

CHAPTER IV
Permits for Recruitment by Employees

1.5 Competent authority – (1) The Central Government may by notification appoint the Protector-General of Emigrants or any other officer of that Government of a rank higher than that of a Protector of Emigrants to be the authority (hereinafter referred to as the competent authority) for issuing permits under this chapter.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may, by notification authorize any person who is employed under that Government in any country or place outside India to exercise the powers of the competent authority, and issue permits under this chapter to employers who are not citizens of India for the purpose of recruiting any citizen of India for employment in such country or place and a person so authorized shall endorse a duly certified copy of every permit issued by him under this chapter to the Protector-General of Emigrants.

16. Recruitment by employers to be through recruiting agent or under permit. – Save as otherwise provided by or under this Act, no employer shall recruit any citizen of India for employment in any country or place outside India except –

(a) through a recruiting agent competent under this Act to make such recruitment, or

(b) in accordance with a valid permit issued in this behalf under this chapter.

17. Procedure for obtaining permits. – (1) An employer desiring to obtain a permit; under this chapter may make an application, the competent authority.

(2) On receipt of such application, the competent authority shall, subject to any rules made in this behalf., make such inquiry as he may deem necessary and grant the permit applied for or reject the application:

Provided that before granting a permit the competent authority may require the applicant to comply with such conditions as may be prescribed, including conditions as to furnishing of security and such other conditions as that authority may, for reasons to be recorded in writing, deem necessary in the interests of the citizens of India likely to be recruited by the applicant.

(3) Subject to the other provisions of this Act, the competent authority may reject an application under sub-section (1) on any or more of the following grounds and on no other ground, namely –

(a) that the application is not complete in all respects or that any of the material particulars furnished in the application are not true;

(a) that the terms and conditions of employment which the applicant proposes to offer to persons recruited or proposed to be recruited by him are discriminatory or exploitative;

(c) that the employment which the applicant proposes to offer involves work of a nature which is unlawful according to the laws of India or offends against the public policy of India or is violative of norms of human dignity and decency;

(d) that having regard to the antecedents of the applicant, his financial standing, the facilities at his disposal, the working and living conditions of persons employed by him in the past, it would not be in the public interests or in the interests of the persons who may be recruited by him to issue a permit to him;

(e) that having regard to the prevailing circumstances in the country or in the place where the applicant proposes to employ the persons recruited by him, it would not be in the interests of any citizens of India to emigrate or taking up such employment.

(4) Where the competent authority makes an order under sub-section (2) rejecting an application, he shall record in writing a brief statement of his reasons for making such order and furnish the applicant, on demand, a copy of the same;

Provided that if the competent authority, is of the opinion that it is necessary or expedient in the interests of the general public so to do, he may refuse to provide such copy or, as the case may be furnish a copy of sonly such parts of the statements as he may deem fit.

Comment

AS if – The expression “as if ” is used to make one applicable in respect of other.

18. Period of validity of permit. – A permit issued under Sec. 17 shall be valid till the expiry of such period, not exceeding one year, as may be prescribed, from the date of issue thereof, or till the recruitment of the recruitment of the persons for whose recruitment such permit is issued is completed, whichever is earlier:

Provided that where the holder of the permit has been unable for sufficient cause, to complete such recruitment before the expiry of the prescribed period, the prescribed authority may, subject to rules made in this behalf, extend the period of validity of the permit by such further period of periods, not exceeding three months at a time.

19. Registration of certain permits. – Any permit obtained from a person authorized under sub-section (2) of Sec.15 shall not be valid unless a certified copy thereof is filed in the prescribed manner with the Protector-General of emigrants.

20. Cancellation or suspension of a permit. – The provisions of Sec.14 relating to cancellation and suspension of a certificate referred to there in shall, subject to such modification as may be necessary (including modifications for construing the references in that section to registering authority as references to competent authority under this chapter), apply for the cancellation or suspension of a permit.

21. Power to exempt. – The Central Government may, if satisfied that it is necessary or expedient so to do in the public interest, by notification exempt any class or classes of employers from the requirement of obtaining a permit under this chapter.