

GOVERNMENT OF ODISHA

GENERAL ADMINISTRATION & PUBLIC GRIEVANCE DEPARTMENT

RESOLUTION

Bhubaneswar, dated the 14th March 2024

Sub:- Odisha Outsourcing Employees' Ombudsman Rules, 2024.

ARTICLE 1: PURPOSE AND SCOPE

1. The purpose of these rules is to establish the framework for the operation of the Outsourcing Employees Ombudsman, hereinafter referred to as the "Ombudsman."
2. These rules shall apply to all outsourcing companies/ Manpower Service Provider Agencies/ Service provider Agencies (hereinafter referred to as Agencies) and their employees whose services are engaged by the State Government of Odisha and/or its Corporation/Undertaking controlled fully by the State Government and falling under the jurisdiction of the Ombudsman.
3. The primary purpose of the "ombudsman" is to address the issues of the personnel provided by the Agencies to the State Government relating to, but not limited to, their grievances relating to inadequate/ non-payment of remuneration, non-deposit of statutory dues, exploitation by Agencies, delays in payment of bills to agencies by State Government departments, harassment of Employees and agencies.
4. The Scope of work to be discharged by the "Ombudsman" shall be as follows:
 - (a) To receive complaints from outsourced employees relating to non-payment of wages, delayed payment of wages, non-deposit of statutory dues by the Service/ Manpower provider Agency (hereinafter referred to as Agencies), Delayed deposit of Statutory dues by the Agencies, non-adherence to the agreement terms by the agencies.
 - (b) To receive complaints from Service/ Manpower provider Agencies relating to non-payment of bills, delayed payment of their bills by the office concerned, complaints against the outsourced employee such as non-attendance in duties, lack of performance or poor performance of the outsourced employee, non-adherence to the agreement terms by the outsourced employee or the Office which has hired the services of the Agency.



- (c) Upon *prima-facie* satisfaction of the authenticity and veracity of the complaint, undertake investigation, if warranted and ascertain the facts of the complaint.

To collect evidence and direct submission of evidence in support from all the involved parties in their support and defense.

- (d) To mediate and resolve the complaints/ disputes between the parties in confidential, fair and neutral manner.
- (e) Any other matter, as may be assigned by the State Government from time to time.

ARTICLE 2: ESTABLISHMENT AND COMPOSITION

1. The Outsourcing Employees Ombudsman is hereby established as an independent and impartial body to address grievances and concerns related to outsourcing employment.
2. The Ombudsman shall consist of a single member body to be nominated by the State Government, who shall ordinarily be a person having experience in Administration, field of Social Service, Finance background, preferably a retired Civil Servant. The State Government, in its discretion, may appoint a serving Civil Servant who shall be in the rank of Additional Secretary to State Government or above.
3. Ordinarily, the tenure of the Ombudsman shall be for three years. However, the period of three years can be extended by the State Government with proper justification.

ARTICLE 3: FUNCTIONS AND RESPONSIBILITIES

1. The Ombudsman shall receive, investigate, and facilitate the resolution of complaints and disputes arising between outsourcing agencies and their employees.
2. The Ombudsman shall mediate and facilitate negotiations between parties to achieve amicable solutions.
3. The Ombudsman may provide recommendations and guidance on best practices to outsourcing companies and employees to prevent disputes.
4. The Ombudsman shall communicate its findings to the Department/ Office concerned, to the complainant and the outsourcing agency along- with recommendations to implement the same.

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ARTICLE 4: COMPLAINT PROCESS

1. Any outsourcing company or employee may file a complaint with the Ombudsman in writing, detailing the nature of the dispute and relevant supporting documents.
2. The Ombudsman shall acknowledge receipt of the complaint within 7 (seven) days and initiate the investigation process.
3. The Ombudsman may conduct interviews, gather evidence, and request additional information from both parties to assess the situation thoroughly.
4. The Ombudsman shall ensure that its services are easily accessible to all parties involved in outsourcing. This includes providing multiple channels for reaching out, such as online platforms, phone lines, dedicated email address, and in-person appointments, if feasible. The Ombudsman's office may also be provided an independent web-link to the State Government's "JANASUNANI" portal to facilitate accessibility to complainants while maintaining their confidentiality. All efforts shall be made to eliminate barriers and make the process of accessing ombudsman services as seamless as possible.
5. As far as practically possible, the petitioner/ complainant shall furnish supporting evidence in support of the complaint. Ombudsman shall have the authority to call for submission of requisite evidence in support of the allegation by either party. Lack of credible and supporting evidence may not make adjudication mandatory on part of the Ombudsman.

ARTICLE 5: MEDIATION AND RESOLUTION

1. If both parties agree to proceed, the ombudsman will facilitate communication and mediate between the outsourced employee and the employer. The goal is to find a mutually acceptable resolution to the issue.
2. The Ombudsman shall facilitate mediation between the parties within 30 (Thirty) days of receiving the complaint, aiming to reach a mutually satisfactory resolution.
3. If the mediation is successful, the parties shall sign an agreement outlining the terms of resolution, which shall be legally binding.
4. In cases where mediation is unsuccessful, the Ombudsman may issue non-binding recommendations for resolution.

ARTICLE 6: INVESTIGATION PROCESS

1. Investigation (if necessary): In cases where mediation doesn't lead to a resolution or when the situation requires further investigation, the ombudsman may conduct a more in-depth review of the matter. This could involve gathering additional information, interviewing relevant parties, and analysing evidence. The Ombudsman shall have the authority to call for records from the various Statutory Institutions like the ESI, EPF authorities, Labour Commissioner, etc. for the purposes of Investigation.



2. The office of the Ombudsman will review the complaint or concern raised to determine if it falls within the scope of the ombudsman's jurisdiction. If it does, the process of investigation will be undertaken by the office of Ombudsman upon his orders.
3. The office of ombudsman shall collect all relevant information, evidence, and documentation from both the outsourced employee and the employer. This could include contracts, communication records, policies, and any other relevant evidence such as proofs of statutory compliances by either party like deposit of EPF, ESI etc.
4. The ombudsman may conduct interviews with the parties involved, as well as any witnesses who can provide additional insight into the situation. These interviews shall be conducted in a neutral and confidential manner. The ombudsman shall carefully analyse the gathered information to understand the full context of the issue, identify any patterns or systemic and consider applicable laws and regulations, evaluate whether the outsourcing arrangement complies with legal and ethical standards.

ARTICLE 7: CONFIDENTIALITY AND IMPARTIALITY

1. All information provided to the Ombudsman during the complaint process shall be treated as confidential, and the identity of the complainant shall be protected.
2. The Ombudsman shall operate with impartiality, avoiding conflicts of interest and ensuring fairness throughout the process.
3. The ombudsman will engage in a confidential consultation with the party raising the complaint. This discussion allows the ombudsman to gather more details about the situation, provide information about the process, and offer initial guidance.

ARTICLE 8: PROTECTION FROM RETALIATION:

1. The Ombudsman shall monitor and ensure that no employee or complainant should face retaliation, harassment, discrimination, or any form of adverse action for making a complaint or raising concerns in good faith.
2. If any such instance of retaliation is observed by the Ombudsman from either side, the Ombudsman shall forthwith report the same to Chief Secretary and to the Department head.
3. Any instance of retaliation, once established beyond reasonable doubts, shall warrant stringent action against the retaliator in accordance with the relevant provisions of law following the principles of natural justice.

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ARTICLE 9: REPORTING AND ACCOUNTABILITY

1. The Ombudsman shall submit an annual report to the Chief Secretary of the State Government summarizing its activities, outcomes, and recommendations for improvement. The Chief Secretary shall take steps for placing the report before the Chief Minister for his perusal and, orders, if any.
2. The Ombudsman shall be subject to internal periodic performance audits by specific auditors appointed for this purpose by the State Government, to ensure compliance with these rules and maintain the quality of its services.
3. The ombudsman shall provide regular reports summarizing the types of cases received, the nature of the concerns, and the outcomes of investigations. These summaries may be shared with relevant stakeholders, such as management and HR teams.
4. Reports may highlight trends and insights regarding common issues, patterns, and areas that require improvement. This information can guide the organization in addressing systemic problems.
5. The ombudsman's reports may include recommendations for process improvements, policy changes, and preventive measures based on the findings of investigations.

ARTICLE 10: RECORD KEEPING

1. The ombudsman shall maintain comprehensive records for each complaint, including details of the complaint, communication history, evidence collected, and the resolution process.
2. All relevant documents, emails, correspondence, interview notes, and other materials related to the investigation are securely stored for reference.
3. The office of Ombudsman shall ensure that Records are handled with the utmost confidentiality, adhering to privacy regulations and organizational policies.
4. The Ombudsman shall take steps to put in place a system to track the progress of each case, from the initial complaint to the final resolution, ensuring transparency and accountability.
5. The Ombudsman shall ensure that Records are stored securely to prevent unauthorized access, and appropriate measures are taken to safeguard sensitive information. It shall be ensured that Records are typically retained for a specified period to ensure compliance with legal requirements and to facilitate future audits or reviews.

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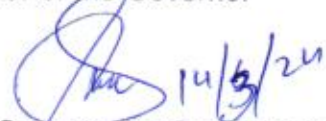
ARTICLE 11: AMENDMENTS AND REVIEW

1. These rules may be amended by the State Government to address changing circumstances and improve the effectiveness of the Ombudsman.
2. A comprehensive review of the Ombudsman's operations shall be conducted every 2 (Two) years to assess its performance and identify areas for enhancement.

ARTICLE 12: DISCLAIMER

1. **Scope of Services:** The ombudsman services are intended to address concerns and conflicts related to the outsourcing of employees, fostering a positive working environment. It is aimed to provide a confidential, impartial, and informal platform to discuss and resolve issues.
2. **Impartiality:** The ombudsman maintains strict impartiality and neutrality. It does not advocate for any party involved and do not participate in any formal legal proceedings.
3. **Confidentiality:** Any information shared with the ombudsman is treated confidentially to the extent permitted by law. However, there may be circumstances where legal or ethical obligations require disclosure, such as imminent harm or illegal activities.
4. **Non-Legal Nature:** The Ombudsman services are non-legal in nature. It does not provide legal advice or replaces the formal legal processes. In case any employee requires legal guidance, they are free to consult with a qualified legal professional.
5. **Limitations:** While the institution of Ombudsman shall strive to assist in resolving concerns, there may be situations beyond it's scope or where resolution is not achievable. In such situations the recommendations made by the Ombudsman are not binding and should be considered in conjunction with organizational policies and procedures.
6. **No Retaliation:** The office of Ombudsman has strong commitment to preventing retaliation against individuals who seek our services or raise concerns in good faith. However, it cannot guarantee complete immunity from adverse actions.
7. **Organizational Cooperation:** Effective conflict resolution often requires the cooperation of all parties involved. Therefore, all parties are encouraged to engage in open communication and good-faith efforts toward resolution.
8. **Changes to Terms:** This disclaimer is subject to change without notice. Any updates will be posted on our official channels.

By order of the Governor



Additional Chief Secretary to Government

Memo No. 8726 /GAD

Dated 14.03.2024

Copy forwarded to the Odisha Gazettee Cell in-charge, Odisha Gazettee Cell, C/o, Commerce Department for information with request to publish the resolution in the extraordinary issue of Odisha Gazettee and supply 200 copies of all the same to this department for official use.

G. Patra
14.3.2024

OSD-cum-Additional Secretary to Government

Memo No. 8727 /GAD

Dated 14.03.2024

Copy forwarded to All Departments/All Heads of the Department/All RDCs/All Collectors for information and necessary action.

G. Patra
14.3.2024

OSD-cum-Additional Secretary to Government