



**Government of Jammu and Kashmir**

**HANDBOOK OF INFORMATION**

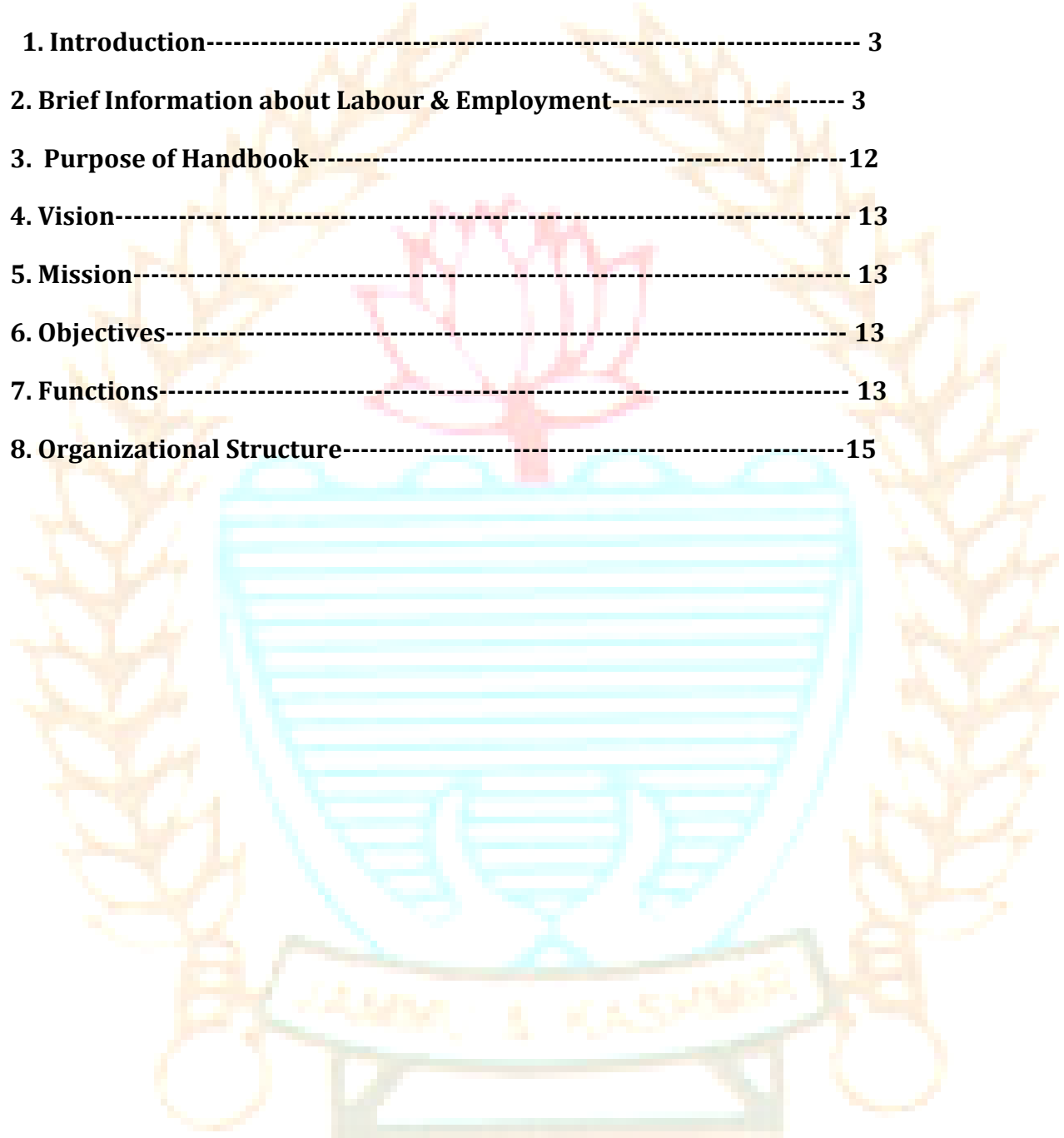
**UNDER SECTION 4 (b) of J&K RTI Act (2009)**

**LABOUR DEPARTMENT KARGIL**

**2014-15**

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## INFORMATION HANDBOOK UNDER RIGHT TO INFORMATION ACT, 2009

### Labour Department

#### I. Introduction

The J&K Right to Information Act, 2009 as passed by the Jammu and Kashmir State Legislature received the assent of the Governor on 20th March, 2009. The Act empowers the citizens of this state to have access to the Information held under the Control of Public Authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a State Information Commission and for matters connected therewith or incidental thereto. The objective of this handbook is to provide information to all the citizens regarding different Schemes, Plans and Functions/Duties being delivered by Labour Department.

#### II. Brief Information about Labour Department:

The State of Jammu and Kashmir is committed to work for the welfare of the labour class and empowerment of the working class so as to enable them to play their best possible role in the institution building of the state. Keeping these ideals in view the Jammu and Kashmir State has adopted 22 Central legislations related to the labour which take care of the regulatory mechanism for ensuring the best possible employer employee relationship and social security measures to improve the socio-economic conditions of the working class. These welfare measures include provident Fund, Medical Insurance, a package of welfare schemes for Building and other Construction workers, rehabilitation of rescued Child Labour and bonded labour, arbitration between employees and employers in case of a dispute. The State has also enacted three state legislations dealing with the regulation and welfare of the working class in the state. The state Government has also placed a well knit institutional mechanism to implement these legislations, through the state labour Department, Provident Fund organization, Employees State Insurance Corporation and Jammu and Kashmir Building and Other Construction workers welfare board. The primary responsibility of implementation of the legislation vests with the department of labour headed by labour Commissioner supported by the officers and staff at the divisional level as well as at the district level. The mandate of the department includes ensuring:

1. Compensation of workers for injury or death in course of employment or out of employment.
2. Payment of wages, gratuity, bonus, maternity benefits, health insurance and provident fund.
3. Settlement of disputes between employers and employees.
4. Health, safety and other measures of the workers in the organized sector.
5. Improving work conditions and ensuring safe and congenial atmosphere at workplace.

6. A special measure for the welfare Building and Other Construction workers
7. Regulating Trade unions by registration of trade union employees
8. Ensuring safety of workers by implementation of Factories Act
9. Abolition and prevention of Child Labour and Bonded Labour. The various labour laws under implementation in J&K and brief write up about them is enumerated as under:-

#### **A) Non-Revenue Acts:-**

##### **1. Workmen's Compensation Act, 1923**

- The Act provides for payment of compensation to worker in case of his/her accidental injury or to dependents in case of death while in employment.
- Deputy Labour Commissioner/Assistant Labour Commissioner concerned is notified as commissioner under this Act.
- The Assistant Labour Commissioner after due investigation of the claim issues an award where under the employer is directed to deposits the amount of compensation in the court which is latter on disbursed to the legal dependants of the deceased worker or worker himself as the case may be.

##### **2. Payment of Wages Act, 1936**

- The Act provides relief for a workman who is not paid wages in time or is paid less by the employer than that fixed under contract.
- It applies to the persons employed in any factory, either directly or through a contractor. He can lodge a claim before the authority under the Act (DLC/ALC) and get his grievances redressed.

##### **3. Payment of Gratuity Act, 1972:-**

- The Act provides that a workman who has put in minimum five years' service in factory/ establishment is entitled to payment of gratuity at the rate of 15 days wages for every year of service.
- ALC concern act as controlling authority to hear and decide the clams of Gratuity.
- It applies to every factory and every shop or establishment in which ten or more persons are employed.
- The formula to calculate gratuity, to be paid to the eligible workers working in factories/establishments is  $(\text{Last wages Drawn}) * (\text{Length of Service}) * (15/26)$ .

##### **4. Industrial Disputes Act-1947**

- The Act provides for machinery and procedure for investigation and settlement of Industrial Disputes.

- It is applicable to the industries carried on by or under the authority of State Govt.
- Any worker who has a grievance with his employer, conditions of employment or who has been terminated from service can apply to ALC concerned who is the conciliation officer under the Act. The conciliation officer can settle the case at his level and in case of failure he can refer the case to the Labour Court/ Industrial Tribunal through failure report to the Govt.

## **5. Minimum Wages Act-1948**

- The Act provides for fixation of minimum wages payable to skilled, semi-skilled and un-skilled workers employed in scheduled employment.
- The notification in this connection has been revised vide SRO 03 dated 04-01-2013. The minimum wages fixed vide SRO is Rs. 225, Rs. 175, Rs 150 and Rs 200 per day in respect of skilled, semiskilled and un-skilled workers and ministerial/supervisor/Accounts workers respectively.

## **6. Payment of Bonus Act 1965:-**

- The Act provides for payment of Bonus to the workmen from his employer minimum at 8.33% and maximum at 20% of his total yearly wages.
- It applies to every factory/establishment in which twenty or more persons are employed on any day during an accounting year.

## **7. Child Labour Act: 1986:-**

- The child Labour (P&R) Act 1986 puts total ban on engagement of child Labour below the age of 14 years in any hazardous process/occupation. The Act provides for regulation of employment of children in non-hazardous process/occupation.
- The Govt. has constituted District Level Advisory Boards vide Govt. order No. 16-Lab of 1997 dated 05-03-1997 for eradication of Child Labour. A monitoring cell in Labour Department has been constituted vide Govt. order No. 18-Lab of 1997 dated 05-03-1997 and a State Level Monitoring Committee under the chairmanship of Hon'ble Minister of State for Labour & Employment vide Govt. order No. 33-Lab of 1997 dated 29-04-1997 to ensure eradication of Child Labour.
- The Govt. has issued SRO 94 dated 06-03-1997 giving inspection powers to Block Development Officers, Tehsildars, Village Level Workers, Asstt. Labour Commissioners, Inspector of Factories and Labour Officers to ensure implementation of various provision of Child Labour (Prohibition and Regulation) Act 1986. The committees are headed by the Dy. Commissioner of the district. ☐

District Level Inspection teams have been constituted vide SRO 418 dated 23-09-1971 to ensure eradication Child Labour.

- District Level Child Labour Rehabilitation-Cum-Welfare Fund is also in place in each District created vide Govt. Order No. 17-Lab of 1997 dated 05-03-1997 to provide financial assistance to families of children withdrawn from hazardous occupation/processes. The fund is headed by the Dy. Commissioner of the district.
- In conduct rules the state Govt. has also prohibited Govt. servants from employing children below the age of 14 years as domestic servants as vide SRO 410 dated 17-12-1997. Anybody doing it shall be treated an act of misconduct attracting major penalty.
- There, is however, a threat from migratory Labour who come from outside states. These are poor and willingly let their children work in Dhabas, at construction places, as house hold servants etc. This is a challenge and the department has been requesting the general public through press clips in news papers/ pamphlets and other means to help stop this menace. A mechanism of weekly feedback stands already devised by the department with detailed instructions/guidelines that are periodically reviewed.
- The department is issuing public awareness/Adds. Columns are being got published in news papers and talk shows conducted through Radio /Doordarshan. Awareness camps through pamphlet/signboards were conducted in recent past for the proper implementation of various provisions of Child Labour (Prohibition and Regulation) Act 1986.

#### **8. Maternity Benefit Act:-**

- The Maternity benefit Act provides for the payment of maternity to the married women employed in any factories/Establishments.
- The benefit is given in the shape of leave with wages for a period for not exceeding six weeks before delivery and 6 weeks after delivery.
- The Labour Officers are designated as inspector in the Act.

#### **9. Industrial Employment Standing orders Act 1946:-**

- The Industrial Employment standing orders Act 1946 require the employers in industrial establishment to formally define conditions of employment under them.
- The Act extends to whole of the country including Jammu and Kashmir.
- In the state the Deputy Labour Commissioner, Jammu/Kashmir have being notified as certifying officers for their respective divisions.

#### **10. Boiler Act:-**

- In order ensure health and safety in every factory, a piece of legislation consolidating and amending the laws relating to “steam Boiler” viz Boiler Act was enacted by the parliament of India.
- This Act extends to the whole of India including state of J&K.
- The Act is being implemented in the state though Inspectorate of Factories Jammu/Kashmir under direct supervisions of the Chief Engineer, Mechanical) of the State.

### **11. Equal Remuneration Act 1976:-**

- This Act provides for payment of equal remuneration to men and women workers and for the prevention of discrimination on the ground of sex, against women in the matter of employment and for matter connected therewith or incidental thereto.

### **12. Working Journalists and other newspaper employee (conditions of service) and Misc provisions Act 1955:-**

- In order to regulate the working conditions such as retrenchment, payment of gratuity, nomination, hours of work, leave, fixation or revision of rates of wages of working journalists and other persons employed in newspaper establishments, an Act called the Working Journalists and other Newspaper Employees (conditions of service) and Misc provisions Act 1955 was enacted by the parliament.

### **13. J&K Industrial Establishment (National & Festival) Holidays Act 1947:**

- This Act has been enacted by the State Legislature in April 1947 in order to provide for grant of National & Festival Holidays to persons employed in Industrial Establishments in the State.
- The detailed breakup of National holidays is as under:
  1. Republic Day
  2. Martyrs Day
  - 3 Independence Day
  4. Gandhi Jayanti

Besides this, four festival holidays are given to the workers in consultation with the employers.

### **14. Employees provident Fund Act 1952:**



- The Act provides old age and social security benefits in the shape of contributory provident funds to working class having non pensionable services.
- The main functions of the organization are:
  - a) Implementation of J&K Employees Provident Funds Act coverage of new units and employees under the said Act, both in public and private sector establishments.
  - b) Maintenance of amounts of C.P. Fund advance and final payments to the subscribers.
  - c) Release/Settlement of C.P. Fund advance and final payment to the subscribers.

## **15. THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976**

- The Act provides for a total ban on any kind of bonded labour system and by virtue of this act all labourers working under the system stands freed and discharged for all obligations to render any sort of bonded labour.
- The implementation of the Act with regard to release of bonded labourers lies with the District Magistrate concerned as per Sections 11 and 12 of the Act.
- As per Section 13 of the Act every State Government is obliged to constitute Vigilance Committees in each district and each sub-division, as the case may be. The role of the Vigilance Committee is to advise the District Magistrate or any officer authorized by him to ensure that the provisions of the Act get implemented in their true spirit.
- It is to also coordinate the functions of rural banks and co-operative societies to make available to the freed labourers adequate credit to enable them to make a fresh start in life and avoid coming into the grooves of bonded labour system again.
- Among its various other functions the primary ones are to defend any suit instituted against a freed-bonded labourer as also to make a survey as to whether there is any offence of which cognizance ought to be taken under the Act.
- The offence of forcing anybody to render bonded labour is punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.
- The Act bars the trial of offences under the Act by the judiciary and obliges the State Government to confer on an Executive Magistrate the powers of a judicial magistrate of the first class or second class, who, on conferment of such powers, shall try the offences summarily.



## **B) Revenue Acts:-**

### **1. Motor Transport Workers Act-1961**

- The Act provides for welfare of Motor Transport Workers and regulation of conditions of their services i,e welfare, health and hours of work etc.
- It applies to every motor transport undertaking employing five or more motor transport workers.

### **2. Trade Union Act-1926**

- The Act provides for registration of Unions of employees working in Industries, organized and unorganized sector (Except Govt. Departments).
- 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 Act with respect to registration, apply for registration of the Trade Union under this Act.

### **3. Contract Labour (Regulation and Abolition) Act-1970**

- The Act provides for regulation of employment and conditions of services of the contract Labour in establishment in which twenty or more workmen are employed.
- It also applies to the contractor who employs twenty or more workers. The given circumstances and the matter connected thereto.

### **4. Shops and Establishment Act-1966.**

- The Act provides to regulate working conditions of employees working in shops and related establishments, their leave, wages, hours of work etc.
- It also regulates opening, closing and weekly off days of shops etc.
- Labour Inspector has been declared as Inspector under this Act.
- Under this Act owner/employer has to register his shop/establishment by concern inspector of the area and the fee structure for registration ranges from Rs 50 to 2000 depending upon the no. workers employed and nature of the work of shop/establishment.

### **5. Factory Act 1948:-**

- It provides for registration of factories by the Chief Inspector of Factories (Labour Commissioner).
- Factories running on power with 10 or more workers and non power units with 20 workers are to be registered.

## **6. Inter State Migrant Workmen (Regulation of Employment and Conditions of Service) Act 1979.**

- The Act provides to regulate the employment of inter-state migrant workmen and to provide for their conditions of service and for matters connected therewith.
- The Act applies to every establishment in which 5 or more Inter State Workmen are employed.

## **7. Building and Other Construction Workers (RE&CS) Act, 1996 and Building and Other Construction Workers Welfare Cess Act, 1996:-**

- The Jammu and Kashmir State has adopted the Building and Other Construction Workers Act, w.e.f. 2006.
- The Act looks after the welfare of the workers under the unorganized sector numbering several lacs across the State. However, the implementation of the Act on ground could not take place as the statutory Construction Workers Welfare Board was constituted in 2007 but remained non functional till 2010. It is during 2010 the Construction Workers Welfare Board was made fully functional.
- During 2011 four meetings of the Board were held and number of welfare Schemes approved i.e:-

1. Relief for Death. Rs. 200000/-
2. Relief for temporary disability Rs. 10000/-
3. Relief for permanent disability Rs. 75000/-
4. Immediate Assistance in case of Accident Rs. 5000/-
5. Educational Scholarship up to two children Rs. 2500 to 50000/-
6. Marriage Assistance Rs. 25000/-
7. Maternity Benefits (for women worker only) Rs. 5000/-
8. Funeral Expenses Rs. 5000/-
9. Chronic Diseases up to Rs. 100000/-

- The above benefits have started percolating down to beneficiaries under this scheme.
- Despite much difficulties on account of staff/manpower in the Department registration of workers have been started from 2011.
- The Law provides for the levy and collection of Cess on the cost of construction incurred by the employers and augmenting the resources of the Building and Other

Construction Workers Welfare Board constituted by the State Govt. under the Building and Other Construction Workers ( Regulation of employment and conditions of services) Act 1996.

- The Cess is collected at 1% of the cost of construction excepting cost of land and compensation if any paid. The Cess is deposited by the employers directly with the Board or through Cess collectors (ALCs) and transferred to the Board.

### **8. Building and other Construction Workers Act-1996:-**

- The Building and Other Construction Workers (Regulation of employment and conditions of services Act) 1996 provides for registration of contractors and that of building workers.
- The Act ensures fixed hours for normal working, safety, health care of construction workers, fixing responsibility on employers. Besides, the registered construction workers under the BOCW (RE&CS) Acts become beneficiaries of the various welfare schemes of J&K BOCW welfare board.

### **III. Purpose of Hand Book:**

This Hand book has been prepared in accordance with Section 4(1)(b) of the Jammu & Kashmir Right to Information Act, 2009 to acquaint the public about the profile of Labour and Employment Department as mandated in the Act.

This hand book is expected to help Citizens in general, unemployed youth and people dealing with labour issues in particular about the welfare schemes and programmes launched by the department.

### **IV. Vision:**

Ensuring effective labour welfare, facilitating conducive environment for harmonious relationship between employers and employees, increasing productivity and enhancing employability and Self employment.

### **V. Mission:**

Ensuring adequate better social security for work force, settlement of disputes under law, preventing child labour as per statutes, enhancing employability, in both the public and Private sector, through effective Employment services and creating opportunities of self-employment.

### **VI. Objectives:**

1. Enforcement of labour laws

## 2. Implementation of JKSES

3. Awareness generation about labour laws, employment & welfare schemes

4. Welfare of workers in organized and unorganized sector

5. Facilitating employment opportunities 6. Ensuring transparency and efficiency

## **VII. Functions:**

- i) Responsible for overall control of the matters related to labour welfare and generation of employment in the organize and unorganized sector.
- ii) Nodal department for implementation of employment generation state plan schemes and acts related to employer employee relationship in the organized as well as unorganized sector.
- iii) Ensuring the implementation of schemes and programmers run by the department so that the benefits reach to the targeted beneficiaries.

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- ii) Nodal department for implementation of employment generation state plan schemes and acts related to employer employee relationship in the organized as well as unorganized sector.
- iii) Ensuring the implementation of schemes and programmes run by the department so that the benefits reach to the targeted beneficiaries.
- iv) Responsible for ensuring that the awareness is generated in the masses about labour laws, employment opportunities, self employment schemes and labour welfare schemes
- v) Ensuring transparency and efficiency at all levels in the administration of labor laws and Employment Generation schemes

### **❖ Jammu & Kashmir Building and Other Construction Workers Welfare Board :**

The board has been constituted under Sub Section (3) of section 18 of The Building and other Construction workers (Regulation of Employment and Conditions of Service) Act 1996 for the period of 3 years vide SRO 439 Dated 1st December 2010.

### **❖ Details in respect of the information available to or held by it reduced in and electronic form.**

All relevant information is hosted on the website [www.jklabouremp.nic.in](http://www.jklabouremp.nic.in) of the Commission. The particulars of facilities available to citizens for obtaining information including the working hours of a library or reading room if maintained for public use.

No library facility is available for the general public. However, the Department and Directorates under its control, have important books and references. It contains all relevant books on Rules , Regulations etc required by the employees in discharge of their functions. General information is hosted on the Website <http://www.jklabouremp.nic.in> to benefit the citizens.

## Revenue released during the last 3 years

2012-13	Rs :- 3.83
2013-14	Rs:-5.025
2014-15	Rs:-5.60

### **Infrastructure:-**

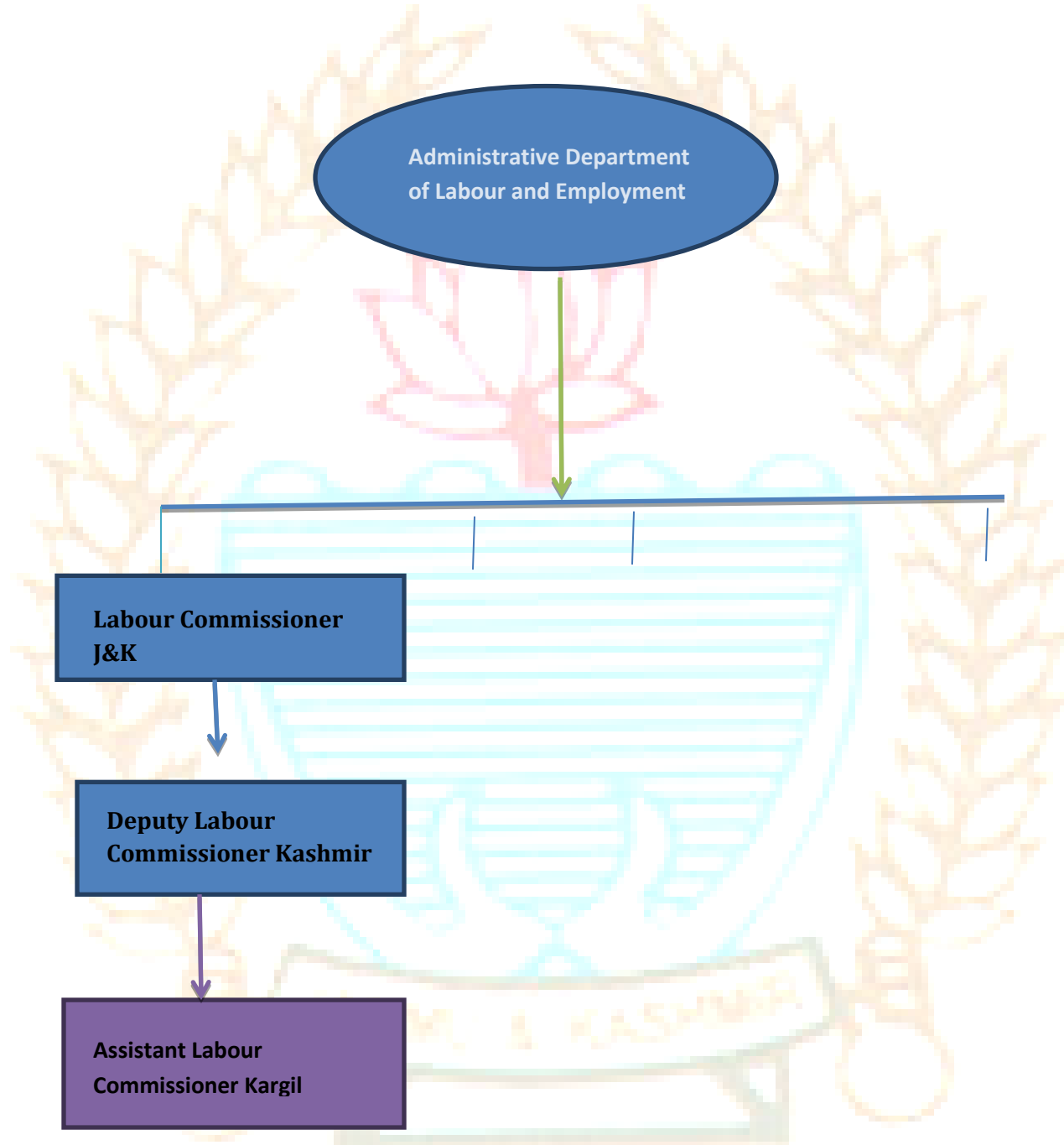
1. Labour Sarai kargil town.
2. Labour Sarai Padum Zanskar.

### **Who is Who**

S. No	Name of Officer/Official	Designation	E-mail id	number
1.	Sh.Juma Khan	Assistant Labour Commissioner	-	01985232302
2.	Sh.Abazar	Labour Officer	-	-
3	Smt. Amina Khatoon	Labour Inspector	-	-



## Organizational Structure of Labour Department



❖ .The name designation and other particulars of the PIOs.APIO,

**Designation Name**

**First Appellate Authority**

**Sh.Juma Khan  
Assistant Labour Commissioner  
Mob Ph No**

**Public Information Officer(PIO)**

**Sh. Nissar Ali  
Labour Officer  
Mob Ph No :-**

**Assistant Public Information  
Officer(APIO)**

**Sh. Nissar Hussain  
Senior Assistant  
Mob No:**

