serving copy of such application to workers under sub-section (2) of section 79.— (i) If any employer desires to retrench any workman, employed in establishment who has been in continuous service under him for not less than one year, he shall give notice of such retrenchment to the Secretary, Labour to Government of Uttarakhand and to the conciliation officer of the area concerned by registered post in the following manner :

- (a) Where a notice is given to the workman, notice of retrenchment shall be sent on the same day on which notice is given to the workman;
- (b) Where no notice is given to the workman, and he is paid one month's wages in lieu by notice, notice of retrenchment shall be sent on the same date on which wages are paid to the workman; and
- (c) Where retrenchment is or is intended to be carried out under an agreement, which specifies the date of termination of service, notice of retrenchment shall be sent on the date on which the agreement was made, if the period for the date of the agreement to the date of retrenchment is of less than one month, otherwise not less than one month before the date of retrenchment.

(ii) The employer shall prepare a list of the workman in the particular category from which retrenchment is contemplated, arranged according to the seniority of their service in that category, and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the date of retrenchment.

(iii) Before retrenchment a workman, the employer shall, for the purposes of sending intimation on the workman for re-employment, obtain the address of the workman in writing from the workman duly signed, or thumb impression affixed by the said workman.

(iv) An application for permission referred to in sub-section (1) of section 79 shall be made by the employer in **Form-T** stating clearly therein the reasons for the intended retrenchment electronically and a copy of such application shall also be sent to workers electronically and by registered post. Such application shall also be displayed conspicuously by the employer on a notice board or on electronic board in Hindi and English at the main entrance to the industrial establishment.

54. Time-limit for review under sub-section (6) of section 79.— The State Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (3) of section 79 within a period of thirty days from the date on which such orders is made.

55. Manner of making application to the State Government by the employer for intended closing down of an industrial establishment and the manner of serving copy of such application to the representatives of workers under sub-section (1) of section 80.— An employer who intends to close down an industrial establishment to which Chapter X of the Code applies shall apply electronically in **Form-T** for prior permission at least ninety days before the date on which intended closure is to become effective to the State Government, stating clearly therein the reasons for the intended closure of the industrial establishment and simultaneously a copy of such application shall also be sent to the representatives of the workers electronically and by registered post.

56. Time-limit for review under sub-section (5) of section 80.— The State Government may, either on its own motion or on the application made by the employer or any worker, review its order granting or refusing to grant permission under sub-section (2) of section 80 within a period of thirty days from the date on which such order is made.

Chapter XI

WORKER RE-SKILLING FUND

57. Manner of utilization of fund under sub-section (3) of section 83.— Every employer who has retrenched a worker or workers under this Code, shall, within ten days, at the time of retrenching a worker or workers shall electronically transfer an amount equivalent to fifteen days of last drawn wages of such retrenched worker or workers in the account (name of the account shall be displayed on the website of the State Labour Department) to be mentioned by the State Government. The fund so received shall be transferred by the Regional Deputy Labour Commissioner to each worker or workers' account electronically within forty five days of receipt of funds from the employer and the worker shall utilize such amount for his re-skilling. The employer shall also submit the list containing the name of each worker retrenched, the amount equivalent to fifteen days of wages last drawn in respect of each worker along with their bank account details within ten days of retrenching the worker or workers to enable the State Government to transfer the amount in their respective account.

Chapter XII

OFFENCES AND PENALTIES

58. Manner of composition of offence by a Gazetted Officer specified under sub-section (1) of section 89 and the manner of making application for the compounding of an offence specified under sub-section (4) of section 89.—

(1) The officer notified by the State Government for the purpose of compounding of offences under sub-section (1) of section 89 (hereinafter referred to as the compounding officer), shall in the offences in which prosecution is not instituted, of the compounding officer is of the opinion that any offence under the Code for which the compounding is permissible under section 89, he shall send a notice through department Portal or any other mode, to the accused in **Form-U** consisting of three parts. In part I of such form, the compounding officer shall inter-alia specify the name of the offender and his other particulars, the details of the offence and in which section the offence has been committed, the compounding amount required to be paid towards the composition of the offence. Part II of the Form shall specify the consequences if the offence is not compounded and part III of the Form shall contain the application to be filed by the accused if he desired to compound the offence. Each notice shall have a continuous unique number containing alphabets or numeric and other details such as officer sending notice, year, place, type of inspection for the purpose of easy identification.

(2) The accused to whom the notice referred to in sub-rule (1) is served, may send the part III of the Form duly filled by him to the compounding officer electronically and deposit the compounding

amount electronically or otherwise, within fifteen days of the receipt of the notice, in the account specified by the compounding officer in the notice.

(3) Where the prosecution has already been instituted against the accused in the competent Court, he may make an application to the Court to compound the offence against him and the Court, after considering the application, may allow composition of the offence by the compounding officer in accordance with provisions of section 89.

(4) If the accused complies with the requirement of sub-rule (2), the compounding officer shall compound the offence for the amount of money deposited by the accused and-

(a) if the offence is compounded before the prosecution, then no complaint for prosecution shall be instituted against the accused; and

(b) if the offence is compounded after institution of prosecution under sub-rule (3) with the permission of the Court, then ,the compounding officer shall treat the case as closed as if no prosecution had been launched and will proceed in accordance with composition as under clause (a) and intimate the composition of offence to the competent Court in which the prosecution is pending and after receiving such intimation, the Court shall discharge the accused and close the prosecution.

(5) The compounding officer shall exercise the powers to compound the offence under this rule, subject to the direction, control and supervision of the State Government.

Chapter XII

MISCELLANEOUS

59. Protected workers under sub-section (3) and (4) of section 90.—

(1) Every registered Trade Union connected with an industrial establishment, to which the Code applies, shall communicate to the employer before the 30th April every year, the names and addresses of such of the officers of the Union who are employed in that establishment and who, in the opinion of the Union should be recognized as “protected workers”. Any change in the incumbency of any such officer shall be communicated to the employer and the Regional Deputy Labour Commissioner and Labour Commissioner of the State by the union within fifteen days of such change.

(2) The employer shall, subject to sub-section (3) and sub-section (4) of section 90, recognize such workers to be “protected workers” for the purposes of section 90 and communicate to the Union, in within, within fifteen days of the receipt of the names and addresses under sub-rule (1), the list of workers recognized as protected workers for the period of twelve months from the date of such communication.

(3) Where the total number of names received by the employer under sub-rule (1) exceeds the maximum number of protected workers, admissible for the industrial establishment, under sub-section of section 90, the employer shall recognize as protected workers only such maximum number of workers;

Provided that where there is more than one registered Trade Union in the industrial establishment, the maximum number shall be so distributed by the employer among the unions that the numbers of recognised protected workers in individual unions bear practicably by the same proportion to one another as the membership figures of the unions. The employer shall in that case intimate in writing to the president or the secretary of the each concerned union the number of protected workers allotted to it:

Provided further that where the number of protected workers allotted to a union under this sub-rule falls short of number of officers of the union seeking protection. The union shall be entitled to select the officers to be recognised as protected workers. Such selection shall be made by the union and communicated to the employer within five days of the receipt of the employers letter in this regard.

(4) When a dispute arises between an employer and any registered trade union in any matter connected with the recognition of ‘protected workers’ under this rule, the dispute shall be referred to any Regional Deputy Labour commissioner or Assistant Labour Commissioner of the area concerned, who shall hear the dispute and send a report to the Labour Commissioner who shall decide the matter and whose decision shall be final.

60. Manner of making complaint by an aggrieved worker under section 91- (i) Every complaint under section 91 of the code shall be made electronically and by registered post or speed post in **Form-V** and shall be accompanied by as many copies as there are opposite parties mentioned in the complaint.

(ii) Every complaint under sub-rule (1) shall be verified by the worker making the complaint or by authorized representative of the worker proved to the satisfaction of the conciliation officer, arbitrator, Tribunal or the State Industrial Tribunal, as the case may be, to be acquainted with the facts of the case.

61. Manner of authorization of worker for representing in any proceeding under sub-section (1) of section 94.— Where the worker is not a member of any Trade Union, then, any member of the executive or other office-bearer of any Trade Union connected with or by any other worker employed in the industry in which the worker is employed may be authorized by such worker to represent him in any proceeding under the code relating to a dispute in which the worker is a party in **Form-K**.

62. Manner of authorization of employer for representing in any proceeding under sub-section (2) of section 94.— Where the employer, is not a member of any association of employers, may authorize in **Form-K** an officer of any association of employers connected with, or by any other employer engaged in, the industry in which the employer is engaged to represent him in any proceeding under the Code relating to a dispute in which the employer is a party.

63. Manner of holding an enquiry under sub-section (1) of section 85,

Complaint .- (1) On receipt of a complaint of the offence committed under sub-sections (3), (5),(7),(8),(9),(10),(11) and (20) of section 86 and sub-section (7) of section 89, the same shall be enquired by an officer not below the rank of Joint Labour Commissioner to the Government of Uttarakhand under sub-section (1) of section 85 (hereinafter referred to as the enquiry officer).

(2)**Issue of Notice** – if the complaint filed is admitted by the Enquiry officer, he shall call upon the person or persons through a notice to be sent electronically and a copy of the same to be posted on Department Portal to appear before him on a specified date together with all relevant documents and witnesses, if any, and shall inform the complainant of the date so specified.

(3)if the person or his representative fails to appear on the specified date, the Enquiry Officer may proceed to hear and determine the complaint ex-parte.

(4) if the complainant fails to appear on the specified date without any intimation to the enquiry officer on two consecutive dates, the complaint may be dismissed.

Provided that not more than three adjournments may be given on the joint application made by complainant and the opposite party.

Provided further that the enquiry officer shall at his discretion permit hearing the parties or any of the party, as the case may be, through video conferencing.

(5)Authorisation ,- The authorization to appear on behalf of any person, under section sub-section (2) Of section 85 shall be given by a certificate or electronic certificate, as the case may be, which shall be presented to the Enquiry Officer during the hearing of the complaint and shall form part of the record.

(6)Permission to appear ,- Any person who intends to appear in the proceeding on behalf of complainant shall present before the Enquiry Officer and submit a brief written statement explaining the reason for his appearance. The Enquiry officer shall record an order on the statement and in the case of refusal shall include reason for the same and incorporate it in the record.

(7)Presentation of Documents ,- complaint or other documents relevant to the complaint may be presented in person to the Enquiry Officer at any time during hours fixed by the Enquiry Officer, or may be sent to him electronically or by registered post or speed post.

(8) The Enquiry Officer shall endorse, or cause to be endorsed, on each document the date of the presentation or receipt, as the case may be, If the documents have been submitted electronically, no such endorsements shall be necessary.

(9) Refusal to entertain complaint.-

(i) The Enquiry Officer may refuse to entertain a complaint presented under sub-section (1) of section 85 if after giving the complainant an opportunity of being heard, the Enquiry officer is satisfied, for reasons to be recorded in writing that-

(a)the complainant is not entitled to present the complaint; or

(b)the complainant is barred by limitation under the provisions of this code

(c) the complainant fails to comply the directions given by the Enquiry officer under sub-section (2) of section 85.

(ii) The Enquiry Officer may refuse to entertain complaint which is otherwise incomplete, He may ask complainant to rectify the defects and if the Enquiry Officer thinks that the complaint cannot be rectified he may return the complaint indicating the defects and, if he, so refuses shall return it at once indicating the defects, if the complaint is presented again, after the defects have been rectified, the date of representation shall be deemed to be the date of presentation for the purpose of sub-section (1) of section 85.

(10) Record of proceedings,- The Enquiry Officer shall in all cases mention the particulars at time of passing of order containing the details, i.e., date of complaint, name and address of the complainant, name and address of the opposite party or parties, section-wise details of the offence committed, plea of the opposite party, findings and brief statement of the reason and penalty imposed with signature, date and place.

(11) Exercise of powers,- in exercise of the powers, of a Civil Court, conferred under the Code of Civil Procedure, 1908, the Enquiry Officer shall be guided in respect of procedure by relevant orders of the First Schedule of the Code of Civil Procedure, 1908, with such alterations as the Enquiry officer may find necessary not affecting their substance, for adapting them to the matter before him, and save where they conflict with the express provisions of this Code or these rules.

(12) Order or direction when to be made.—The Enquiry Officer, after the case has been heard, shall make the order or direction on a future date to be fixed for this purpose.

(13) Inspection of documents. – Any person, who is either a complainant or an opposite party or his representative, or any person permitted under sub-rule (3) shall be entitled to inspect any complaint, or any other document filed with the Enquiry Officer be, in a case to which he is a party.

64. Power to exempt : (1) Where the appropriate Government is satisfied in relation to any industrial establishment or undertaking or any class of industrial establishments or undertakings that adequate provisions exist to fulfil the objects of any provision of this Code, it may, by notification, exempt, conditionally or unconditionally such establishment or undertaking or, class of establishments or undertakings from that provision of this Code.

(2) Notwithstanding anything contained in sub-section (1), where the appropriate Government is satisfied in relation to any new industrial establishment or new undertaking or class of new industrial establishments or new undertakings that it is necessary in the public interest so to do, it may, by notification, exempt, conditionally or unconditionally, any such new establishment or new undertaking or class of new establishments or new undertakings from all or any of the provisions of this Code for such period from the date of establishment of such new industrial establishment or new undertaking or class of new establishments or new undertakings, as the case may be, as may be specified in the notification:

Provided that any notification issued by a State Government under the Industrial Disputes Act, 1947, prior to the commencement of this Code, to achieve the purpose as is specified in this sub-section in the State, shall remain in force after such commencement for its remaining period as if the provisions of this Code have not been brought into force to the extent they defeat any purpose to be achieved by such notification issued by that State Government.

Explanation.—For the purposes of this sub-section, the expression "new industrial establishment or new undertaking or class of new industrial establishments or new undertakings" means such industrial establishment or undertaking or class of industrial establishments or undertakings which are established within a period as may be specified in the notification

65. Submission of a copy each of the form to the office of Director General, Labour Bureau under clause (zff) of sub-section 2 of section 99.— A copy each of Form Q (notice of strike), Form R (notice of lockout), Form S (notice for intimation of retrenchment or closure to the State Government), Form T (Application for permission of lay-off or retrenchment or closure), and Form U (compounding of offences), shall be shared electronically with Director General, Labour Bureau in auto-mode.

Form-A

(See Rule 2)

(Memorandum of settlement arrived at during conciliation/ or settlement arrived at between the employer and his workers otherwise than in the course of conciliation proceeding)

Names of Parties:

.....Representing employer(s);

.....Representing worker;

Short recital of the case

.....

Terms of settlement

.....

Signature of the parties

Witnesses: (1)

(2)

*Signature of Conciliation Officer

In case the settlement arrived at between the employer and his workers otherwise than in the course of conciliation proceeding the copy of the memorandum shall be marked to the concerned conciliation officer, Regional Deputy Labour Commissioner and the Labour Commissioner of the State.

FORM B

APPLICATION FOR REGISTRATION OF TRADE UNION

(See Rule 10(1)(a))

Date the..... day of..... 20....

1. We hereby apply for the registration of a Trade Union under the name of.....
2. The address of the head office of the Union is.....
3. The E.mail of the Head Office of the Union is.....
4. The Union came into existence on the.....day of..... 20....
5. The Union is a Union of employers/workers engaged in the indusky(or profession).
6. The particulars required under section 10(1)(a) are given in Schedule I. (Annexed)
7. The particulars required under section 10(1)(b) are given in Schedule II. (Annexed)
8. The particulars required under section 10(2) are given in Schedule III. (Annexed)
9. We the under signed have been duly authorized by the General Meeting held on..... to make this application.

Signature	Occupation	Address	Signed
1			
2			
3			
4			
5			
6			
7			

SCHEDULE I-LIST OF OFFICERS

Title	Name	Age	Address	Occupation

Note.-Enter in this Schedule the names of all members of the executive of showing in column 1 the names of any posts held by them (e.g., President, Secretary, Treasurer, etc.) in addition to their offices as members of the executive.

**SCHEDULE II-
REFERENCE TO RULES**

The numbers of the rules-making provision for the several matters detailed in column 1 are given in column 2 below:

Matter	Number of rules
The Name of the union	
The whole of the objects for which the union has been established'	
The whole of the purposes for which the general funds of the unionshall be apPlicable.	
The maintenance of a list of members.	
The facilities provided for the inspection of the list of members byofficers and members.	
The admission of ordinary members.	
The admission of honorary or temPorary members'	
The conditions under which members are entitled to benefit assuredby the rules.	
The conditions trnder which fines or forfeitures can be imposed or varied.	
The manner in which the rule shall be amended, varied or rescinded	
The manner in which the members of the executive and the otherofficers of the union shall be appointed and removed.	
The safe custody of the funds.	
The annual audit of the accounts.	
The facilities for the inspection of the account books by officers andmembers.	
The manner in which the union may be dissolved.	

SCHEDULE III
STATEMENT OF LIABILITIES AND ASSETS ON THEDAY OF.....,20,.....

(This need not be filled in if the Union came into existence less than one year before the date of application for registration.)

Liabilities	Rs. P.	Assets	Rs. P
Amount of General fund		Cash-	
Amount of political fund		In hands of Treasurer	
Loans ... from		In hands of Secretary	
Other liabilities (to be specified)		In hands of-	
		in the Bank	
		in the Bank	
Total Liabilities		Securities as per list below	
		Unpaid subscription due	
		Loans to-	
		Immovable property	
		Goods and furniture	
		Other assets (to be specified)	
		Total Assets	

FORM-C
REGISTER OF TRADE UNIONS
(See Rule 11(1))

Serial No.		Officers					
Name of Union Address of Head Office Date of Registration.							
Number of application from List of members applying for registration	Year of entering in office	Name	Age of entry	Address	Occupation	Year of relinquishing office	Other offices held in addition to membership of executive with date
1							
2							
3							
4							
5							
6							
7							

FORM-D
CERTIFICATE OF REGISTRATION OF TRADE UNION
(See Rule 11(2))

No.

It is hereby certified that the _____ has been registered under section 9(2) of the Industrial Relation Code read with Rule 11(1) of the Industrial Relation Rules, 2021.

FORM-E
Application for withdrawl or canellation of Certificate of Registration
(See Rule 27(1))

Name of the Union.....

Registration No.....Dated.....

To,

The Registrar

Trade Union

Uttarakhand

Address.....

The abovementioned Trade Union desires that the certificate of registration under the Industrial Relation Code, 2020 may be withdraw or cancelled. Resolution passed at a general meeting duly held on the.....day.....20.....is as follows :

(Here are given exact and true copy of the Resolution)

Signed

Seven Members/Secretary

Date.....

FORM-F

Annual Return for the Year Ending on 31st December, 20_____

(See Rule 28(1))

Name of Union.
Registered Head Office
Number of certificate of registration.

Return to be made by federations of trade unions	Number of unions affiliated at the beginning of year
	Number of unions joining during the year.
This return need not be made by federations of trade unions.	Number of unions disaffiliated at the end of year.
	Number of members on books at the beginning of year.
	Number of members admitted during the year (add) together.
	Number of members who left during the year (deduct).
	Total number of members on books at the end of the year.
	Males
	Females
	Number of members contributing to political fund.

A copy of the rules of the trade union, corrected up to the date of dispatch of this return, is appended.

Dated the _____ day of _____ 20_____ Secretary

STATEMENT OF LIABILITIES AND ASSETS ON THE _____ DAY _____ OF _____ 20_____

Liabilities	Rs. P.	Assets	Rs. P.
Amount of general fund Amount of political fund Loans from Debts due to Other liabilities (to be specified)		Cash- In hands of Treasurer In hands of Secretary In hands of – In the Bank In the Bank Securities as per list below Unpaid subscriptions due Loans to Immovable property Goods and furniture Others assets (to be specified)	
Total Liabilities		Total Assets	

LIST OF SECURITIES

Particulars	Nominal value	Market – value at date on which accounts have been made up	In hands of
-------------	---------------	--	-------------

Treasurer

GENERAL FUND ACCOUNT

Income	Rs. P.	Expenditure	Rs. P.
Balance at beginning of year Contributions from members as per members Donations Sale of periodicals, rules, etc.		Salaries, allowances and expenses of officers Salaries, allowances and expenses of establishment Auditor's fee Legal expenses	
Interest on investments Income from miscellaneous sources (to be specified)		Expenses in conducting trade disputes Compensation paid to members for loss arising out of trade disputes	
	Funeral, old age, sickness, unemployment benefits, etc. Educational, social and religious benefits Cost of publishing periodical Rents, rates and taxes Stationary, printing and postage Expenses incurred under section 15(j) of the Indian Trade Unions Act, 1926 (to be specified) Other expenses (to be specified) Balance at the end of year		
Total		Total	

POLITICAL FUND ACCOUNT

	Rs. P.		Rs. P.
Balance at beginning of year		Payments made on objects specified in section 16(2) of the Indian Trade Unions Act, 1926 (to be specified)	
Contribution from members as per member		Expenses of managements (to be specified)	
		Balance at the end of year	

Total		Total	
-------	--	-------	--

Treasurer

AUDITOR'S DECLARATION

The undersigned, having had access to all the books and accounts to the trade union and having examined the foregoing statements and verified the same as found to be correct, duly vouched and in accordance with the law, subject to the remarks, if any, appended hereto.

Auditor

The following changes of officers have been made during the year-

OFFICERS RELINQUISHING OFFICE

Name	Office	Date of relinquishing

OFFICERS APPOINTED

Name	Age	Office	Address	Occupation	Date of appointment

Secretary

FORM-J

(Agreement for voluntary arbitration)

(See Section-42(3), Rule 40)

BETWEEN.....Name of the parties representing employer (s) AndRepresenting worker It is hereby agreed between the parties to refer the following dispute to the arbitration of [here specify the name(s) and address(es) of the arbitrator (s).

(i) Specific matters in dispute.

(ii) Details of the parties to the dispute including the name and address of the establishment or undertaking involved.

(iii) Name of the worker in case he himself is involved in the dispute or the name of the union, if any, representing the worker or workers in question.

(iv) Total number of workers employed in the undertaking affected.

(v) Estimated number of workers affected or likely to be affected by the dispute.

*We further agree that the majority decision of the arbitrator(s) shall be binding on us in case the arbitrator(s) are equally divided in their opinion they shall appoint another person as umpire whose award shall be binding on us.

The arbitrator (s) shall make his (their) award within a period of (here specify the period agreed upon by the parties) from the date of publication of this agreement in the Official Gazette by the central Government or within such further time as is extended by mutual agreement between us in writing. In case, the award is not made within the period afore mentioned, the reference to the arbitration shall stand automatically cancelled and we shall be free to negotiate for fresh arbitrator.

Signature of the parties Representing employer]

Representing worker/ workers.

Witnesses

1.

2.

Copy to:

(i) The Conciliation Officer [here enter office address of the Conciliation Officer for the area concerned]. .

(ii) The Secretary to the State Government.

FORM-K
(See Rule 42, 61)

(Authorization by a worker, group of workers, employer, group of employer to be represented
in a proceeding before the authority.)

Before the Authority
(Here mention the authority concerned)
(mention the name of the proceeding)

In the matter of.....

.....worker

Versus

I/We hereby authorize shri/sarvashri (if representatives are more than one)1.....2.....3.....to
Represent me/us in the above matter.

Dated this.....day of.....20.....

Signature of person (s) nominating the representative(s)

Address accepted

FORM-L
(See Rule 43(21) & 44(21))

Form of Oath of Office for judicial Member or Administrative Member (whichever is applicable) of State Industrial Tribunal
having been appointed as judicial Member/Administrative Member (whichever is applicable)of State Industrial Tribunal
(Name of the Tribunal)do solemnly affirm/ do swear in the name of God that I will faithfully and conscientiously discharge my
duties as the judicial member/Administrative Member of State Industrial Tribunal (Name of the Tribunal) to the best of my
ability, knowledge and judgment, without fear or favour , affection or ill-will and that will uphold the Constitution and the
laws of the land.

(signature)

Place:

Date:

FORM-M
(See Rule 45(5))

(Application to be submitted before the Tribunal in the matter not settled
By the Conciliation Officer)

Before(here mention the name of the Tribunal having jurisdiction over the area)

In the matter of :

.....Applicant
Address

Versus

Address

The above mentioned applicant begs to state as follows:-

(Here set out the relevant facts and circumstances of the case):-

The applicant prays that the instant dispute may please be admitted for adjudication and request to pass appropriate Award.

Date.....

Place.....

Form-N
Summons
 (see rule 45(10))

Before the Industrial Tribunal.....
 Adjudication Case No

To,
 The Manager.....
 Secretary.....

Whereas an industrial dispute between.....and its workman/workmen has been referred to this Tribunal you are hereby summoned of the Industrial Relation Code, 2020 to appear before the Industrial Tribunal in person or through a duly authorised representative in accordance with Rule 45 (10) of Uttarakhand Industrial Relation Rules, 2021 on the.....day of.....a.....a.m./p.m. to answer all material questions relating to the said dispute and you are directed to produce on that day all the books, papers and other documents and thing in your possession or under your control in any way relating to the matter under enquiry and investigation. Your written statements, if any, should also be presented to the Industrial Tribunal in duplicate on the date specified above.

Dated.....20

Presiding Officer/Registrar
 Industrial Tribunal

Form-O
Registration of settlement
 (see rule 45(35))

Registration No.	Name and address of the parties to settlement	Terms of settlement	Date of settlement	Date of registration	Signature of the registering authority	Remarks, if any
1	2	3	4	5	6	7

Form-P
Certificate of registration
 (see rule 45(35))

It is hereby certified that the memorandum of settlement, dated..... arrived at between..... as per copy enclosed has been registered under the Industrial Relation Code, 2020, this..... day of.....Two thousand, two hundred and.....

Conciliation Officer, Uttarakhand and the
 Certifying Authority

FORM-Q

(See Rule 46)

(Notice of Strike to be given by Union(name of Union)/Group of Workers)

Name of the five elected representatives of workers.....

Date theday of20.....

(The name of the employer).

Dear sir /Sirs,

In accordance with the provisions contained in sub-section (1) of section 62 of the Industrial Relation code i/We hereby give you notice that I propose to call a strike /we propose to go on strike on.....20.....

For the reasons explained in the annexure.

Yours faithfully.
(secretary of the Union)

Five representatives of the workers duly elected at a meeting held on(date), vide resolution attached.]

ANNEXURE

Statement of the Case.

Copy to;

- 1) Deputy Labour Commissioner , of the concerned area.
- 2) Labour Commissioner Uttarakhand.

Secretary, Labour Government of Uttarakhand.

FORM-R

(See Rule 47)

(Notice of Lock-out to be given by an employer of an industrial establishment)

Name of employer.....

Address.....

Dated theday of.....20.....

In accordance with the provisions of 62(6) of this code, i/we hereby give notice to all concerned that it is my/our intention to with effect lock out in.....department(s), section (s) of my/our establishment with effect from.....for the reasons explained in the annexure,

Signature.....

Designation.....

ANNEXURE

1.	Statement of reasons
----	----------------------

Copy forwarded to:

- (1) The Secretary of the registered Union. If any
- (2) Conciliation officer[Here enter officer address of the Assistant Labour Commissioner/Deputy Labour Commissioner.
- (3) Secretary, Labour, Government of Uttarakhand.
- (4) Labour Commissioner, Uttarakhand.

(5) To the officer of DG Labour Bureau.

Form-S

(see Ruie 48, 50)

Notice of Intimation of Retrenchment/ Closure to be given by an employer to the State Government under the provision of Chapter IX of the Industrial Relations Code, 2020 and rules made there under)

(To be submitted online .In case of exigencies, on paper in the prescribed format below)

Name of Industrial Establishment /undertaking/Employer.....

Labour Identification number.....

DATED(Note: The intimation for Closure/Retrenchment to the appropriate government shall be served 60 days and 30 days before commencement of closure/Retrenchment respectively)

To.

- (i) The Secretary, Labour Government of Uttarakhand.
- (ii) Labour Commissioner Uttarakhand.
- (iii) Regional Deputy Labour Commissioner.

1. (Retrenchment) (a) Under Section 70(C)of this Code,we*hereby intimate you that I*/we* have decided to retrench.....workers** out of a total of.....Workers** with effect form(DD/MM/YYYY)

Or

(Closure)(b)Under Sectoin 74(1)of thes Code,I/we hereby intimate you the I* /we* have decided to close down,.....(name of the industrial establishment or undertaking) with effect from.....(DD/MM/YYYY),The number of workers whose services would be terminated on account of the closure of the undertaking is ,.....(number of workers)

2. The reason for Retrenchment / closure is.....

.....

1. *The worker (s)* concerned were given on the)DD/MM/YYYY) one month’s notice in writing as required under section 70(a)*/section 75(1)*of this Code.

Or

The worker (s) concerned have been given on the)DD/MM/YYYY) one month’s pay in Lieu of the notice as required under section 70(a)/section 75(1)*of this Code.

4. *i*we* hereby declare that the worker(S) concerned have been */will be* paid all their dues along with the compensation due to them under section 70*/ section 75* of this code before or on the expiry of the notice period.

or

Iwe hereby state that currently Insolvency proceedings are on in respect of the said Industrial Establishmeny/Undertaking/Employer, and that I**we* will pay all the dues along with the compensation due to them under concerned laws.

5. (Retrenchment) I/we* hereby declare that the worker(s) concerned have been*/ will be* retrenched in compliance to the section 71 and section 72 of this code.

6. I*/we* hereby declare that no court case is pending before any court in the matter, and if yes, the details thereof have been annexed.

7. I*/we* hereby declare that the above information given by me*/us* in this notice and the Annexures is true , I*/we* am*/are* solely responsible for its accuracy and no facts/ materials has been suppressed in the matter.

Yours faithfully,

(Name of Employer/***Authorized Representative with seal)

(*Strike off which is not applicable.)

(**Indicate number in figures and words both)

(***copy of authorization letter issued by the employer shall be enclosed)

Copy to:

- (1) To the office of DG Labour Bureau, Ministry of Labour and Employment, (Only for statistical purpose.)
- (2) Labour commissioner, Uttarakhand.
- (3) Secretary, Labour, Government of Uttarakhand.
- (4) Deputy Labour Commissioner of the concerned area.
- (5) To the registered unions /authorized representatives of workers operating in the establishments or undertaking.

FORM-T

[see rule 51, 53, 55]

[Application for permission of lay-off/ continuation of lay-off/Retrenchment/ Closure to be given by an employer / Industrial establishment /Undertaking to the State Government under the provisions of chapter X of the industrial Relations code, 2020 and rules made there under]

(to be submitted online. In case of exigencies on paper in the prescribed format below)

Name of industrial Establishment or Undertaking or Employer.....

Labour identification number.....

Dated.....

(note: the application to the central government shall be served as indicated below:

Lay-off : at least 15 days before the intended lay-off

Continuation of lay-off –at least 15 days before the expiry of earlier lay-off

Retrenchment- at least 60 days before the intended date of retrenchment

Closure –at least 90 days before the intended date of closure)

To,

The Secretary Labour Government of Uttarakhand.

1. *(lay-off) (a). under section 78(2) of the industrial relations code, 2020, I*/we* hereby apply for "permission to lay-offworkers** out of total of.....workers** employed in my*/our* establishment (details to be given in Annex-I) with effect from.....(DD/MM/YYYY).

Or

(continuation of lay-off) (b) under section 78(3) of the industrial relations code, 2020, I/we* hereby apply for permission to continue the lay-offworkers out of total oflaid off workers** in my*/our* establishment (details to be given in annex-I)with effect from.....(DD/MM/YYYY).

Or

(Retrenchment) (c) under section 79(2) of the industrial relations code,2020, I/we* hereby apply for permission for intended retrenchment of details toworkers out of total of employed in my*/our* establishment (detail to be given in annex-I)with effect from.....(DD/MM/YYYY).

Or

(closure) (d) Under section 80(1) of the industrial relations code, 2020, I/we hereby inform you that I*/we* intended to close down the undertaking(name of the industrial establishment or undertaking or employer) (details to be given in annex-I)with effect from.....(DD/MM/YYYY). The number of workers whose services would be terminated on account of the closure of the undertaking is.....(number of workers)

2. *(lay-off/continuation of lay-off) the worker(s) concerned were given on.....(DD/MM/YYYY) notice in writing as required under section 78(2)*/section 78(3)* of this code.

Or

(Retrenchment / Closure) The worker(s) concerned were given on.....(DD/MM/YYYY) one month's notice as required under section 79/section 80* of this code.

or

(Retrenchment / Closure) The worker(s) have been given on.....(DD/MM/YYYY) one month's pay in lieu of notice as required under section 79/section 80* of this code.

3. The details of affected worker(s) is at Annexure II.

4. (Retrenchment) I*/we* hereby declare that the workers concerned will be retrenched in compliance to the Section 71 and section 72 of this Code.

5. *I/we* hereby declare that the workers concerned have been*/will be paid all the dues and compensation due to them under section 67, read with section 78(10)*/ section 79*/section 80* of this Code before or on the expiry of the notice period.

Or

I/We hereby state that currently Insolvency proceedings are on in respect of the said Industrial Establishment/ Undertaking/ Employer, and that I*/we* will pay all the dues along with the compensation due to them under concerned laws.

6. I/we* hereby declare that no court case is pending before any Court in the matter , and if yes , the details thereof have been Annexed.

7. I/we hereby declare that the above information given by me/ us* in this notice and enclosures is/ are* true, I/we am/ are solely responsible for its accuracy and no facts/ materials had been suppressed in the matter.

The permission sought for may please be granted.

Yours faithfully,

(Name of Employer/** Authorised Representative with seal)

(* Strike off which is not applicable)

(** Indicate number in figures and word both)

(*** Copy of Authorization letter issued by the employer shall be enclosed)

ANNEXURE I

(Please give replies against each item)

1	Name of the undertaking with complete postal address, email, mobile and land line.	
2	Status of undertaking— (i) Where Central public sector/State public sector/etc, (ii) Where a private limited company/ partnership firm/ partnership firm (iii) Whether the undertaking is Licensed/registered and if so, name of licensing/ registration authority and licence/registration certificate number.	
3	(a) MCA Number	
	(b) GSTN Number	
4	(i) Annual production, item wise for preceding three years- (ii) Production figures, month-wise, for the preceding twelve months,	
5	Audit report of establishment/ undertaking including Balance sheets, profit and loss accounts for the last three years.	To be annexed
6	Name of the inter-connected companies or companies under the same management.	
7	Details of lay-off/ Retrenchment resorted to in the last three years including the periods of such lay-offs/ Retrenchment the number of workmen involved in each such lay-off/ Retrenchment / continuation of lay off	
8	Any other relevant details which have bearing on lay-off / continuation of lay off/ retrenchment / closure.	

ANNEXURE II

(Details of affected workers)

Sl. No	UAN/ CMPFO	Name of the Worker	Category (Highly Skilled/ skilled /Semi-skilled / unskilled)	Date from which in service in/with the said establishment/ Undertaking/ Employer	Wage as on date of Application	Remark
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FORM-U

(See Rule 58(1))

Notice to the Employer who committed an offence for the first time under this code, for compounding of offence under sub-section (4) of section 89,

The undersigned and the Compounding Officer under sub-section 1 of section 89 of the Industrial Relation Code, 2020 hereby intimates that the allegation has been made against you for committing offence for the violation of various provision of this Code as per the details given below;--

PART-I

1. Name and address of the offender Employer.....
2. Address of the Establishment.....
3. Particulars of the offence.....
4. Section of the Code under which the offence is committed.....
5. Compounding amount required to be paid towards composition of the offence.....

PART-II

You are advised to deposit the above mentioned amount within fifteen days from the date of issue of this notice for compounding the offence as per section 89 (1) of the Industrial Relation Code, 2020, alongwith an application dully filled in part-III of this notice.

In case you fail to deposit the said amount within the specified time, no further opportunity shall be given and necessary direction for filling of prosecution under section----- shall be issued.

(Signature of the Compounding Officer)

Date-

Place-

PART-III

Application under sub-section (4) of section 89 for compounding of offence

1. Name of applicant (name of the employer who committed the offence under the Industrial Relation Code2020 to be mentioned).....
2. Address of the applicant.....
3. Particulars of the offence
4. Section of the Code under which the offence has been committed.....
5. Details of the compounding amount deposited (electronically generated receipt to be attached)
.....
6. Details of the prosecution, if filed for the violation of above mentioned offences may be given
7. Whether the offences is first offence or the applicant had committed any other offence prior to this offence, if committed, then, full details of the offence
8. Any other information which the applicant desires to provide

Applicant
(Name and signature)

Dated:

Place:

FORM-V
(See Rule60(i))

(Complaint under Section 91 of the Industrial Relation Code,2020)
Before the Conciliation officer / Arbitrator/ Tribunal or, State Tribunal-----,
In the matter of :..... Reference No.....

A..... Complainant(s);
Versus
B..... Opposite party(ies).

Address:

The petitioner(s) begs/beg to complain that the Opposite Party(ies) has/have been guilty of a contravention of the provisions of section 90 of the Industrial Relation code, as shown below:
(Here set out briefly the particulars showing the manner in which the alleged contravention has taken place and the grounds on which the order or act of the management is challenged.)

The complainant(s) accordingly prays/pray that the Conciliation officer/ Arbitrator/ Industrial Tribunal or State Tribunal may be pleased to decide the complaint set out above and pass such order or orders thereon as its may deem fit and proper.

The number of copies of the complaint and its annexure required under rule 91 of the Industrial Relation Code are submitted herewith.

Dated thisday of.....20..... Signature of the Complainant(s)

Verification

I do solemnly declare that what is stated in paragraph.....above is true to my Knowledge and that what is stated in paragraphs.....above is stated upon information received and believed by me to be true. This verification is signed by me atonday of20.....

Signature
Or thumb impression of the person verifying