

REFERENCE

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OF THE

**WORKING GROUP ON
LABOUR ADMINISTRATION
(Eastern Region)**



NATIONAL COMMISSION ON LABOUR

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REPORT
OF THE
WORKING GROUP ON
LABOUR ADMINISTRATION
(Eastern Region)

NATIONAL RESOURCE CENTRE OF LABOUR
INFORMATION & DOCUMENTATION

V.V. GIRI N.L.I.

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FOREWORD

The National Commission on Labour appointed the Regional Working Group on Labour Administration for Eastern Region consisting of States of West Bengal, Bihar, Assam and Orissa in its attempt to understand the changes in Labour Administration in this region since Independence. This was one of the five Groups set up for regional study of Labour Administration. The group was required to analyse available information and project its thinking on Labour Administration for the years to come taking into account the possible changes in the economy of the country.

The views expressed in the report are the views of the Working Group. In examining them for framing its final recommendations, the Commission will attach due importance to these views coming as they do from knowledgeable persons connected with the Labour Administration. In the meanwhile, the report is being published by the Commission with a view to seeking comments on it from persons/institutions interested in the subject.

The Commission is grateful to the Chairmen and Members of the Working Group individually for completing their work within the time limit fixed for them. The Commission is also grateful to all persons/institutions who may have helped the Working Group in reaching conclusions.

P. B. Gajendragadkar
Chairman

National Commission on Labour,
D-27, South Extension, Part II,
New Delhi-16.

MEMBERS

1. Shri B.K. Chatterjee,
Labour Commissioner,
Government of West Bengal, Calcutta
2. Shri S.N. Roy,
Additional Labour Commissioner,
Government of West Bengal,
Calcutta.
3. Shri Ishwari Prasad,
Labour Commissioner,
Government of Bihar, Patna.
4. Shri U.N. Sahu,
Labour Commissioner,
Government of Orissa, Bhubaneshwar
5. Shri H.P. Duara,
Labour Commissioner,
Government of Assam, Shillong-1.
6. Shri S.N. Saigal,
Joint Labour Commissioner,
Government of Bihar, Patna.

P. R. Chandraiah
Chairman

National Commission on Labour,
D-27, South Extension, Part II,
New Delhi-16.

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PREAMBLE

The Working Group on Labour Administration (Eastern Region), covering the States of West Bengal, Bihar, Orissa and Assam, was constituted in terms of Memorandum No. 3 (49)/4/NCL, dated the 3rd January, 1968, of the National Commission on Labour, reproduced below :—

“The National Commission on Labour appoints the following persons to constitute the Regional Working Group on Labour Administration (Eastern Region)—areas covered by the States of West Bengal, Bihar, Orissa and Assam :

1. Shri S.N. Roy,
Joint Labour Commissioner,
Government of West Bengal,
Calcutta. Member
2. Shri Ishwari Prasad,
Labour Commissioner,
Government of Bihar, Patna. Member
3. Shri U.N. Sahu,
Labour Commissioner,
Government of Orissa, Bhubaneswar. Member
4. Shri H.P. Duara,
Labour Commissioner,
Government of Assam, Shillong. Member
5. Shri S.N. Saigal,
Joint Labour Commissioner,
Government of Bihar, Patna. Member-Secretary

The Working Group will hold one meeting in each of the Headquarters of the States to be covered by the Working Group. The Labour Secretary of the State, where the meeting is held, will preside over the meeting.

The Working Group will examine the paper prepared by the Commission on the subject of Labour Administration, covering the present administrative set-up for implementation of labour laws, its effectiveness and related problems. It will add to/amend/modify or reject the conclusions reached in the light of experience in the States in the Eastern Region. The Working Group will submit its report within 3 months.”

2. Later, the Commission by its Memorandum No. 3 (49)/68/NCL, dated the 18th January, 1968, was pleased to appoint Shri S.N. Saigal, Joint Commissioner of Labour, Government of Bihar, Patna (now Deputy Commissioner, Ranchi) as Member-Secretary of the Working Group.

3. Shri B.K. Chatterjee, Labour Commissioner, West Bengal, was appointed as a Member of the Working Group, vide Memorandum No. 3 (49)/4/NCL, dated the 4th March, 1968, of the Commission.

4. The Working Group held its meetings in the various States covered in the Eastern Region on the dates and places shown below :--

Name of State	Place of meeting	Date	Meeting presided over by
1	2	3	4
1. Orissa	Puri	30.3.68	Shri G.N. Das, I.A.S., Labour Secretary, Government of Orissa.
2. Assam	Shillong	8.5.68	Shri S.J. Das, I.A.S., Labour Secretary, Government of Assam.
3. West Bengal	Darjeeling	3.6.68 & 4.6.68.	Shri B.K. Chatterjee, I.A.S.* Labour Commissioner, West Bengal.
4. Bihar	Rajgir	9.11.68	Shri K.A. Ramasubra- manian, I.A.S., Labour Secretary, Government of Bihar.

5. In accordance with the recommendation of the Working Group in its third meeting held at Darjeeling on the 3rd and 4th June, 1968, Secretaries of all the Member-States were invited to attend the last meeting in the current series, so that the Group might have the benefit of their advice while finalising its report.

6. In its meeting held at Puri on the 30th March, 1968, the Working Group decided upon the procedure to be followed for conducting its deliberations, keeping in view its terms of

* The meeting held at Darjeeling could not be presided over by Shri M.M. Kushari, I.A.S., Labour Secretary, West Bengal, Calcutta, due to his indisposition.

reference. The Note received from the Commission gives, in a fairly detailed manner, the back-ground of legislation, voluntary and institutional arrangements, the present administrative set-up, both at the Centre and the States, for the implementation of labour laws, the special problems facing labour administration and the effectiveness with which they are tackled. The main issues which merit special consideration of the Working Group have been underlined in the Note. In brief, the scope of the Note is confined to those aspects of labour administration which relate to the implementation and enforcement of the existing legislation and other voluntary arrangements. Thus, matters like consideration of problems which arise out of lacunae in the laws themselves or solutions which require amendment of the existing laws, have been excluded from the purview of the Working Group. Similarly, problems relating to delays in the labour tribunals, their causes and remedies, the details of the functioning of Factory Inspectorates and autonomous corporations set up to administer specific legislation (such as Employees' State Insurance Corporation, Office of the Central Provident Fund Commissioner, etc.) have also been excluded from the scope of the Working Group. Therefore, the task of the Group was mainly two-fold :

(a) to consider the Note of the Commission and to add to/amend/modify/reject the conclusions reached therein, in the light of experience in the region ; and

(b) to fill in the gaps in the Note on some of the points, such as the present administrative set up in each State, where the Commission's information may not be complete or up-to-date.

7. The Working Group decided that, while taking the Commission's Note on Labour Administration as the basis for discussions, it would mainly concentrate on the structure of Labour Administration and other related problems of the State where the meeting of the Group was being held.

8. The Working Group is grateful to the Labour Secretaries of the Member-States for their active co-operation, assistance and guidance to the Working Group in its deliberations.

9. The Working Group also wishes to place on record its appreciation to the Member-Secretary, Shri S.N. Saigal, for taking keen interest in the Group's deliberations and for drafting the Report.

I. LABOUR ADMINISTRATION IN INDIA*

In recognition of its duty to protect the working class and promote its welfare, a blueprint on labour policy—A Five Year Programme for Labour—was drawn up in 1946 when the interim National Government came to power at the Centre. In the course of a debate in the Central Legislative Assembly in 1946, Shri Jagjivan Ram, the Member in charge of Labour, revealed that Government had formulated a plan for bringing about essential reforms in the interest of the working classes of India. The main features of the proposed programme were :

“Statutory prescription of minimum wages in sweated industries and occupations and in agriculture.

“Promotion of ‘fair wage’ agreements.

“Steps to secure for workers in plantations a living wage.

“Reduction in the hours of work in mines to bring the working hours in line with the hours of work in factories which have been recently reduced from 54 to 48 a week.

“Legislation to regulate hours of work, spread-over, weekly rest periods and holidays with pay for other classes of workers not now subject to regulation, e.g. those employed in shops and commercial undertakings, road transport services, docks and municipal labour.

“Overhaul of the Factories Act with a view to the prescription and enforcement of right standards in regard to lighting, ventilation, safety, health and welfare of workers. Conditions of work are to be improved, particularly in unorganised industries and work places, to which the present Factories Act does not apply.

“Revision of the Mines Act to bring about similar improvement in the working conditions in mines.

“Organisation of industrial training and apprenticeship schemes on a large scale with a view to improving the productive and earning capacity of workers and enabling them to qualify for promotions to higher grades.

“Provision of adequate housing for workers to the extent of the resources, both of man-power and materials, that can be made available for this service.

* This Chapter comprises the Text of the Note on Labour Administration prepared by the National Commission on Labour and referred to in the Preamble.

“Steps to secure for workers in plantations, mining and other categories provision of housing.

“Organisation of the Health Insurance Scheme, applicable to factory workers to start with, for the provision of medical treatment and monetary relief during sickness, maternity benefit on an extended scale, medical treatment in the case of disablement and the substitution of pensions during periods of disablement and to dependents, in case of death, in place of the present lump sum payments.

“Revision of the Workmen’s Compensation Act with a view to extending to other classes of workers the benefit provided for under the Health Insurance Scheme in respect of disablement and dependent benefits.

“A central law for maternity benefits to secure for other than factory workers the extended scale of benefits provided under the Health Insurance Scheme.

“Extension to other classes of workers the right, within specified limits, to leave with allowance during periods of sickness.

“Provision of creches and canteens.

“Welfare of the coal mining labour and welfare of the mica mining labour.

“Strengthening of the inspection staff and the Inspectorate of Mines¹.

2. As would be seen from subsequent events, many elements of the programme were given legislative support in the years 1947 to 1952. The Constituent Assembly which was set up soon after Independence took note of the Plan in its deliberations. The Constitution finally adopted, contained several articles which reflect the general desire of the community to stand by the working class. The Directive Principles of State Policy stated in the Constitution which have a bearing on Labour, are contained in the articles reproduced below :

“39. The State shall, in particular, direct its policy towards securing —

(d) that there is equal pay for equal work for both men and women ;

1. Indian Labour Gazette—April, 1947—PP—461-62.

- (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter a vocation unsuited to their age or strength ;
- (f) that childhood and youth are protected against exploitation and against moral and material abandonment.

“41. The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

“42. The State shall make provision for securing just and humane conditions of work and for maternity relief.

“43. The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities, and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.”

3. Under the Constitution, the legislative powers in different fields of Government activity are shared by the Central and State Governments, in accordance with the lists which form a part of the Constitution—the Union List, the Concurrent List and the State List. The Parliament has exclusive powers to make laws on matters enumerated in Union List. The State Legislatures have powers to legislate for the State or any part thereof on any matter enumerated in the State List. Both the Parliament and the State Legislatures have powers to make laws with respect to matters enumerated in the Concurrent List. To avoid a possible conflict, certain safeguards are provided for subjects on which both Centre and States can legislate.¹ Labour is a subject which is included in the Concurrent List.

II

4. The Legislative support for the programme referred to in para 2 above was given partly by (i) strengthening

1. In actual practice, so far as labour is concerned, the Labour Ministers' Conferences and the Tripartite Forums like the Indian Labour Conference, the Standing Labour Committee and Industrial Committees are used to iron out difficulties.

the then existing legislation through suitable amendments, (ii) overhauling some of it and (iii) supplementing it by new statutes where none had existed before. The important pieces of labour legislation which evolved through all these processes could be divided into the following main groups :—

- (i) *Legislation about employment & training* such as Dock Workers (Regulation of employment) Act, 1948 (some of its provisions fall under (ii) below), Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959, Apprentices Act, 1961, Tea District Emigrant Labour Act, 1932 etc.
- (ii) *Legislation on working conditions* :—This covers the Factories Act, 1948, the Plantations Labour Act, 1951, the Mines Act, 1952, the Motor Transport Workers' Act, 1961 and legislation relating to workers in shops and commercial establishments and legislation relating to safety of workers, like Indian Dock Labourers Act, 1934. There have been Acts like the Children (Pledging of Labour) Act, 1933 ; Employment of Children Act, 1938 ; the Madras Bidi Industrial Premises (Regulation of conditions of work) Act, 1958 ; the Kerala Bidi and Cigar Industrial Premises (Regulation of conditions of work) Act, 1961. etc.
- (iii) *Legislation on labour-management relations* :—This covers the Indian Trade Unions Act, 1926; the Industrial Employment (Standing Orders) Act, 1946; the Industrial Disputes Act, 1947 and legislation enacted in some States like the Bombay Industrial Relations Act, 1946; the U. P. Industrial Disputes Act, 1947; the Madhya Pradesh Industrial Relations Act, 1960 and so on.
- (iv) *Legislation on wages, earnings and social security* which covers the Payment of Wages Act, 1935 ; the Employees' State Insurance Act, 1948 ; the Coal Mines Provident Fund and Bonus Act, 1948 ; the Minimum Wages Act, 1948 ; the Employees' Provident Fund Act, 1952 ; the Assam Tea Plantations Provident Fund Scheme & Act, 1955 ; Working Journalists (Conditions of Service and Miscellaneous Provisions) Act ; The Payment of Bonus Act, 1965 ; Workmen's Compensation Act and the Maternity Benefit Acts, Central and States ;

- (v) *Legislation on welfare* like the Mica Mines Labour Welfare Fund Act, 1946 ; the Coal Mines Labour Welfare Fund Act, 1947 ; U. P. Sugar and Power Alcohol Industries Labour Welfare and Development Fund Act, 1950 ; Bombay Labour Welfare Fund Act, 1953 ; the Assam Tea Plantation Employees' Welfare Fund Act, 1959 ; Iron Ore Mines Labour Welfare Cess Act, 1961.
- (vi) *Miscellaneous legislation* :—The Industrial Statistics Act, 1942, the Collection of Statistics Act, 1953, Industrial Development and Regulation Act, 1951, the Companies Act, 1954 and so on.

5. The legislation mentioned above is illustrative and not exhaustive. It is possible that many State Acts have not figured in the above list. *They may be shown by the respective States under different heads.* Since the main objects of the pieces of legislation cited above are known, it is unnecessary to provide a gist of it against each Act. The arrangement followed in presenting the legislative framework is more or less the same as is adopted in the Commission's questionnaire. It is possible that some pieces of legislation cover more topics than one from among the headings under which the entire ground is covered. They have, therefore, been classified according to their dominant coverage.

6. In addition to this labour code, voluntary arrangements which are evolved in tripartite discussions have added to the benefits which are expected to accrue to labour. In this category fall the recommendations of the Indian Labour Conference, the Standing Labour Committee and Industrial Committees. The benefits which workers got out of the Wage Board awards so far owe their origin to the tripartite decision that the unanimous recommendations of Wage Boards will be given effect to. The Code of Discipline, which has given recognition to some unions, provides for the setting up of a grievance procedure, and generally promotes constructive co-operation has also been the result of a tripartite agreement. The arrangements for housing in plantations were evolved out of an agreement in the Industrial Committee on Plantations. The introduction of the workers' education scheme, the setting up of fair price shops in industrial establishments and the agreement on guidelines for introduction of rationalisation are some other important matters which have emerged out of tripartite agreements.

III

7. These and other legislative measures/tripartite decisions continue to provide the main structure for protecting workers and improving their working and living conditions. Many employers and independent observers consider that this amounts to a "plethora" of labour legislation. Some Governmental pronouncements also support this view. Workers, on the other hand, feel that the legislative protection could be improved further by extending the coverage and deepening its operations. Without entering into this controversy, it could be said that in terms of the range and content of legislation, the Indian labour law framework could compare favourably with what is available for workers in many advanced countries. It is, however, possible to argue that if labour policy had in the course of years helped the development of strong unions, part of the legislation would have been redundant. Accepting the statement for what it is worth, one does feel that a just and efficient administration of the provisions of labour laws would go a long way in improving the conditions of labour and establishing a climate for improved labour-management relations.¹ If such administration had been secured, some of the difficulties which labour is currently facing may not have been there; it would have also gone some way in the direction of reducing the clamour for more legislation. It is true that a very large area of labour legislation lends itself to a co-operative effort on the part of labour and management, which could help public administration in its functions of enforcing legislation. This co-operative effort has, by and large, been lacking in our context.² The problem, therefore, is to find out ways as to how labour administration could be made to yield better results to those for whose benefit laws have been enacted.

8. The administrative arrangements envisaged for implementing the legislation enacted by the Parliament/State Legislatures and decisions taken by tripartite bodies at the Centre/States fall broadly under the following agencies :—

- (i) The Central Government;
- (ii) The State Governments;
- (iii) Local Bodies; and
- (iv) Statutory Corporations.

9. In the classification shown in paragraph 4, the Dock Labour (Conditions of Employment) Act is administered by a

1.2. This should not be taken to mean that the Commission has reached any conclusion on the point. It is merely an expression of what is being stated before the Commission in oral evidence.

statutory Board. The Employment Exchanges (Notification of Vacancies) Act and the Apprenticeship Act are administered by State Governments though there is active effort at laying down standards and co-ordination of activities by the Centre. Under working conditions, the Centre has assumed responsibility for the Mines Act, the Indian Dock Labourers' Act and other similar Acts. The States administer the Factories Act, the Plantations Labour Act, the Motor Transport Workers' Act, the Employment of Children Act and other protective legislation passed by State Legislatures. Local Bodies in most cases are entrusted with the administration of the Shops and Commercial Establishments Act. Legislation on labour-management relations again has been the Centre's responsibility in regard to industries specifically mentioned in the Industrial Disputes Act, 1947. The Indian Trade Unions Act, the Industrial Employment (Standing Orders) Act and a major part of the Industrial Disputes Act is again administered by the State Governments, apart from the legislation passed by the State Legislature for improving the labour management relations in the State. Legislation on wages, earnings and social security provides a varying pattern for its administration. For industries for which Centre is the appropriate Government for labour management relations, the Payment of Wages Act and the Payment of Bonus Act are its responsibility. So is the administration of Minimum Wages Act in relation to the scheduled industries which are under the supervision of the Centre. For a larger area under all these pieces of legislation, however, implementing arrangements have to be made by State Governments. Statutory Corporations administer the Employees' State Insurance Act, the Employees' Provident Fund Act and the Coal Mines Provident Fund and Bonus Act. The legislation on welfare is administered partly by organisations specially created by the Central or State Governments by respective statutes. Administrative Departments also share this responsibility in many cases. For instance, the funds created for the benefit of workers in mica, coal, iron ore and manganese mines etc., are utilised on the advice of Committees specially set up for the purpose and so are the arrangements under State Governments for the administration of labour welfare, where similar funds have been built up under a statute. Miscellaneous legislation is mainly the responsibility of the Central and/or State Governments.

IV

10. The passing of legislation and accepting certain

resolves in bipartite or tri-partite meetings and parcelling them out to different agencies for implementation can hardly provide the desired benefit in real terms to the working class if the spirit of legislation is inadequately understood and the resolves accepted at the national level do not reach the units where they are expected to operate. This fact has been recognised from time to time in the reports presented to Parliament by the Central Government and presumably also in similar reports presented to the respective State Legislatures. The Planning Commission in presenting its Plans to the country has emphasised this crucial aspect in almost every report. These statements require to be reviewed.

11. The First Plan, while laying down the framework of labour policy, referred specifically to the administrative aspects of enforcement and implementation. The Plan called for proper equipment and training of supervisory staff, the technicians and labour welfare officers and a review by joint committees at various levels of "developments in industry and working conditions and other matters of common interest."¹ It recommended the appointment of standing conciliation boards for cases involving major issues² and stressed the need of employing sanctions for securing due observance of awards/decisions of the tribunals.³ On working conditions the First Plan stated :

"In order to get the best out of a worker in the matter of production, working conditions require to be improved to a large extent. The Factories Act, 1948, the Indian Mines Act, the Plantations Labour Act, 1951 and the proposed Central legislation for regulating conditions of work in shops, establishments and motor transport services, have this common object and are sufficient for the purpose. The emphasis in the next five years should, therefore, be on the administrative measures needed for the implementation of such legislation."⁴

The Plan then gives details of the steps to be taken for improving conditions in factories and plantations. No mention was made about the mines, since it was presumed that what was said for factories would apply *mutatis mutandis* to mines also.

12. The Second Plan in commenting generally on the operation of its predecessor showed satisfaction about the changes which took place in labour conditions and in the process gave credit to employers and workers in this respect.

1.	First Five Year Plan	- page	576
2.	" " " "	- page	578
3.	" " " "	- page	579
4.	" " " "	- page	586

While taking note of low industrial unrest it went on to state :

“Much of what has been said in regard to labour policy in the First Five Year Plan holds good as a basis for the future. However, in the light of the socialist pattern of society, within which setting the Second Five Year Plan has been framed, suitable alterations in labour policy require to be made.”¹

At the same time it brought to surface somewhat inadequate implementation and enforcement of awards and agreements. It commented on the absence of provision for enforcing compliance of directives contained in awards other than those involving financial recoveries. Reinstatement of an employee or provision of an amenity awarded by a tribunal could be flouted by the employer :

“The only remedy against employer in such cases is to prosecute him under the Industrial Disputes Act, 1947, but this remedy is ineffective as the maximum punishment is only Rs. 200/- for the first offence and Rs. 500/- for subsequent ones.”²

Thus while the approach in the First Plan was on persuasion, the Second talked of deterrent penalties. This change in approach was probably, because, though improvement did take place in working and living conditions of labour between 1951 and 1956 partly as a result of increasing consciousness among workers, favourable price situation and not too difficult an employment situation and partly because of enlarging the base of labour legislation, implementation was not as effective as it should have been. Many useful suggestions were made in the First Plan for giving a social content to the requirements of law in the process of implementation. It would appear that this hope of planners could also not be fulfilled during the period the plan was operative.

13. When the new Government took power after the second general election in 1957, the Minister for Planning, Labour and Employment made a statement to the effect that policy of his Government would be oriented to implementing adequately the legislation which has been already passed and avoiding as far as possible passing new legislation. In his inaugural address at the 15th Indian Labour Conference, which followed shortly and which recommended a package deal for workers, the Labour Minister referred to the growing indiscipline in industry, the cause for which could be traced to “the

1. Second Five Year Plan - page 572.

2. „ „ „ „ - page 575.

sins of omission and commission of the management concerned.”¹ In the meeting of the Standing Labour Committee, which followed, the Minister reiterated the emphasis on implementation; the committee recommended the setting up of implementation and evaluation cells in different States to supplement the work of a similar cell proposed to be set up at the Centre.² Code of Discipline was also hammered out in the meanwhile to its final shape through tripartite discussions. And yet as this constructive task was being undertaken, industrial unrest was showing a marked rise.

14. About the end of 1959 the Code of Discipline, as adopted by the central organisations of employers and workers, was debated on various platforms interested in finding out ways for improving industrial relations. Implementation and Evaluation Cells were set up at the centre and in a number of States. This machinery consists of an Evaluation and Implementation Division and a Tripartite Implementation Committee at the Centre and Evaluation and Implementation Committees in the States. The important functions of the E and I Committee are to examine the extent of the implementation of the various laws, agreements and awards, to fix responsibility in cases of their violations, to consider cases for out-of-court settlements, to review the working of the Code of Discipline and to maintain a two-way exchange of experience between State level Committees and the Central Committee. While the functions as envisaged for the cells were wider, in its actual operation, mainly because of complaints about non-observance of the Code, the cells directed their activities more to see that the Code was implemented in its proper spirit. It is possible that this emphasis on the progress of the Code was mainly because under the Code any case of non-implementation could be taken up for discussion. Whatever the reasons the general impression was that the Implementation and Evaluation Machinery was meant only for the supervision of the Code. Public forums also devoted their ire or praise to the working of the Code. It is in this atmosphere that the thinking on labour policy in the Third Plan began. In taking note of the criticism the Third Plan stated :

“The failure to implement awards and agreements has been a common complaint on both sides and if this were to continue, the Codes would be bereft of all meaning and purpose. A machinery for implementation and

1, Proceedings of the Indian Labour Conference—15th session pp 4-5

2. Tripartite Conclusions—1942-62—page-109

evaluation has, therefore, been set up at the Centre and in the State to ensure observance by the parties of the obligations arising from the Code and from laws and agreements."¹

A somewhat inconsistent statement appears on the next page, though it is possible to reconcile it by widening the obligations under the Code. The Plan states :

"The development of industrial relations in the Third Five Year Plan rests on the foundations created by the working of the Code of Discipline which has stood the strain of the test during the last three years. A full awareness of the obligations under the Code of Discipline has to extend to all the constituents of the Central organisations of employers and workers, and it has to become more a living force in the day-to-day conduct of industrial relations."²

15. The Industrial Truce Resolution adopted in November, 1962 during the Chinese aggression was a further attempt to strengthen the bipartite arrangements over the whole area of industrial relations. The tripartite discussions in the last five years have, therefore, been both in relation to the Code of Discipline and the Industrial Truce Resolution.

16. Towards the end of 1965 the Panel on Labour Policy constituted by the Planning Commission discussed various aspects of labour problems with a view to recommending to the Commission the approach to labour in the Fourth Plan. One of the sub-committees appointed by it considered the area of administration and welfare. Arising out of its recommendations the paper endorsed by the Labour Panel stated :

"In future, emphasis, should be laid more on effective enforcement of existing labour legislation rather than on enactment of new labour laws."³

This means that a full circle was completed in about 9 years, because exactly the same sentiment was expressed by the Labour Minister in 1957. Elucidating the point the Panel added that there was need for a comprehensive examination of the whole question of labour administration in the country because :

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1. Third Five Year Plan—page 252
 2. Third Five Year Plan pp. 253-54
 3. Planning Commission Paper (not published)

“the problems of labour administration have not been reviewed in detailed manner, in spite of the marked changes which have occurred in the size and the composition of the labour force and legislative measures undertaken to protect the labour interests.”¹

17. Following this thinking the Draft Outline of the Fourth Plan stated more specifically that the analysis of labour administration problems should be in the following direction :

“Three sets of problems of implementation will call for special attention during the Fourth Plan. Firstly, there is room for considerable improvement in the administration of the legislation which has been enacted for the protection, safety and welfare of industrial workers. In the second place, important schemes such as works committees and joint management councils have made very limited progress. It is necessary to orient both workers and employers to these changes and find ways of meeting the practical problems which have been encountered. Finally, there are several directions in which execution of programmes which have large bearing on the welfare and prospects of workers need to be strengthened, for instance, workers’ education, provision of facilities for imparting higher skills and training to workers, social security and labour research.”²

V

18. The arrangements made by the Central and State Governments for the enforcement of the legislation may now be discussed. At the highest policy level, Labour and Employment is an independent Department at the Centre. In the States the pattern varies; at times Labour is tagged on with Industry and in some cases it goes with other Departments. There is no uniformity in the pattern, though in the evidence recorded by the Commission so far a plea is made by employers that wherever possible the Minister for Industries should also hold the Labour portfolio. If for some reasons, this is not possible, at the level of Secretary to Government at least, the Department of Industry and Labour should be under one charge. There is also a suggestion that since a greater part of the work of Labour Department is concerned with industrial relations or matters which have a bearing on the subject, the name ‘Labour Department’ should be changed

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1. Planning Commission paper (not published)
 2. Fourth Five Year Plan—A Draft Outline, page 387

to 'Industrial Relations Department'. The logic for the suggestion of changing the name is that by calling it 'Labour Department' the staff of the Department is so conditioned psychologically that it has to look to the interests of labour first. This conditioning is at times harmful to promoting better industrial relations. *How the change in nomenclature of the Department or its combination with the Department of Industries will affect labour administration is a matter on which the Working Group may like to make suggestions.*

19. For administering the policies laid down and offering advice from time to time for modification in policy, the State pattern may differ from place to place. That is why the arrangements of the Centre are discussed in some detail.

20. In a majority of cases, as pointed out earlier, administration of labour laws is the responsibility of the State Governments, the Central Government exercising advisory and co-ordinating functions. Thus while factory inspectorates are appointed by the States, the Director-General, Factory Advice Service and Labour Institutes (who was till recently designated as 'The Chief Advisor of Factories') deals with all matters which help him to understand the working of the Factories Act and the rules made thereunder. The Directorate seeks to keep itself posted with problems of implementation from the State Factory Inspectorates and on that basis advises Governments about the action to be taken, keeping in mind the all-India picture. The Central Labour Institute and its regional counterparts which have now started functioning are expected to strengthen the technical content of the advice rendered by the organisation. The Directorate General of Employment and Training has the same functions in regard to the administration of the Apprentices Act, 1961 and the Compulsory Notification of Vacancies Act, 1959. Both in the training and employment aspects the organisation has been given research wings, which help the Directorate General in understanding the latest developments in India and in other countries. Labour Bureau, Simla, helps in setting standards for socio-economic enquiries to be undertaken to understanding labour conditions, as also co-ordinating information on Consumer Price Index Numbers which have for some time become an important area of debate in industrial relations, not so much between employers and workers, but between Government on one side and employers and workers on the other. The Chief Labour Commissioner's Organisation stands on a different footing. Though it has no co-ordinating or advisory functions,

it has recently started training courses for State Government officials concerned with the settlement of industrial disputes.

21. The machinery for enforcement of labour laws at the Centre consists of the following Departments/Organisations. These deal with the implementation of various statutory and other provisions in the undertakings coming within the purview of the Central Government :—

- (i) *Directorate General of Employment and Training* : which deals with the administration of Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959 and the Apprentices Act, 1961;
- (ii) *The Office of the Chief Labour Commissioner* : which deals with a variety of labour Acts like the Industrial Disputes Act, 1947, Industrial Employment (Standing Orders) Act, 1946, Minimum Wages Act, 1948, Payment of Wages Act, 1936, Payment of Bonus Act, 1965 and administers the Workmen's Compensation Act, 1923, Maternity Benefit Act, 1961, etc. Apart from these the Office has responsibility of verifying the membership of registered unions to determine the representative character of all-India trade union federations.
- (iii) *Office of the Coal Mines Welfare Commissioner, Dhanbad* : which administers the Coal Mines Labour Welfare Fund and Bonus Act, 1947; there is a similar set up for Mica and Iron Ore Mines.
- (iv) *Office of the Chief Inspector of Mines* : which implements the Mines Act, 1952.

Apart from these, the Statutory Corporations set up by Government like the Employees' State Insurance Corporation and the Office of the Central Provident Fund Commissioner have their respective responsibilities for administration of social security arrangements.

22. All States have set up organisations for the administration and enforcement of the various labour laws which are in force within their territories and for the collection, compilation and dissemination of statistical and other information relating to labour. All States have appointed Labour Commissioners for the purpose of administration of labour laws and welfare activities in their respective areas. In the discharge of their functions, Labour Commissioners are generally assisted by Joint Labour Commissioners, Deputy Labour Commissioners and/or Assistant Labour Commissioners and Labour Officers.

Most of the States have also appointed (i) Chief Inspector of Factories and his inspectorate; (ii) Chief Inspector of Boilers and his inspectorate; (iii) Commissioner for Workmen's Compensation under the Workmen's Compensation Act, 1923 and (iv) Registrar of Trade Unions under the Indian Trade Unions Act, 1926 for administering the respective pieces of legislation. The Labour Commissioner often combines the functions of some of these officers enumerated above. In several States, the Labour Commissioner is also the Registrar of Trade Unions under the Trade Unions Act and the Chief Inspector of Factories. But the practice of separating the posts of Labour Commissioner and the Chief Inspector of Factories has now been increasingly in vogue. In some States the Chief Inspector of Factories is an authority independent of the Labour Commissioner and in others the latter exercises his supervisory jurisdiction over the former. Under the Industrial Disputes Act, appropriate Government are required to set up the conciliation and adjudication machinery. The conciliation machinery consisting of the Labour Commissioner, Deputy Labour Commissioner and Assistant Labour Commissioners plays a vital role in maintaining industrial peace and prevention and settlement of disputes. The pattern of this part of the administrative machinery differs from State to State depending upon the industrial development in the State as also the stage of development of employers' and workers' organisations.

23. In the current context as also of the future when industrial development is likely to acquire a tempo and labour is likely to become more and more aware of its rights and privileges, persons required for manning the labour administration machinery may have to be equipped for new tasks; there will have to be an increasing number of them. This is one of the warnings being sounded in the evidence before the Commission. It is also being mentioned that the task of the labour administrator in industrial democracy is not merely to see to the compliance with the legal provisions under the various Acts. It is more to create the necessary atmosphere in which the obligations and responsibilities under law are understood and accepted, and to create the necessary consciousness for the observance of these provisions. It should also promote the activities and arrangements which aim at improving the efficiency of implementation of statutory obligations. While it is true that in this area more than any other, the social and political environments in the community as a whole will be

reflected in the attitudes of employers and workers, it is equally possible that with increasing organisation of labour, it will set pace as to what should happen in the community. And it is this possibility that will have to be kept in mind in equipping personnel for labour administration.

24. Yet another part, but a separate one, of the industrial relations machinery will be industrial tribunals at various levels. It is not the intention to cover them in this discussion.

25. For reasons stated, *it will be useful if each Working Group, for States which it would cover, supplies information about the present structure of labour administration in a chart showing responsibilities of various designations and the number of officers in position. In the same chart if the 1947 position is also indicated, a view can be taken as to how the machinery has been developed in response to the needs of the situation between 1947 and 1966.*

26. Barring the Indian Trade Unions Act, 1926 the provisions of most of the labour laws impose one obligation or the other primarily on the employer. These obligations may be in regard to conditions of service, working conditions, maintenance of sanitation and hygiene, up-keep of the work place, remuneration to workers, welfare facilities, safety measures, notification of vacancies, training of apprentices and the like. Each one of these obligations affects different employers differently. Implementation of the legislation in this field particularly depends on the willing acceptance or otherwise of such obligations by the employer. To understand the limits of this acceptance an analysis of the procedure for evolving labour policies by the Central and State Governments is necessary. The Central arrangements are discussed below in some detail, since it is understood that these obtain with some minor variations in different States also.

27. In the Indian system, the evolution of most of labour legislation or voluntary arrangements has been through tripartite consultations. Certain measure of willingness on the part of Governments, Central and States, employers, public sector and private sector, large or small, and workers could thus be presumed. Since as stated earlier, a major responsibility for implementation is rightly fixed on the employer, it may be useful to discuss that component of the tripartite first. Communications within an employers' organisation being what they are, it is possible that the limits of acceptance or compliance with the provisions of the law will vary depending upon the nature and extent of consultation

within the employers' organisation, the size of the employing unit, its location, the closeness of the employer with the central organisation, apart from his capacity to provide the minimum facilities required by the Act. Specifically it may also mean, approaching the employer group sectorwise or according to size, and also according to whether the sectors and sizes excluded from the tripartite could say that obligations accepted by employers' organisations need not be necessarily binding upon them. Since this argument was at one time heard from the public sector, arrangements have recently been made to give the units under it a proper representation in the tripartite. The problem of size has however not been solved. Small units can still argue that obligations cast on them on the same basis as those on large size units make their working uneconomic. Even so, a majority of employers would accept these obligations, though, in their assessment the obligations, at least some of them, may be an avoidable burden. No one, presumably, wants to be on the wrong side of the law. In a minority of cases it is possible that law is objected to both in its letter and much more so in spirit. It is these cases which make news and create an impression of ineffective implementation. At least this is the impression which employers wanted to convey to the Commission so far. (The problems of small units and the public sector are separately discussed later.)

28. A factor which is important in getting full benefits of labour legislation for workers and which is missing in the Indian situation is strong and united trade union movement. Even where unions are strong, their strength is currently used for securing more and more real benefits to workers. It is doubtful whether working conditions come in as an area where unions are prepared to argue with employers for getting redress. Only in cases where a demand is made by an employer for adjusting work-load will complaints regarding working conditions from unions come to the employers' notice. Excepting cases of non-implementation where money or employment is involved, trade unions are often reluctant to approach employers for enforcing compliance.

29. This apart, there is the general problem of communication and limits of acceptance in unions also; somewhat more complicated perhaps because of shifting loyalties to a union among the rank and file of workers. Also as in the case of employers, many workers' organisations are either independent or affiliated to federations other than those invited for tripar-

tite consultations. Within the limit placed by Government on federations, of a minimum membership to qualify for consultations, this problem will continue to remain unless trade union unity which has eluded union leaders so far becomes a future reality.

30. On the side of Government again, the problems posed can be discussed in a similar way. Certain obligations are accepted by Government but when it comes to giving a concrete shape to them, there have been cases where Government has faltered giving the impression that what has been suggested by one Ministry cannot necessarily be the view of the Government, though in tripartite meetings the Ministry is looked upon as the representative of the Government. This may happen within a Government, Central or State. But the problem of communication may also be as between the Labour Ministry at the Centre and Labour Departments of the State Governments. But by and large this latter problem has not been faced so far in any significant form, though one need not take it for granted that this will not arise at all.

31. It is within these limits of acceptability that implementation of labour policy i.e. labour administration, has to be viewed. Legislation and voluntary agreements have to be treated differently in this context. Whether there is acceptability or not, legislation has to be followed, since most of the legislation does contain provisions for imposition of penalties and prosecution for non-observance of obligations; not so is the case with the latter. A view is often expressed that the writing of penalties in a legislation gives it the character of persecution—prosecution in case of non-compliance. Labour legislation being mostly social in character, it should develop its sanctions through the process of education. According to this view, persuasive methods yield better results and they should be adequately used. The other view is also equally strongly put forward, namely, that irrespective of penalties which exist in the law today legislative requirements have been by-passed; penalties laid down not being deterrent enough. Employers and agencies for implementation are often alleged to be hand in glove with each other. And in this allegation, because of the light penalties imposed by judges, when a default against an employer is established, even officers of the judiciary are not excluded. *It may be useful to examine in each State how many of the cases of non-compliance reported to Government are actually sanctioned for legal action; and in cases where default has been established in the court, the nature*

of penalties imposed for such default. The general impression one gets particularly in discussions with the labour groups is that for various reasons prosecutions are not frequent nor are penalties such as would deter the recipients of these penalties from defaulting again.

32. Cases have been brought to the notice of the Commission where after legal action has been initiated by officers in consultation with Government, Government has for unknown reasons, changed its mind and officers have been asked to withdraw prosecution. Such cases may be rare, but their occurrence is disturbing. Apart from the impression of *vacillation* on the part of Government, which such withdrawals create, they have a bad psychological effect on the officers at whose instance the prosecution was initially launched. A plea on behalf of such officers that prosecution when sanctioned should be allowed to take its course unhampered if the implementing authority has to retain its respect in the public eye would presumably have weight. *It will be useful to know from Government in the region the frequency of such withdrawals.*

33. But whatever be the machinery for detecting non-implementation and the nature of the penalties, once non-implementation is established, it goes without saying that just as the framework of legislation and voluntary arrangements is developed through a tripartite effort, supervision over implementation should also have a tripartite character, though of a different type. This aspect is now being increasingly realised by the consultative institutions created by Governments. Indeed, tripartite discussions are, in recent years, devoting much more time to implementation than they used to before. The main responsibility for observing compliance with law/awards/settlements/agreements, as stated earlier, will be of the employer, though such of it as is required to be borne by workers' organisations will acquire significance in time to come. The role of Government will continue to be important particularly in the matter of creating/strengthening a permissive type of machinery to which complainants could come for redress. While such an arrangement will work where the industry, both labour and management, is organised, in small units and in unorganised sections of workers, greater vigilance on the side of Government will still be necessary. Problems of labour administration in such units, as have been brought to the notice of the Commission so far, arise for the following reasons :—

- (i) In many matters small units are given exemption

based on the number of employees engaged. Such exemption is reported to be exploited by the employer by showing a worker-strength below the exemption limit even when the number of employees is such as would take him outside the exempted category.

- (ii) In small units, breaches of the Factories Act, particularly, are quite common. It is alleged that at every step some provision or the other of the Act gets involved. There may be violations even without the management being conscious of it. Workers either do not care about the violation of these provisions. As a consequence, there is no pressure from workers for their implementation.
- (iii) The inspecting staff as referred to earlier is inadequate.
- (iv) In many cases smaller units are dispersed over a wide area making inspection difficult.
- (v) Financial difficulties at the employers' end also come in the way of implementing labour legislation. As most of these units operate with limited funds, there is a pressure on the management to utilise these funds in more productive channels.
- (vi) Because of different laws being administered by different authorities, the entrepreneur-manager has to satisfy these diverse authorities. On many occasions this becomes difficult, as the time involved can be put to better use by the manager.
- (vii) The employer may try to evade inspections and often obstruct the work of the inspectorate. Records may not be maintained properly. In many cases, because of the standard of the education of the entrepreneur, the significance of maintenance of records may not even be understood.
- (viii) Except in the case of a dispute with management, workers rarely bring to the notice of the labour inspectorate violations of legislative provisions. Workers themselves are ignorant of the statutory protection they have; in many cases where this is known, they may not care to avail of it.

34. It has also been urged that the Commission should distinguish between cases of genuine hardship in small establishments and those where an employer is wanting to

deny workers the benefits available under the law by subdividing his unit into smaller parts in order to evade legal provisions. In the former case an employer may be wanting to operate on a small scale as a matter of necessity; in the latter, the intentions of the employer are not above board. It should be the responsibility of labour administration to see that remedies should be tried out for avoiding such evasions.

35. Another area where difficulties are alleged to have been experienced is units in the public sector. The argument that public sector undertakings are not based on profit motive and are socially oriented has been advanced to seek exemptions from certain legal obligations. In some cases the argument is that the privileges enjoyed by workers in totality are better than those enjoyed elsewhere. Neither of these arguments can be a valid justification for seeking exemptions from specific legal requirements, which in most cases lay down the minimum requirements only. If what the undertaking has already provided more than meets the legal requirement, the question of seeking exemption would not arise at all in the case of provisions relating to safety, working conditions, welfare, sanitation etc. nor can exemptions be justifiably sought from certain specific provisions on the ground that in regard to certain others, the establishment has provided much more than the legal requirement. Profit or loss has to be worked out on the basis of costs which take into account the requirements of legislation. The argument that public sector units should operate on no profit basis itself is also untenable on the consideration that public undertakings are expected to create a surplus which helps them to develop further. In fact the surpluses from such undertakings have been considered to be one of the sources of plan finance. The social-orientation argument again cannot be stretched too far in favour of claiming exemptions under labour legislation because by hypothesis, labour legislation itself has a social-orientation. The stretching of this argument would mean that what is given to labour as a matter of right by legislation is denied under the spacious argument that the total output of the public sector has to be generated on socially-oriented considerations and labour should not claim what is due to it under statute. Also when this differential treatment was advanced on behalf of the public sector at the time when a total view was taken in the Second Plan, it was made clear that, ".....administrators handling such undertakings have to be specially watchful of

labour interests".¹ This emphasis was reiterated in the Third Plan.²

36. In spite of the declared objectives of Government, public sector plants appear to have been managed in such a way as to attract a good deal of criticism in this respect. This matter came up for discussion in a number of meetings which the Labour Ministry held with the Heads of public sector undertakings in 1962, 1963 and 1964. The Estimates Committee in its 52nd Report (1963-64) recommended that a periodical review by the administrative Ministries and the Ministry of Labour and Employment is necessary to ensure that the undertakings comply with labour laws. The Heads of the public sector undertakings also, conscious of the need to give special attention to this problem, recommended in 1963 that "there should be an annual review of the position regarding the implementation of labour laws in the public sector undertakings. At the plant level such reviews should be conducted by the State Labour Commissioner or the Chief Labour Commissioner in co-operation with the General Manager and at the Government level, jointly by the Ministry of Labour and the Employing Ministries concerned."

37. Case studies of industrial relations and implementation of labour laws in public sector undertakings undertaken by the Implementation and Evaluation Division of the Ministry of Labour and Employment³ suggest that the position concerning implementation of labour legislation in public sector undertakings has been generally satisfactory, but some instances of inadequate observance of safety and welfare provisions have been noticed. It was found that the defects noted are neither intentional nor were they major lapses; they could be rectified with some more attention. While these arrangements are expected to improve the situation over time, the fact that investigations were necessary to establish whether public sector units observe their statutory obligations is itself a comment on the state of affairs in them. It is reported that managements are faced with procedural difficulties in obtaining financial and other sanctions from their principal in distant places, a disadvantage not suffered by private under-

1. p. 572—Second Five Year Plan. Also see p. 577.

2. pp. 253 and 273.

3. Such case studies have been completed in 20 public sector undertakings. Five studies are in progress. To provide a comparative picture the Implementation and Evaluation Division has conducted similar studies in a few selected units in the private sector also.

takings. There is also the difficulty of following a policy suitable in one area for fear of its repercussions elsewhere. The managements are therefore a bit hesitant to take early decisions and often express their helplessness. It is stated that given the necessary authority and the will on the part of local officers to exercise that authority, a great deal can be done to eliminate causes of conflict. In addition, among the suggestions which have been made to improve the situation are (i) strengthening of personnel departments, (ii) fuller use of the services of labour officers and conciliation officers, (iii) prompt attention to the grievances of workers, (iv) greater recourse to voluntary arbitration in the settlement of disputes, (v) satisfactory promotion procedures and (vi) effective working of the machinery of joint consultation. *On the basis of information available the Working Group may examine the suggestions and advise how they could be implemented.*

38. The responsibility for administration of labour laws is shared between the Centre and State Governments. As mentioned earlier, at present, the administration of labour laws for Mines, Railways, Banks, Life Insurance Corporation, etc. falls in the sphere of the Central Government, whereas all undertakings other than those coming under the Central sphere will be under the State jurisdiction. The growth of new industries like steel and oil, mostly in the public sector and located in several States, has given rise to certain new problems in labour administration. Some of these industries fall in the State sphere but are under the management of Central Government or of a Corporation set up by the Centre. To avoid complications which are likely to result in the event of non-uniformity of working conditions according to practice in different States, a demand has arisen that industrial relations in these industries should be brought within Central jurisdiction. It is also suggested that certain fields now falling under the jurisdiction of the Centre should appropriately be transferred to the State machinery. For instance, mica mining is an industry for which the appropriate Government will be the Central Government, but a factory processing mica under the same management and in the same neighbourhood will be supervised by the State Government. It has been contended that bringing both these within the purview of the same authority, preferably in the State sphere, would make the enforcement more effective. Under the present arrangement, it is possible in the case of disputes arising in the case of such composite units that industrial relations machinery

set up by the Centre and the concerned State may take a different view and create conditions under which management would be difficult. Cement/iron and steel is another instance where authorities can be different; cement/steel factory will be under State jurisdiction whereas the raw material for the factory i.e., quarry/ore, a part of the composite unit, will be under the Central authority. *The Working Group may consider how problems in labour administration of this nature can be best handled.*

VII

39. One may now deal with more specific areas of labour administration. Realising the importance of the subject, Shri Ram Centre for Industrial Relations devoted its Second National Seminar on Industrial Relations in a Developing Economy to 'The Administrative Dimensions of Labour Laws'. The Seminar had a fair representation of employer and trade union groups with participation by Central and State Government officials and persons academically interested in labour problems. Since the conclusions of the Seminar may be of interest to the Working Group, they have been appended to this paper (Appendix I).

40. In discussing the problems of administration, apart from the working of the various offices under the Ministry/Department of Labour, the Ministry/Department itself has been a subject of some comment. Some observations on this point have already been made. It has been suggested in the evidence before the Commission so far that Labour Ministry/Department, though it may have the last word in labour matters in theory, has to bow down very often to the dictates of Ministries which are considered to be of a more prestigious type. Conflicts arise due to the very nature of the functions of the Labour Ministry/Department with either the employing departments or departments of Finance, Industry etc. The experience in States narrated mainly by trade unions is that in such conflicts the Labour Department is helpless. In matters where departmental undertakings are involved, the Department of Labour is singled out for criticism as if it is not a part of the Government. It is also claimed that in many cases the Labour portfolio is held by a junior Minister and in case a senior holds it, he will be given other portfolios. In either case interest of labour suffers, because of lack of weight attached to the views of a junior or inadequate attention paid by the senior Minister to the work of the Department.

41. Two important functionaries in Government at the official level dealing with labour are (i) the Secretary to the Department and (ii) the Labour Commissioner. In many States, Labour Secretary also attends to the work of other departments entrusted to him. Here again, because of the somewhat heavier responsibilities in these other departments, labour matters at that level acquires secondary importance. Added to this, the entrusting of Labour Commissioner's office to a service officer makes it difficult to establish a continuity in that office because of the officer's eligibility for transfer which again is detrimental to problems of labour administration. What is true of the labour portfolio at the Ministerial level is also alleged to be true at the level of Labour Secretary/Commissioner. Because of the thankless task which the Labour Secretary/Commissioner is required to perform, this has turned out to be an unwanted responsibility. It is possible that in many States continuity is maintained of the person who has been entrusted with Labour Commissioner's responsibility. *But it would be useful if the State Governments provide information about the changes which have taken place both at the level of Labour Secretary and the Labour Commissioner in the last 10 years. If such information establishes the point that Labour Commissioner is under frequent orders of transfer, could the Working Group make suggestions as to how continuity should be maintained?* It is also claimed that as a result of the inadequate status given to Labour Commissioner within the hierarchy of services, the officials dealing with labour develop somewhat of an inferiority complex in dealing with matters connected with other Ministries/Departments. *It will be useful to examine this point also.*

42. Apart from the Labour Department proper, there have been comments/criticisms regarding the working of industrial tribunals, delays involved in getting disputes settled thereon, the personnel of tribunals and the manner of appointment of these tribunals and also the authority which should be mainly concerned about these appointments. Since these are matters which are being examined separately, no detailed reference seems to be necessary.

43. Another aspect which is organisationally more connected with the office of Labour Secretary and Labour Commissioner is working of the Factory Inspectorates. In this case also the comments range from inadequacy of the inspectorate, and this is accepted on all sides, to the basis on which the inspectorate should

function in the years to come. Since this matter also is under a detailed discussion separately, the Working Group may not deal with it. A separate paper is being drawn up on the basis of material supplied by Chief Inspectors of Factories of different States. This will be sent to the Working Group for such comment as it would like to make.

44. Then there is the larger area of comment/criticism which more directly concerns the office of the Labour Commissioner—the work relating to settlement of disputes and registration/recognition of unions. Observations have been made on the inadequacy of inspectors under the Payment of Wages Act and the ineffective way in which Minimum Wage legislation has been administered. But, by and large, the major portion of criticism is on the working of the conciliation machinery. This aspect requires to be gone into in some detail.

45. The comments on conciliation machinery—which have been brought before the Commission—fall mainly under the following heads: (i) delays; (ii) attitude of parties towards conciliation; (iii) the adequacy of conciliation machinery; (iv) the quality of personnel; (v) the power of conciliation officers; (vi) the assessment of the working of the machinery; and (vii) suggestions for improvement. These are discussed below in that order:

(i) Delays.

46. Ineffectiveness of conciliation machinery is sought to be established both by employers and workers because of delays involved in the process. For workers 'justice delayed is justice denied'. On the employers' side delay becomes objectionable because it allows pressures to be built up and in a way coerces the employer into a settlement. This question requires to be examined from all angles. There is, on the other hand, the argument that all delays may not necessarily be bad. It is possible that even as a dispute is pending before a conciliator, parties get together and try to settle it outside the conciliator's chamber. Whether the fact, that the dispute is with the conciliator, itself encourages parties to get together and settle the matter will have to be decided in the light of the generality of such settlements. But the various causes of delay require to be gone into. It often happens that when a conciliator handles a case he has to seek information from the parties. On many occasions the compilation of such information disturbs the time schedule of the conciliator. On other occasions adjournments are sought both by employers and

workers. Such postponement is by mutual consent, and probably the period of postponement is not taken into account for counting the period during which conciliation has to be compulsorily completed. There are, however, a fair number of cases where one of the parties seeks time and the other acquiesces into this adjournment though without formally agreeing to it. *When delays are thus analysed according to causes, it may be possible for the Working Group to take a view of how such delays could be avoided.*

47. A conciliation officer does not have any authority to give something which is in the nature of a binding on both the parties. Clothing him with such powers may attract other consequences which are detrimental to his functions on the one hand and to the dislike of the parties which appear before him on the other. He has, therefore, to use his powers of education, persuasion, identification and transformation to see whether he could effect a reasonable determination of the points in dispute. In many cases he has to educate both sides, and equally himself, about the real nature of the demand; and all educative processes do involve an element of delay. Attempts have been made through tripartite decisions and also through instructions by Governments from time to time to reduce these delays. *It may be worthwhile to examine the consequences of this pressure for reducing delays on the efficacy of conciliation. Of the cases handled by conciliators will it be possible to say in how many the officer did not get credit for settlement because the time element worked against him?*

(ii) Attitude of parties towards conciliation.

48. The common complaint has been that conciliation proceedings are merely a hurdle to be crossed over for reaching the next stage of the industrial relations machinery. This attitude to conciliation is not uncommon, it is argued, within the conciliation machinery itself. It is also stated that the width of interest and depth of understanding which can make conciliation a success is conspicuous by its absence in the personnel handling conciliation proceedings. This is a comment coming both from employers and workers and is somewhat inconsistent with the argument on delays put forward by them. It seems to be an unduly harsh assessment of the pains which the conciliation officer may be taking in settling a dispute, though it may happen that by judging the attitude of parties the officer may be closing a case too soon for the liking of one party or the other.

49. It often happens that since conciliation is a formality

to be gone through, parties do not send persons who have a final say in the termination of a dispute. Very often representatives who attend on behalf of either side are briefed merely to bring the officer's suggestions to higher seats of authority in the respective organisations to seek further instructions and act merely as postmen. This frustrating experience can go on endlessly; all the time parties themselves suggesting adjournments for valid reasons. On occasions as pointed out earlier, labour organisations enter conciliation and delay proceedings merely to build up public pressure for their demands or for resisting demands made by the other side. Same may be the case with employers.

50. There are also instances when parties have their genuine internal difficulties for reaching settlement in conciliation. While the award of an industrial tribunal can be a sufficient justification for claiming relief under the tax laws, voluntary agreements with the unions or settlements through conciliator's effort do not have the same immunity from taxes. Shareholders also may accept more readily a tribunal award than an agreement by management or settlement in conciliation. A trade union with a marginal advantage over its rival in terms of its influence on workers may find it convenient not to agree to a fair compromise which is liable to be exploited by its rival. It is also on record that awards by tribunals are preferred to 'consent awards' for the same reason. There may be cases on both sides where an employer, by insisting on going to the next stage in the industrial relations machinery, has actually incurred a heavier burden on himself than what the conciliation officer had suggested by way of compromise, or a union had to remain satisfied with a more unfavourable contract than the one which it rejected at an earlier stage. *It may be useful for assessing the real nature of the attitude of parties to cite instances within the knowledge of the Working Group where these may have occurred.*

(iii) The inadequacy of conciliation machinery.

51. The inadequacy of conciliation machinery has been complained of on all sides—Government, employers and workers. The obvious difficulties of strengthening the machinery are mentioned by Government, whereas the approach on the side of employers and workers has been that in this important area of implementation of labour legislation inadequacy of officers should not be tolerated. As pointed out earlier, if it is possible to indicate for each State how the industrial relations machinery has been strengthened in response to the

number of cases to be handled by this machinery, some conclusions could possibly be reached. In suggesting this course, its limitations have been recognised. It is accepted, for instance, that mere comparison of cases can be no guide to increasing the number of officers. Work load has also to be judged in relation to the increase in other responsibilities of these officers as well as the intricacy of cases they have to handle as well as the demand content of each. *If some assessment of this aspect is readily available, it will be useful.*

(iv) The quality of personnel.

52. Apart from the question of numbers, the quality of personnel engaged in this work has also been a subject of comments. It has been argued that conciliation tends to be mechanical because the officer does not have any important suggestion to offer during the course of the proceedings. He has inadequate knowledge of the industry as also of law, though in fairness to conciliation officers it has been said that for the law which they are required to administer i.e. the labour law in general, the knowledge of the officers is not inadequate. What is deficient, according to employers, is legal discipline which an officer will get only if he has undergone legal training. It is a point for consideration whether this is a very serious handicap in appreciating the weight of facts tendered in evidence. In many cases conciliation officers have been found wanting, it is said, in the philosophy of conciliation itself. In this region of comment there can be considerable amount of vagueness and the so-called philosophical aspect of the officer's work can as well be ignored. But a more far-reaching criticism has come from some employer and worker groups. In their view even where conciliation officers are in adequate numbers, have the right qualifications and proper perspective in judging matters they have to deal with, the machinery has proved ineffective. This may be out of deep seated prejudice for Government interference on the part of a section of employers on the one hand as also because of the advocacy of direct action on the side of many unions. Whether there should be some intervention or not by a public agency is, at this stage, an open question. But if it is ultimately decided that some intervention is necessary, *it would be useful if the Working Group could suggest some steps for improving the quality of conciliation machinery.*

(v) The powers of conciliation officers.

53. A part of the alleged failure of the conciliation machinery has been attributed to lack of powers of a

conciliation officer and inadequacy of his pay and status within the hierarchy of Government vis-a-vis the parties which are required to appear before him. It has been suggested that apart from enhancing his powers by way of securing attendance of parties at the proceedings and production of documents and the like, the status of the officer requires to be enhanced. And one way to judge the status is through his pay packet. In considering this latter argument, it may be worthwhile assessing the effect of any recommendation about salary adjustment on the resources available to Government for labour administration. It is likely that these will continue to remain inelastic for a long time. Possible success of special pleading on behalf of a set of officers will depend on Government's assessment of the total repercussions of the steps it will take on other comparable services. The other consideration to be taken into account may be that even if Government is in a position to improve pay scales of these officers, will this improvement by itself bring the parties, the officer is dealing with, to the discussion table? If lower salary is the main consideration, there will always be persons, with whom the officer wants to negotiate, beyond the reach of his improved emoluments. The same argument can be advanced in case of additional powers to be given to conciliation officers. Perhaps production of relevant documents could be secured through this process as also the presence of an unwilling person. But whether the mere presence of the latter will be of any help in conciliation is again doubtful.

(vi) The assessment of the working of the machinery.

54. About the assessment of the utility of conciliator's work there has been a mixed reaction. In this connection statistics can be a better guide. A detailed analysis of the working of the industrial relations machinery at the Centre undertaken recently (Appendix II) shows how arguments about the ineffectiveness of the machinery can be untrue. In reply to the statistical argument, it has been suggested that in many cases where success is reported through conciliation, parties themselves reach an agreement outside the conciliator's chamber and seek his endorsement in order to make it binding on workers who may not be parties to the agreement through the union which has hammered it out. *While this could be an important limitation in understanding the weight of the statistics as may be available with Governments, it will be useful to bring them together just the same in order to see whether*

some assessment of conciliator's work could be made on that basis.

(vii) Suggestions for improvements.

55. Some of the suggestions for improving the machinery have already been referred to. Others which have been repeatedly mentioned are : (a) the conciliation officer should have powers to adjudicate in regard to disputes in small units or in matters which do not involve high stakes ; (b) the officer's assessment about reference of a dispute to adjudication should be respected ; (c) the implementation of settlement reached in conciliation should also be the responsibility of the same officers. (b) and (c) would mean that a conciliation officer should combine in himself the functions of a conciliator, adjudicator and implementator. *These are also points which the Working Group may like to consider.*

56. There seems to be a practice in some States to seek conciliation officer's confidential reports about the attitude of the parties towards his effort to bring about a settlement. In some cases these reports are brought to the notice of the parties. The result is that a frank assessment of the case at conciliation stage through reports which are not to be made public becomes difficult ; and so does the future work of the officer because his attitude towards one party or the other, howsoever objective it may be, gets known and the party commented against nurses a grievance which is not healthy for future settlement of disputes. Even a more difficult situation is created when a conciliator seeks to settle a dispute in a public undertaking. In such cases, when the dispute is not settled, the officer's comments on the attitude of management or trade union concerned in it are sent through the Labour Department and the Employing Department to the same officer, about whose attitude the report is made, for comments. If the report is in favour of management, conciliator's comment on worker's representatives is made known to workers to buy peace. In some cases, it is complained by workers, that the officer against whose attitude conciliator has taken a stand is given a chance to plead his case without the knowledge of the conciliator and this plea gets accepted *ex parte* because of the alleged weakness of the Labour Department Ministry. In the process the position of the conciliation officer gets weakened still further. *Working Group may consider whether this situation prevails in the region and if it does how it could be remedied.*

57. Discretionary powers which vest with Government

have come in for a major share of criticism. Their misuse has been commented so adversely by trade unions that some went even to the extent of suggesting that existing powers of Labour Department should be curtailed. Their claim is that the discretion which vests in the Labour Department is used to labour's disadvantage. A more general complaint, however, seems to be that the Department uses its discretionary powers to protect trade unions of particular brand. In the case of other unions, Governments have on many occasions reserved for themselves the right of judging the merits of each demand and referring only some of them to industrial tribunals and withholding others. The implication is that in case of unions which do not find favour with Government, it is only the minor demands which go in for adjudication, if at all. They also feel that either the entire charter of demands should be sent to adjudication or none. In any case, before deleting any demand from a reference, unions should be allowed an opportunity to say before the highest Governmental level why the demand was made.

58. At pre-conciliation level, the administrative discretion is involved in the matter of treating the dispute—whether to encourage informal mutual settlement or without such encouragement even decline conciliation proceedings or accept the dispute in conciliation. At higher levels of Government, there is discretion whether to declare a particular industry a public utility service for the purpose of Industrial Disputes Act and the discretion to amend/modify an award. Reference or non-reference of a dispute to a particular agency has its impact on industrial relations, influencing union policies, employers' attitudes, problems of inter-union rivalries, nature of political influence of trade unions, employers and so on. In a number of cases there are demands for instituting a Court of Enquiry. But these are generally rejected; the grievance in such case being that the public is not adequately educated about the merits of the case. This, however, does not appear to be a serious argument.

59. It has been argued with equal force that the alleged misuse of discretion is not a reality. If certain demands get left out, it is because there may be existing agreements/settlements/awards governing them. It may also be that as a matter of prestige such demands are put forward again by rival unions even before the awards/agreements etc. run their course. Since questions of prestige of this type cannot be a guide for governmental action, selective references may

take place and with justification. The argument about "favoured" unions is also not reported to be valid. In every debate on demands for grants, this point is made in the Parliament by members of the opposition and refuted by Government with statistics at its command. (The same may be the case with State Legislatures.) In fact, many trade unions have put forward a plea that the so-called "favoured" unions have been getting a raw deal at the hands of Government in the sense that because of the instrument of agitation which is always in the hands of unions alleging step motherly treatment, Governments have, at times, found themselves shy of granting references to tribunals where they are due in case of the "favoured" unions. Some statistics have already been received from the States which have been visited so far by the Commission. *It should be possible for others also to supply information which will put the alleged discrimination in its proper perspective.*

60. One argument which has been put before the Commission from the Government side is that at the secretariat level decisions have been taken purely on merit. The rules of the game which have been settled in tripartite meetings are followed. Cases where discretion is wrongly used at a level higher than the secretariat are indeed rare. But it is such rare cases which perhaps strike headlines, so to say. They become more an issue of prestige. The situation is made worse by public men, who are near the seats of power, claiming that their word will be listened by Government more readily and improving their popularity thereby. There is also a feeling among workers, justified perhaps, that it is always wise to approach Government for references through persons known to those in power. In fact, when rise in membership of one trade union federation in a State was brought to Government's notice, the reason mentioned for this rise was precisely this. *It may be necessary for the Working Group to examine this issue on the basis of facts available with different State Governments.*

61. Discretionary powers with Government operate, it is alleged, more harshly against labour in the case of public sector undertakings, especially where the Central Government is involved. Delays in Central Government in processing such cases by the concerned State Government, if it happens to be the appropriate authority, add to dissatisfaction inherent in the situation. Many cases arise where the State Governments do not act without a signal from the Centre. And at

the Centre, the procedures of consultation are so rigid that the formalities take a long time. In the last three years, the Ministry of Labour at the Centre have taken steps to expedite the process of clearing such references but the full effect of these steps is yet to be felt. Even after these formalities are gone through, unions allege that in a majority of cases, it is the view of the employing Departments which prevails. Merely to cut out delays, one State Government has suggested to the Centre that the convention of consulting the Centre before making references to adjudication in central public sector undertakings located in that State will not be respected if delays occur beyond a certain limit.

62. Cases have been reported that discretion has been used even against the registration of unions though such registration does not give any special powers in terms of recognition to persons who seek to come together. On occasions, issues which are not germane to registration, like the observance of the Code of Discipline, Industrial Truce Resolutions, etc. are raised in order to delay the issue of a certificate and even to deny it. This refusal to register seems to be, if true, going beyond the provisions of law and much more so against its spirit.

63. Administrative discretion is stated to be used very liberally and sympathetically, according to some employers, at the level of the Registrar of Trade Unions to accommodate unions by and large. Another area of implied administrative discretion is in the verification of union membership before deciding whether a dispute may or may not be taken into conciliation. For a union, a reference to conciliation is a matter of great concern as this gives it a lease of few years. But the scrutiny for a membership certificate being done at a low level and with all possibilities of subjective manipulations entering in it, leaves room for discontent. Also instances would not be lacking, it is alleged, where the same demands put up by two or more unions have been referred only in the name of a 'favoured union'. This might have had its effect on the growth of only a certain brand of trade unions in the country.

64. The qualitative character of administrative discretion may vary from region to region depending upon the nature of administrative traditions prevailing there and the political group in power. *A pertinent question in this regard is : "How far would it be satisfactory to leave important and strategic areas of industrial relations to the subjective factor of individual*

official/governmental discretion ?' . A corollary of this would be : How far could this be codified, if at all ?

65. Even against the background of inadequate interest shown by unions for enforcing compliance with awards/agreements etc., which are of a non-monetary character, there is a plea that unions should function as supervisors for implementation of labour laws and enforcing compliance with awards. If this plea is accepted, situation will perhaps improve only in the organised sector of industries and it is this sector which has a comparatively better record of compliance with legislation and the obligations consequent on such legislation than units which fall into the category of unorganised sector of industry. The problems of this sector have already been posed earlier. *Arising out of this need, can a solution be the expansion of the administrative set-up for enforcement commensurate with the growth of the small scale or unorganised sector of industry and concentrating on this area in preference to the comparatively larger units where by assumption the workers should be expected to take care of themselves? The guidance of the Working Group on this point will be useful.*

66. A point mentioned in the course of evidence before the Commission so far is that a good part of labour legislation may not be self-enforcing. Labour organisations may not be equally strong everywhere to enforce compliance. But for reducing the burden on implementing authorities, the Commission should consider the possibility of giving workers' organisations the statutory authority to approach courts direct for redress. The present arrangement under which the parties have to approach courts only through Government causes avoidable hardship to unions. It also leaves room for a charge that Government's discretion is used in its political interest.

67. Argument about giving unions an authority to approach tribunals direct rests on the assumption that unions can successfully play this role. A point which requires consideration is *whether in the present context of multiplicity of unions and rivalries among them this power will lead to vexatious prosecutions. Also assuming that trade union unity will be secured, will it be worthwhile to give this power to parties?* The possible argument against this is that one may have to pass even through this process to make the parties realise that in terms of organisational build up such vexatious proceedings do not pay. There will have to be an arrangement by which such powers could be exercised only by the representative union, except in case of individual complaint,

but this again raises the basic question of how the representative union should be named. Also it would not be appropriate for the Government to divest itself of its responsibilities in this matter. It is therefore understood that the arrangement by which unions should go to tribunals direct should be permissive and not exclusive.

68. The inadequate compliance with the provisions of Shops and Commercial Establishments Act has been voiced everywhere by workers. The complaint is that because of its administration by local bodies, where the voice of owners of these establishments is stronger than that of workers, prosecutions are hard to come by. This complaint received a mild support from officials of some Corporations also. The same objection is valid *a fortiori* to the proposition that the implementation of the Minimum Wages Act in agriculture should be left in the hands of Panchayats. *The Working Group may examine these points also.*

69. For several years now there have been periodic discussions about the working of the implementation and enforcement machinery and the best method of improving it. These discussions have revealed certain common factors which are responsible for inadequate implementation of labour laws in most of the States. While evaluating the working of the labour administration and enforcement machinery, one has to distinguish between two types of problems faced by the administrator. Firstly, there are certain difficulties which are due to the prevailing legal provisions themselves; then, there are problems which arise not out of the legal provisions but due to other physical and environmental factors. Lack of power to call for certain records or to compel attendance at proceedings etc., fall in the former category and so do cases where delays occur as a result of differences in interpretation of awards/settlements/agreements as between employers and workers. The remedy in such cases is amendment of law or some expeditious arrangement for interpreting disputed points. On the other hand, delays due to inadequate staff, overburdening of the existing staff with multifarious duties, difficulties of transportation, accessibility to premises etc. fall in the second category and can be remedied at least partially by administrative action. *It is this kind of general administrative problems that will be discussed in the Working Group.*

70. Most of the State Governments have been complaining of lack of financial resources to augment their inspection and enforcement staff, Although the need for such streng-

thening has been fully appreciated by the labour department as well as the other departments, Central or State, it has not been possible in most cases to translate this need into a reality because of financial stringency everywhere. The inadequacy of staff and their being over-burdened with several duties has resulted in delay in completing conciliation proceedings and the inspectors not being able to inspect the undertakings as frequently as may be necessary. At present conciliation proceedings drag on interminably, causing hardship to and discontent among the parties, particularly the workers; the Factory and Minimum Wage Inspectors are hardly able to visit each factory even once in a year and a large proportion of the total number of establishments do not get visited even once in 2 or 3 years. Such a state of affairs is admittedly unsatisfactory but can be remedied only if adequate additional staff is appointed. It has been suggested by some of the States that the Central Government should share a part of the expenses involved in the implementation and enforcement of labour legislation. *This point may be examined in the broad national setting.* It has an important bearing on many points which have been made on improving the tone of labour administration viz. improving the status of officers, providing them with adequate transport, facilitating frequent exchange of ideas between and within the Central and State cadres comprising the implementation machinery, training arrangements for them, and so on.

71. Finally, there is a suggestion that in order to minimise political influence on the industrial relations machinery, it may be advisable to have a Central Cadre of Industrial Relations Service to which the Central and State officials should belong. These officers could be transferred from the State to the Centre and vice-versa. *This point should be considered in the Working Group in all its facets.*

APPENDIX I

CONCLUSIONS OF THE SEMINAR ON ADMINISTRATIVE DIMENSIONS OF LABOUR LAWS

The first session was devoted to the *Working of Government Organisation that administer Labour Laws*. In this session the Seminar took five sets of problems that may be summarised under the broad heading of (i) the use of discretion, (ii) delay in labour judiciary, (iii) the implementation of the Minimum Wages Act, (iv) the implementation of some of the provisions of the Factories Act, and (v) the effectiveness of conciliation machinery, and (vi) the social aspects of labour legislation.

2. The use of discretion is unavoidable. Even in case of judicial decisions, discretion plays an important part. In the administration and executive field, it assumes an even greater role. It was clear that discretion cannot be taken away from the administering authority, especially when the human element, as in the case of industrial disputes, is pronounced.

3. However, administrative discretion should be used in as objective a manner as possible. Full disclosure of facts which form the basis of the decision for reference or non-reference of a dispute may bring a check on the arbitrariness in the exercise of discretion. The very fact that all the facts are to be made public will encourage precision and objectivity.

4. One of the unintended consequences of full disclosure of facts may be increased litigation. Many of the facts which may form the basis of report and the reasonableness of the opinion itself would be justifiable, and there would be greater tendency to move the courts. The danger of increased litigations cannot be minimised, but for the sake of greater objectivity this risk is worth taking.

5. With regard to the fear that many a time the conciliation officer's report is not complete, it is possible that an individual officer has his own worries and limitation. However, if in practice the parties are heard by the Government before a decision on the conciliation officer's report is taken regarding reference of a dispute to adjudication, the risk of some facts

being missed or misrepresented will be lessened, although discretionary element in this decision itself would be there.

6. The Government must follow a consistent policy in the exercise of discretion. The intention of the law is not peace at any cost, but a consideration for equity and fair play. The best industrial relations situation is one where a fair balance is maintained between the parties. If this objective is not fulfilled, the purpose of the law is defeated. Difficulties in striking a balance between the objective of the situation and political objectives may sometimes be serious and Government should, in such a case, rise above political objectives.

7. Where discretion rests in the officer, he should be free to use it. There should be no extraneous pressure or consideration while exercising this power. Some guidelines for use of discretion may be evolved. Some measure of consistency in the manner of exercise of discretion in similar situations may be a good guide, though for a variety of reasons similarity of situations itself may not be so obvious. In the exercise of discretion a wrong emphasis must be avoided. Most often, there is an obsession with immediate peace, and this may lead to miscarriage of justice.

8. On the question of delay four issues were posed for discussion: (i) Can judicial procedures be improved to minimise delays (ii) Will improvement of the personnel of the tribunal reduce delay? (iii) Should the right of appeal be controlled to reduce delay? (iv) Can we suggest that without going to the courts, disposal of the cases can be speeded up?

9. A study of cases which are disposed of quickly may be fruitful in this connection. Also, the attitude of the contending parties themselves towards the reference of disputes is an important area for enquiry.

10. About the procedures, improvement may be brought about by (1) prescribing a time limit for disposal by the tribunals; (2) requiring the tribunals to deal with the cases on the lines of sessions trials; and (3) giving appellate powers to the High Courts. It would also help if the parties in disputes were induced to co-operate in speedy disposal of cases and not seek adjournments. Besides there also appeared to be a need for an increase in the number of judges.

11. The practice of appointing retired judges, and the lack of attraction for these positions on account of status and remunerations offered, account a great deal for slow pace of work. This situation can be improved by (1) elevation of the status of the tribunal personnel to that of a High Court

Judge; (2) appointment of persons in the active service only and (3) provisions for technical assistance to the tribunals to help arrive at scientific decision. Persons from active service would be under the joint control of the High Court as well as the State Government. They would also have an incentive for going up through good performance.

12. If the High Courts are associated in the framing of rules for the working of the Tribunals, the working may improve.

13. A significant point that emerged related to the possibility of expeditious disposal of cases even under the present procedure. Instances were cited where many quick disposals were made, as contrasted to excessive delay and it was pointed out that the rate of disposal is improving. This laid a focus on the personnel of the tribunals.

14. The implementation of the Minimum Wages Act was considered under three heads : (a) delay in fixing minimum wages, (b) administration of minimum wages and (c) measures for expediting both the decision making process and implementation of the wage norms.

15. In as much as the Act is meant to cover the sweated and unorganised industry, its extension to the organised industries may be avoided. This will have the effect of reducing the burden on administration. However, the Act does not provide for de-notification of an industry, once it is included in the schedule.

16. Delay in wage fixation can be reduced through (a) a judicious selection of committee members, (b) extending adequate secretarial aid through data collection and (c) fixing a time limit for arriving at a decision. Use of the notification provision of the Act in certain cases may also reduce delay.

17. The enforcement of the Act suffers due to inadequate staffing in the Labour Commissioner's office, faulty work assignment to the inspecting staff, and the problems inherent in covering a vast area by the enforcement machinery of minimum wages.

18. A set of separate inspectors exclusively for the administration of the Minimum Wages Act may improve matters. The need for some such arrangement was especially felt in the case of agricultural labour. Local village agency or block development staff can suitably be employed for the implementation of this Act.

19. Trade Unions can fruitfully collaborate with the Government machinery in helping the enforcement of notified wages. In general the usefulness of educating the employees, the employers and others concerned, and inducing them to abide by the norms was stressed. Instances were cited in support of successful working of this process.

20. Skilled workers get more than the minimum due to their bargaining power based on skill. In case of semi-skilled and unskilled workers, the lack of economic power forces them to accept less than the minimum. It might, therefore, simplify matters if the minimum wages are fixed for the unskilled category only. This by itself would not lighten the task of the enforcing machinery, though it will ease the task of the wage fixing machinery.

21. Even prosecution may not help as penalties are not heavy.

22. Despite limitations of varied character, conciliation machinery was rendering a very useful service. A large number of cases referred to it were settled by the conciliation officers. Nevertheless, they could and should be enabled to achieve more. Indeed if the pressure on the labour judiciary is to be reduced to any significant extent, the conciliation officer must assume greater responsibility for settling disputes referred to them. The status of conciliation officers should be fully commensurate with the important tasks they were performing. They should be provided with training and educational opportunities for improving their skill in human relations and other fields of interest. Frequent exchange of experience among conciliation officers in different States might lead to gradual improvement in their overall performance.

23. The basic goal towards which the administration should move is the strengthening of collective bargaining based on stable bipartite negotiations between unions and management. Ultimately, the objective of industrial peace can be achieved in a frame-work of industrial democracy and when both parties develop ability of mutual confidence and reassurance in their ability to handle problems without third party interference.

24. There was evidence of unevenness in the compliance of its provisions in different parts of the country. In some States, the violations of the Factories Act were rather infrequent. This was probably due in part to strong trade unions and partly to the practice of giving wide publicity to the prosecution proceedings against the defaulting firms.

25. The Factories Act was reformatory rather than punitive in character and the function of the administration was to gradually enforce it through a combination of persuasion, pressure and prosecution. However, the problems of implementing the Factories Act are of an entirely different nature for small firms. Sometimes the enforcement of this Act bristled with practical difficulties of a rather intractable nature. The Seminar was therefore unable to recommend positive measures for speedy enforcement of the Factories Act on small firms.

26. In the session devoted to the *Problems covering Implementation of Labour Laws at the Enterprise Level* several interesting problems were discussed. The legislative framework had prescribed procedures which encouraged their use and to that extent hindered the growth of voluntarism. Thus the trend would be the growing effectiveness of one method at the expense of the other. The facile assumption that the two could be mutually complementary at best and neutral at worst was open to serious doubts.

27. The personnel departments in large concerns have grown immensely in size and status. This trend is likely to continue and will probably be conducive to better compliance with labour laws. Accordingly it merited further encouragement.

28. The Labour Welfare Officer under the Factories Act had to perform difficult chores and frequently found himself caught between opposite fires. A person appointed by the management must remain loyal to it. Indeed he cannot do otherwise. Therefore the Government might consider the desirability of modifying the legal provisions for the appointment of such an officer.

29. Though absolute compliance costs of labour laws may have increased, the rise has not been of a nature which would pose a problem to the industry. In fact the percentage of labour costs as compared to other costs may have even become lower.

30. Trade unions can be the watchdogs for the implementation of labour laws. Accordingly it might be desirable to develop a suitable organisational structure for co-ordinating the interests of trade unions with those of the Governmental machinery.

31. Strikes are not always bad. While these have to be avoided in the interest of production, often strikes have laid

the foundation of sound bipartite relationship. Indeed the sanction of strike has traditionally been used in support of agreements reached between the two parties. Without the former the latter are unlikely to thrive.

32. Trade unions rivalry cannot be attributed entirely to the legal system. The latter no doubt permits it but its causes lie deep. Under the present circumstances the phenomenon of inter-union rivalry is not likely to be eliminated, nor is it desirable to suggest either legal or administrative measures for suppressing it. All the parties concerned should search for practical ways and means for living with it. The remedy lies in developing sanctions from the sides of law, administration and public opinion for recognising unions which are known to have the largest membership of workers without curbing the constitutional rights of minority unions in any way. This is necessary for strengthening the collective bargaining system in this country which alone can in the long run mitigate the severity of this problem.

33. The verification procedure for union membership followed by the Centre came in for some detailed discussion in another session. While there was a general satisfaction about the verification procedure, internal evidence, at times, revealed that verification machinery could be more objective and the investigation that is undertaken in respect of some federations could be more impartial. If complaints against the verification are few, it is because in the initial stages of verification some federations found the machinery to be somewhat irresponsive. To some extent lack of response in the Government machinery was due to the vastness of the machinery through which the work was done, but it was the experience that if complaints were brought to central authority, they were investigated.

• 34. However, the larger question was in regard to verification which would lead to recognition of unions at the plant level. Many instances were quoted as to how the administrative arrangements in this area were defective.

35. While certain elements of the code of discipline had given satisfaction, there were others where the experience was not happy. The code specified certain 'do's' and 'don'ts'. In regard to 'don'ts', most of these were provided in legislation and perhaps because of these there was a satisfaction; but in respect of specific performance of others the experience was not happy. A basic question which came in for mention was whether the parties to the code had entered into those

arrangements with all the frankness that was required to make it a success. Each party saw some advantages in the code and agreed to it, but in course of implementation difficulties arose mainly because of other clauses the effects of which were different for different signatories to the code.

36. In the area of voluntary arbitration, a considerable educative effort was needed. There is not only a paucity of literature on the subject, but also inadequacy of persons who will enjoy confidence of both the parties. In this context, the efforts made by the academy of arbitration as also by Central Government in arranging to have a tripartite body set up for promotion of voluntary arbitration were taken note of.

37. There should be strong emphasis on the building up of such voluntary arrangements at the unit level and thereafter seeking suitable instruments at the top. A part of the failure of voluntarism is due to the fact that this aspect has been ignored. Some defects in the evaluation and implementation machinery that has been set up at the State level were mentioned and a general point which was accepted was that a person invited for the membership of this machinery should have a representative status.

38. Voluntary arrangement can succeed only in an atmosphere where voluntarism has been "built in" in the industrial relations system. To expect the voluntary approach to work in an atmosphere of mutual distrust will not be proper. This is at the root of the problem of failure of voluntary efforts by the parties whether it is at the level of Government, the employers or workers.

39. Cases arise where parties had reached an agreement, but for securing the acceptance of all workers it was necessary to bring in the conciliation machinery. This inhibited the voluntary approach. This again links with the general question of recognition of representative union to which adequate reference has been made elsewhere in the report.

40. It is important to recognise that the J.M.Cs. are not a substitute for bargaining. A recognition that a union has a role in representing the workers will go a long way in the healthy development of such councils. The basis for the successful working was that both the management and the union should enter into the J.M.C. arrangement in the spirit of working it. The unanimous decisions of the council should be implemented and it was a pre-condition of success that the terms and conditions of employment must be settled to the satisfaction

of parties before the J.M.Cs. start operating. This again links up with the question of union recognition."

41. The effective operation of Joint Management Councils in the public sector was an area where adequate effort has not been forthcoming from the Government.

42. In the context of future for improving working and living conditions, the efficiency of the unit concerned and in general, of both management and workers, voluntarism can play an important part. In the sphere of productivity it has a significant role, but even here a mere emphasis on voluntarism in a situation where the basis for it does not exist will not be proper.

43. Whether it is a piece of legislation or a voluntary arrangement between parties, its effectiveness seems to vary with the time for which it maintains its novelty to the users. The conciliation machinery set up under the law, industrial tribunals, and other instruments in the earlier stages of their work went on unhampered till they reached a point when employers/workers felt the need for introducing a change in their outlook through intervention by superior seats of justice. Voluntary arrangements have had the same fate.

APPENDIX II

WORKING OF THE CENTRAL INDUSTRIAL RELATION MACHINERY

In many cases, the conciliation machinery has succeeded in bringing the parties together to the negotiation table and settling matters even without reference to formal conciliation proceedings. The parties concerned have generally been satisfied with the functioning of the conciliation machinery. However, some complaints have been voiced regarding the delay involved in conciliation proceedings, lack of objectivity etc.* In this connection, it may be useful to study the working of the conciliation machinery as on the basis of available data. In the absence of detailed information from State Governments, generalisation has to be avoided, but fairly complete records are available about the working of conciliation machinery at the Central level i.e. of the work done by the office of the Chief Labour Commissioner and his regional counterparts. The object of presenting this analysis is by no means to generalise on the basis of the Central experience about the utility or otherwise of the Conciliation Machinery at work, but to provide in a limited way a frame-work within which information, when available from the State, could be usefully presented. Also since the Central Machinery caters to the needs of a substantial section of industrial workers, a study of its functioning would by itself be useful in understanding the utility of the set-up.

The Central Conciliation Machinery was set up in 1945 in pursuance of the recommendations of the Royal Commission on Labour. Its main functions were to prevent and settle industrial disputes, to enforce labour laws and also to look after the welfare of the workers falling within the purview of the Central sphere which includes, *inter alia*, major ports, railways, mines, oil fields, banks and insurance companies. It administers the following labour laws in so far as their enforcement is a Central responsibility.

*Similar complaints have been voiced in the memoranda sent by employers' and workers' organisations to the Planning Commission to help it in the task of evolving a labour policy for the Fourth Plan.

- (a) The Industrial Disputes Act, 1947.
- (b) The Industrial Employment (Standing Orders) Act, 1946.
- (c) Payment of Wages Act 1936 (Railways and Mines)
- (d) Chapter VI-A of the Indian Railways Act (Hours of Employment Regulations)
- (e) The Minimum Wages Act, 1948 in respect of scheduled employments falling within the Central sphere.
- (f) The Employment of Children Act, 1938 in Railways and Major Ports.
- (g) The Coal Mines Provident Fund and Bonus Schemes Act, 1948.

A function which has been added on to this organisation is to advise Government on representative character of trade union federations.

The Central machinery verifies the membership of the different federations for purpose of giving them representation on National and International Conferences and Committees. The promotion of statutory and non-statutory welfare measures in Central sphere undertakings (excluding coal and mica mines) as well as the fixation and revision of Minimum Wages under the Minimum Wages Act are taken care of by the Central machinery.

In what follows, a series of tables are presented to enable the reader to draw his own conclusions. No attempt is made to interpret the tables except where some write-up is necessary for a proper understanding of figures or for avoiding misunderstandings.

Taking the question of industrial disputes first, the following table gives the number of disputes handled by the Central Industrial Relations Machinery (C. I. R. M.) during the period 1959-64 in the various Central sphere undertakings.

TABLE I

Number of Industrial Disputes referred to the Central
Conciliation Machinery in 1959-64

	1959	1960	1961	1962	1963	1964
1	2	3	4	5	6	7
Major Ports	496	504	560	426	543	761
Mines	2618	2728	2828	2594	2868	3906
Banks	866	610	427	431	636	491
Insurance Companies	103	89	72	88	108	109
Defence Establishments	106	75	31	29	17	16
Others	248	250	265	177	150	130
Total :	4437	4256	4183	3745	4322	5413

Note :—The figures for the years 1959 and 60 are for financial years 1959-60 and 1960-61. For others, unless otherwise stated, it is Calendar Year. There is thus an element of incomparability and overlapping for entries in columns 2, 3 & 4, but this is not of much consequence for the present analysis.

The number of disputes handled by the Central Machinery has shown a substantial rise only in 1964. It has increased by nearly 22% in 1964 as compared to 1959. In the intervening years, it was less. During 1962, the number of disputes was particularly low for reasons which are now well-known. Further, more than 50% of the disputes handled related to mines. The number of disputes relating to major ports and banks range between 10 to 15 per cent each in each year. There is also evidence to show that the number of disputes in mines and ports have a tendency to increase over the years, whereas in banks, the tendency is towards a decline.

Not all the disputes that are referred to the C. I. R. M. are fit for intervention by the C. I. R. M. In 1959, nearly 1,005 disputes (as much as 23% of the total number of disputes) were considered unfit for intervention by C. I. R. M. But in subsequent years, the number of such frivolous disputes declined considerably. It was about 7% in 1960 and 2% in 1961, 62, and 63 and was less than one per cent in 1964. This is an indication of the restraint being exercised by the parties concerned before rushing to the C. I. R. M. with their problems.

Of the disputes in which the I. R. M. intervened, some were settled without reference to formal conciliation proceedings, while in some others, formal conciliation proceedings had to be instituted. In a majority of cases, the disputes are settled without legal formality. The disputes that were settled both formally and informally at conciliation proceedings during 1959-64 have been tabulated below.

TABLE II

No. of disputes settled through Conciliation Proceedings,
both formal and informal

Industry	1959	1960	1961	1962	1963	1964
1. Major ports	283	435	458	337	432	641
2. Mines	1586	2038	2194	2158	2314	3091
3. Banks	369	425	290	327	498	366
4. Insurance Companies	66	61	43	62	79	87
5. Defence Establishments	51	39	27	22	16	13
6. Others	182	198	203	143	120	104
7. Total :	2537	3196	3215	3049	3459	4252
8. Total number of disputes in which IRM intervened (excludes those considered unfit and pending)	3047	3802	3765	3514	3944	4914
9. 7 as % of 8	83	84	85	87	88	87

A perusal of the above table would show that nearly 85 to 90 per cent of the disputes are settled through conciliation. The case studies have also revealed that in quite a number of cases the conciliation machinery has succeeded in amicably settling the disputes. This is indicative of the major role that is being played by the industrial relations machinery in bringing about peace in industry. Judging by the number of disputes settled by the C. I. R. M., it is safe to conclude that it has maintained its effectiveness over the years under study.

The following table gives the number of cases where formal conciliation proceedings were held, the number of cases where it was unsuccessful, and of the cases where it was unsuccessful, the numbers which were referred to adjudication.

TABLE III

Number of cases settled without reference to formal conciliation proceedings, number referred to formal conciliation proceedings, the number of failures and the number referred to adjudication.

Number of cases	Years					
	1959	1960	1961	1962	1963	1964
1. No. of disputes settled without reference to formal conciliation proceedings	1916	2503	2395	2353	2658	3246
2. Referred to formal Conciliation Proceedings	1131	1299	1370	1161	1286	1669
3. Out of (2), those which ended in a failure at conciliation stage	510	606	550	465	485	661
4. Of those in (3), the number referred to adjudication	64	49	161	129	137	244
5. (3) as % of (2)	45.1	46.7	40.1	40.1	37.7	39.6
6. (4) as % of (3)	12.5	8.1	15.8	27.7	28.2	36.9

The above table indicates that the number of cases settled without reference to formal conciliation proceedings is substantially more, in many cases as much as 120 % more, than the number of cases referred to formal conciliation proceedings. The percentage of cases where conciliation was not successful has generally declined in recent years as compared to the earlier years. Of these where conciliation was reported to have failed, the percentage of cases that were referred to adjudication has shown an increasing trend. This is significant in the light of the emphasis being laid in recent years on the need for settling disputes through mutual conciliation and without recourse to adjudication. While the increase in the number of disputes referred to adjudication may bring some satisfaction to the workers in their quest to get disputes referred to adjudication, how far the liberal attitude of the

I. R. M. in recommending disputes to adjudication is in line with the policy of promotion of collective agreements is open to debate. The number of disputes referred to adjudication under the joint application of the parties concerned under section 10 (b) of the Industrial Disputes Act (1947) has increased. But side by side with the increase in the percentage of disputes referred to adjudication, there is also an increase in the number of disputes in which arbitration was acceptable to parties. But much of this increase, in the number of disputes referred to arbitration, is under the voluntary agreements like the Code of Discipline and the Industrial Truce Resolution rather than under the provisions of Section 10 A of the I.D. Act. The number of disputes referred to arbitration under the Code increased from 5 in 1962, to 149 in 1963 and 185 in 1964.

Another way of judging the performance of the CIRM is through a study of the time taken for the settlement of disputes. The following table gives the relevant data :

TABLE IV
Time taken for Disposal of Disputes 1960-64

YEAR	Percentage of disputes disposed of				Total number of disputes
	Within one month	Between 1 & 2 months	Between 2 & 4 months	Beyond 4 months	
1960	57.1	37.9	4.5	0.5	3802
1961	82.9	15.0	1.8	0.3	3765
1962	92.8	6.5	0.6	0.1	3514
1963	87.2	11.6	1.6	0.1	3944
1964	71.1	22.5	6.0	0.4	4914

It will be seen that nearly 95% of the disputes are settled within the course of just two months. The percentage of disputes settled within a month was only 57.1 in 1960. It went up to 92.8 in 1962. In 1964 it has gone down to 71.1 per cent.

Apart from conciliating in disputes, the I. R. M. has succeeded in a number of cases in intervening in strikes and in bringing about settlements or in averting strikes by timely action. In 1964, the CIRM intervened in 315 cases of actual or threatened strikes and succeeded in bringing about settlement of strikes or prevented strikes from taking place in 281

cases. The corresponding figures for 1960-63 are given below :—

TABLE V

Year	No. of cases in which IRM intervened either to prevent work stoppages from taking place or bringing to a close stoppages where they already hapened	As against (2), the No. of cases where the I. R. M. succeeded in preventing or bringing them to a close work stoppages.
1	2	3
1959	293	259
1960	143	143
1961	186	181
1962	232	224
1963	135	133

Another aspect of work of the I. R. M. is to examine complaints about the non-implementation of awards and settlements arrived at under the provisions of the I.D. Act. The following table gives information on the number of awards received each year, the percentage of awards implemented or in the process of implementation, and the percentage of awards not implemented due to appeal to higher courts.

TABLE VI

Implementation of Awards and Settlements Requiring Implementation

Year	No. of awards received	Percentage of awards settled or in the process of settlement	Not settled due to appeals to higher courts
1959	191	85.9	11.0
1960	174	85.6	10.3
1961	187	86.1	7.0
1962	202	80.2	7.9
1963	202	84.7	8.9
1964	267	75.7	4.1

It will be seen that a major portion of the awards received, nearly 85% (except for 1962 when it was 80 and 1954 when it was 76) are implemented during the year itself. In some cases, implemetation is not possible because of appeal before high courts. As against 11 per cent of the cases going in for appeals in 1959, corresponding percentage in 1964 was 4.1. It is not possible to discern any trend in the percentage of

cases in which appeals were filed although in recent years the percentage of such cases is less as compared to 1959-60. Almost all cases of settlements are implemented during the year itself.

Often complaints have been voiced that the implementation machinery is not impartial in its dealings with different Central Trade Union Federations. To understand the strength of the complaint, it will be useful to analyse the number of disputes raised by the various unions and how they have been dealt with. The following table gives the number of disputes raised by the various Central Trade Union Federations as percentages of the total number of disputes in which the IRM actually intervened in the different years.

TABLE VII

Number of disputes raised by various Trade Union Federations as percentage of Total Number of Disputes enquired into by the IRM in 1959-64.

Union	Years					
	1959	1960	1961	1962	1963	1964
1. Total No. of disputes enquired into by IRM (Excludes cases not fit for intervention).	3432 (100)	3972 (100)	3926 (100)	3669 (100)	4231 (100)	5367 (100)
2. The disputes raised by A.I.T.U.C., I.N.T.U.C. etc., as% of total No. of disputes at (1)						
I.N.T.U.C.	31.1	29.1	32.0	32.6	28.3	31.6
A.I.T.U.C.	19.7	21.2	18.9	20.8	14.2	21.7
H.M.S.	8.5	9.8	10.9	10.7	13.9	13.4
U.T.U.C.	3.5	3.9	3.7	2.9	3.1	3.5
Unaffiliated unions	36.5	33.4	33.2	32.5	40.3	25.2
Individual members	0.7	2.6	1.3	0.5	0.2	4.5

From the table it will be seen that a majority of the disputes handled by IRM have been raised by unions not affiliated to any of the central trade union federations. Except for the year 1963, it seems there is a tendency for the share of disputes raised by the unaffiliated unions to decrease. On the other hand, the share of disputes raised by H. M. S. affiliated unions is on the increase. The percentage of disputes raised by I.N.T.U.C. and A.I.T.U.C. have remained more or less constant, the former accounting for above a third of the total

number of disputes and the latter for about a fifth. However, between the A.I.T.U.C. and I.N.T.U.C., in relation to the verified membership of the Federations, the disputes raised by A. I. T. U. C. are more. The percentage of disputes raised by individual members who are not members of any trade unions is quite small except for 1964 when it accounted for 4.5 per cent.

An idea about how the trade union federations have fared in conciliation proceedings can be had from the following table which gives the number of cases which were settled at conciliation proceeding, either formally or informally, as % of total number of cases handled by I. R. M. for the years 1959-64.

TABLE VIII

Number of Disputes settled informally or formally at Conciliation Proceedings as percentage of total No. of disputes (excludes pending cases unfit for intervention) handled by Industrial Relations Machinery 1959-64.

Unions	Years					
	1959	1960	1961	1962	1963	1964
INTUC	85.5	85.4	85.8	86.9	84.4	89.5
AITUC	88.7	83.6	84.9	86.7	89.4	85.5
HMS	69.2	87.5	88.3	94.1	91.9	92.4
UTUC	71.8	64.2	66.2	82.4	86.2	86.0
Un-affiliated unions	82.8	83.5	86.2	84.5	88.2	86.0
Individual Workers	95.8	96.9	95.7	88.9	83.3	100.0

The percentage of cases settled through conciliation is generally the highest in the case of disputes raised by individual workers and minimum in the case of disputes raised by UTUC affiliated unions. In the case of H. M. S., the percentage of cases settled at conciliation level shows a tendency to increase. To some extent this is also true of U. T. U. C. unions. In respect of others, no trend is discernible. To understand the extent to which the various Trade Union Federations rely on formal procedures, it will be useful to see the number of disputes where formal conciliation was resorted to. The position is as revealed by the table in the next page.

TABLE IX

Number of disputes where formal conciliation was resorted to as percentage of total number of disputes (excludes pending and disputes unfit for intervention) handled by IRM—1959-64.

Unions	Years					
	1959	1960	1961	1962	1963	1964
INTUC	36.8	36.2	40.0	32.4	33.8	31.0
AITUC	23.4	29.9	46.3	29.0	32.9	33.1
HMS	62.7	30.8	29.0	28.3	31.4	34.6
UTUC	34.5	46.4	46.9	35.3	24.8	26.9
Unaffiliated unions	38.9	36.8	29.4	37.7	32.7	43.9
Individual workers	12.5	6.1	6.4	38.9	33.3	3.3

As compared to the unions, individual workers seem to take lesser recourse to formal procedures (except in 62 and 63). Otherwise no definite conclusion emerges in respect of others.

An idea about the extent to which the IRM has succeeded with the various Trade Union Federations in bringing about settlements in formal conciliation proceedings can be had from the following data :

TABLE X

Number of disputes where formal conciliations were held but which ended in failures as percentages of total number of cases taken up for formal conciliation (1959-64)—Federation-wise.

Unions	Years					
	1959	1960	1961	1962	1963	1964
INTUC	39.2	40.4	35.3	40.4	46.2	34.0
AITUC	48.5	54.9	32.6	45.8	32.2	43.8
HMS	49.1	40.5	40.2	20.8	25.9	22.0
UTUC	81.6	77.1	72.1	50.0	53.1	34.9
Unaffiliated unions	44.3	44.8	47.0	41.0	36.1	49.5
Individual workers	33.3	50.0	66.7	28.6	50.0	14.3

In the case of HMS and UTUC, a greater percentage of cases is settled at formal conciliation stage in recent years.

In regard to the complaint that the Government often acts partially in referring disputes to adjudication, a study of the following figures would be useful.

TABLE XI

Number of disputes that were referred to adjudication as % of
the number of disputes that failed at conciliation
(1959-64)—Federation-wise

Unions	Years					
	1959	1960	1961	1962	1963	1964
INTUC	29.1	17.4	22.5	46.0	47.0	58.2
AITUC	11.9	8.9	22.6	33.7	33.3	57.0
HMS	15.5	5.1	18.2	31.8	48.1	61.5
UTUC	4.5	8.9	13.3	21.4	75.0	50.0
Unaffiliated unions	12.9	9.3	18.8	29.4	46.0	52.0
Individual workers	—	—	—	—	—	—

It will be seen from above that up to 1963 the percentage of cases referred to adjudication is more in the case of INTUC unions as compared to others. However, in 1963, the position is different.

II. STRUCTURE OF LABOUR ADMINISTRATION IN THE EASTERN REGION

1.1 There is a Department of Labour in each State to carry on the labour administration. Of course, there are bound to be variations in the details of administration between one State and another. However, there are some broad similarities in the structure of Labour Administration in the States in the Eastern Region.

1.2 At the Government level, the Department is headed by Secretary to Government, assisted by Joint/Deputy Secretaries, Under/Assistant Secretaries etc. The Department/Directorate of Labour is headed by the Labour Commissioner who is the principal administrative head in charge of labour administration. He has the overall responsibility for the administration of labour laws, labour relations and labour welfare in his State. There is a separate Inspectorate of Factories in each State. While the Chief Inspector of Factories is under the control of the Labour Commissioner in the States of Bihar and Orissa, he functions directly under the Secretary to Government in the States of Assam and West Bengal.

1.3 The administrative set-up of labour administration in each State in the Eastern Region is briefly discussed below. The Organisational Charts indicating the structure of labour administration in the Member-States are given in Appendix 1.

WEST BENGAL

Secretariat

2.1 At the Secretariat level, there is a Secretary to Government, who is assisted by Joint Secretary, 2 Deputy Secretaries, 3 Assistant Secretaries, 1 Registrar and 4 Section Officers.

Directorate of Labour

2.2 The Directorate of Labour is headed by the Labour Commissioner, who is in overall charge of the Directorate and is assisted in his work by a Joint Labour Commissioner

and 7 Deputy Labour Commissioners, holding between themselves the superior charge of different regions and sections of the Labour Directorate.

Conciliation & Enforcement Machinery

2.3 For the purpose of executing the Labour Policy, the Conciliation and the Implementation Machinery in the Labour Directorate has been strengthened and streamlined from time to time. On the conciliation side, there are 13 Assistant Labour Commissioners in the 12 regions, covering the entire State. The regions are, Calcutta (North), Calcutta (South), Calcutta (Central), Howrah, Barrackpore, Kalyani, Chandernager, Serampore, Durgapur, Asansol, Jalpaiguri, Darjeeling. Broadly speaking, a region is in charge of an Assistant Labour Commissioner, who is assisted by 2 or 3 Labour Officers. On the enforcement and implementation side again, an Assistant Labour Commissioner has been placed in charge of one or more of the following Sections in the Labour Directorate.

- (i) Standing Orders.
- (ii) Works Committees.
- (iii) Registration of Trade Unions.
- (iv) Minimum Wages Act and Payment of Bonus Act.
- (v) Plantations Labour Act.
- (vi) Personnel Advisory Service, Labour Participation in Management-cum-Consumers' Co-operatives.
- (vii) Bonus Act.
- (viii) Working Journalists' Act.
- (ix) Labour Welfare.
- (x) Implementation of Awards, Agreements, Code of Discipline and Industrial Truce Resolution.
- (xi) Statistics.

Implementation Cell

2.4 To secure effective implementation of the Code of Discipline in industries as well as to ensure proper implementations of the various awards, agreements, settlements and recommendations of the Wage Boards, etc., an Evaluation and Implementation Cell was set up at the Labour Directorate under a Deputy Labour Commissioner. The Cell was strengthened last year by the appointment of 1 Assistant Labour Commissioner and 2 Labour Officers.

This Cell looks into individual complaints regarding breach of Code of Discipline and non-implementation of the awards and agreements etc. Matters involving policy and

complicated issues are referred to the Tripartite Evaluation and Implementation Committee set up by the Government.

Statistics

2.5 For the purpose of proper and continuous evaluation and assessment of the various activities indicated above, and also to assist the Labour Department of the State Government with necessary statistical data for drawing up plans and programmes and for formulation of the labour policy of the State Government, there is a Statistical Section, with Publication and Research Wings, attached to the Labour Directorate, in charge of a Deputy Labour Commissioner.

Personnel Advisory Service

2.6 The Personnel Management Advisory Service was set up in the Labour Directorate in November, 1961, during the Third Five Year Plan, with a view to tendering advice to managements of Small and Medium sized industries. Its purpose was to enable them to formulate their labour and personnel policies on a sound footing as also to offer assistance to trade unions in the matter of organisation and formulation of healthy labour policies to improve relations between the the management and labour. It was felt that labour-management problems would be easier to solve if both the management and labour unions are properly advised. Another field of its activity relates to individual grievances and complaints regarding employment and terms and conditions thereof.

In brief, the Advisory Service is functioning to render advice to the employers as well as to labour to educate, guide and assist them in matters relating to personnel management, with particular reference to :

- (i) Employment policy.
- (ii) Recruitment and Induction Courses.
- (iii) Methods of improving work-place and individual efficiency.
- (iv) Joint consultation, including the working of Joint Production Committees, Work-Councils, etc. and handling of grievances, procedures and suggestion scheme.
- (v) Health and safety.
- (vi) Welfare (Employees' Services) including canteen policy, benevolent and savings schemes, gratuity scheme, provision of social and recreational facilities like Works Magazines, Library, Works Tours etc.

At present the Personnel Management Advisory Service is being looked after by an Assistant Labour Commissioner, assisted by a Labour Officer.

Labour Welfare

2.7 The Labour Welfare Scheme, undertaken by the Government of West Bengal, seeks to supplement the employers' efforts in this direction as also to provide an ideal which could be usefully emulated by employers' and workers' organisations alike in the matter of the well-being of their workers and members respectively. The State Labour Directorate runs 46 Labour Welfare Centres, including 14 Model Labour Welfare Centres in the urban industrial and plantation areas. These Centres are situated in close proximity to areas having a predominantly labour population. In 1967, out of the 46 Labour Welfare Centres, as many as 20 had dispensaries, annexed to them. Besides two Labour Welfare Workers in each Centre, there are music and dance masters, physical instructors, crafts training instructors, itinerant Lady Welfare Workers, Medical Officers and Compounders attached to a number of these centres.

The Welfare Centres provide educational (primary and adult), recreational, vocational and medical facilities, free of charge. As the incidence of T.B. is rather high among the work-people at Mungpoo, the Model Labour Welfare Centre in the Government Cinchona Plantation has been provided with X-Ray plant also. There is also a scheme to provide Holiday Homes—one at Darjeeling and another at Digha.

A Deputy Labour Commissioner is in charge of the Labour Welfare Section of the Labour Directorate. He is assisted by an Assistant Labour Commissioner and two Labour Officers.

Training Institute

2.8 A Training Institute-cum-Labour Library has recently been set up under the Labour Directorate. The object of the Institute is to impart specialised training in labour welfare to prospective Labour Welfare Officers to be appointed in factories, mines and plantations under the relevant statutes. The Labour Library now taking shape will eventually cater to the needs of the trainees and persons interested in labour research and also those members of the general public, who take interest in matters relating to labour at home and abroad. The Training Institute-cum-Labour Library functions under a Director, who is assisted by a Professor and a Lecturer.

Shops and Establishments

2.9 The hours of work, weekly holidays, weekly closing etc. relating to shops and commercial establishments were earlier regulated by the Bengal Shops and Establishments Act of 1940. In order to remove the deficiencies of the Act as revealed by its working over the years, the West Bengal Shops and Establishments Act was enacted in 1963.

The important features of the Act are the compulsory registration of shops and establishments and appointment of Supervising Inspectors as authorities for deciding applications of employees relating to non-payment of wages and dues. Specific provisions have been made in the Act enabling the State Government to grant exemption to any shops or establishments from the provisions of the Act, other than those relating to employment of children, young persons and women, for the convenience of the public, shop-keepers and the employees.

The Act applies at present to 163 places in different parts of the State covering all the districts. Government by notification extends the Act to new areas as and when necessary. With the enforcement of the Act, approximately 3,51,138 employees have been benefited so far.

BIHAR

3.1 The Department of Labour was last re-organised under the Amalgamation Scheme in 1951. It has four major wings :

- (1) The Conciliation and Enforcement Wing dealing with labour relations, welfare and administration of various labour laws.
- (2) The Directorate of Employment and Training consisting of :
 - (a) National Employment Service,
 - (b) The Industrial Training Scheme, and
 - (c) The Apprenticeship Training Scheme.
- (3) Judicial Wing with an Industrial Tribunal having adjudicational jurisdiction over the entire State and three Labour Courts functioning at secondary (divisional) level. These Courts deal mainly with disputes under the Industrial Disputes Act, 1947 and function as appellate authorities under certain other Acts; and
- (4) The Employees' State Insurance Wing which administers the provisions of the Employees'

State Insurance Act that have been made applicable in the State.

The Conciliation and Enforcement Wing

3.2. The Commissioner of Labour heading the conciliation and enforcement wing, is assisted at the headquarters by a Joint Commissioner of Labour, three Deputy Commissioners of Labour, one Assistant Commissioner of Labour (Research), a Statistics Authority, a Special Officer for Implementation and Evaluation, a Deputy Registrar of Trade Unions and a Personal Assistant.

There are two technical and three non-technical branches under the Commissioner of Labour through which the policies of the Department are given effect to and the different labour laws are enforced. The non-technical branches are : (a) the Conciliation Branch, (b) the Inspectorate of Agricultural Wages, and (c) the Inspectorate of Shops and Establishments. In the technical branch are included (a) the Inspectorate of Factories, and (b) the Inspectorate of Boilers.

The Conciliation Branch deals with industrial relation in general, implementation of labour welfare schemes, and enforcement of such labour laws as are not specifically allotted to any other branch. For this, Commissioner of Labour has under him one Assistant Commissioner of Labour for each of the Divisions of the State, Labour Superintendents exercising jurisdiction at District level and Labour Officers mostly functioning at Sub-divisional level. All these officers have been declared as Conciliation Officers under the Industrial Disputes Act.

Inspectorate of Agricultural Wages

3.3 The Inspectorate of Agricultural Wages is under the charge of an officer of the rank of an Assistant Commissioner of Labour, designated as the Chief Inspector of Agricultural Wages. He is mainly responsible for the enforcement of the Minimum Wages Act in the agricultural sector. Having jurisdiction over the entire State, the Chief Inspector of Agricultural Wages is assisted in his field work by the Superintendents of Labour, Labour Officers and Labour Inspectors. The Labour Inspectors are non-gazetted officers, each of them assigned to look after the implementation position in five to six thanas. They are under the overall control of the Chief Inspector of Agricultural Wages.

Inspectorate of Shops & Establishments

3.4 The Inspectorate of Shops and Establishments is

headed by an officer of the rank of a Deputy Commissioner of Labour, designated as the Chief Inspecting Officer. He is responsible, in general, for the enforcement of the provisions of the Bihar Shops and Establishments Act and the Motor Transport Workers' Act throughout the State. At the Divisional, District and Sub-Divisional levels, he is assisted in his work by the Assistant Commissioners of Labour, Superintendents of Labour and Labour Officers respectively, all of whom have been declared as Inspecting Officers under the aforesaid Acts.

Inspectorate of Factories

3.5 The Inspectorate of Factories is headed by the Chief Inspector of Factories with State-wide jurisdiction and charged mainly with the enforcement of the Factories Act, the Payment of Wages Act and the Bihar Maternity Benefits Act in registered factories. His headquarters is at Ranchi. In the administration of these Acts, he is assisted by a Deputy Chief Inspector of Factories posted at Patna and exercising jurisdiction over Patna and Tirhut Divisions in general, and 23 Inspectors of Factories, each responsible for one circle earmarked for the purpose. One officer designated as the Deputy Chief Inspector of Factories (productivity) has been entrusted with the task of popularising and guiding the productivity movement in the State and to work as Liaison Officer for safety campaigns conducted in different industries. There are also a Medical Inspector of Factories and a Chemical Inspector of Factories to look into the problems of occupational diseases, industrial health, wastes and effluents and chemical analysis etc. The Medical Inspector of Factories is also in charge of the Industrial Hygiene Laboratory.

Inspectorate of Boilers

3.6 The Inspectorate of Boilers is particularly responsible for the enforcement of the provisions of the Boilers and Steam Vessels Act. This branch, of a purely technical nature, has been placed under the Chief Inspector of Boilers with his headquarters at Dhanbad. With a number of Inspectors of Boilers posted in the field, the work of inspection and enforcement under the different provisions of the Act is carried on under the supervision of the Chief Inspector of Boilers.

The Judicial Wing

3.7 The Industrial Tribunal constitutes the top-most adjudicational body of the State. Having State-wide jurisdiction, the tribunal is competent to adjudicate on all matters

referred to it in view of their overall importance and to hear appeals as provided under some labour Acts. The three labour courts located at Patna, Muzaffarpur, and Ranchi have jurisdiction over Patna, Tirhut and Chotanagpur Divisions respectively. The Bhagalpur Division is covered by the Labour Court functioning at Ranchi. These courts adjudicate on the issues referred to them under the Industrial Disputes Act as well as claims under the Payment of Wages Act etc, arising within their jurisdictional limits.

Labour Welfare

3.8 Bihar Government have taken several steps for the upliftment of industrial workers by giving suitable grants to the Welfare Centres run by the labour unions. Till the year 1962-63, grant at the rate of Rs. 4000/- was given to 31 such voluntary Labour Welfare Centres in the State, but due to lack of response from the employers and employees as also the financial stringency in the State, the Scheme is not working at present. Besides this, the State Government had in the past requested the employers to constitute voluntary welfare fund which was to be run on the joint contribution by the employers and the employees. The response was very poor with the result that the scheme became inoperative.

The Government have so far opened 25 labour welfare centres in the State. A Labour Welfare Officer along with a Lady Social Organizer has been posted in each Centre and made responsible for their day-to-day administration and working. The overall administration and supervision of these centres is the responsibility of the Labour Commissioner, who is assisted at headquarters by a Deputy Labour Commissioner (Welfare) and in the field by the Asstt. Labour Commissioners and Labour Superintendents. Suitable recurring and non-recurring grant is sanctioned each year for running these Centres. These Labour Welfare Centres have been opened mainly with the object of providing facilities to the industrial workers for their social and economic upliftment and have proved useful in many ways besides being popular amongst them. Through the Industrial Health Service Wing, free distribution of medicines and free medical counsel and care have been made available to the expectant mothers who are also given education in the matter of family planning. Provisions for imparting training to the workers and their dependents in sewing and embroidery have been made in these centres. Apart from this, Training-cum-Production

Wings have been attached to the Labour Welfare Centres in knitting, sewing, tailoring, basket and toy making. In addition to deriving recreational and social benefits from the activities of these centres, the workers and their dependants get an opportunity to supplement their income by learning these handicrafts. In order to remove illiteracy among workmen and their dependants, arrangements have been made for running infant and literacy class where free books and other materials are supplied to the learners. Every Labour Welfare Centre has a library and reading room and facilities for indoor and outdoor games. A part-time music teacher has been engaged in these centres to impart training in dance and music. These centres, therefore, have proved to be popular amongst the industrial workers. It has been proposed in the Fourth Five-Year Plan period to open a few more Utility Centres and Training-cum-Production Wings. As regards the welfare facilities admissible to the workers inside the work-place under the Factories Act, it is the responsibility of the Inspectorate of Factories to see that the provisions are strictly enforced.

The Government have not constituted any Board or Advisory Committee for the administration of the Labour Welfare work in the State. However, separate Advisory Committees consisting of the representatives of the employers, trade unions and Government are constituted every two-year by the Labour Commissioner for each State Labour Welfare Centre mainly with a view to advising the centres in the matter of arranging their day-to-day programmes and activities. The State Government were considering to enact a legislation on the lines of Bombay Welfare Fund Act, 1953, but the proposal had to be deferred due to National Emergency followed by financial stringency.

O R I S S A

Secretariat

4.1 At the Secretariat level, the Secretary is in charge of the Department of Labour, Employment and Housing. He is assisted by 2 Under Secretaries, one of them in charge of Housing. The Labour Commissioner is the Head of the Department in respect of both Labour Administration as well as the Inspectorate of Factories and Boilers. In his work he is assisted by 2 Deputy Labour Commissioners, 7 Assistant Labour Commissioners, 17 District Labour Officers and 22 Assistant Labour Officers (non-gazetted). There is a combined Inspectorate of Factories and Boilers

comprising of one Chief Inspector of Factories and Boilers and a senior Inspector of Factories and Boilers, 5 Inspectors of Factories and 4 Inspectors of Boilers.

Labour Commissioner's Wing

4.2 At the headquarters, the Deputy Labour Commissioners look after establishment, administration of Labour Laws, Housing, Welfare Activities besides any other work that may be entrusted to them. Out of the two Assistant Labour Commissioners posted at the headquarters, one is in charge of Housing schemes and Labour Welfare, while the other is in charge of statistics, compilation of Labour manual, administration of Payment of Wages Act and Payment of Bonus Act. The State Implementation and Evaluation Cell is headed by a Labour Officer who also looks after all conferences and administration of Industrial Disputes Act, Minimum Wages Act, Employment of Children Act and Working Journalists (Miscellaneous Provisions) Act.

Field Administration

4.3 The Assistant Labour Commissioners in the field are placed in charge of zones with responsibility to conduct, direct, supervise and coordinate the work of District Labour Officers in the zones to ensure their efficient and proper working. More specifically their functions are :—

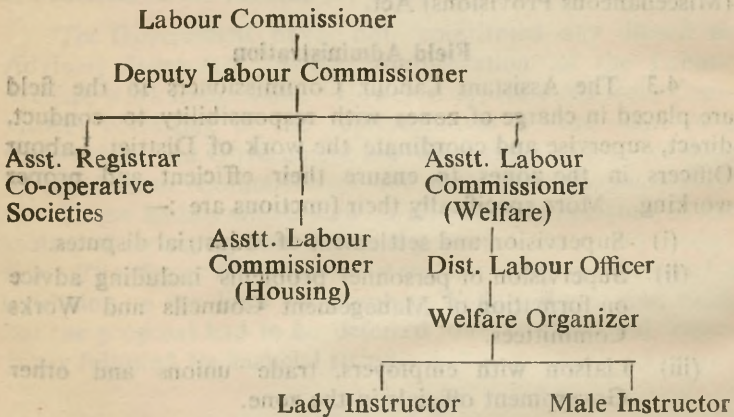
- (i) Supervision and settlement of industrial disputes.
- (ii) Supervision of personnel problems including advice on formation of Management Councils and Works Committees.
- (iii) Liaison with employers, trade unions and other Government officials in the zone.
- (iv) Implementation of the Code of Discipline and other tripartite decisions of Indian Labour Conference, State Labour Advisory Board and other tripartite bodies. They are also responsible for enforcement of various labour laws.

The District Labour Officers have similar duties as Assistant Labour Commissioners in respect of their jurisdiction. One of the important functions of a District Labour Officer in Orissa is that he has been declared as Welfare Officer under the Fair Wages Clause and Contractors' Regulation. At the commencement of the financial year he has to obtain a list of works that are being taken up by different contractors in the different places of the district together with their names

and addresses. Defects noticed in the course of inspections are brought to the notice of the Contractors concerned with a copy to the Executive Engineer concerned and a copy to the Assistant Labour Commissioner in charge of the zone. Another important function entrusted to the labour officers in the sphere of labour welfare relates to housing. District Labour Officers are in charge of industrial tenements constructed in the district including their allotment and realisation of rent.

Labour Welfare

4.4 As a measure to ameliorate the general condition of the working class in the State, welfare activities are carried out in two spheres viz., housing accommodation under the Subsidised Industrial Housing Scheme and socio-economic and cultural activities through the Multi-purpose Labour Welfare Centres. The administrative set-up of these Welfare activities under the Labour Directorate is indicated below :—



The housing accommodation for industrial workers is being provided by employers and Government under the S.I.H. Scheme. So far 1210 houses have been constructed under S.I.H. Scheme by Government and 1108 by private employers. On account of financial difficulties, it has not been possible to meet the increasing demand of employers for financial assistance under the S.I.H. Scheme.

The houses constructed by Government under the S.I.H. Scheme are being allotted by respective District Labour Officers. Since difficulties are experienced in the matter of realisation of rent and eviction of unauthorised occupants, Government have decided to enact suitable legislation in this regard. Besides, to take up all housing schemes, in a conso-

lidated manner, a Housing Board is being constituted in accordance with the newly enacted legislation known as Orissa Housing Board Act, 1967. It is proposed to entrust the responsibilities of construction of houses under S.I.H. Scheme for Industrial Workers to the Board.

There are at present 19 M.L.W. Centres and 5 Reading Room-cum-Recreation Centres functioning in different Industrial pockets of the State. Cultural and Social Welfare activities are being organised through these Centres. The Welfare Centres are manned by Welfare Organizer, Lady and Male Instructor and supervised by Asstt. Labour Commissioner (Welfare).

These Welfare Centres and Reading Room-cum-Recreation Centres provide facilities like reading room, library, radio listening, children education class, sewing, knitting, embroidery and indoor and outdoor games. In each Welfare Centre, there is an Advisory Committee which is a tripartite body to advise on the day to day activities of the Centre.

Up to 1966-67, Government were sanctioning grants-in-aid to voluntary Labour Welfare Centres organised by workers and Trade Unions. On account of financial difficulties, the Scheme has been kept in abeyance. At present, there are 13 voluntary Labour Welfare Centres functioning in this State. Government Labour Officers of concerned districts occasionally supervise the activities in their centres.

Besides, with a view to supplying essential commodities to the workers of different factories, Consumers' Co-operative shops and Fair Price shops with the joint co-operation of the employers and employees have been opened in different industrial establishments. So far 95 consumers' co-operative stores and 4 fair price shops have been opened in this State. These societies are registered under the Co-operative Societies Act and are managed by the Board of Directors formed for the purpose. These societies are aided by management and free accommodation is also provided.

A S S A M

Organisation

5.1 The Organisation of the Labour Department as on 1-12-68 was as follows :—

Secretariat :—

Minister.

Deputy Minister.

Secretary.

Deputy Secretary.

Superintendent.

Assistant Superintendent.

U. D. Assistant 7.

L. D. Assistant 7.

Typists 3.

Labour Commissioner's Wing

5.2. Labour Commissioner is in overall charge of the Department. He is assisted by an Additional Labour Commissioner, a Deputy Labour Commissioner-cum-Chief Inspector of Motor Transport undertakings, 1 senior Assistant Labour Commissioner, 5 Assistant Labour Commissioners cum-Deputy Chief Inspectors of Plantations, 6 Labour Officers, 1 Junior Labour Officer, 25 Labour Inspectors (Gazetted), 1 Medical Inspector, 1 Labour Welfare Officer and 1 Special Officer, Shillong.

He is also the Registrar under the Trade Unions Act, Certifying Officer under the Industrial Employment (Standing Orders) Act, Conciliation Officer under the Industrial Disputes Act, and Inspector under the Minimum Wages Act, the Maternity Benefit Act, Payment of Wages Act and Payment of Bonus Act for the whole State of Assam. He is the Statistics Authority under the Collection of Statistics Act, 1953, for the purpose of collecting statistics relating to labour and industrial disputes for the State of Assam.

The Additional Labour Commissioner, Assam, Shillong has the prime duty to assist the Labour Commissioner whenever any industrial dispute takes place in industries other than tea plantations. He has been declared as Inspector under the Payment of Bonus Act for the entire State of Assam. He mainly deals with industries other than plantations.

A Chief Inspector of Motor Transport Undertakings-cum-Deputy Labour Commissioner, Assam, Shillong, has been appointed Chief Inspector under the Motor Transport Workers' Act and is responsible for the administration of the said Act and Rules framed thereunder within the State of Assam. He has been declared as Conciliation Officer/Inspector under the relevant Sections of the various Labour Acts for the entire State of Assam.

The Senior Assistant Labour Commissioner is to assist the Labour Commissioner mainly in the work of implementation of Plantations Labour Act within the State of Assam. He has been declared Inspector under the Plantations Labour

Act. He has also been declared as Conciliation Officer/Inspector under the relevant sections of the respective Acts with jurisdiction extending over the entire State.

Deputy Chief Inspectors of Plantations-cum-Assistant Labour Commissioners are in charge of each zonal office. They are responsible for supervising the work of all the field officers posted within their respective jurisdiction and to give necessary guidance to the field officers. They are entrusted with the administration of various Labour Acts, both Central and State, and for the purpose they have been declared as Conciliation Officers and Inspectors under the relevant sections of the respective Acts within their respective jurisdictions. One of their primary duties as Deputy Chief Inspectors of Plantations is to see to the proper implementation of the Plantations Labour Act.

Labour Officers are entrusted with the administration of various labour Acts, both Central and State, and for this purpose they have been declared as Conciliation Officers/Inspectors under the relevant sections of the respective Acts.

Special Officer, Shillong is the Secretary of the State Evaluation and Implementation Committee. He has been declared as Conciliation Officer under the Industrial Disputes Act, Inspector under the Minimum Wages Act, Assam Shops and Establishments Act and Payment of Bonus Act with jurisdiction over the district of Khasi & Jaintia Halls. He assists Labour Commissioner in the work connected with the committees and conferences of the Labour Department. As Secretary of the State Evaluation and Implementation Committee and Special Officer, Committees and Conferences, he has jurisdiction extending over the whole of the State of Assam.

The Labour Welfare Officer is responsible for administration of Labour Welfare Schemes under the Five Year Plans with jurisdiction all over the State.

The Medical Inspector has been declared as Inspector under the Plantations Labour Act with his jurisdiction all over the State. His duty is to see to the implementation of medical provisions under the Plantations Labour Act.

The Junior Labour Officers/ Inspectors are also entrusted with the administration of various labour Acts, both Central and State, and for this purpose they have been declared as Conciliation Officers/Inspectors under the relevant sections of the respective Acts within their local areas.

Inspectorate of Factories

5.3 The Factory Inspectorate in Assam is responsible for administration of the Factories Act, 1948, and the Rules made thereunder, the Payment of Wages Act and Rules in factories and the Cotton Ginning & Pressing Factories Act and Rules in the State.

The Head Office of the Chief Inspector of Factories is located at Shillong. For convenience of inspection work, the whole State is divided into five zones or "Factory Districts" with District Offices at convenient factory centres, as follows :—

District Office, Gauhati—for Kamrup, Nowgong, Goalpara, United K&J. Hills, Garo Hills and North Cachar & Mikir Hills. This district originally consisted of just over 300 factories. Since then, the number of factories has increased to nearly 500, and another post is urgently required in this District.

District Office, Jorhat—for Sibsagar District with just over 300 factories where two posts of Inspectors are allotted.

District Office, Dibrugarh—for Lakhimpur District, where two posts of Inspectors of Factories had been allotted for about 350 factories at the time of first sanction. As the number of factories has already exceeded 400, this District also requires another post of Inspector now.

District Office, Tezpur—for Darrang District with just over 150 factories. One post of Inspector has been allotted to this District.

District Office, Silchar—for Cachar District, with about 160 factories. One post of Inspector has been allotted here.

Inspectorate of Boilers

5.4 The State Boilers Inspectorate is responsible for the enforcement of an important Central legislation—the Indian Boilers Act, 1923 and Rules and Regulations framed under it. The main provisions of the Indian Boilers Act relate to safety of workers employed in the factories and other units, where boilers are used for the generation of steam.

The Inspectorate is under the Chief Inspector of Boilers who functions as the departmental head. The Chief Inspector is subordinate to and works under the administrative control of the Secretary to the Government in the Labour Department. The Gazetted staff consists of three cadres, namely, Chief Inspector of Boilers, Senior Inspector of Boilers and Inspector of Boilers.

The Chief Inspector of Boilers, apart from his duties as Departmental Head, is also the Ex-officio Chairman of the Board of Examiners for the Boiler Operation Engineers and Boiler Attendants, Assam. One Inspector of Boilers is the Ex-officio Secretary of the Board of Examiners.

The jurisdiction of the intermediary post of Senior Inspector of Boilers is extended throughout the State. His duty is to assist the Chief Inspector of Boilers in the office work, supervision of the work of the Inspectors and training of Inspectors.

The jurisdiction of the Inspectors attached to the Head Office is extended throughout the State, except the area covered by the Dibrugarh District office.

Labour Welfare

5.5 The Assam Tea Plantations Welfare Fund Act, 1959 has been in force since 1960 and is being administered through a Board consisting of representatives of employers and employees, M.L.As, and Government nominees. A fund has been constituted mainly out of unpaid accumulations in the hands of employers and grants from the State Government. A Welfare Commissioner has been appointed as the Chief Executive Officer. The Board is directly running a Female Welfare Training Centre and has sponsored a scheme for training suitable labour girls in nursing and midwifery courses.

At present the Board has been making suitable grants to various non-official welfare organisations and also trade unions in executing labour welfare programmes.

The Assam Tea Plantations Provident Fund Scheme Act is administered through a Board of Trustees. Over and above the contributory provident fund scheme for the tea garden workers, the Provident Fund Organisation has introduced an insurance scheme for the benefit of the members. Very recently, a Pension Scheme has also been taken in hand.

A Labour Welfare Training Centre is being run under the supervision of the Labour Directorate. Grants-in-aid are being provided to three other non-official bodies under whom a number of welfare centres for plantations labour are functioning. No special administrative arrangements have been made for the purpose.

One Welfare Officer is in charge of the Welfare wing of the Labour Directorate. He is specially entrusted with the formation and implementation of Welfare programmes under the Five Year Plans.

III. VOLUNTARY INSTITUTIONAL ARRANGEMENTS OF LABOUR ADMINISTRATION IN THE EASTERN REGION

History of Tripartite Institutions in India

1.1. The history of tripartite labour institutions in India can be traced back to the year 1942, when the Ministry of Labour established the Indian Labour Conference, modelled, at the National level, almost exactly on the tripartite pattern of the International Labour Conference. It also set up Standing Labour Committee to act, more or less, as the executive body of the Conference. Among the functions entrusted to both these bodies is that of examining all measures of proposed legislation and laying down broad guide-lines for the formulation of labour policies and practices.

1.2. The tripartite institutions at the State level, generally, follow the pattern of their national counterparts. Labour being a concurrent subject, both the Central and the State legislatures have powers to legislate on all labour matters. There is, however, a broad demarcation between the Central and the State functions regarding legislation as well as administration. While regulation of labour and safety in mines, oil fields, on the federal railways and in the major ports and inter-state migration are generally taken to be the subjects for central legislation, the following are the subjects of concurrent legislative jurisdiction: trade unions and industrial labour disputes, welfare of labour, including conditions of work, provident funds, workmen's compensation, invalid and old age pensions and maternity benefits, social security and social insurance, employment and unemployment, vocational and technical training of labour, economic and social planning, and factories.

1.3. As in the 1919 and 1935 Acts, it is provided in the Constitution that when the provisions of an Act passed by the Union conflict with those of an Act passed by the State, the former shall prevail over the latter. Moreover, the labour legislation by the Centre constitutes, both numerically and in importance, the bulk of India's Labour Code. None-

theless, the Centre has a rather restricted role in the actual administration of industrial relations and the implementation of labour laws. The States have considerable degree of freedom in determining the texture and the content of labour policy and evolving their own conventions and practices in the sphere of industrial relations, within the broad framework laid down by the Central Tripartite Bodies. It is in this context that the role of State Tripartite Institutions and other voluntary arrangements have to be viewed.

1.4. The broad pattern of the tripartite institutions functioning in the Eastern Region is briefly discussed hereafter.

WEST BENGAL

2.1. The following tripartite Committees are functioning in the State :—

1. West Bengal State Labour Advisory Board.
2. State Implementation & Evaluation Committee.
3. (a) Medical Advisory Board } under the Plantations
(b) Housing Advisory Board } Labour Rules, 1956.
4. (a) Local Committee, Workers' Education Centre, Barrackpore.
(b) Local Committee, Workers' Education Centre, Calcutta.
5. Different Committees under the Minimum Wages Act.
 - (a) Glass industry.
 - (b) Powerloom industry.
 - (c) Tripartite Committee for assessment of workload and formulation of a Scheme or rationalisation in the different unions of Cotton Textile industry.
 - (d) Tobacco (Cigarette making).
 - (e) Flour Mills.
 - (f) Agriculture.
 - (g) Oil Mills.
 - (h) Public Motor Transport.
 - (i) Bone Mill.
 - (j) Rice Mill.
 - (k) Dal Mill.
 - (l) Stone-breaking & stone crushing.

- (m) Lac manufactories.
- (n) Cinchona.
- (o) Local authorities excluding Calcutta Corporation and Howrah.
- (p) Bidi making for Suti, Farakka & Shamsheganj P.S.
- (q) Bidi making excluding Suti, Farakka & Shamsheganj P.S.
- (r) Tanneries and Leather Manufactories.

Labour Advisory Board

2.2. This is a Tripartite Board, set up on the pattern of All-India Labour Conference. The main function of the Board is to advise the State Government on matters of labour policy and industrial relations. Some of the important decisions taken by the Board are briefly enumerated below :-

(a) Resolution passed in the meeting on 19.9.65

The Board passed this Resolution in the wake of Pakistani aggression, resolving to promote, by all means, national harmony, industrial peace and productivity and maintenance of morale of the working class for meeting the national emergency. The Board further resolved that during the period of crisis, all disputes and grievances should be settled expeditiously through statutory or non-statutory machinery at various levels.

(b) Decision taken in the meeting of 29.2.64.

The problem of temporary labour was discussed at some length and the Board decided that temporary hands should not continue to remain temporary for long, and, if the existing law was not adequate to improve their condition, further legislative measures might be taken.

(c) Decision taken at the meeting of 27.7.63.

It was decided that voluntary arbitration as a method of expeditious settlements of industrial disputes should be practised as far as possible.

It was further decided that :-

- (i) Only simpler cases should be sent to arbitration.
- (ii) Prior to sending cases for adjudication, attempts should be made for settlement of disputes through voluntary arbitration.
- (iii) Government would be very careful in sending cases for adjudication, where violence is involved.

State Evaluation Committee

2.3. This also follows the usual pattern of the Central Evaluation and Implementation Committee. One of the

important decisions taken by the committee in its meeting held on 17.8.63 was that in respect of all industrial disputes Conciliation Officer should convene at least one conciliation meeting within 14 days from the date of receipt of the dispute. Extension of time should be given only if both the parties to the dispute agree in writing for such extension of time or if the conciliation officer, in his discretion, thinks it necessary to give further time in the interest of settlement of the dispute. In any case, however, the Conciliation Officer will send his report under Section 12 of the I. D. Act within 3 months from the date of receipt of the dispute.

Medical Advisory Board

2.4. This Board was constituted in accordance with Rule 31 of the West Bengal Plantations Labour Rules, 1956. It consists of :-

(i) Three persons to be nominated by the State Govt. of whom one shall be notified as Chairman.

(ii) Two representatives each of the employers and workers to be nominated in consultation with the interests concerned.

The Board performs the following functions :-

(i) To advise the State Government as regards the standards of medical facilities to be provided.

(ii) To scrutinise the yearly progress reports from employers and advise the State Government to issue such instructions in the light thereof as will ensure compliance with the relevant provisions of the Acts and Rules.

Advisory Housing Board

2.5. This Board has been constituted under Rule 58 of the West Bengal Plantations Labour Rules, 1956. The Board consists of :-

(i) The Secretary to the Government in the Department concerned who is the Chairman of the Board.

(ii) Two officials to be nominated by the State Government, and

(iii) Three representatives each of the employers and workers to be nominated in consultation with the interests concerned.

The Board performs the following functions :-

(i) To advise the State Government as regards the standard and specifications of houses.

(ii) To scrutinise the yearly progress reports from employers and advise the State Government to issue such instructions in the light thereof as will ensure compliance with the relevant provisions of the Act and Rules within the scheduled period.

BIHAR

Tripartite Consultative Machinery at the State level

3.1. The State has set up a number of Tripartite bodies on the lines of the Indian Labour Conference and the Industrial Committees at the Centre to deal with labour problems in general as also specific matters connected with a particular plant or industry. Some of the important tripartite bodies formed at the State level are as under :—

Bihar (Central) Labour Advisory Board

3.2. Constituted by a Government Resolution, this non-statutory Board is a permanent forum for consultation, at State level, with the representatives of the employers and employees on parity basis. Backed by adequate representation from all the industrial sectors existing in the State, the resolutions and recommendations of the Board are intended to have such sanctity as to enable the Government to implement them without much difficulty and hindrance.

The Board is empowered to form any number of sub-committees to deal with the problems arising from time to time. The Bihar Standing Labour Committee is the name given to the Executive Body of the Board formed in 1960 and consisting of 8 representatives each of the employers and employees with 4 independent members from the Government side. The Labour Minister, Bihar, is the ex-officio Chairman and the Secretary to Government of Bihar, Labour Department is the ex-officio Secretary of the Standing Committee.

Last reconstituted in the year 1967, the Board held its 21st Session on the 12th January, 1968. Some of the important decisions taken in the various meetings of the Board relating to recognition, retrenchment procedure etc., are enumerated below :

(a) Recognition of trade unions

On the unanimous recommendation of the Bihar (Central) Labour Advisory Board, a procedure was evolved to guide the settlement of industrial disputes raised by rival trade unions. It was laid down that a recognised trade

union alone was competent to raise an industrial dispute of collective or general nature and a registered trade union, which is not recognised should content itself with raising individual disputes of its members only. It will be noticed that this procedure amounted to depriving a registered trade union of a portion of its rights available in the Industrial Disputes Act, 1947. But the fact that this procedure was unanimously adopted by the Bihar (Central) Labour Advisory Board as far back as about 15 years ago shows that there was a keen desire and ready willingness on the part of different unions belonging to different central labour organisations to unitedly work for a healthy system of industrial relations in the larger interest of promoting industrial peace. Of late, however, that desire seems to have languished and there have been instances of trade unions questioning the legality of this procedure in the court of law as virtual abridgment of their lawful rights. The problem of inter-union rivalry has, in a way, re-appeared and to that extent the task of the conciliation machinery has been made more difficult in promoting settlement of industrial disputes. The matter came up for a detailed discussion before the Board in its last meeting, held in January, 1968 and following its recommendations, the State Government have set-up a Tripartite Board to deal with all cases of inter and intra-union rivalries.

(b) Retrenchment

The Bihar (Central) Labour Advisory Board, in its 13th meeting held at Patna in October, 1954, evolved certain procedure in the matter of retrenchment. The recommendations of the Board, which were unanimous, were accepted by the Government. According to the procedure, every proposal for retrenchment has, in the first instance, to be discussed by the employers with the representatives of the registered and recognised trade unions and in case of an agreement between the two, retrenchment programme is given effect to in terms of that agreement. But where an agreement between employers and the unions could not be arrived at, the proposal is to be referred to the Commissioner of Labour, Bihar, for advice. The advice of the Commissioner of Labour on the retrenchment proposal is final and binding on both the parties.

The retrenchment was to be effected in the following manner :-

- (i) Workmen of the category, who are over 55 years of

age and have become old and infirm should be re-trenched first ;

- (ii) the junior-most will go next ;
- (iii) the retrenched workmen shall be given first chance of refusal for any future vacancy and alternative employment ;
- (iv) the seasonal workmen so retrenched shall be paid, before they are retrenched, five days' consolidated wages, including allowances and all other concessions, for each season of service rendered by them in the past and seven days' notice of discharge or seven days' consolidated wages in lieu thereof ;
- (v) the permanent workmen so retrenched shall be paid fifteen days' consolidated wages, including allowances and all other concessions, for each year of service rendered by them in the past and one months' notice of discharge or one months' consolidated wages in lieu thereof.

(c) Closure

The Unemployment Committee constituted by the State Government on the recommendation of the Bihar Central Labour Advisory Board in 1954, made the following recommendations on the question of closure due to trade depression and economic reason :

- (i) In case of closures of factories or a section thereof, the employer should submit a proposal with the memorandum of the case to the Commissioner of Labour, Bihar, at least six weeks' before the intended date of the closure. The Labour Commissioner will make enquiry in accordance with the approved procedure of retrenchment and give his decision which will be binding and final.
- (ii) Every effort will be made during this period to examine the possibility for averting the closure with the assistance of the Government, if necessary. In case it is not possible to avert the closure, permission for retrenchment will be granted on payment of compensation laid down under the Industrial Disputes (Amendment) Act, 1953, or on the basis of agreement between the union and the management.
- (iii) The workers, so retrenched, will be registered in the nearest Employment Exchange and efforts should be made to secure alternative employment for them.

The above recommendations were adopted by the State Government with the modification that the notice of closure should be given to the trade unions and the retrenchment proposal should, in the first instance, be discussed with them, and if there is an agreement, the retrenchment shall be made as laid down in the approved procedure of retrenchment

Standing Committee on Evaluation and Implementation.

3.3 Another Tripartite Body of great significance came into being on the 18th December, 1958. This committee keeps watch over the implementation of awards, agreements and settlements including those arrived at between the employers and their workmen either in the course of conciliation proceedings or otherwise. This committee also looks into the implementation of the Code of Discipline and the Truce Resolution.

Standing Committee (Sugar)

3.4. Sugar being one of the major industries of the State, the Government set up a Tripartite Committee consisting of equal number of representatives of the employers and workmen owing allegiance to the Sugar Labour Federation, with the Commissioner of Labour, Bihar, as its ex-officio Chairman. The Committee advises the State Government on all matters concerning labour-management relations and conditions of employment in the sugar factories.

This Committee was reconstituted in 1961 and charged with the responsibility of examining and settling differences arising in course of the implementation of recommendations of the Sugar Wage Board in the Sugar factories of the State.

Standing Committee (Jute)

3.5. On the lines of the standing committee (Sugar), another non-statutory Tripartite Body for the jute industry was constituted in the year 1964 to deal with the difficulties connected with the implementation of the recommendations of the Jute Board.

O R I S S A

4.1. In the State of Orissa, the following Tripartite Bodies are functioning at present :

1. State Labour Advisory Board.
2. State Implementation and Evaluation Committee.
3. State Tripartite Standing Committee.
4. Minimum Wages Advisory Board.

State Labour Advisory Board

4.2. The State Labour Advisory Board was constituted in Labour Department Resolution No. 5459, dated the 24th September, 1953, in pursuance of the conclusion of the Industrial Conference held in New Delhi in 1947, with the object of promoting mutual understanding and co-operation between labour and management. The prime function of the Board is to advise the State Government in all matters relating to labour, employment, conditions of service, welfare and management of labour and any other matter that may be referred to it by the State Government. Till now, the Board has met 14 times in different labour concentrated areas of the State. One of the most important decisions taken by the Board was that each factory should determine its capacity of maintaining the permanent workers. The principle of confirmation of workers against permanent posts should be laid down in the general conditions of service in the factory or the standing orders, as the case may be. Any difference of opinion between the management and the union should be taken up in the works committee and/or by the recognised union.

Another resolution adopted by the State Labour Advisory Board in its 12th meeting was as under :—

“This meeting of State Labour Advisory Board welcomes the change brought about in the political climate of Orissa and is fully conscious of the unfulfilled hopes and aspirations, difficulties and grievances of the working class and its consequential impact on the general industrial relations. For a developing State like Orissa, an atmosphere of peace, cordiality, goodwill and understanding between the capital and labour is very essential and to achieve these objectives, the State Labour Advisory Board strongly recommends to the Government to adopt and implement a progressive and dynamic labour policy in all aspects. The Board further recommends to the Government to take prompt and effective steps for just administration of labour laws, speedy settlement of industrial disputes, prevention of labour unrest and implementation of awards and settlements. The State conciliation machinery must be given a free hand to play its role in all disputes and differences between the employers and workmen and there should not be undue interference of the law and order authorities in the matter.”

State Implementation & Evaluation Committee

4.3. The State Implementation and Evaluation Committee was first constituted in 1959 in pursuance of the

conclusions reached in the meeting of the 16th session of the Standing Labour Committee in New Delhi with a view to examining the extent of implementation of various labour laws, agreements, settlements, awards etc., and advising the parties as to how the difficulties in implementation could be overcome. This Committee was originally designed to function as a sub-Committee of the State Labour Advisory Board. However, in the year 1961, this Committee was reconstituted independent of State Labour Advisory Board. Till now the Committee has met nine times in different industrial areas of the State. One of the important decisions taken by this committee in its 8th meeting was that all complaints relating to breach of Code of Discipline in industry should be submitted to the State Implementation and Evaluation Officer in the prescribed form, failing which no action need be taken in the matter.

State Tripartite Standing Committee

4.4. The State Tripartite Committee was constituted in the year 1967 with a view to considering the hardships caused to the working class, the various difficulties expressed by industry and also to review and resolve the major labour and management problems, and when necessary, forward them for action to the Inter-Ministerial Committee. This is a high level committee set up in pursuance of the resolution passed in the Indian Labour Conference at its 23rd Session held in New Delhi on the 30th and 31st October, 1965.

Minimum Wage Advisory Board

4.5. The Minimum Wage Advisory Board was constituted in the year 1968 under Section 5 of the Minimum Wages Act with a view to advising the State Government in the matter of fixing and revising minimum rates of wages under the said Act. On the basis of recommendations of the Board, Government have revised minimum rates of wages for the following scheduled employments :—

1. Employment in rice, flour and dal mills.
2. Employment in Agriculture.
3. Employment in Tobacco (including Bidi and Gudarkhu making) manufactory.

Government last reconstituted the Advisory Board in the year 1965.

A S S A M

5.1. The following Standing Tripartite Labour Committees have been set-up by the Government of Assam :

State Standing Labour Committee for Plantation

5.2. This committee was set up to advise Government on various problems that may rise in Tea Plantations in Assam from time to time.

Standing Labour Committee on Plywood Industry

5.3. The function of this committee is to advise the State Government on various labour problems that may arise in the plywood industry from time to time.

Tripartite Committee of State Electricity Board

5.4. This committee advises the State Government on various problems of the staff of the Board from time to time.

Standing Labour Committee on Engineering Industry

5.5. The function of this committee is to advise the State Government on problems relating to the Engineering Industry.

Tripartite Standing Committee for All Industries at State Level

5.6. The function of this committee is to advise the State Government on various problems that may arise from time to time in the various industries of the State.

State Advisory Board

5.7. The function of the Advisory Board is to co-ordinate the work of the different committees and sub-committees in the State.

5.8. There are two Tripartite Committees for State Transport and P. W. D. which are known as :—

- (i) The Tripartite Committee on P. W. D. workers.
- (ii) The Tripartite Committee on State Transport.

5.9. In Assam the State Standing Labour Committee for Plantations is the most important body through which the State Labour policy, including all proposed enactments and amendments of different labour legislations affecting the tea industry, are formulated. The following are some of the important decisions taken by this committee :

- (i) Approval of new housing standard and specification under the Plantations Labour Act, 1951, and Assam Plantations Labour Rules, 1956.
- (ii) Implementation of National Malaria Eradication Scheme in tea gardens by spraying D. D. T.
- (iii) Procedure to be followed by the employers in effecting modernisation, mechanisation and automation as and when the situation demands.

- (iv) **Modification of Pension Scheme** in respect of retiring age of plantation employees through the Assam Tea Plantation Provident Fund Scheme Act.
- (v) **Investment of Provident Fund money** under the Assam Tea Plantation Provident Fund Scheme in other than State and Central Government securities in order to obtain the higher rate of interest.
- (vi) **Taking over the Garden L. P. Schools.**
- (vii) **Supply of protective clothing—apron** to tea workers.
- (viii) **Employment of trained midwives and nurses** in Dibrugarh Medical College Hospital in tea gardens.
- (ix) **Enhancement of agricultural production** in tea gardens under the scheme of Grow More Food Campaign.
- (x) **Setting up of Joint Management Council** in industrial establishments.
- (xi) **Agreement with regard to sending more workers** to Workers' Education Centre, Tinsukia.
- (xii) **Supply of firewood** to tea workers.
- (xiii) **Amendment of the Assam Maternity Benefit Act, 1944.**
- (xiv) **Discontinuance of adjustment of one-third of Khet Produce** towards cereal ration.
- (xv) **Agreement on amendment of Payment of Wages Act, 1936,** to provide for automatic conversion of Bonus payable to workers into the National Saving Certificates, or Defence Saving Certificates.
- (xvi) **Revival of the Appellate Tribunal.**
- (xvii) **Supply of cereal ration at 3.26 Kg. per head per week.**

6. It will thus be seen that the States in the Eastern Region have evolved tripartite standing machinery for securing the active co-operation of labour and management in the formation of Government policies on important issues affecting industrial relations, and in the implementation of labour laws and the discharge of non-statutory obligations.

IV. PROBLEMS OF LABOUR ADMINISTRATION— LEGISLATIVE SUPPORT FOR LABOUR POLICY

1.1. In the preceding two Chapters, we have tried to delineate in broad contours, the structure of labour administration and the frame-work of voluntary arrangements operating in the States of the Eastern Region. It is now proposed to take up the Note of the Commission* and consider *parwise* the main issues thrown up in the Note with a view to *bringing into sharper focus the problems of labour administration* which are particularly relevant to the Member-States.

1.2. The main features of the labour policy have been elaborately discussed in Section 1 of the Note. The evolution of labour legislation as well as of labour administration in the country was largely in pursuance of the objective of giving this labour policy a practical shape and content.

Refer Para 5 : Legislative Measures and Their Classification

2. The Working Group agreed with the broad classification of legislative measures adopted since 1947 in support of the labour policy and programme, as given in paragraph 4 of Commission's Note. As regards the legislative support to the programme given by the respective State Governments in the Eastern Region, the position is as follows :—

(i) All the four States have enacted Shops & Establishments Acts which have been rightly classified in Group (ii), namely legislation on working conditions.

(ii) In Orissa, the following State Acts and Regulations are in force :—

(a) Orissa Public Works Department/Electricity Department Contractors' Labour Regulation, 1959, as amended in 1961 (to be classified under group (ii) of paragraph 4 of the Note).

(b) The Orissa Industrial Housing Act, 1966 (to be classified under group (v) of paragraph 4 of the Note).

* Reproduced as Chapter I of this Report.

- (c) The Orissa Housing Board Act, 1967 (to be classified under group (ii) of paragraph 4 of the Note).
- (iii) In Assam, the Maternity Act, as amended by Act No. XVII of 1951 and Act No. V of 1952, is in force (to be classified under group (iv) of paragraph 4 of the Note).
- (iv) All the States in the Eastern Region have framed their own Rules under the different Central Acts.

Refer Para 9 : Local Bodies, Statutory Boards and Labour Administration

3. In the States of the Eastern Region, local bodies have not been entrusted with the administration of Shops and Commercial Establishments Act. The working group do not recommend any change in the prevailing practice. As regards the legislation on welfare, the Working Group noticed that the Orissa Government have under their consideration the enactment of the Orissa Welfare Fund Bill which will be intended for administration of both intra-mural and extra-mural activities for the welfare of the workmen by creating a Fund for this purpose. The fund would be administered through a statutory Board. Similarly in Assam, the Tea Plantations and the Employees' Welfare Acts are administered by a Statutory Welfare Board. The details regarding the working of these funds have been given in paragraph 5.5 of Chapter II.

Refer Para 7 and Part IV of the Note : Trade Union Movement and Labour Administration

4.1. The development of strong unions is an important pre-requisite for successful implementation of labour policy. The Working Group agreed that a strong trade union movement could not be brought about purely by legislation. It was felt that the Trade Unions Act, 1926, had become out-moded and required drastic changes. While it was not within the scope of the Working Group to go into the details of various labour laws, the problem of inter-union and intra-union rivalries and the connected provisions of the Industrial Disputes Act and the Trade Unions Act, having relevance to this problem, had to be considered in the context of labour administration. It was felt that unless the problem of inter-union and intra-union rivalries and the related question of recognition were tackled, the labour administration could not function effectively. The Working Group felt that for better labour

administration, a single recognised collective bargaining agent was necessary, preferably at the plant level. However, it would be outside the scope of the Working Group to consider the detailed mechanics of determining the representative character of trade unions.

4.2. The Working Group felt that the Trade Union Act should be so amended as to check the mushroom growth of unions. Moreover, the Registrar of Trade Unions should be empowered to cancel the registration in the event of violation of the Rules of the registered constitution of the trade union concerned. This will increase his effectiveness in implementing the Trade Unions Act.

Limitations in Implementation of Labour Laws

5. It goes without saying that a just and efficient administration of the provisions of the labour laws would go a long way in improving the conditions of labour and establishing a climate for improved labour-management relations. It has, however, to be realised that a major constraint on the efficient functioning of labour administration arises from inherent defects in the labour legislation itself. The Member-States have already sent to the Commission detailed notes regarding the difficulties experienced in implementing specific provisions of the various Labour Laws. The Study Group on Labour Legislation is seized with this problem.

6.1. It is, however, a debatable point whether the country has had too much of legislation and it should now stop legislating further and start implementing the existing laws. This is a controversy which is not confined to the labour field alone. In a wider context, it assumes the form of a demand that there should be no more planning but only consolidation and proper implementation of whatever programmes were undertaken in the previous Five Year Plans. The controversy is, however, largely misplaced, in as much as the demand for a more effective enforcement of existing labour legislation, and the need for enactment of new labour laws go together and cannot be regarded as mutually exclusive programmes of action. There is, therefore, need for a comprehensive examination of the administrative implications of the existing frame-work of labour legislation with a view to finding out the manner in which the enforcement agency should be suitably strengthened to adequately cope with the tasks of effective implementation of labour laws. At the same time, the need for new legislation cannot entirely be ruled out, because actual day-to-day administration of industrial rela-

tions reveals a number of important gaps in the legislative frame-work which are taken advantage of by interested parties to defeat the declared objectives of labour policy.

Refer Para 16 of the Note

6.2. The Working Group felt that while it was true that "in future emphasis should be laid more on the effective enforcement of existing labour legislation rather than on enactment of new Labour Laws", it had to be realised that the administration faced the twin problems of faulty and weak implementation, as well as inadequate and defective legislation. It was necessary that both these aspects of the problem were were fully appreciated and tackled.

Refer Para 18 : Problems of Co-ordination

7. With the expansion in the role of Government in the economic field, many undertakings have been set up in the Public Sector. State Governments are entrusted with the tasks of rapid industrialisation and increased production with a view to bringing about improvement in the standards of living of the people. For this purpose an independent Department of Industries is functioning in every State. This frequently raises problems of co-ordination between the Department of Labour on the one hand and the Department of Industries and other Departments of Govt. in charge of Public Sector Undertakings on the other. The question was considered by the Working Group, at length, and their recommendations are as follows :—

- (i) In the interest of co-ordination between the concerned Departments, the co-ordinating influence of the Chief Secretary / Development Commissioner / Agricultural Commissioner should be exercised in the interest of production on the one hand and the welfare of labour on the other.
- (ii) At the Minister's level, Departments of Labour and Employment should be in charge of the same Minister—preferably a senior member of the Cabinet. He could, of course, hold share of other Departments, including Industries, Agriculture, etc,
- (iii) It may be advantageous to have a sub-committee at the Cabinet level for the effective co-ordination between the Labour and other concerned departments in the interest of employment, production and labour welfare.

- (iv) The suggestion that the name of 'Labour Department' should be changed to 'Industrial Relations Department' did not find favour with the Working Group. It was felt that there was no need for a change of the nomenclature of the Department.
- (v) Apart from the arrangements for co-ordination at higher levels mentioned above, the Departments of Labour and Industries should function separately and there was no merit in combining them. Functionally speaking, the two Departments have, of necessity, to operate at separate planes—the Industries Department being concerned primarily with the promotion of industrial growth and the Labour Department with the maintenance of harmonious industrial relations. The Industries Department was also the Department administering some of the industrial units in the State, either directly or through Autonomous Corporations in the State Public Sector. Therefore, if Labour Department became just another wing of Industries Department, it could not generate the confidence as to its impartiality which was an essential pre-requisite for playing a role of a disinterested and non-partisan "Conciliator".

Refer Para 25 : Expansion of Labour Directorates

8.1. The Working Group considered the process of evolution of labour administration in the Member-States. It was noticed that the Labour Departments have expanded considerably after 1947. The following tables show the position regarding the expansion of Labour Directorates in the Member-States.

WEST BENGAL

Designation of post.	No. of Posts.	
	1950	1968
Labour Commissioner	1	1
Additional Labour Commissioner	—	1
Joint Labour Commissioner	—	2
Deputy Labour Commissioner	2	7
Asst. Labour Commissioner	11	19
Administrative Officer	—	1

Designation of Post	1950	1968
Labour Officers	13	46
Commercial Accountant	—	1
Research Officer	—	1
Junior Research Officer	—	1
Director, Training Institute	—	1
Professor „ „	—	1
Lecturer „ „	—	1
Inspector, Minimum Wages	—	16
Inspector, Trade Unions	—	8
Supervisor, Labour Welfare	—	7

ORISSA

	1953	1968
Labour Commissioner	1	1
Deputy Labour Commissioner	—	2
Asst. Labour Commissioner	1	7
Labour Officer	2	17
Asst. Labour Officers	4	22
Chief Inspector of Factories and Boilers	—	1
Inspectors of Factories	—	6
Inspectors of Boilers	—	4

BIHAR

	1950	1967-68
Labour Commissioner	1	1
Joint Labour Commissioner	—	1 (He is also Registrar, Trade Unions)
Deputy Labour Commissioner	1	4
Special Officer, Evaluation and Implementation	—	1
Asst. Labour Commissioner	4	6
Labour Superintendents	—	13 (One L. S. works as Dy. Registrar, Trade Unions)

Designation of Post	1950	1968
Labour Officers	4	48
Chief Inspector of Factories	1	1
Deputy Chief Inspector of Factories	—	1
Deputy Chief Inspector of Factories (Productivity)	—	1
Medical Inspector of Factories	—	1
Chemical Inspector of Factories	—	1
Inspector of Factories	3	23
Chief Inspector of Boilers	1	1
Inspector of Boilers	2	9
Statistics Authority	1	1
Statistical Specialist	2	2
Statistical Officer	—	1

ASSAM

	1951	1968
Labour Commissioner	1	1
Additional Labour Commissioner	—	1
Deputy Labour Commissioner	—	1
Senior Asst. Labour Commissioner	—	1
Assistant Labour Commissioner	1	5
Labour Officer	5	6
Special Officer	—	1
Junior Labour Officer	—	2
Labour Inspector	11	19
Motor Transport Inspector	—	4
Medical Inspector	—	1
Labour Investigator	4	—
Special Officer for Court cases	—	1

8.2 The most significant expansion in the State of West Bengal took place during the years 1967 and 1968 when one post of Additional Labour Commissioner and 2 posts of Joint Labour Commissioners, 2 posts of Deputy Labour Commissioners, 4 posts of Assistant Labour Commissioners, 1 of Administrative Officer and 16 of Labour Officers were created,

Refer Para 31 and 32 : Violations of Labour Laws and Action Taken

9.1 The Working Group agreed with the analysis given in the Note regarding the factors which influence the effective observance of the obligations imposed by law. The limits of acceptability and the general problem of communication have to be kept in view while considering the task of implementation of labour policy. Nonetheless, non-observance of statutory requirements needs to be dealt with stringently according to law. The Working Group examined the position of non-compliance reported to Government and legal action taken thereon. The State-wise position, regarding violations reported, cases instituted and the results of prosecution in respect of each Member-State is given in Appendix II.

9.2 It will be seen from the statements in Appendix II that in West Bengal in the year 1967, 168 complaints regarding non-implementation of Awards, 134 regarding non-implementation of Agreements and 32 regarding violation of the Code of Discipline were received. The position regarding disposal was 95, 94 and 10 respectively. A sum of Rs. 24,745.70 was realised in six cases in 1967 in Certificate proceeding for non-implementation of Awards and Agreements. This was the highest figure of realisation in the last four years. The highest number of prosecutions relates to the West Bengal Shops and Establishments Act, 1963—5,963 in 1966 and 5,739 in 1967. The next in importance is the number of prosecutions relating to the Payment of Wages Act, 1936—975 in 1966 and 914 in 1967.

In Bihar also, the largest number of prosecutions relates to the Shops and Establishments Act—264 in 1966 and 273 in 1967. The number of convictions against these cases is 203 in 1966 and 216 in 1967. The fines imposed ranged from Rs. 5/- to Rs. 200/- and the offences related mainly to the non-registration and non-maintenance of registers. The number of prosecutions launched and convictions secured under the Factories Act was 90 and 83 respectively during the year 1966 as against 75 and 69 respectively during 1967. The smallest number of prosecutions filed was under the Motor Transport Workers Act.

In Orissa, the total number of prosecutions filed during 1967 was 615 as against 745 during 1966. Out of these, 108 cases were withdrawn in 1966 and 55 during 1967. The number of convictions was 244 in 1966 and 108 cases in 1967. The fine imposed varied from Rs. 2/- to Rs. 50/-. However, in

cases of violation of Factories Act, the fine imposed ranged from Rs. 20/- to 200/-.

In Assam, 244 cases of prosecutions were filed under the Shops and Establishments Act, 250 cases under the Motor Transport Workers Act and 82 cases under the Plantations Labour Act for varying periods as shown in Appendix II-D. The number of convictions secured was 93 under the Assam Shops and Establishments Act, 89 under the Motor Transport Workers Act, and 9 under Plantations Labour Act. The fine generally varied from Rs. 5/- to Rs. 100/- except in case of Plantations Labour Act, where the fines varied from Rs. 50/- to Rs. 400/-.

One broad conclusion which emerged from the analysis of the position regarding complaints of violation and cases of prosecutions was that the existing provisions in the various labour laws could hardly be considered as providing an adequate deterrent against violations.

9.3 The Working Group felt that it was not due to vacillation and indecision that withdrawal had taken place, but compliance by the employers in course of inspections, etc., leads to withdrawal in the normal course. From the figures supplied by the Member-States it does not appear that withdrawals were frequent or widespread for unknown reasons.

V. LABOUR ADMINISTRATION—ORGANISATION, ROLE AND FUNCTIONS

Refer Para 33 : Functions of Labour Administration

1.1 Labour Administration has mainly three functions to perform, viz., maintenance of harmonious industrial relations, enforcement of Labour Laws and Labour Welfare. The working group felt that while the Tripartite Committees will have an important role in persuading the parties to implement the laws, settlements and awards, the primary responsibility for such implementation must rest with the officers of the Labour Department. The Working Group agreed with the view that there was need for creating/strengthening of permissible type of machinery to which complaints could be referred for redress and that Government had an important role to play in this regard.

Refer Paras 33 & 36 : Problems of Small Units

1.2 The Working Group agreed with the analysis of problems of Labour Administration in small units and in unorganised sections of workers. Government have to maintain greater vigilance in this regard. However, while there was need to strengthen the enforcement machinery for the unorganised sector, the interest of organised sector cannot be sacrificed and the organised sector should continue to receive priority.

Refer Paras 35 to 38 : Problems of the Public Sector

2.1 There has been a rapid expansion of the public sector in pursuance of the economic strategy underlying the Five Year Plans. This has created peculiar problems of labour administration in the public sector. In theory, the public sector has to be treated at par with the private sector. However, in practice it has been observed that the public sector undertakings claim some sort of preferential treatment in the matter of maintenance of industrial relations and enforcement of Labour Laws. The Working Group felt that there was need to undertake detailed case studies of important public sector undertakings to find out what was the level of enforcement of Labour Laws in the public sector undertakings and why had the industrial relations got bogged down in the public sector.

Refer Para 36

The Working Group agreed with the decision taken by the Heads of the Public Sector Undertakings in 1963 that "there should be an annual review of the position regarding the implementation of Labour Laws in the Public Sector Undertakings. At the plant level such reviews should be conducted by the State Labour Commissioner or the Chief Labour Commissioner in co-operation with the General Manager and at the Government level, jointly by the Ministry of Labour and the Employing Ministries concerned".

Refer Para 37

2.2 The Working Group felt that the following measures will lead to improvement of industrial relations in Public Sector Undertakings :—

- (i) It has sometimes been experienced that representatives of Public Sector Undertakings who are deputed to attend the conciliation proceedings are not given sufficient authority by their managements to take decisions on the spot and make commitments on behalf of the management even with regard to minor demands.
- (ii) To deal with important disputes in different public sector undertakings as well as in private sector undertakings, there was need to have senior officers of Labour Department on the spot. The Working Group also felt that there was need to post senior officers of the Labour Department to handle labour disputes in places having major industrial complexes viz., Durgapur, Ranchi etc.
- (iii) The Working Group felt that the adoption of tactics like gherao and violent demonstration both in public and private sector was adversely affecting the usefulness of the conciliation machinery. It was, therefore, suggested that such tactics should be firmly dealt with.
- (iv) The Group felt that frequent recourse to voluntary arbitration was desirable and the public sector undertakings should give a lead in this matter, particularly in cases of individual discharge and dismissals.

Refer Para 38 : Appropriate Government for Industrial Relations of Central Govt. Undertakings

3.1 As regards Central undertakings for which responsibility for industrial relations rests with the State Government,

the Working Group felt that the present arrangement should continue. The following factors weighed with the Working Group in making the above suggestion.

- (i) The law and order problem will continue to be the responsibility of the State Government concerned and as such it was desirable, in the interest of close co-ordination and effective action for maintenance of industrial peace, that the labour relations were looked after by the State Government.
- (ii) Generally, a number of ancilliary industries develop around the basic industries like steel, oil etc. Industrial relations in these industries will continue to be the responsibility of the State Government and the maintenance of uniformity in these industries on the one hand and the basic industries on the other cannot be overlooked.
- (iii) Labour Administration requires a close and intimate knowledge of local conditions, practices and personalities.
- (iv) Practical experience shows that implementation of agreements or awards is effectively handled not only through rigid enforcement of statutes, but also by persuasion and moral pressure which can be more effectively done at the State level.

3.2 With regard to mines, a practical difficulty being experienced was that labour problems pertaining to loading and unloading etc., outside the mines only were the responsibility of the State Government. It would be more rational if the loading and unloading within the mines area was also made the responsibility of the State Government machinery.

3.3 The Group agreed with the view that certain fields, such as mica, now falling under the jurisdiction of the Centre, should appropriately be transferred to the State machinery.

4.1 A demand is often made that the responsibility for administration of labour laws in the Central Public undertakings should be given to the Central Government as was the case with regard to mines, railways, banks, Life Insurance Corporation, etc. This argument was examined at length by the Working Group. The Working Group felt that there was a case for entrusting the responsibility for maintaining industrial harmony to a single agency. It, therefore, suggested that the entire field of regulating industrial relations, except in

case of Life Insurance Corporation, Railways, Ports, Posts & Telegraphs and Banks, should be made over to the State industrial relations machinery since the concerned State Government was also responsible for the maintenance of law and order.

4.2 In this eventuality, the Government of India should assist the State Government financially for augmentation of the State conciliation machinery.

4.3 The above conclusions were reached by the Working Group after careful consideration of the practical difficulties arising from the existing system of having two separate agencies operating in the State with the same objective, viz., maintenance of industrial peace. The Central conciliation machinery deals with the industrial relations in the mines, but in the workshops owned by the same organisation, the industrial relations are the responsibility of the State conciliation machinery. It would be much more convenient for the employers as well as the workers if they were to deal with one and the same agency for their entire organisation. The argument which has been adduced in favour of extending the scope of the Central conciliation machinery in respect of the Central public undertakings having branches in more than one State, is the need for uniformity. The same argument is advanced in favour of continuing the present arrangement in respect of mines etc. The Working Group felt that a closer look at the argument would reveal its weakness. While there was, no doubt, need for laying down an over-all policy in respect of large-sized industrial undertakings, their units located in different States had many problems and demands of a peculiarly regional nature. The nature of these demands was largely determined by local requirements as well as by the typical regional composition of the trade union movement operating in the area. Moreover, it was these local issues on whose effective handling depended the maintenance of industrial harmony in that particular unit. The State conciliation machinery, because of its close acquaintance with the problems of the area as well as with the trade union movement, was better-suited than the the Central conciliation machinery for dealing with industrial relations in these units. As for the need for uniformity, this could still be ensured through the all-India machinery such as Wage Boards, National Tribunals etc. Further more, the State Government which was entrusted with the responsibility of maintenance of law and order should also be the agency

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for resolving the industrial disputes which tended to give rise to the law and order problems. Both these aspects of the Labour problems were so intimately inter-related, particularly in the present era when some labour unions were only too ready to put premium on the militant forms of agitational activities, that the State Government should have clear authority and responsibility for dealing with the industrial relations in their entirety. This arrangement has functioned satisfactorily in case of big industrial undertakings in the private sector, such as Associated Cement Company, Indian Oxygen Limited, Indian Aluminium Co. Ltd., etc., which have branches in more than one State and there is no reason why this should not be retained in case of Central public undertakings and, in fact, extended to the sphere of mines. Therefore, the balance of advantage lay with the above formula suggested by the Working Group for handling industrial relations by giving this responsibility to the State conciliation machinery in respect of all industrial undertakings except Life Insurance Corporation, Railways, Ports, Posts & Telegraphs and Banks.

Refer Paras 40 & 41

5.1 The Working Group felt that both the Labour Secretary and Labour Commissioner should be senior officers and their frequent transfer should be avoided. In this connection, the position pertaining in the States of Eastern Region was examined. It was found that in West Bengal there have been four changes of Labour Commissioner in the last 10 years. One Labour Commissioner was in the office for barely a month. However, his successor continued in office for about 6½ years. The present incumbent has been in office since June, 1967. At the level of Secretary there are four changes during the last 10 years. The present Labour Secretary has been in office since 1966.

In Bihar there have been four changes of Labour Commissioner during the last 10 years. The present Labour Commissioner is continuing since 6.12.1965. As regards transfers of Labour Secretary, there have been five changes in the last 10 years. Generally, the Labour Secretaries have been in office for over three years though previous Labour Secretary continued in office for just one year.

In Orissa there was only one change at the level of the Labour Commissioner during the last 10 years. At the level of the Labour Secretary there have been four changes during the last 10 years.

In Assam there has been one change of Labour Commissioner during the last 10 years. At the level of Secretary there were five changes during the last 10 years. The present Labour Secretary has been in office since 1965.

5.2 The Working Group considered the point contained in the Note that as a result of the inadequate status given to Labour Commissioner within the hierarchy of services, the officials of the Labour Department sometimes feel an inferiority complex while dealing with matters connected with other Ministries/Departments and felt that, except in Assam, the post of Labour Commissioner was a cadre post in the senior scale of I.A.S. and as such the status of the Labour Commissioner was not an inhibiting factor in the efficient discharge of his functions. However, so far as the other officers of the Labour Department are concerned, the Working Group felt that there was need for upgradation of their pay scales and status.

Refer Para 42 : Industrial Tribunals

6.1 The Working of Industrial Tribunals is outside the scope of the Group. However, the Working Group felt that officers of the Labour Department who have sufficient experience of enforcing labour laws and also have some legal background should be eligible for the post of Presiding Officer of Labour Courts.

6.2 The Working Group further felt that there should be provision for only one appeal against the awards of the Labour Tribunals.

Refer Para 43

7. The problems of Factories Inspectorate will be taken up in the next Chapter.

Refer Paras 44 to 50 : Delays

8. The Working Group agreed with conclusions in these paragraphs on the general question of delays and steps necessary to eliminate them. The Working Group had the following further suggestions to make in this regard :—

- (i) The Working Group felt that the present provisions in the law are adequate to eliminate delays, provided these are observed scrupulously by the Conciliation Officers.
- ii) The prescribed period should be deemed to have commenced in the case of non-public utility service from the date parties are brought to the Conciliation table.

- (iii) The Group felt that the Conciliation Officers should be empowered to compel attendance of parties to the dispute and that this will eliminate unnecessary delays.
- (iv) The Working Group considered the question of delays in the disposal of cases under the different labour laws and felt that where the number of such cases was very large a Court should be specifically earmarked for dealing with these cases.
- (v) The Working Group was of the view that at present there was considerable delay in the disposal of claims under different labour laws. It would considerably expedite matters if the claims under different labour laws were to be preferred before a single agency, namely, the Labour Courts.

Refer Para 51

9.1 The Working Group felt that the present strength of the conciliation machinery was inadequate to deal with the industrial disputes. An idea of the magnitude of the work handled by the conciliation machinery will be clear from the figures given in the statements in Appendix III.

9.2 The Group felt that ordinarily a senior gazetted officer should be posted in every district and a junior gazetted officer in every sub-divisional headquarters. This is based on the consideration that effective supervision is now necessary on a widening range of activities which include factories, shops and commercial establishments, transport undertakings and agricultural labour. In all these fields, the activities are continuously increasing. The workers are becoming more and more conscious of their rights and privileges and, therefore, the number of disputes is on the increase. Therefore, it is necessary to suitably strengthen the labour machinery in order to maintain healthy labour-management relations.

Refer Para 52 : Refresher Courses

10. The Working Group felt that the arrangements for refresher course should be made in every State in addition to the training facilities available under the Central Government Scheme. Further the senior officers should pay more attention to the training of the junior officers. There was also need for having a Refresher Training Course at regular intervals. The Working Group felt that it would be desirable to have a

Regional Institute for this purpose for the Eastern Region, as there was need for training of practically all the officers of the Labour Department to bring their knowledge up-to-date. It is, however, necessary that such Institutes should maintain close liaison with the Labour Departments concerned so that their training programmes are of practical utility to the officers of the Labour Department of the concerned State.

Refer Para 54

11.1 An analysis of the figures given in Appendix III would show that the Conciliation Machinery has generally been successful in settling industrial disputes through its intervention. However, the method of settling industrial disputes through arbitration has not been very successful and the response of both employers and employees to arbitration has been rather unsatisfactory.

Refer Paras 55 to 58 : Confidential Reports

It appears that none of the States concerned follow the practice of supplying copies of confidential reports by Conciliation Officers to the parties. The Working Group felt that in no circumstances should copies of such reports be supplied to the parties. For the rest, the Working Group agreed with the conclusion given in the Note.

Pay-scales of Conciliation Officers

12.1 It was desirable to enhance the pay and status of the conciliation officer suitably, so that that he may be an effective instrument in the maintenance of harmonious industrial relations. While Government could not afford to raise the emoluments of the conciliation officers to the level of what was being paid to the representatives of the employers, the Working Group still felt that there was an urgent need for an upward revision of the emoluments of the conciliation officers to raise their status and to give them more confidence in tackling industrial disputes.

Conciliation and Enforcement Machinery—Separation of

12.2 The Working Group endorsed the view that the conciliation officers, as conciliation officers, should not have coercive powers under any labour laws and that they should use their good offices in bringing about agreements between employers and workers. But this does not mean that the conciliation machinery and the enforcement machinery should be separated. The two can very well be combined by the same

staff to suit the needs of a particular State. Further, such a separation will not be practicable from financial point of view, because it will not be possible to maintain two sets of officers for these two purposes.

Assessment of Work of Officers

13.1 The Working Group felt that the assessment of the work of the officers should be done carefully and as objectively as possible. The remarks should reflect an analysis of his qualities, abilities, mental make-up, attitude, capacity of application and the standard of performance achieved by him.

Promotion

13.2 Promotion of Labour Officers should be based on considerations of seniority-cum-merit. Further, recognition should be given for exceptional or outstanding work in any distinct form either by commendation or by giving increments of pay.

Residential Accommodation

13.3 To maintain the efficiency of the officers of the Labour Department, Government should provide residential accommodation to the personnel of the Labour Department. In some cases, it has been noticed that field officers have no other alternative but to hire houses of an employer, which detracts from their effectiveness.

13.4 The enforcement side should consist of two branches where this does not exist :-

- (i) Factory Inspectorate charged with the duties of enforcement of the Factories Act, 1948, and
- (ii) Inspectorate whose duty should be to enforce other Labour Laws.

Refer Para 60

14. Generally speaking, the decisions by the Government for reference of disputes at the Secretariat level are taken objectively and purely on merit.

Refer Para 61

15. As regards the convention of getting the concurrence of the employing departments both at the Centre and the State before an issue is referred to adjudication, the Working Group felt that such concurrence should be required only in cases where the issue was of a general policy nature and if no reply was received within 30 days, the State

Government concerned may refer the matter to adjudication.

Ref. Para 64

16. The Working Group felt that while it was difficult to codify the matter, broad guide-lines can be laid down so that the officers exercise their powers within the frame-work of the same.

Ref. Para 67

17. As regards the point raised in this para, the Working Group was of the view that the parties should not be given authority to approach the Tribunals direct. This would be both unworkable and unwise.

Ref. Para 68

18. The Shops and Establishments Act is not administered by the Local Bodies in any of the States. They are administered by the Officers of the Labour Department. This should continue. The Working Group was also of the view that implementation of the Minimum Wages Act in Agriculture should not be left in the hands of Panchayats because it has been noticed that the Mukhias were generally the big land-owners and important employers of agriculture labour.

Ref. Para 70

19. The Conciliation as well as Enforcement Machinery has to be suitably strengthened, if it has to discharge its functions successfully. Therefore, the Central Government should also bear a part of the expense relating to the implementation of labour laws in the State.

Ref. Para 71

20. The question of setting up an All-India Labour Service was considered. The Working Group felt that instead of constituting an All-India Service it would be much better to provide for avenues of deputation outside the State to Central Government, Public Sector Undertakings and even for foreign assignments.

The Cadre Structure of the Labour Administration

21.1 The cadre structure of the gazetted and non-gazetted posts in the Labour Commissioner's wing was discussed. It was noted that in Assam, there was no labour cadre at the non-gazetted level. The posts of Labour Inspectors were all gazetted. In Orissa, the officers in the non-gazetted cadre, designated as Assistant Labour Officers, are vested with all the powers of Labour Officers, including conciliation. How-

ever, the minimum educational qualification for the non-gazetted posts is a Degree in Labour and Social Welfare. In West Bengal, the non-gazetted cadre is known as the "West Bengal Subordinate Labour Service". Officers appointed to this service are entrusted with the enforcement of different Acts, except the Plantations Act and Conciliation. In Bihar, the non-gazetted officers designated as Labour Inspectors are entrusted with the enforcement of Minimum Wages Act in Agriculture only.

21.2 The Working Group felt that the non-gazetted officers could be entrusted with enforcement of different Labour Acts, except the Industrial Disputes Act and the Bonus Act, provided the officers were properly qualified.

21.3 As regards the gazetted posts, the Working Group considered the question whether there should be any intermediate gazetted cadre in between the cadre of Labour Officers (lowest gazetted cadre) and the Assistant Labour Commissioners. In Bihar, for instance, there was a cadre of Labour Superintendents in between that of Labour Officers and the Assistant Labour Commissioners. The Working Group felt that no uniform structure of posts in the gazetted cadres could be recommended and the practice will naturally vary from State to State.

21.4 It was noted that, except in Bihar, the Assistant Labour Commissioners are in charge of zones which are generally smaller than the administrative Divisions. Thus, in Assam there are 5 zones of Assistant Labour Commissioners as against 2 Commissioneries; in West Bengal 13 zones as against 3 Divisions and in Orissa 4 labour zones as against 3 Divisions. In Bihar, however, the geographic jurisdiction of Assistant Labour Commissioners is co-terminus with that of Divisional Commissioners. The Working Group felt that the size of the Labour zones as well as the status of the officer under whose jurisdiction they are placed will vary according to the requirements of a given area in terms of degree of industrialisation and the extent of labour problems etc. No hard and fast rule should be laid down for this purpose. The Working Group, however, felt that the cadre structure in the State should be so designed as to provide for sufficient opportunities for promotion at all levels.

21.5 Another point which was considered by the Working Group in this connection was whether the gazetted officers of the labour cadre should act as multi-purpose officers in charge of both enforcement of Acts and Conci-

liation work or whether separate officers should be appointed for the enforcement of specific Acts. It was noted that in West Bengal 8 officers had been appointed specifically for the enforcement of Bonus Act. Similarly, in West Bengal and Assam, a post of Commercial Accountant had been created in connection with the work under the Bonus Act. In Orissa and Bihar, however, there were no gazetted officers in the field meant for enforcement of any specific Acts. The Labour Officers acted both as Conciliation Officers and as Inspectors under the different Labour Acts. The Working Group held the view that the conciliation machinery and the enforcement machinery could be combined by the same field staff. However, the problem arising out of the enforcement of a particular Act may require appointment of separate enforcement staff. In this connection the Working Group recommended that a post of Commercial Accountant should be created for the enforcement of the Payment of Bonus Act in every State.

21.6 The Working Group was of the view that the administrative structure of the Labour Department would vary from State to State according to the process of historical evolution as well as the peculiar circumstances obtaining in each State. It was therefore neither possible nor desirable to suggest any uniform administrative structure for the different States.

22. The Working Group discussed the role of Labour Welfare Officers appointed by the factories in accordance with the provisions of the Factories Act and felt that these officers should not be entrusted with the task of holding departmental enquiries or conducting cases before Labour Tribunals or Courts against workers. Such duties detracted from their main function of working for the welfare of labourers and considerably impaired their effectiveness as Welfare Officers.

felt that the two inspectorates should function separately but where the work load is not adequate they may be

VI. PROBLEMS OF INSPECTORATE OF FACTORIES

In this chapter we are considering the views of the Working Group on the recommendations contained in the bound volume containing "Papers for the Conference on Working Conditions" received from the Commission.

2. The views of the Working Group on the recommendations contained in Shri Mankiker's paper* are as follows :—

(1) There should be at least one Inspector of Factories for every 200 factories covered by section 2(m) of the Factories Act. The Factory Inspectors should be technically qualified. The Working Group felt that as far as the Factories under Section 2(m) were concerned, the Inspector of Factories should be entrusted with the responsibility of the administration of Factories Act in its entirety but they should be relieved of their responsibility regarding enforcement of other Acts, such as, Payment of Wages Act, Minimum Wages Act etc. As regards Section 85 of the Factories Act and such of the Factories under section 2(m) which do not use power and are covered by the Shops and Establishments Act, the Factory Inspector should be relieved of the enforcement of the Minimum Wages Act, Payment of Wages Act etc. This work should be looked after by the non-technical Officers of Labour Directorate.

(2) The status of the Factories Inspectors was considered adequate ; but it was felt that there was need for providing greater scope for promotion.

(3) The question whether the Inspectorate of Factories and the Inspectorate of Boilers should be combined under the same head was also discussed. It was noted that in Orissa, the posts of Chief Inspector of Factories and Chief Inspector of Boilers are combined and held by the same person. In other States in the Eastern Region, however, the two Inspectorates function separately. In Bihar, the Chief Inspector of Boilers is in a lower pay scale than the Chief Inspector of Factories, while in West Bengal and Assam, the two officers have the same pay scale. The Working Group

*For text of this Paper, see pp. 26, "The Conference of Chief Inspectors of Factories—Recommendations" published by National Commission on Labour, 1968.

felt that the two Inspectorates should function separately, but where the work load is not adequate they may be combined.

3. As regards the demand that Chief Inspector of Factories should be independent of the Labour Commissioner, the position varies from State to State. In Bihar and Orissa, the Chief Inspector of Factories is under the administrative control of the Labour Commissioner. In Assam and West Bengal, however, he functions directly under the Secretary to Government in the Labour Department. The Working Group felt that co-ordination between the Labour Directorate and the Chief Inspector of Factories should be maintained, and the manner in which it could be done may be left to the individual States.

4. The Working Group endorsed recommendations Nos. 3, 9, 10 and 11 in Shri Mankiker's paper. These are:—

3. In order to prevent accidents, it would be desirable that there should be a safety officer appointed in all factories employing 1,000 workers or more.
9. Those which still do not have Medical Inspectors of Factories should be desired to appoint them without any further delay.
10. Every Inspectorate of Factories should also have a laboratory equipped for carrying out industrial hygiene studies, especially those of a routine nature.
11. It is recommended that every State should also have a Chemical Inspector with adequate training in the principles and practices of industrial hygiene.

As regards the remaining recommendations, the Working Group had no comments to offer.

Sd/- B.K. Chatterjee
9-11-68

S.N. Roy

Sd/- S.N. Saigal
9-11-68

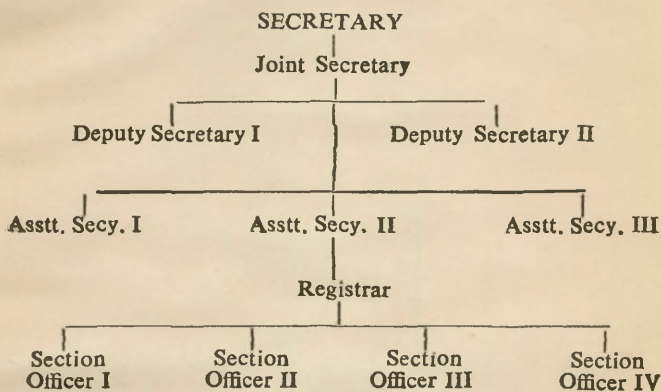
Sd/- K.A. Ramasubramaniam
9-11-68

U.N. Sahu

Sd/- I. Prasad
9-11-68

Sd/- G. N. Das
9-11-68

APPENDIX-IA
WEST BENGAL
Government of West Bengal
Labour Department



APPENDIX-IA
WEST BENGAL
LABOUR DIRECTORATE
Labour Commissioner
West Bengal
|
Jt. Labour Commissioner
West Bengal

Deputy Labour Commissioner (I)					Deputy Labour Commissioner (II)					
South Calcutta	Hoogly Region	Works Committee and Public Utility Service (Con.)	Minimum Wages	Working Journalist Act	P. L. Act	Trade Union	Standing Orders	Training Institute	North Calcutta Region.	
ALC-2 LO-3 Staff-13	ALC-1 LO-2 Staff-8	ALC-1 LO-1 Staff-3	L.O.-1 Inspector 16 Staff-19	L.O.-1 Staff 2	ALC. (In addition to work of E. L. Sec.) Four LOs. posted at Jalpaiguri, Darjeeling, Siliguri and Alipurduar Staff-6	ALC-1 LO 2 Inspector 8 Staff-16	ALC (In addition to Works Committee and Public Utility Service) Staff-3	Director-1 Professor-1 Lecturer 1 Staff-9	ALC-1 LO-3 Staff-13	ALC-1 LO-2 Staff-12

Deputy Labour Commissioner (III)			Deputy Labour Commissioner (IV)					Deputy Labour Commissioner (v)			
Barrack-pore Region	Howrah Region	Implementation Section	Statistics	Research	Labour Intelligence	Publication	Kalyani Region	Central Calcutta Region	Labour Welfare	Jt. Management Council Consumers' Cooperative Fair Price Shops and Personnel Management, Advisory Services.	
ALC-1 LO-1 Staff-9	ALC-2 LO-3 Staff-7	ALC-1 LO-3 Staff-7	ALC-1 LO-1 Staff-6	RO-1 JRO-1 Staff-2	LO-1 Staff-2	LO-1 Staff-2	ALC-1 LO-2 Staff-8	ALC-1 LO-2 Staff-8	ALC-1 LO-2 Staff-200	(In addition to L.W.) LO-1 Staff-2	

Deputy Labour Commissioner (Durgapur)		Deputy Labour Commissioner (Siliguri)				Commercial Accountant	Administrative Officer
Durgapur Region	Asansol Region	Darjeeling Region	Jalpaiguri Region	Birpara Region	Siliguri Region	In-charge of Administration of Payment of Bonus Act, 1865 in addition to his work as Advisor on Commercial Accounts with reference to economic demands of workers.	Incharge of Office Administration. (Accounts, Establishments, General Department etc.)
LO-1 Staff-9	ALC-1 LO-3 Staff-10	ALC-1 LO-3 Staff-10	RLC-1 LO-2 Staff-9	LO-1 Staff-2	LO-2 Staff-11	Eight Labour Officers posted at eight Regional Offices. Staff-5	Staff-100

APPENDIX-IB
BIHAR
ORGANISATIONAL CHART
LABOUR AND EMPLOYMENT DEPARTMENT
March-1968

MINISTER
SECRETARY

Joint Secretary

Under Secretary Under Secretary

Registrar

Labour Commissioner

Joint Labour Commissioner

D.L.C.* D.L.C.* D.L.C.* C.I.O. S.O.* (I.C.) S.A.* C.I.F. C.I.B.

Dy. R.T.U.

Canteen Manager

L.S.

S.S.*

CIAW L.O. ALC L.S. ALC L.S. ALC L.S. ALC L.S. ALC(R)* R.O.* Dy. C.I.F. Dv. C.I.F. (Productivity) Inspector of Boilers

Inspector of Factories

Director of Employment and Training

Presiding Officer Industrial Tribunal

Administrative Medical Officer, Employees' State Insurance Scheme

Medical Officers incharge, Employees' State Insurance Dispensaries and Hospitals.

Joint Director Dy. Director Dy. Director

P. O. (Labour Court) P. O. (Labour Court) P. O. (Labour Court)

*These officers are posted at the Head Quarters (Patna)

APPENDIX—IB

BIHAR

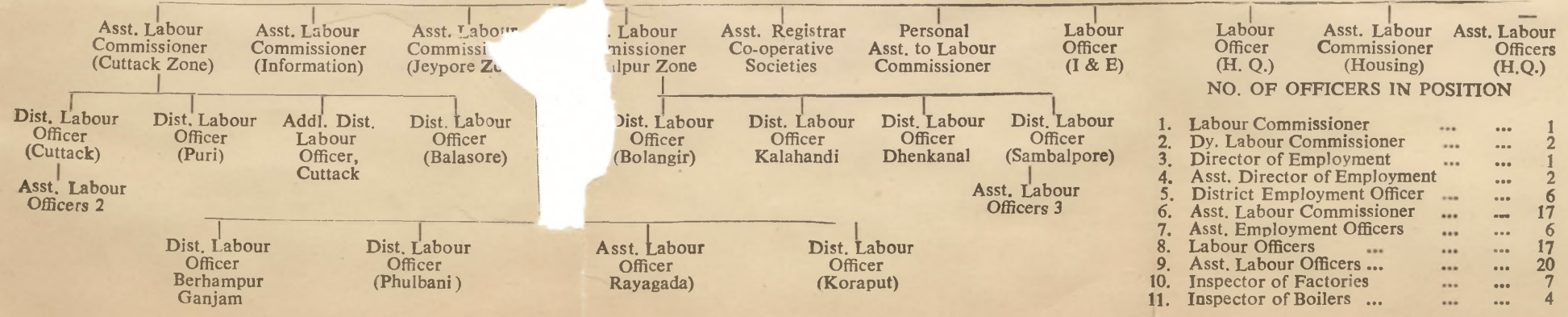
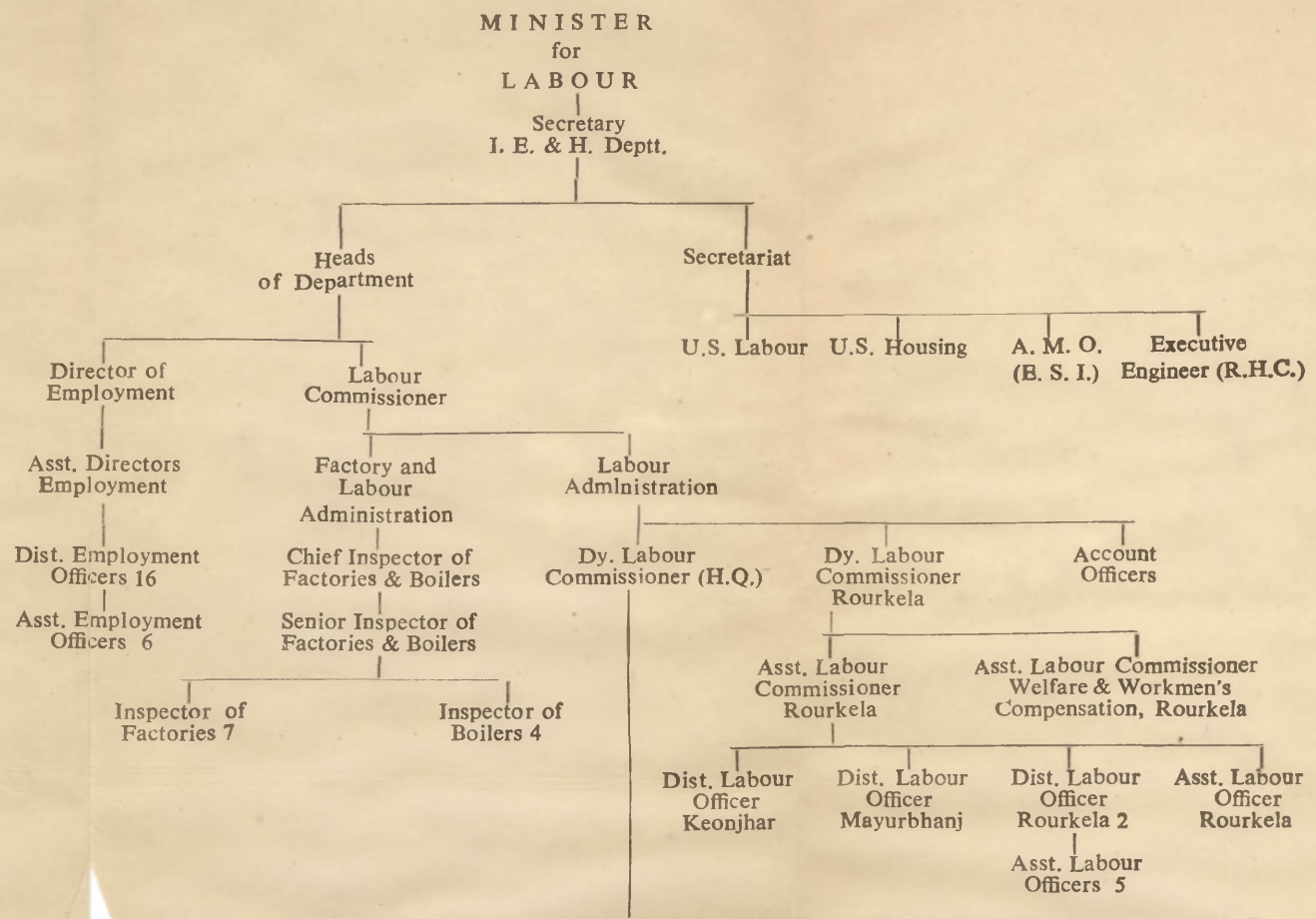
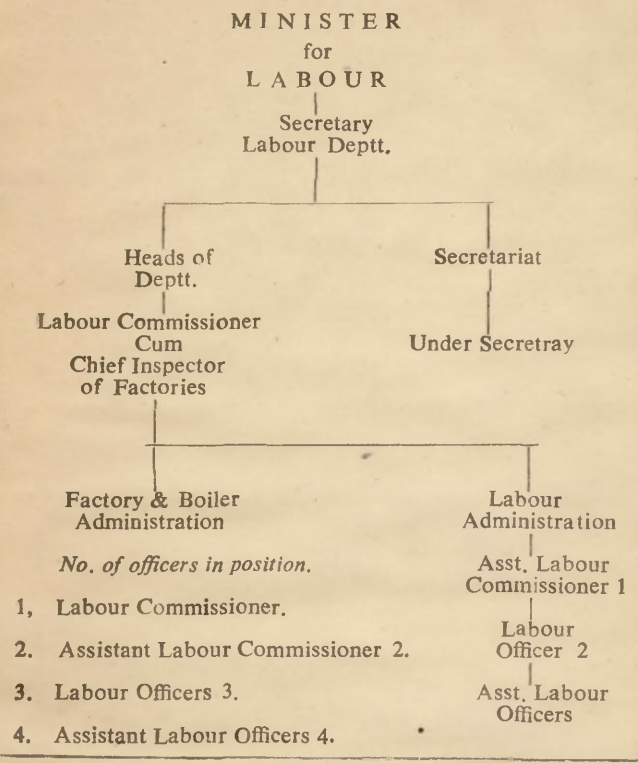
LIST OF ABBREVIATIONS USED

A.L.C.	Assistant Labour Commissioner	Rs. 450-1160
C.I.F.	Chief Inspector of Factories.	Rs. 1200-1700
C.I.B.	Chief Inspector of Boilers.	Rs. 900-1400
C.I.O.	Chief Inspecting Officer.	Rs. 730-1250
C.I.A.W.	Chief Inspector of Agricultural Wages.	Rs. 450-1160
D.L.C.	Deputy Labour Commissioner	Rs. 730-1250
DY.R.T.U.	Deputy Registrar of Trade Unions.	Rs. 325- 925
L.S.	Labour Superintendent.	Rs. 325- 925
L.O.	Labour Officer.	Rs. 290- 650
I.B.	Inspector of Boilers.	Rs. 325- 925
P.O.	Presiding Officer.	Rs.
R.O.	Research Officer.	Rs. 325- 925
S.A.	Statistics Authority.	Rs. 450-1250
S.S.	Statistical Specialist.	Rs. 290- 650
S.O.	Special Officer (Evaluation & Implementation)	Rs. 730-1250
S.O.	Statistical Officer.	Rs. 290- 650

ORGANISATIONAL CHART OF LABOUR DEPARTMENT, ORISSA

1953

1967



NO. OF OFFICERS IN POSITION

1. Labour Commissioner	...	...	1
2. Dy. Labour Commissioner	...	...	2
3. Director of Employment	...	...	1
4. Asst. Director of Employment	...	...	2
5. District Employment Officer	...	...	6
6. Asst. Labour Commissioner	...	...	17
7. Asst. Employment Officers	...	...	6
8. Labour Officers	...	...	17
9. Asst. Labour Officers	...	...	20
10. Inspector of Factories	...	...	7
11. Inspector of Boilers	...	...	4

APPENDIX-ID
ASSAM

Labour Commissioner & Chief Inspector of Plantations, Assam, Shillong

Additional Labour Commissioner, Assam, Shillong

Deputy Labour Commissioner & Chief Inspector of Motor Transport
Undertakings, Assam, Shillong

Senior Assistant Labour Commissioner, Assam, Shillong

D.C.I.P. cum A.L.C. Gauhati

D.C.I.P. cum A.L.C., Tezpur

D.C.I.P. cum A.L.C., Silchar

L.O. Dhubri L.O. Gauhati

L.O. Tezpur

L.O. Silchar

L.I. Nowgong

L.I. Gauhati
(M.T.)

L.I.
Gauhati
(PLA)

L.I.
Gauhati

Jr. L.O. Silchar

L.I.
Silchar
(PLA)

L.I.
Silchar

L.I.
Silchar

L.I. Tezpur
(PLA)

L.I.
Tezpur
(MT)

L.I.
Tezpur

L.I.
Mangaldai

APPENDIX-ID
ASSAM

D.C.I.P. cum A.L.C. Dibrugarh

D.C.I.P. cum A.L.C. Jorhat

L.O. Tinsukia

L.O. Jorhat

L.I.
Tinsukia

L.I.
Tinsukia

L.I.
Dibrugarh
(MT)

L.I.
Dibrugarh
(PLA)

L.I.
Dibrugarh

L.I.
Sibsagar

L.I.
Golaghat

L.I.
Jorhat
(MT)

L.I.
Jorhat
(PLA)

L.I.
Jorhat

L.W.O., Shillong

L.I. Shillong
(M.T.)

S.O. Shillong

Medical Officer, Jorhat
(PLA)

L.W.O., Shillong

L.I. Shillong
(MT)

S.O., Shillong

Medical Officer, Jorhat
(PLA)

APPENDIX-II-A
WEST BENGAL

COMPLAINTS REGARDING NON-IMPLEMENTATION
OF AWARDS

Year.	No. of cases brought forward from previous year.	No. of cases received during the year.	No. of cases disposed of during the year.	Balance of cases at the end of year.	Remarks.
1	2	3	4	5	6
1964	135	96	61	170	
1965	170	106	64	212	
1966	212	118	97	233	
1967	233	168	95	306	

COMPLAINTS REGARDING NON-IMPLEMENTATION
OF AGREEMENTS.

Year.	No. of cases brought forward from previous year.	No. of cases received during the year.	No. of cases disposed of during the year.	Balance of cases at the end of the year.
1	2	3	4	5
1964	97	106	71	132
1965	132	79	126	85
1966	85	78	50	113
1967	133	134	94	153

COMPLAINTS REGARDING VIOLATION OF THE CODE
OF DISCIPLINE.

Year.	No. of cases brought forward from previous year.	No. of cases received during the year.	No. of cases disposed of during the year	Balance of cases at the end of the year.
1	2	3	4	5
1964	—	108	71	—
1965	34	99	88	—
1966	26	43	30	39
1967	39	32	10	61

APPENDIX-IIA
WEST BENGAL

CERTIFICATE PROCEEDING FOR NON-IMPLEMENTATION
OF AWARDS AND AGREEMENTS.

Year.	No. of cases instituted during the year.	Amounts realised from the No. of cases.	Amount realised and subsequently disbursed.
1	2	3	4
1964	10	10	11,359.73
1965	5	5	14,305.08
1966	4	7	10,202.50
1967	18	6	24,745.70

APPENDIX—IIA
WEST BENGAL

Violations and Prosecutions for the years 1966 and 1967 under various Labour Laws.

Sl. No.	Name of the Act.	Nature of offence.	No. of complaints of violation.		Prosecutions filed or sanctioned.		Remarks.
			1966	1967	1966	1967	
1	2	3	4	5	6	7	8
1.	Payment of Wages Act, 1936.	Failure to display notice of dates of payment.	—	—	975	914	
2.	Minimum Wages Act, 1948.	Non-maintenance of prescribed registers and records, non-submission of annual returns and non-production of documents.	—	—	24	23	
3.	The Plantations Labour Act, 1951.	Non-compliance of the provisions of the Act and the Rules.	92	45	4	10	
4.	Working Journalists (Conditions of Service and Miscellaneous Provisions) Act, 1955.	Non-payment of Wages.	—	8	1	1	
5.	West Bengal Shops and Establishments Act, 1963.	Violation of different provisions of the Act and the Rules.	402	748	5963	5739	
6.	Industrial Disputes Act, 1947.	Non-implementation of Awards and Agreements.	493	648	4	23	

APPENDIX—II B
BIHAR

Prosecutions filed for the years 1966 & 1967 under various Labour Laws.

Name of the Act.	Years.	No. of Prosecutions filed.	No. of convictions.	Nature of Offences.	Nature of penalties imposed by court.	Remarks.																																				
1	2	3	4	5	6	7																																				
Factories Act.	1966	75	69	Non-registration, non-approval of plan, non-maintenance of records and registers and non-observance of safety, health and sanitation rules and relating to working hours.	Fines imposed ranged from Rs. 5/- to Rs. 350/-																																					
	1967	90	83				Minimum Wages Act.	1966	52	49	Non-maintenance of records and registers and less payment.	Fines imposed ranged from Rs. 10/- to Rs. 201/-		1967	61	51	Shops & Establishments Act.	1966	264	203	Non-registrations and non-maintenance of records and registers.	Fines imposed ranged from Rs. 5/- to Rs. 200/-		1967	273	216	Motor Transport Workers Act.	1966	3	2	Non-registration and non-maintenance of records and registers.	Fine imposed ranged from Rs. 20/- to Rs. 50/-		1967	5	3	Payment of Wages Act.	1966	53	50	Deductions from wages and delay in payment of wages.	Court directed for payment.
Minimum Wages Act.	1966	52	49	Non-maintenance of records and registers and less payment.	Fines imposed ranged from Rs. 10/- to Rs. 201/-																																					
	1967	61	51				Shops & Establishments Act.	1966	264	203	Non-registrations and non-maintenance of records and registers.	Fines imposed ranged from Rs. 5/- to Rs. 200/-		1967	273	216	Motor Transport Workers Act.	1966	3	2	Non-registration and non-maintenance of records and registers.	Fine imposed ranged from Rs. 20/- to Rs. 50/-		1967	5	3	Payment of Wages Act.	1966	53	50	Deductions from wages and delay in payment of wages.	Court directed for payment.		1967	25	21						
Shops & Establishments Act.	1966	264	203	Non-registrations and non-maintenance of records and registers.	Fines imposed ranged from Rs. 5/- to Rs. 200/-																																					
	1967	273	216				Motor Transport Workers Act.	1966	3	2	Non-registration and non-maintenance of records and registers.	Fine imposed ranged from Rs. 20/- to Rs. 50/-		1967	5	3	Payment of Wages Act.	1966	53	50	Deductions from wages and delay in payment of wages.	Court directed for payment.		1967	25	21																
Motor Transport Workers Act.	1966	3	2	Non-registration and non-maintenance of records and registers.	Fine imposed ranged from Rs. 20/- to Rs. 50/-																																					
	1967	5	3				Payment of Wages Act.	1966	53	50	Deductions from wages and delay in payment of wages.	Court directed for payment.		1967	25	21																										
Payment of Wages Act.	1966	53	50	Deductions from wages and delay in payment of wages.	Court directed for payment.																																					
	1967	25	21																																							

APPENDIX-IIC

ORISSA

Violations and Prosecutions for the year 1966 and 1967 under various Labour Laws

Name of the Act	Section or Sections violated Both '66 and '67	No. of violations		Prosecutions filed or sanctioned thereof		Convictions		Acquittals		Withdrawal		Fines Realised	
		1966	1967	1966	1967	1966	1967	1966	1967	1966	1967		
1	2	3	4	5	6	7	8	9	10	11	12	13	
Orissa Shops & Commercial Establishments Act.	Sec. 4	260	258	40	58	30	14	7	11	3	8	Fines imposed ranged from Rs. 2/- to Rs. 50/-	
	Rule 12	200	213	28	48	24	10	—	8	4	4		
	" 11	215	235	40	46	29	12	5	7	2	5		
	" 14	260	222	29	46	25	11	9	7	5	5		
	" 15(1)	263	213	39	48	23	13	—	8	6	—		
	" 15(2)	102	223	25	50	31	8	5	—	—	6		
	" 15(3)	200	215	33	52	25	15	6	6	3	7		
Sec. 33	220	228	34	44	22	13	6	3	3	7			
Rule 28	123	211	34	43	27	12	4	7	—	3			
Minimum Wages Act.	Sec. 18	194	180	3	7	5	7	2	5	2	3	As stated above.	
	Rule 25(2)	163	173	5	7	3	2	1	3	1	2		
	" 26(2)	177	175	5	4	2	1	—	—	2	—		
	" 26(3)	179	171	6	6	—	3	2	2	—	2		
	" 26(4)	125	163	5	5	3	—	—	3	—	1		
	" 26(6)	114	174	2	6	—	—	2	1	2	3		
22	190	173	5	4	2	1	—	—	—	—			
Payment of Wages Act. Factories Act.	Sec. 15(2)	391	402	10	16	4	6	2	4	3	5	Fines imposed ranged from Rs. 25/- to Rs. 200/-	
	Sec. 6 & 7	78	42	52	36	1	—	—	—	13	2		
	Rule 3, 4 & 5												
	Sec. 69	2	1	1	—	—	—	—	—	—	—		
	" 45	21	7	8	2	—	—	—	—	—	—		
	" 18	12	8	7	3	—	—	—	—	—	2		
	" 62	2	1	1	—	—	—	—	—	—	1		
	" 6	13	9	6	3	—	—	—	—	—	—		
	" 61	7	4	6	2	—	—	—	—	—	—		
	Rule 105	2	1	1	—	—	—	—	—	—	2		1
	" 18	6	2	3	1	—	—	—	—	—	—		
	" 78	4	3	2	1	—	—	—	—	—	—		
	" 79	8	5	3	1	—	—	—	—	—	1		
	Sec. 38	4	3	1	—	—	—	—	—	—	1		
	" 78	2	1	2	1	—	—	—	—	—	—		
	" 88	5	2	2	—	—	—	—	1	—	2		
	" 89	2	—	2	—	—	—	—	—	—	—		
	" 12	5	2	3	—	—	—	—	—	—	1		
	" 17	5	3	2	—	—	—	—	—	—	1		
	" 19	9	5	5	3	—	—	—	—	—	2		
	" 20	5	4	1	—	—	—	—	—	—	—		
	Rule 81	3	2	1	—	—	—	—	—	—	1		
	" 88	7	5	3	—	—	—	—	—	—	1		
" 89	4	2	2	—	—	—	—	—	—	1			
Sec. 79	9	5	5	3	—	—	—	—	—	1	1		
" 108	7	3	5	—	—	—	—	—	—	1			
" 9	3	2	1	—	—	—	—	—	—	1			
" 11	5	4	4	2	—	—	—	—	—	1	1		
" 20	6	4	3	1	—	—	—	—	—	2			
" 14	2	2	—	1	—	—	—	—	—	—			
" 26	7	3	3	2	—	—	—	—	—	1			
" 30	3	3	1	1	—	—	—	—	—	1			
" 38	11	7	5	4	—	—	—	—	—	1			
" 40	5	2	1	1	—	—	—	—	—	1			
" 42	3	2	1	1	—	—	—	—	—	—			
" 81	3	2	1	1	—	—	—	—	—	—			
Rule 8	2	—	2	—	—	—	—	—	—	—			
" 7	82	54	54	55	—	—	—	—	—	1	—		

APPENDIX-IIC
ORISSA

VIOLATIONS AND PROSECUTIONS

Year	Cases of violations					Prosecution Filed					Result of prosecutions		
	M.W. Act	P.W. Act	O.S. & C.E. Act	F. Act	Total	M. W. Act	P. W. Act	O.S. & C.E. Act	F. Act	Total	Convictions	Acquittals	With drawn
1966	1142	391	1843	447	3823	31	10	312	392	745	244	45	108
1957	1214	402	2005	289	3910	39	16	435	125	615	108	64	55

Remarks :—Fines imposed ranged from Rs. 2/- to Rs. 50/-.
In case of violations of Factories Act, the fine imposed ranged from Rs. 20/- to Rs. 200/-.

APPENDIX—IID
ASSAM

Prosecutions launched under different Labour Laws.

Sl. No.	Name of the Acts.	Years.	No. of prosecutions launched.	No. of convictions.	Nature of offences/violations.	Nature of penalties imposed by Courts.	Remarks.
1	2	3	4	5	6	7	8
1.	Plantations Labour Act.	1959 to March, 1968.	82	9	Non-payment of leave with Wages, medical, Creche, housing facilities, recreational facilities, educational facilities, water supply etc.	Fine varied from Rs. 50/- to Rs. 400/-	Out of total 82 prosecutions launched, 12 cases were withdrawn, one ended in acquittal, one is pending and the result of the remaining cases were not known.
2.	Shops and Establishments Act.	1965 | 1966	244	93	Violations of different provisions of the Act.	Fine varied from Rs. 5/- to Rs. 25/-	Out of total 244 prosecutions launched, 93 ended in convictions and in remaining 151 cases, the Court let off the parties with severe warnings.
3.	Motor Transport Workers Act.	—	250	89	Violations of different provisions of the Act.	Fine varied from Rs. 30/- to Rs. 100/-	Out of 250 prosecutions launched, 89 ended in convictions and remaining were pending with the Courts.

APPENDIX—III

Information on Industrial Disputes for the Years 1965 to 1967.

Year.	No. of Industrial disputes pending before the Conciliation machinery at the beginning of the year.	No. of fresh disputes raised during the year.	Total of Col. 2 & 3.	No. of disputes withdrawn before conciliation proceedings initiated.	No. of disputes in which conciliation proceedings were held.	No. of disputes settled		By mutual negotiation.		Through arbitration.	No. of cases referred by Govt. to adjudication	Percentage of total of Col. 7-11 with Col. 4.
						By Govt. intervention Through conciliation cases settled under 12(8)	Through mediation otherwise than conciliation.	Through direct negotiation.	Through parties other than Govt.			
1	2	3	4	5	6	7	8	9	10	11	12	13
WEST BENGAL												
1965	2539	6444	8983	—	8983	850	—	100	—	6	282	23.69%
1966	2739	6720	9459	—	9459	836	—	71	—	1	414	19.88%
1967	3204	10331	13535	—	13535	1409	—	123	—	1	947	22.34%
BIHAR												
1965	187	795	982	55	336	289	248	60	12	25	87	54.3 %
1966	381	891	1272	111	410	209	272	112	2	12	80	47.8 %
1967	274	954	1228	137	433	312	293	129	12	20	120	72.00%

1	2	3	4	5	6	7	8	9	10	11	12	13	
						ORISSA							
1965	31	229	260	—	260	93	—	—	—	—	44	35.77%	
1966	58	204	262	—	252	72	—	16	—	—	50	33.58%	
1967	70	219	289	—	289	100	—	4	—	—	55	36.00%	
						ASSAM							
1965	324	1407	1731	41	545	357	790	136	3	3	80	74.45%	
1966	248	948	1196	25	316	260	463	121	1	13	50	72.00%	
1967	250	894	1144	23	196	181	310	93	8	15	70	26.84%	

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