

१३१) क्या निम्न परिशिष्ट ४ में उल्लेखित एमलाईज का सेवा पृथकीकरण वैध एवं  
सांख्यिक है? यदि नहीं तो इस सम्बन्ध में नियोजक को क्या निर्देश  
दिये जाना चाहिये ?

मध्यप्रदेश के राज्यपाल के नाम से तथा  
आदेशानुसार

१ अरवि महाराज

उप सचिव,  
मध्यप्रदेश शासन, श्रम विभाग.

क्रमांक ६-१/९४ शोलह-ए

भोपाल, दिनांक २६-२-९३

और निम्न न्यायालय, मध्यप्रदेश रायपुर बेन्च की ओर आवश्यक  
कार्यवाही हेतु अधोदिष्ट ।

प्रति लेख :-

- १२१) नियंत्रक, शासकीय मुद्रण तथा लेखन सामग्री मध्यप्रदेश भोपाल की ओर  
मध्यप्रदेश राज्यत्र के आगामी अंक में प्रकाशनार्थ ।
- १३१) श्रम आयुक्त, मध्यप्रदेश इन्दौर की ओर उनके ज्ञापन क्रमांक १/८/तीन/९३,  
दिनांक के सन्दर्भ में प्रेषित ।
- १४१) उप श्रमायुक्त, रायपुर [उत्तीसगढ़ क्षेत्र] रायपुर ।
- १५१) सहायक श्रमायुक्त, रायपुर की ओर सूचनायं प्रेषित ।
- १६१) संचालक, सूचना तथा प्रकाशन विभाग, भोपाल की ओर समुचित प्रसारण  
के लिए ।
- १७१) उपसचिव, मध्यप्रदेश शासन, भोपाल [अतिरिक्त कार्य आदि संकेतित करें  
कि प्रकाशन के लिए किन्हीं दिनांकों पर] ।
- १८१) उपसचिव, मध्यप्रदेश शासन, भोपाल [उप सचिव, रायपुर की ओर प्रेषित] ।

अवर सचिव,

मध्यप्रदेश शासन, श्रम विभाग.

क्र.सं.	नाम	पिता/पति का नाम	दिनांक
1	अशोक दास	एम्. दास 5	29. 7. 91
20	नरसिंहदास	सिंहानिया जन्तारी-	10. 8. 91
31	अशोक राम साहू	सिंहा राम साहू -	20. 9. 91
	राजेश्वर देवपुर	देवपुर	20. 9. 91
3	भारत राम साहू	राजेश्वर देवपुर -	9. 8. 90
	राजेश्वर	पतिराज	
10	गुण राम	गौरा राम राम -	
11	देवपुर साहू	-	8. 7. 91

Order

Bhopal, date

Whereas

6-1/93/6-a. ~~Since~~ there is an industrial dispute between the employees of the Simplex Engg & foundry works Unit I who are being represented by the Pragatish Engineering Shramik Sangh, Bhilai-Burg and the Simplex Engg & foundry Works Unit I.

and whereas, the state government is satisfied that there exists an industrial dispute which is not likely to be settled by any other means <sup>other</sup> than reference for arbitration to the industrial court.

Hence, utilising the powers accruing ~~to the state~~ ~~government~~ under Sec 51, subsection (a) of the Madhya Pradesh Industrial Relations Act, 1960, the state government does this reference refers for arbitration the said dispute according to the terms specified in the schedule.

Schedule

Whether there is justification for revision of wages and allowances? If yes, what should be the scheme for wage, dearness allowance and other allowances? What should be given to the employees in this regard?

Whether there is justification for giving casual leave of 15 days, festival leave of 10 days, and medical leave of 30 days annually? If so what direction should be given to the employees in this regard?

Whether severance from work of the employees listed  
the annexures attached hereto is legal and justified?  
no, what direction should be given to the employer  
in this regard?

By order of and under the  
name of the Governor of  
Madhya Pradesh,

(Sd/-)

Deputy Secretary,  
Govt of M.P. Department of

General Secretary,

Pragati Sheel Engineering Shramik Sangh,

Bhilai.

... FIRST PARTY

Vs

Simplex Engineering & Foundry Works Ltd.,

Unit-III

Bhilai.

... SECOND PARTY

REF.NO. 3/MPIR/93

FIXED FOR 27TH APRIL, 1993

PRELIMINARY OBJECTION

The second party named above respectfully submits as follows :

1. That the aforesaid reference has been made by the Government of Madhya Pradesh purporting to be under Section 51 (a) of the MPIR Act, 1960 (hereinafter referred to as the Act, 1960. The second party submits that so called reference has been made without jurisdiction and is not competent and tenable before this Court on the following amongst other preliminary objections :

(a) That the reference purports to

have been made under Section 51 of the Act, 1960 to this Court requiring this Court to arbitrate on the following issues :

1. क्या वेतन एवं भत्तों के पुनरीक्षण का धोखेपत्र है ? यदि हाँ तो वेतन, मेण्डाई भत्ता एवं अन्य भत्तों की क्या योजना होना चाहिये एवं इस संबंध में नियोजक को क्या निर्देश दिये जाना चाहिये ?
2. क्या प्रतिवर्ष 15 दिन का आकस्मिक अवरकाश 10 दिन का ट्यूहरी अवरकाश तथा 30 दिन का चिकित्सा अवरकाश दिये जाने का धोखेपत्र है ? यदि हाँ तो इस संबंध में नियोजक को क्या निर्देश दिये जाना चाहिये ?
3. क्या मेलान परिशिष्ट में उल्लिखित सम्पलॉडिज का सेवापृथकीकरण बंधन एवं उचित है ? यदि नहीं तो इस संबंध में नियोजक को क्या निर्देश दिये जाना चाहिये ?

(b) That Sec.51(2) provides

that a copy of report sent by Conciliator under Sub-section 2 of Sec.43 and forwarded by the Chief Conciliator to the State Government under Sec-3 of Sec-43 shall be made available to the Industrial Court before it proceeds to deal with the reference under Sub-section-1, i.e. Sub-section 2 of Section 51 has to be complied with when the reference is made. But no such report has been sent to this Court alongwith the terms of reference.

(c) That the first party had never

raised a dispute with this party and had also never given a Notice of Change in Form 'J' to this party as required under the provisions of Section 31 of the Act, 1960. The first party has also not forwarded to the Conciliator in Form 'K' any statement of case as required under Section 39 (1) of the Act, 1960. These provisions are mandatory in nature.

(d) That since since the matter in dispute were never seized in conciliation and no report was sent to the Chief Conciliator under Section-39 (ii) of the Act, 1960, the present reference is incompetent and without any jurisdiction.

(e) That no reference could be made without obtaining the willingness and consent of the parties for submitting the dispute to arbitration. It will be appropriate to mention here that no consent/willingness was obtained from the parties before referring the matter for arbitration as required under Section-43 (b) and Section-46 (2) of the Act, 1960. Since conciliation proceedings have not been resorted to and the mandatory provisions of law have not been complied with, the present reference is incompetent and not tenable before this court.

(f) That Section-62 of the Act, 1960 provides that if the dispute is connected with the termination of service of the employee, such proceedings shall commence within a year from the date of termination of the service of the concerned

employee. The matter/dispute having become time barred under Section-62 (1) (a), the vested right in the second party has accrued and this cannot be taken away by making reference. Because what cannot be done directly, the same cannot be done indirectly.

(g) That the second party asserts that the matter/industrial dispute referred by the Government in respect of the dismissal of the persons whose names are mentioned in the list attached with the reference (assuming that they are employees but not admitting the same) is not such a dispute which is not likely to be settled by other means. It will not be out of place to stress here that the Act, 1960 provides effective means and remedies for settlement of industrial disputes relating to dismissal or suspension of the employees from service. These means and remedies are provided in Section-31 (3) and 61 of the Act, 1960.

(h) That assuming persons mentioned in the list are employees without admitting this, it is submitted that the alleged termination of employees amounts to reduction of permanent or semi-permanent character in the number of persons employed in any process or department which is a matter specified in Schedule-I of the Act, 1960 for which reference cannot be made as laid down in Proviso 2 of Section-51 of the Act, 1960. *There is a misjoinder of causes & action also*

(i) That the law is well settled that if objections pertain to the questions of law and can be decided without recording any evidence, then the preliminary objections have to be decided first. Much so when the objections go to the route of matter and relate to the jurisdiction.



(j) That in the present case, it is apparent on the face of record that the reference has been made in total disregard of the provisions of law. The Second Party therefore, prays that the above preliminary objections may kindly be decided first since they go to the root of the case and relate to the jurisdiction of this Court.

Prays accordingly;

FOR SIMPLEX LITIG. & LEGAL WORK



( SECOND PARTY )

Dated: 27th April, 1993



(COUNSEL FOR SECOND PARTY)

General Secretary,  
Pragatishel Engineering Granik Sangh,  
Housing Board Colony,  
Industrial Estate,  
Bhilai, Dist. Durg (M.P.) ...Party No.1

V E R S U S

Simplex Engineering & Foundry Works Ltd.  
Unit-III,  
Tedesara, Dist. Rajnandgaon. ...Party No.2

REPLY ON BEHALF OF PARTY NO. "1" TO THE PRELIMINARY OBJECTIONS RAISED BY PARTY NO. "2" ON 27.4.93.

The party No. 1 named above submits as under :-

1. That this reference has been made by the Government of Madhya Pradesh exercising the powers conferred on it U/S 51(1) of the MPR Act. It is denied that this reference has been made without jurisdiction and is not competent and tenable before this Hon'ble Court.
2. That the paragraph 1.2 is denied as not stated correctly. It is submitted by this party that the language used in section 51 of the MPR Act is very wide in scope and authorises the Govt. to refer any industrial dispute. This inference which follows from the plain meaning of the words used, is strongly reinforced by the non-obstante clause "Notwithstanding any thing contained in this Act", with which the section opens. It is further submitted that since the order of refer

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ence (No.6-1/93/16-A) in this case as recited the satisfaction of the State Govt. about the existence of the industrial dispute between the company and its employees, the regularity of the order including the fulfilment of the conditions precedent had to be presumed.

3. That the para 1.D is denied as not stated correctly. The fact is that the party No.1 had on 10.10.90 submitted a demand notice to the management which it refused to accept. Hence the Union was forced to send the same through the agency of the office of Assistant Labour Commissioner, Raipur. The management had been consistently trying to ignore the existence of this Union, which is having the support of 90% workers.

4. That the contents of para 1.E is denied as not stated correctly. The industrial dispute was referred to Assistant Labour Commissioner and the Chief Conciliator, time and again. The Conciliator had organised conciliation meetings on 2-24 Dec. 91 to which all the major industrialists of Bilai were invited and many other meetings later.

But the party No 2 was not at all interested in an amicable settlement and hence though it attended the meetings occasionally, utterly failed to cooperate. The conciliation meetings held at Indore by the Chief Conciliator on 21-23 Nov. 91, and 4-5th June 92 at Barga-Raipur, met the same fate.

5. That in reply to para 1.F to H, it is submitted that in the light of the non-obstanto clause "Notwithstanding any thing contained in this Act" with which S.51 N.I.P Act opens the powers of the

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Govt. is not controlled by the operation of S. 43 of 31 of the act and hence the reference is competent and is tenable.

6. That in reply to para 1.1 of the application, it is submitted that in regard to the dispute about the termination of services of employees mentioned in the schedule and others terminated later, proceedings had been pending before the Conciliator (Assistant Labour Commissioner, Raipur) and said reference had been within time. This dispute regarding mass terminations of workers by the management on different dates was one of the main issues of the agenda for the conciliation meetings in which the party No.2 also took part. Hence no vested interest has accrued to the party No.2 U/s 62(1)(a). Moreover, this Hon' Court has the power to condone the delay if any, since the matter was pending before the Conciliator. It is also submitted that the vast powers conferred upon the Govt. U/s 51(1) of the MPER Act is not controlled/circumscribed by any other section of the Act.
7. That the contents of para 8 are denied. The industrial dispute has been in existence ever more than three years. The party No.2 never had been earnest in settling the dispute. Hence most of the conciliation meetings got over without arriving at any settlement. Even as late as on 24.11.92, a settlement on the lines proposed by A.L.C., Raipur would have taken place but for the unreasonable evading reaction adopted by the party No.1. The management continued to victimise, harass and punish employees belonging to the Union. Hence the party No.1 has

a fair and just settlement of the dispute.

The party No.1, therefore prays that the prayer of the party No.2 may be summarily dismissed and the Hon'ble Court may be pleased to proceed with the reference.

Prayed accordingly,

Date : 3.7.93

*At 12/07/93*  
Party No.1

*T.C.*

Counsel for Party No.1

*Arvind*

कार्यालय औद्योगिक न्यायालय (खण्डपीठ)

कम्पासबल, १६, ए.व.आई.जी. नं. १२, नगर.

रायपुर. (म.प्र.)

रेफरेंस क्रमांक 1/स्म०पी०आई०आर०एक्ट/९३

जनरल सेक्रेटरी,

प्रगतिशील इंजीनियरिंग श्रमिक संघ,

म० प्र० हाउसिंग बोर्ड कालोनी,

इंडस्ट्रीयल स्टेट, भिलाई, जिला: दुर्ग.

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प्रथमपक्ष

विरुद्ध

नियोजक,

सिम्लेक्स इंजीनियरिंग एण्ड फाउन्ड्री

वर्क्स युनिट-1, भिलाई.

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द्वितीयपक्ष

रेफरेंस क्रमांक 2/स्म०पी०आई०आर०एक्ट/९३

जनरल सेक्रेटरी,

प्रगतिशील इंजीनियरिंग श्रमिक संघ,

इंडस्ट्रीयल स्टेट, नंदिनी रोड, भिलाई

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प्रथमपक्ष

विरुद्ध

नियोजक,

सिम्लेक्स इंजीनियरिंग एण्ड फाउन्ड्री

वर्क्स, युनिट-2, भिलाई.

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द्वितीयपक्ष

रेफरेंस क्रमांक 3/स्म०पी०आई०आर०एक्ट/९३

जनरल सेक्रेटरी,

प्रगतिशील इंजीनियरिंग श्रमिक संघ,

इंडस्ट्रीयल स्टेट, नंदिनी रोड, भिलाई

जिला: दुर्ग.

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प्रथमपक्ष

विरुद्ध

नियोजक,

सिम्लेक्स इंजीनियरिंग एण्ड फाउन्ड्री

युनिट-3, टेडसरा, राबनादगांव.

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द्वितीयपक्ष

रेफरेंस क्रमांक 4/स्म०पी०आई०आर०एक्ट/९३

जनरल सेक्रेटरी,

प्रगतिशील इंजीनियरिंग श्रमिक संघ,

इंडस्ट्रीयल स्टेट, नंदिनी रोड, भिलाई.

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प्रथम पक्ष

विरुद्ध

नियोजक,

बी० के० कास्टींग लिमिटेड, भिलाई.

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द्वितीय पक्ष



कार्यालय औद्योगिक विभाग, रायपुर

छव्णा सदन, १६, एच.आर्.जा. नं. १२२२

रायपुर, (म.प्र.)

1/2/11

रेफरेन्स क्रमांक 5/एम०पी०आई०आर०एक्ट/93

जनरल सेक्रेटरी,

प्रगतिशील इंजीनियरिंग श्रमिक संघ,  
इंडस्ट्रीयल स्टेट, नंदिनी रोड, भिलाई.

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प्रथमपक्ष

विरुद्ध

नियोजक,

बी०के० इंजीनियरिंग कापोरेषन, भिलाई.

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द्वितीयपक्ष

रेफरेन्स क्रमांक 6/एम०पी०आई०आर०एक्ट/93

जनरल सेक्रेटरी,

प्रगतिशील इंजीनियरिंग श्रमिक संघ,

म० प्र० हाउसिंग बोर्ड कालोनी,  
इंडस्ट्रीयल स्टेट, भिलाई, जिला : दुर्ग.

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प्रथमपक्ष

विरुद्ध

नियोजक,

बी०के० इंजीनियरिंग कापोरेषन,  
युनिट-2, भिलाई.

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द्वितीयपक्ष

रेफरेन्स क्रमांक 7/एम०पी०आई०आर०एक्ट/93

जनरल सेक्रेटरी,

प्रगतिशील इंजीनियरिंग श्रमिक संघ,

इंडस्ट्रीयल स्टेट, नंदिनी रोड, भिलाई

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प्रथमपक्ष

विरुद्ध

नियोजक,

भिलाई इंजीनियरिंग कापोरेषन,  
उरला, रायपुर.

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द्वितीयपक्ष

रेफरेन्स क्रमांक 8/एम०पी०आई०आर०एक्ट/93

जनरल सेक्रेटरी,

प्रगतिशील इंजीनियरिंग श्रमिक संघ,

इंडस्ट्रीयल स्टेट, नंदिनी रोड, भिलाई.

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प्रथमपक्ष

विरुद्ध

नियोजक,

भिलाई इंजीनियरिंग कापोरेषन,  
हम्पेक्ष, भिलाई.

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द्वितीयपक्ष

कार्यालय औद्योगिक व्यापार (मिनाई)

उत्तर प्रदेश, १६, एन.पी.आर्.डी.आर. बिल्डिंग.

भाग (10/11/12)

- 3 -

रेफरेंस क्रमांक 09/एम.पी.आर्.डी.आर.एस.

जनरल सेक्रेटरी,

प्रगतिशील इंजीनियरिंग प्रमिक संघ

इंडस्ट्रीयल स्टेट, नंदिनी रोड, मिनाई.

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प्रथम

विरुद्ध

नियोजक,

मिनाई इंजीनियरिंग कॉर्पोरेशन,

यूनिट-2, मिनाई.

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द्वितीय

रेफरेंस क्रमांक 10/एम.पी.आर्.डी.आर.एस.

जनरल सेक्रेटरी,

प्रगतिशील इंजीनियरिंग प्रमिक संघ,

मोगो हाउसिंग बोर्ड कालोनी,

इंडस्ट्रीयल स्टेट, मिनाई, जिला : दुर्ग.

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प्रथमपक्ष

विरुद्ध

नियोजक,

मिनाई वायर्स लिमिटेड, मिनाई.

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द्वितीय

रेफरेंस क्रमांक 11/एम.पी.आर्.डी.आर.एस.

जनरल सेक्रेटरी,

उत्तीसगढ़ केमिकल्स मिल मजदूर संघ,

राजनांदगांव.

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प्रथमपक्ष

विरुद्ध

नियोजक,

कैडिया डिस्टलरी, औद्योगिक क्षेत्र,

नंदिनी रोड, मिनाई.

- - -

द्वितीय

रेफरेंस क्रमांक 12/एम.पी.आर्.डी.आर.एस.

जनरल सेक्रेटरी,

उत्तीसगढ़ केमिकल्स मिल मजदूर संघ,

राजनांदगांव .

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प्रथमपक्ष

विरुद्ध

नियोजक,

उत्तीसगढ़ डिस्टलरी,

कुम्हारी, जिला: - दुर्ग.

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द्वितीय



राष्ट्रीय औद्योगिक व्यापार (संघीय)

राष्ट्रीय सचिव, १३, एन.आई.आर. ऑफिस, नई दिल्ली

नियम १३ (स.प्र.)

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रेफरेंस क्रमांक 13/एम०पी०आई०आर०एक्ट०

जनरल सेक्रेटरी,  
प्रगतिशील इंजीनियरिंग श्रमिक संघ,  
इंजीनियरिंग स्टेट, नैदिनी रोड, भिलाई. - - - प्रथमपक्ष

विरुद्ध

नियोजक,  
विश्वविद्यालय, इंजीनियरिंग लिमिटेड,  
भिलाई. - - - द्वितीयपक्ष

रेफरेंस क्रमांक 14/एम०पी०आई०आर०एक्ट०

जनरल सेक्रेटरी,  
प्रगतिशील इंजीनियरिंग श्रमिक संघ,  
म० प्र० हाउसिंग बोर्ड कालोनी,  
इंडस्ट्रीयल स्टेट, भिलाई, जिला : दुर्ग. - - - प्रथमपक्ष

विरुद्ध

नियोजक,  
सिम्पलेक्स कास्टिंग लिमिटेड,  
युनिट-1, भिलाई. - - - द्वितीयपक्ष

रेफरेंस क्रमांक 15/एम०पी०आई०आर०एक्ट०/9

जनरल सेक्रेटरी,  
प्रगतिशील इंजीनियरिंग श्रमिक संघ,  
इंडस्ट्रीयल स्टेट, नैदिनी रोड, भिलाई. - - - प्रथमपक्ष

विरुद्ध

नियोजक,  
सिम्पलेक्स कास्टिंग लिमिटेड,  
उरला, युनिट-11, रायपुर. - - - द्वितीयपक्ष

समझ :- श्री जे० एच० सेंगर, सदस्य जज

प्रथम पक्ष श्रमिक संघ की ओर से श्री धीर धामस, अभिभाषक

रेफरेंस क्रमांक 4 लगायत 7/93, 10/93, 12/93 एम०पी०आई०आर०एक्ट० में द्वितीयपक्ष नियोजक की ओर से श्री एच० एन० व्यास, अभिभाषक

रेफरेंस क्रमांक 1 लगायत 3/93, 8/93, 9/93, 11/93 व 13/93 लगायत 15/93 एम०पी०आई०आर०एक्ट० में द्वितीयपक्ष नियोजक की ओर से श्री कै० एच० खन्ना, अभिभाषक .



राज्य औद्योगिक न्यायालय (राज्यीय)

न्यायालय, १६, ए. आर्. सी. बिल्डिंग, नया दिल्ली

रायपुर (म.प्र.)

11611

नियोजक की ओर से प्रस्तुत है कि कर्मचारियों की कर्म चर्च पूर्व की सेवा

समाप्त वास्तव विवाद संदर्भित किया गया है, जो समयबाधित है, क्योंकि म० प्र० औद्योगिक संबंध अधिनियम 1960 की धारा 62 में इस प्रकार के विवाद के लिए एक कर्म की समयसीमा प्रकरण प्रस्तुत करने हेतु निर्धारित की गई है। इस प्रकार अन्यथा समयबाधित विवाद को संदर्भ के माध्यम से पुनर्जीवित नहीं किया जा सकता। द्वितीय पक्ष की ओर से यह तर्क भी प्रस्तुत किया गया है

कि प्रस्तुत संदर्भ में म० प्र० औद्योगिक संबंध अधिनियम 1960 की धारा 51(2) के आदेशात्मक प्रावधानों का पालन नहीं किया गया है। प्रस्तुत संदर्भ में

वाद कारण संयोजन की आपत्ति भी उठाई गई है व तर्क प्रस्तुत किया गया है कि इस कारण से भी संदर्भ पोषणीय नहीं है। संदर्भ के साथ संलग्न परिशिष्ट में कर्मचारियों की जो सूची प्रेषित की गई है, उसी संदर्भ प्रकरण क्रमांक 10/93 स्म०पी०आर्०सी०आर०एक्ट में भिलाई वायर्स के 12 कर्मचारियों को

छोड़कर अन्य सभी में उल्लेखित कर्मचारियों को निलम्बित होना लिखा गया है, जबकि पंचनिर्णय विवाद सेवा समाप्त के संबंध में है। और न्याय दृष्टांत 1979 से. आर्. सी. पृष्ठ क्रमांक 827 में प्रतिपादित न्याय सिद्धांत के प्रकाश में न्यायधिकारण को संदर्भ के बाहर जाने का कतई अधिकार नहीं है।

द्वितीयपक्ष नियोजक की ओर से यह तर्क भी प्रस्तुत किया गया है कि प्रस्तुत संदर्भ के पूर्व म० प्र० औद्योगिक संबंध अधिनियम 1960 की धारा 39 एवं धारा 43 के अनुसार कोई कार्यवाही सम्पन्न नहीं की गई है, जबकि किसी भी विवाद को संदर्भित करने के पूर्व विहित प्रपत्र में परिवर्तन की सूचना दी जाना एवं इस हेतु समझौता कार्यवाही सम्पन्न की जाना आदि अनिवार्य आवश्यकताएँ हैं।

द्वितीय पक्ष नियोजक की ओर से क्षेत्राधिकार के प्रश्न के संबंध में सर्वप्रथम निराकरण हेतु न्याय दृष्टांत 1986 स्म०पी०एल०एस०आर० पृष्ठ 317 एवं 1970 स्म० पी०एल०जे० पृष्ठ 363 में माननीय म० प्र० उच्च न्यायालय द्वारा प्रतिपादित न्याय सिद्धांतों का उल्लेख किया गया है।

4. प्रथमपक्ष श्रमिक संघ की ओर से यह तर्क प्रस्तुत है कि संदर्भ के पूर्व म० प्र० औद्योगिक संबंध अधिनियम 1960 की धारा 31, 39 व 43 के प्रावधानों की पूर्ति आवश्यक नहीं है, क्योंकि म० प्र० औद्योगिक संबंध अधिनियम 1960 की धारा 51 में राज्य शासन को विवाद पंचनिर्णय संदर्भित करने हेतु अतिमित अधिकार प्राप्त हैं। प्रथम पक्ष श्रमिक संघ की ओर से न्याय दृष्टांत 1969 से. प्र.



कार्मिक आयोगिक न्यायालय (राजपूठ)

पुष्पा सदन, १६, एच. आर्. ओ. रोड, नगर.

रायपुर. (म.प्र.)

1/3/77

The Labour Court committed an error in law in allowing the appellants' objections before the Tribunal. The Tribunal's jurisdiction to go behind the reference and inquire into the question whether the closure of business, which was in fact effected, was in fact effected for reasons which were proper and justifiable.

एवं न्याय वृष्टांत 1979 लेव. आर्. सी. पृष्ठ 827 में माननीय सर्वांच्य न्यायालय द्वारा मत व्यक्त किया गया है कि :-

"The High Court was therefore right in coming to the conclusion that the Tribunal had no jurisdiction to go behind the reference and inquire into the question whether the closure of business, which was in fact effected, was in fact effected for reasons which were proper and justifiable."

न्याय वृष्टांत 1970 स्प0पी0एल0जे0 पृष्ठ 363 में माननीय म0प्र0 उच्च-न्यायालय की पूर्णपीठ ने प्रकरण की पोषणीयता से संबंधित आपत्तियों का निराकरण सर्वप्रथम करने का आदेश प्रतीपादित किया है। जबकि प्रथमपक्ष श्रम संघ की ओर से प्रस्तुत न्याय वृष्टांतों के प्रकाश में द्वितीयपक्ष नियोजक द्वारा प्रस्तुत आपत्तियां गौण प्रतीत होती है। ऐसी स्थिति में द्वितीयपक्ष नियोजक की ओर से प्रस्तुत संदर्भ की पोषणीयता से संबंधित आपत्तियों का निराकरण अत्याधिक दुर्लभ प्रतीत होता है। इस हेतु मैं उचित समझता हूँ कि द्वितीयपक्ष नियोजक की ओर से प्रस्तुत आपत्तियों का निराकरण दो या अधिक सदस्यों, औद्योगिक न्यायालय म0प्र0 द्वारा किया जाना न्यायहित में होगा।

6. उपरोक्त विवेचन के आधार पर मैं सदस्य औद्योगिक न्यायालय, रायपुर उपरोक्त संदर्भित प्रकरणों में उठाने गई वैधानिक प्रारंभिक आपत्तियों के निराकरण हेतु इन संदर्भित प्रकरणों को The Industrial Court 0000000000

राष्ट्रीय औद्योगिक न्यायालय (18)

राज्य सदन, १६, एन.आई.पी. रोड, रायपुर

रायपुर (व.प्र.)

11/9/94

6. उपरोक्त विवेचन के आधार पर मैं सदस्य औद्योगिक न्यायालय, रायपुर, रायपुर उपरोक्त संदर्भित प्रकरणों में उठाई गई वैधानिक प्रारंभिक आपत्तियों के उचित निराकरण हेतु इन संदर्भित प्रकरणों को Section 7 of Industrial Disputes Act, 1947 के अन्तर्गत Section 7 of Industrial Disputes Act, 1947 के तहत माननीय अध्यक्ष महोदय औद्योगिक न्यायालय, मण्डल संदीर को इस दस्तावेज़ के साथ प्रेषित करना उचित समझता हूँ कि प्रस्तुत संदर्भ में उठाई गई आपत्तियों का निराकरण दो या अधिक सदस्यों की पीठ द्वारा किया जाना न्यायोचित होगा। तदनुसार प्रकरण अपेक्षित कार्यवाही हेतु प्रेषित है।

रायपुर, दिनांक 20-10-94

हस्ताक्षर /  
श्री जे. एन. लिंगर

//पाण्डेय//

Application received on ..... 22-11-94. (125)  
Copy ready ..... 26-11-94.  
Copy delivered ..... 5-12-94.  
Copied by .....  
Compared by ..... 21-12-94.  
Copying & Compositing Charges Rs 07-00 P.  
Amount Received on ..... 22-11-94.

~~CERTIFIED TRUE COPY.~~

J. V. Dandekar  
Joint Registrar,  
INDUSTRIAL COURT,  
Bench-Raipur. (M P)

Order of the Industrial Court, Raipur (Transi

Order dated 20.10.94

All the above references have been referred for arbitration to this court u/s 51 subsection (a) of the MP Industrial Relations Act, 1960 vide order of the Labour Department Govt. of M.P. No. 6-1/93/16-~~a~~. In all these references first party is the General Secretary, Pragatishil Engg Shra Sangh, Industrial Estate, Nandini Road, Bhillai and the second party employers are different.

In all these referred matters, preliminary objections have been raised by the employers, which after being replied to by the first party, on 11.10.94 both parties were heard by the court on the issue of preliminary objections. Since the preliminary objections raised by the second party in all the matters <sup>are of the same</sup> ~~are~~ ~~the~~ preliminary objections in respect of all these matters are dealt with vide this order.

Learned counsel for the second party Shri H N Vyas / Shri Khanuja argue that the reference matters are not maintainable since they have <sup>been</sup> referred u/s 51(a) of the MP Industrial Relations Act, 1960 for arbitration and it has been averred that this industrial dispute is not likely to be settled by any other means. Paragraph 3 of the schedule of the reference lists the following:

3. Is the severance from work of the employees listed in the annexure legal and justified? If not, then what direction should be given to the employer in this regard ~~the said~~ <sup>scheduled</sup> ~~dispute~~.

There are clear provisions in Sections 31(3), 61 & 62 of the Industrial Relations Act, 1960 for the resolution of the said scheduled

pute, hence it is not maintainable that the dispute is likely to be settled by any other means. Hence the reference of ~~reference~~ <sup>termination</sup> from work of the employees is maintainable. In this regard, the second party emp argued that ~~the~~ reference has been made of the termination of employees several years previously which is time-barred, since ~~the~~ <sup>Sec</sup> 62 of the MPR Act, 1960 specifies a limit of one year for raising such a dispute. A dispute which is time-barred may not be revived vide such a reference. Second party ~~has~~ also argued that the mandatory provisions of Sec 51(2) of MPR Act, 1960 have not been complied with. In the present reference objection has been raised of misjoinder of causes of action, and hence the reference is not maintainable. In the list of workers annexed to the reference, apart from 12 employees of Bhilai Wires listed as No. 10/93/MPR., all the remaining employees are described as suspended whereas the dispute for arbitration is of legal viewpoint expounded in ~~judgement~~ 1979 LIC Pg 82. The board has no powers beyond the reference. The second party also argued that ~~no~~ <sup>no</sup> proceedings were carried out according to Sections 39 & 43 of the MPR Act, 1960, whereas prior to any dispute being referred it is mandatory to give a notice of change in the prescribed manner and to carry out conciliation proceedings. On the issue of <sup>resolving first the matter of</sup> jurisdiction ~~raised by the second party~~ <sup>the reliance</sup> placed by the second party on <sup>pronouncements by the Hon'ble High Court</sup> 1986 MPLSR, Pg 317 & 1975 Pg 363.

First party Shramik Sangh argues that compliance with the provisions of Section 31, 39 & 43 of MPR Act, 1960 is not a condition precedent to the reference; since ~~vide~~ unrestricted powers accrue to the board.



to the state government to ~~make~~ refer for arbitration under Sec 51. The first party places reliance upon 1969 LIC in which the Hon'ble High Court of MP expounded the principle that it be assumed that the proceedings prior reference have been carried. <sup>Quoting</sup> ~~The~~ the judgement of the Court, M.P at Indore ~~in~~ (1988 MPLSR Pg 174) the first Shramik Sangh argued that there is no provision in Sec 51 ~~straining~~ the govt from referring a dispute when other ~~means~~ <sup>means</sup> are available to the employers for relief. The first party placing reliance upon 1964 AIR (Supreme Court) 1746 argue solving disputes out of the purview of the reference is not the jurisdiction of the Board. As per the above the first party ~~at~~ argued that the preliminary objections raised by second party employer are worthy of being dismissed.

Upon careful study of the objections raised, the judgements quoted and verbatim provisions of the MPIR Act, 1960 ~~were carefully studied~~ find that in the present references the preliminary objections raised by the second party employer are on points and are of extremely ~~point~~ important nature. ~~Pr~~ ~~ie~~ it appears that ~~the~~ Sec 51(2) has not been considered. The provisions of Sec 51(2) are as follows:

"2. A copy of the report sent by ~~the~~ conciliator under sub-section (2) of section 43 and forwarded by the Chief Conciliator to the State Government under sub-section (3) of the said section shall also be made available to the Labour Court, or the Industrial Court or the Board, as the case may be, before it proceeds to deal with the reference under sub-section

The said proviso was added in 1981 vide notification to and Sec 51(a)

(Page 8 starts abruptly with a quote

" The Labour Court committed an error in not deciding objections before proceeding to the lengthy process of many disputed questions of fact. Instead, as the raised had to be decided only on admitted facts as decided in favour of the appellant, could have brought proceedings before the Labour Court to an end, we feel it was the bounden duty of the Labour Court to have returned a finding thereon instead of avoiding a decision on that question".

And in 1979 Lab IC Pg 827, the Honorable Supreme Court expressed the opinion that:

" The High Court was therefore right in coming to the conclusion that the two Tribunals had no jurisdiction to go behind the reference and enquire into the question of ~~was~~ whether the closure of business, was in effect, was ~~is~~ decided upon for reasons were proper and justified".

In 1979 MPLJ Pg 363, the full bench of the Honorable Court of MP had expounded the propriety of first addressing the objections relating to the maintainability of a matter. Whereas in the judgements ~~quoted~~ quoted First Party Shramik Sangh the objections raised appear to be secondary, in this situation, it appears extremely complex (with far reaching consequences) the resolution of objections related to the maintainability of the reference appears extremely complex. For this reason I consider

proper that the objections raised be decided by a Bench of two or more <sup>members</sup> ~~judges~~ of the Industrial Court in the interest of justice.

Based upon the above, Members Industrial Court Ben Raipur, consider it appropriate to forward the ~~the~~ ~~reference~~ legal preliminary objections raised in the a references for resolution to the Honble President Industrial Court M.P (Indore) under Clause 7(i) of the Industrial Court Formation of Benches Rules 1964 with the recommendation that it would in the interest of just ~~to resolve~~ <sup>that</sup> the objections raised ~~in the present~~ ~~by~~ decided by a Bench of two or more Members.

Accordingly the matters are forwarded for appropriate

Raipur 20.10.94

(Sgd)  
J. S. Sen

रेफरेन्स क्रमांक: 1/एम0पी03आय03आर04

जनरल सेक्रेटरी,  
प्रगतिशील इंजीनियरिंग श्रमिक संघ,  
म0पी0 हाउसिंग बोर्ड कार्पोरेशन,  
इण्डस्ट्रियल स्टेट, भिलाई, जिला दुर्ग ।

... प्रथम पक्ष

विरुद्ध

नियोजक,  
सिम्पलेक्स इंजीनियरिंग एण्ड फाउण्ड्री,  
वर्क यूनिट-1, भिलाई ।

... द्वितीय पक्ष

रेफरेन्स क्रमांक: 2/एम0पी03आय03आर04

जनरल सेक्रेटरी,  
प्रगतिशील इंजीनियरिंग श्रमिक संघ,  
इण्डस्ट्रियल स्टेट, नंदिनी रोड, भिलाई ।

... प्रथम पक्ष

विरुद्ध

नियोजक,  
सिम्पलेक्स इंजीनियरिंग एण्ड फाउण्ड्री,  
वर्क यूनिट-2, भिलाई ।

... द्वितीय पक्ष

रेफरेन्स क्रमांक: 3/एम0पी03आय03आर04

जनरल सेक्रेटरी,  
प्रगतिशील इंजीनियरिंग श्रमिक संघ,  
इण्डस्ट्रियल स्टेट, नंदिनी रोड, भिलाई,  
जिला दुर्ग ।

... प्रथम पक्ष

विरुद्ध

नियोजक,  
सिम्पलेक्स इंजीनियरिंग एण्ड फाउण्ड्री,  
यूनिट-3, टेडेलरा, राजनान्दगांव ।

... द्वितीय पक्ष

रेफरेन्स क्रमांक: 4/एम0पी03आय03आर04

जनरल सेक्रेटरी,  
प्रगतिशील इंजीनियरिंग श्रमिक संघ,  
इण्डस्ट्रियल स्टेट, नंदिनी रोड, भिलाई ।

... प्रथम पक्ष

विरुद्ध

नियोजक,  
सिम्पलेक्स इंजीनियरिंग एण्ड फाउण्ड्री,  
यूनिट-4, टेडेलरा, राजनान्दगांव ।

... द्वितीय पक्ष

रेफरन्स क्रमांक: 5/एम0पी0आय0आर0

जगरा देवदरी,  
प्रगतिशील इंडी नियरिंग श्रमिक संघ,  
इण्डस्ट्रीयल स्टेट, नंदिनी रोड, भिलाई ।

... प्रथम पक्ष

विरुद्ध

नियोजक,  
मोडेल इंडी नियरिंग कारपोरेशन, भिलाई ।

... द्वितीय पक्ष

रेफरन्स क्रमांक: 6/एम0पी0आय0आर0

जगरा देवदरी,  
प्रगतिशील इंडी नियरिंग श्रमिक संघ,  
मण्डल टाऊसिंग बोर्ड कार्पोरेशन,  
इण्डस्ट्रीयल स्टेट, भिलाई, जिला वर्ग ।

... प्रथम पक्ष

विरुद्ध

नियोजक,  
मोडेल इंडी नियरिंग कारपोरेशन,  
युनिट-2, भिलाई ।

... द्वितीय पक्ष

रेफरन्स क्रमांक: 7/एम0पी0आय0आर0

जगरा देवदरी,  
प्रगतिशील इंडी नियरिंग श्रमिक संघ,  
इण्डस्ट्रीयल स्टेट, नंदिनी रोड, भिलाई ।

... प्रथम पक्ष

विरुद्ध

नियोजक,  
भिलाई इंडी नियरिंग कारपोरेशन,  
उस्ता, रायपुर ।

... द्वितीय पक्ष

रेफरन्स क्रमांक: 8/एम0पी0आय0आर0

जगरा देवदरी,  
प्रगतिशील इंडी नियरिंग श्रमिक संघ,  
इण्डस्ट्रीयल स्टेट, नंदिनी रोड, भिलाई ।

... प्रथम पक्ष

विरुद्ध

नियोजक,  
भिलाई इंडी नियरिंग कारपोरेशन, प्रथम, भिलाई ।

... द्वितीय पक्ष

रेफरेंस क्रमांक: ७/२५०००/०३आय०३आर०३१३

जनरल सेक्रेटरी,  
प्रगतिशील इंजीनियरिंग श्रमिक संघ,  
इण्डस्ट्रीयल स्टेट, नंदिनी रोड, भिलाई ।

... प्रथम पक्ष

विरुद्ध

नियोजक,  
भिलाई इंजीनियरिंग कार्पोरेशन,  
यूनिट-२, भिलाई ।

... द्वितीय पक्ष

रेफरेंस क्रमांक: १०/२५०००/०३आय०३आर०३१३

जनरल सेक्रेटरी,  
प्रगतिशील इंजीनियरिंग श्रमिक संघ,  
म०प्र० हाऊसिंग बोर्ड कॉलोनी,  
इण्डस्ट्रीयल स्टेट, भिलाई, जिला दुर्ग ।

... प्रथम पक्ष

विरुद्ध

नियोजक,  
भिलाई वायर्स लिमिटेड, भिलाई ।

... द्वितीय पक्ष

रेफरेंस क्रमांक: ११/२५०००/०३आय०३आर०३१३

जनरल सेक्रेटरी,  
छत्तीसगढ़ केमिकल्स मिल्स मजदूर संघ,  
राजनान्दगांव ।

... प्रथम पक्ष

विरुद्ध

नियोजक,  
केडिया डिस्टिलरी, औद्योगिक क्षेत्र,  
नंदिनी रोड, भिलाई ।

... द्वितीय पक्ष

रेफरेंस क्रमांक: १२/२५०००/०३आय०३आर०३१३

जनरल सेक्रेटरी,  
छत्तीसगढ़ केमिकल्स मिल्स मजदूर संघ,  
राजनान्दगांव ।

... प्रथम पक्ष

विरुद्ध

नियोजक,  
छत्तीसगढ़ डिस्टिलरी,  
कुंभशारी, जिला दुर्ग ।

... द्वितीय पक्ष

रेफरेन्स क्रमांक: 13/एम0पी0आय0आर0ए

जनरल सेक्रेटरी,  
प्रगतिशील इंजीनियरिंग श्रमिक संघ,  
इंजीनियरिंग स्टेट, नंदिनी रोड, भिलाई ।

... प्रथम पक्ष

विरुद्ध

नियोजक,  
सि.एल.एस. कास्टिंग लिमिटेड,  
यूनिट-1, भिलाई ।

... द्वितीय पक्ष

रेफरेन्स क्रमांक: 14/एम0पी0आय0आर0ए

जनरल सेक्रेटरी,  
प्रगतिशील इंजीनियरिंग श्रमिक संघ,  
एमएच हाऊसिंग बोर्ड कॉलोनी,  
इण्डस्ट्रियल स्टेट, भिलाई, जिला दुर्ग ।

... प्रथम पक्ष

विरुद्ध

नियोजक,  
सि.एल.एस. कास्टिंग लिमिटेड,  
यूनिट-1, भिलाई ।

... द्वितीय पक्ष

रेफरेन्स क्रमांक: 15/एम0पी0आय0आर0ए

जनरल सेक्रेटरी,  
प्रगतिशील इंजीनियरिंग श्रमिक संघ,  
इण्डस्ट्रियल स्टेट, नंदिनी रोड, भिलाई ।

... प्रथम पक्ष

विरुद्ध

नियोजक,  
सि.एल.एस. कास्टिंग लिमिटेड,  
जसरा, यूनिट-11, रायपुर ।

... तृतीय पक्ष

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समर्थ :- श्री श्रीभूषेण, अध्यक्ष,  
एवं  
श्री एस0एम0 उपाध्याय, सदस्य न्यायाधीश ।

...

उपस्थिति:- प्रथम पक्ष श्रमिक संघ की ओर से श्री दोस थामस, अभिभावक  
रेफरेन्स क्रमांक 4 लगायत 7/93, 10/93 एवं 12/93 एम  
आय0आर0 एक्ट में द्वितीय पक्ष नियोजक की ओर से श्री  
एस0 व्यास, अभिभावक ।

रेफरेन्स क्रमांक 1 लगायत 3/93, 8/93, 9/93, 11/93  
13/93 लगायत 15/93 एम0पी0आय0आर0 में द्वितीय पक्ष  
नियोजक की ओर से श्री के0एस0 खन्नुजा, अभिभावक ।

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आदेश आर 1 क्रमांक 31.05.1995 को पारित किया गया।

यह आदेश सन्दर्भ प्रकरण क्रमांक 1/एमओपी0आय0आर0/93 से 15/एमओपी0आय0आय0/93 के मध्य औद्योगिक विवाद उत्पन्न करने के अतिरिक्त, अन्य प्रकरणों के प्रथम एवं द्वितीय पक्षों के मध्य औद्योगिक विवाद उत्पन्न करने के अतिरिक्त, अन्य मार्ग नहीं है, धारा 51 एमओपी0औद्योगिक सम्बन्ध अधिनियम 1960 क्रमांक 27/1960 के अन्तर्गत, रेफरेन्स प्रकरण क्रमांक 1/93 से 11 संलग्न अनुसूचियों में निर्दिष्ट औद्योगिक विवाद पंच निर्णयार्थ औद्योगिक न्यायालय मद्रास रायपुर खण्डपीठ को सन्दर्भित किये हैं।

1- इन सभी सन्दर्भों में विवाद विषय लगभग समान हैं, जो नीचे दिये जा रहे हैं :-

2- इन सभी सन्दर्भों में विवाद विषय लगभग समान हैं, जो नीचे दिये जा रहे हैं :-

§1§ क्या वेतन एवं भत्तों के पुनरीक्षण का औचित्य है ? यदि हाँ तो एंटीगार्ड भत्ता एवं अन्य भत्तों की क्या योजना होना चाहिए ? सम्बन्ध में नियोजक को क्या निर्देश दिये जाना चाहिए ?

§2§ क्या प्रतिवर्ष 15 दिन का आकस्मिक अवकाश, 10 दिन का त्योही अवकाश तथा 30 दिन का चिकित्सा अवकाश दिये जाने का औचित्य है ? यदि हाँ तो इस सम्बन्ध में नियोजक को क्या निर्देश दिये जाना चाहिए ?

§3§ क्या संलग्न परिशिष्ट में उल्लेखित एम्प्लॉय का सेवा पृथकीकरण एवं उचित है ? यदि नहीं तो इस सम्बन्ध में नियोजक को क्या निर्देश दिये जाना चाहिए ?

3- इन सभी प्रकरणों में द्वितीय पक्ष नियोजक की ओर से निम्नलिखित प्राप्ति अपरिपक्व प्रस्तुत की गई है :-



§18 राज्य शासन के द्वारा जिला अधिकारिता के यह सन्दर्भ प्रस्तुत किये गये अतः के लिये योग्य नहीं है ।

§19 धारा 51§28 अधिनियम में यह प्रावधान है कि संराधन अधिकारी के लिये धारा 43§28 अधिनियम के अन्तर्गत सेवा प्राप्त और 43§38 अधिनियम के अन्तर्गत संराधन अधिकारी के द्वारा राज्य शासन की अर्जित प्रतिवेदन, सन्दर्भ में प्रवेश कर पूर्व, श्राव्य न्यायालय अथवा औद्योगिक न्यायालय अधिकाधिकारी को, जैसी भी स्थिति उपलब्ध कराया जायेगा । लेकिन राज्य शासन ने उक्त प्रतिवेदन, सन्दर्भ के साथ न भेजा ।

§20 प्रथम पक्ष श्रमिक संघ ने कभी भी द्वितीय पक्ष नियोजक के लिये सन्दर्भित पक्ष के सन्दर्भ में विवाद प्रस्तुत नहीं किया और न ही, धारा 31 अधिनियम के अन्तर्गत परिवर्तन का सूचना पत्र, प्राप्त "जे" में भेजा । प्रथम पक्ष ने धारा 39 अधिनियम के अन्तर्गत प्रावधानों के अन्तर्गत अपने मामले का विवरण नहीं भेजा । इस प्रकार इन आध्यात्मिक प्रावधानों का पालन नहीं किया गया ।

§21 चूंकि उक्त विवाद संराधन अधिकारी को प्रस्तुत नहीं किये गये और संराधन अधिकारी के द्वारा धारा 39§28 अधिनियम के अन्तर्गत उक्त प्रतिवेदन मुख्य संराधन अधिकारी को नहीं भेजा गया, इसलिए यह सन्दर्भ चलाने योग्य नहीं है, वे अधिकाधिकारी नहीं हैं ।

§22 सन्दर्भ किया जाने हेतु धारा 43§48 तथा धारा 46§28 अधिनियम के अन्तर्गत प्रावधानों के अन्तर्गत प्रावधानों की संतुष्टि प्राप्त नहीं की गई ।

§23 सन्दर्भ के साथ संलग्न सूची में कतिपय दिवसों की नियमित अवधि तो गई है अतः यह सन्दर्भ, निलम्बन के सम्बन्ध में नहीं किया गया, इसलिए यह सन्दर्भ अविधि होकर चलाने योग्य नहीं है ।

§24 धारा 62 अधिनियम में कार्यवाही को सेवा समाप्त से सम्बन्धित विवाद को न्यायालय में प्रस्तुत किये जाने हेतु सेवा समाप्त की तिथि के एक वर्ष की अवधि प्रावधानित है । सन्दर्भित विवाद धारा 62§18§28 अधिनियम के अन्तर्गत एक वर्ष की अवधि समाप्त हो जाने के कारण समय पश्चात् भेजे गये हैं । इन विवादों के अविधि बाह्य हो जाने के कारण द्वितीय पक्ष को धारा 62§18 अधिनियम के अन्तर्गत जो अधिकार प्राप्त हो गया था, वह अधिकार सन्दर्भ के द्वारा लौटा नहीं जा सकता है ।

1- जो विवाद किंवा निर्णय न्यायिक नहिये गये हैं, वे विवाद उस प्रकार के होंगे, जिनका निराकरण अन्य मार्ग से नहीं हो सकता है। ये विवाद धारा 31(3) का अधिनियम के अन्तर्गत प्रयोज्य मान्यता में प्रयुक्त किये जा सकते हैं।

2- कर्मचारियों का सेवा समझौता, स्थायी एवं अर्द्ध-स्थायी चरित्र के कर्मचारियों की संघर्ष का कथना है, जिसका उपरोक्त अनुसूची-1 में क्रमांक-1 पर है। अतः इस समझौते में धारा 51 के परसुक 2 के अन्तर्गत तन्दर्भ नहीं किया जा सकता है।

3- इन वादों में वाद कारणों का कु-संयोजन है।

4- द्वितीय पक्ष ने निवेदन किया कि उन प्रारम्भिक आपत्तियों पर बिना क आपत्ती दी जा सकती है और उनके आधार पर सम्पूर्ण प्रकरण का निराकरण किया जाये, अतः सर्वप्रथम उन आपत्तियों का निराकरण किया जाये।

5- प्रथम पक्ष श्रमिक संघ ने द्वितीय पक्ष के आवेदन का विरोध किया, उनका प्रकरण यह है कि उनका प्रारम्भिक आपत्तियों का निराकरण बिना साक्ष्य लिए नहीं किया जा सकता है। अतः उनका निराकरण प्रकरण के शेष विवादों के साथ, साथ ही एक साथ जाना चाहिये। पर प्रारम्भिक आपत्तियां, प्रकरण को लम्बान में डाली सुविधा है की नहीं है। द्वितीय पक्ष ने हजारों श्रमिकों को सेवा से पृथक कर राज्य शासन को धारा 51 अधिनियम के अन्तर्गत औद्योगिक विवादों को तन्दर्भित करने का अधिकार प्रदान किया है। धारा 51 अधिनियम का यह उपवाक्य "अधिनियम में किसी बात के होते हुए भी, (Notwithstanding anything contained in this Act)" धारा 51 को इन अधिनियम के अन्य प्रावधानों के विरोध में पुनः प्रस्तुत करता है।

प्रथम पक्ष ने दिनांक 13.11.90 को द्वितीय पक्ष को मांग सूचना पत्र प्रस्तुत किया था, जिसे उन्होंने देने से इंकार किया। उसी सहायक श्राव्युक्त को अपनी भांगे प्रस्तुत की थी। संराधन अधिकारी 21.11.91, 23.11.91, 2.12.91, 24.12.91, 4.6.92, 5.6.92 आदि पर उभय पक्षों की बैठकें, संराधन कार्यवाही हेतु आयोजित की थी, लेकिन द्वितीय पक्ष अधिनियम के अन्तर्गत नहीं। राज्य शासन को धारा 51 अधिनियम के अन्तर्गत किये जाने हेतु प्रदत्त अधिकार, धारा 43 अथवा 3 अधिनियम से निर्यात नहीं है। प्रथम पक्ष ने रायचान्द के अन्तर्गत कर्मचारियों की सेवा समाप्ति का संराधन अधिकारी सहायक श्राव्युक्त रायपुर के समक्ष प्रस्तुत किया था। संराधन में द्वितीय पक्ष ने मान लिया था, इसलिए धारा 62(1)(b) अधिनियम

1- द्वितीय पक्ष को अधिवाह्यता के सम्बन्ध में कोई अधिकार प्राप्त नहीं हुए और वे  
या जानौंगे तथा जिन को पकड़ना पार करने का अधिकार प्राप्त है। सन्दर्भित  
जानौंगे कि तब, पिछले वर्षों से जो जा रहे हैं। द्वितीय पक्ष उनके निराकरण में  
सिचका रहना जा, इसलिए संस्थापन कार्यवाही हेतु को गई बड़ों विस्तार रहें। अतः  
प्रारंभिक आपत्तियां निरस्त की जायें।

2- जिस न्यायालय को अपराध रायपुर के विद्वान सदस्य न्यायाधीश महोदय ने  
द्वितीय पक्ष नियोजक के द्वारा सभी प्रकरणों में प्रस्तुत की गई प्रारंभिक आपत्तियां,  
एक ही प्रकार की होने से, उनका पत्र के तर्क श्रवण कर, उनके सम्बन्ध में एक सामान्य  
आदेश दिनांक 20.10.94 को पारित किया। विद्वान सदस्य महोदय ने यह मत दिया  
कि द्वितीय पक्ष के द्वारा उठाई गई प्रारंभिक आपत्तियां, पूर्णतः वैधानिक स्वल्प की  
पीठ पर अध्याधिक महत्व की है। अतः इन प्रारंभिक आपत्तियों का निराकरण त्वरित  
किया जाना चाहिये। इन सन्दर्भों में धारा 51(2) अधिनियम का पालन किया जा  
प्रणव दृष्टि में फल नहीं होता है। विद्वान सदस्य न्यायाधीश महोदय ने यह मत  
दिया कि द्वितीय पक्ष नियोजक द्वारा उठाई गई, सन्दर्भ की पोषणयता से सम्बन्धित  
आपत्तियों का निराकरण, तुरन्त प्रणीत होता है, अतः यह उचित है कि इन प्रारंभिक  
आपत्तियों का निराकरण, 2 से अधिक सदस्यों की पीठ द्वारा किया जावे। फलतः  
विद्वान सदस्य न्यायाधीश महोदय ने उक्त सभी प्रकरण "औद्योगिक न्यायालय की पीठ  
मकल निष्ठा 1984" की धारा 7(1) के अन्तर्गत अध्यक्ष, औद्योगिक न्यायालय को, इन  
अनुशंसा के साथ प्रेषित किये कि द्वितीय पक्ष द्वारा उठाई गई प्रारंभिक आपत्तियों  
निराकरण को या 2 से अधिक सदस्यों की पीठ द्वारा किया जावें।

7- सदस्य न्यायाधीश महोदय के उक्त आदेश के प्रकाश में दो सदस्यों को इस  
पत्र का गठन किया गया और ये प्रकरण द्वितीय पक्ष को प्रारंभिक आपत्तियों पर  
सुनवाई हेतु भिरे गये। यह सच है कि सभावाधि का प्रश्न, विधि एवं तथ्यों का  
पिछित प्रश्न है। जो प्रश्न, विधि एवं तथ्यों के पिछित प्रश्न होते हैं, उनका निरा-  
करण जसा जस्य के जेना सम्भव नहीं होता। लेकिन इस प्रकरण में यह उचित नहीं  
जसा जसा है कि यह जस्य विद्वान सदस्य न्यायाधीश महोदय को साथ अंकित करने  
हेतु के जायें, इस प्रक्रिया में अनावश्यक रूप से समय व्यतीत होगा। हमारे मत में  
द्वितीय पक्ष के जो प्रारंभिक आपत्तियां उठाई गई, उनका निराकरण इस प्रकरण की  
विधि-परिचालितियों एवं तथ्यों के प्रश्न में एवं तर्क के साथ द्वितीय पक्ष द्वारा की  
जाई जायेंगी। आपत्तियों के अन्तर्गत किया जा सकता है।

8- अतः प्रारम्भिक आपत्तियों पर उच्च पक्षों के तर्क प्रमाण किये गये ।

9- समयवधि के सम्बन्ध में द्वितीय पक्ष के विरुद्ध अधिवक्तागण श्री व्यास एवं श्री खजूना ने निवेदन किया कि धारा 62§1§§§ अधिनियम में कार्यकारी की सेवा समाप्ति के विरुद्ध धारा 61 अधिनियम में दायरा प्रस्तुत करने के लिए एक वर्ष की अवधि निर्धारित है । हस्तगत सन्दर्भ, सेवा-अधिकृत सेवा समाप्ति के एक वर्ष से अधिक अर्थात् गुज जाने के बाद किये गये, अतः इन सन्दर्भों के विवाद अवधि बाह्य हो गये है । अतः ये सन्दर्भ चलने योग्य नहीं है । जो अधिकार धारा 62§1§§§ अधिनियम के अन्तर्गत - द्वितीय पक्ष को प्राप्त हुआ है, उन अधिकार को राज्य शासन इन सन्दर्भों के द्वारा समाप्त कर रहा है । यदि धारा 31§3 अधिनियम के अन्तर्गत, श्री न्यायालय में - मामलों प्रस्तुत किये जाते तो उनको औद्योगिक न्यायालय में अपील करने का अधिकार प्राप्त होता, इन सन्दर्भों के कारण पक्षों को अपील के अधिकार से वंचित हो रहे हैं, यह सन्दर्भ अवैध होकर चलने योग्य नहीं है । उक्त तर्क के खण्डन में प्रथम पक्ष के विरुद्ध अधिवक्ता श्री थापत ने निवेदन किया कि यह सन्दर्भ धारा 51 अधिनियम के अन्तर्गत किये गये हैं । धारा 51, धारा 52 या इस अधिनियम के किसी भी प्रावधान से नियंत्रित नहीं है । राज्य शासन द्वारा सन्दर्भ किया जाने के लिए कोई समयवधि निर्धारित नहीं है ।

10- स्वीकृत रूप से धारा 62§1§§§ अधिनियम में, कार्यकारी की सेवा समाप्ति के आदेश के विरुद्ध, धारा 61 अधिनियम के अन्तर्गत, श्री न्यायालय में आवेदन पत्र - प्रस्तुत करने के लिए, एक वर्ष की अवधि निर्धारित है । स्वीकृत रूप से यह सन्दर्भ, सेवा समाप्ति के आदेश के पश्चात्, एक वर्ष की अवधि गुजर जाने के उपरान्त पंच निर्णय के धारा 51 अधिनियम के अन्तर्गत किये गये हैं । उक्त विवाद के निराकरण हेतु धारा 51 अधिनियम का अवलोकन करना होता, जो निम्नानुसार है :-

51. Reference of disputes to Labour Court, Industrial Court or Board.- (1) Notwithstanding anything contained in this Act, the Government may, if on a report made by the Labour Officer or otherwise it is satisfied that an industrial dispute exists, and-

- (a) it is not likely to be settled by other means; or
- (b) by reason of the continuance of the dispute-

- (i) a serious outbreak of disorder or breach of the public peace is likely to occur; or
- (ii) serious or prologed hardship to a large section of the community is likely to be caused; or
- (iii) the industry concerned is likely to be seriously affected or the prospects and scoop of employment therein curtailed; or

(c) it is necessary in the public interest to do so; refer the dispute or any matter appearing to be connected with or relevant to the dispute for arbitration to a Labour Court or the Industrial Court or a Board:

**Provided that-**

- (i) no reference under this section shall be made to a Board without referring the matter to the parties and obtaining consent in writing of one of the parties to the dispute; and
- (ii) no reference shall be made to a Labour Court under this section if the matter in dispute is included in Schedule I or if the dispute is between employees and employees.

(2) A copy of the report sent by Conciliator under sub-section (2) of section 43 and forwarded by the Chief Conciliator to the State Government under sub-section (3) of the said section - shall also be made available to the Labour Court, or the Industrial Court or the Board, as the case may be, before it proceeds to deal with the reference under sub section (1).

धारा 51 के अन्तर्गत से यह स्पष्ट है कि विधायिका ने राजा शासन को धारा 51 के अन्तर्गत औद्योगिक विवादों को सन्दर्भित करने के लिए व्यापक एवं अनियंत्रित अधिकार दिये हैं। धारा 51 का सर्वोपरि उपलब्ध non-obstante clause.

धारा 51 की, इस अधिनियम 1969 औद्योगिक विवाद अधिनियम के अन्य प्रावधानों से मुक्त रखता है, अर्थात् अधिनियम के अन्य प्रावधान धारा 51 की लागू नहीं होते हैं।

अन्वय 1969 एमओपी-24.5 कायाशी एम्प्लोयमेंट एक्ट विधि 1969 औद्योगिक विवाद अधिनियम एवं अन्य अन्तः धारा 62 अधिनियम में देया समाप्ति के आदेश के विरुद्ध दावा प्रस्तुत करने हेतु जो एक वर्ष की कालावधि निर्धारित की गई है, वह कालावधि धारा 51 के अन्तर्गत राज्य शासन द्वारा दिये गये अपने सन्दर्भों को

लागू नहीं होती है। राज्य शासन के लिए जियो ऑर्गेनिक विभाग को सन्दर्भित व के निम्न धारा 51 अर्था इस अधिनियम के अन्तर्गत कोई कार्य समाप्त न निर्धारित नहीं गई है। यह सच है कि यदि कोई कर्मचारी सेवा समाप्ति के सम्बन्ध में धारा 31(3) अधिनियम के अन्तर्गत न्यायालय में दावा प्रस्तुत करना चाहता है, तो उक्त धारा 62 अधिनियम के अन्तर्गत एक वर्ष की अवधि के अन्दर दावा प्रस्तुत करना होगा। एक वर्ष के बाद प्रस्तुत किया गया दावा, अर्थात् बाधित होगा। लेकिन राज्य शासन धारा 51 के अन्तर्गत समाप्त अधिकार का बन्धन नहीं है। वह एक वर्ष पश्चात् भी सन्दर्भ कर सकता है। प्रथम पक्ष के विद्वान अधिवक्ता श्री चामरा का कहना है कि द्वितीय पक्ष के द्वारा अवैध रूप से 3-4 हजार कर्मचारियों को सेवा से पृथक् कर दिया गया, इसी कारण से राज्य शासन ने सामूहिक हित के आधार पर यह सन्दर्भ लिये हैं। हय विद्वान अधिवक्ता श्री व्यास एवं श्री खन्ना के इस तर्क से सहमत नहीं है कि धारा 31(3) अधिनियम के अन्तर्गत प्रस्तुत किये जाने वाले मामलों, धारा 62 अधिनियम के अन्तर्गत अवधि बाध्य हो गये, इस कारण राज्य शासन यह सन्दर्भ करने के लिए तक्ष्य नहीं है। राज्य शासन के धारा 51 के अन्तर्गत प्राप्त अधिकारों को उक्त आधार पर समाप्त नहीं किया जा सकता है। द्वितीय पक्ष की ओर से यह तर्क प्रस्तुत नहीं किया गया है कि राज्य शासन ने यह सन्दर्भ सुर्माचना से लिये हैं और ऐसा ठीक ही किया गया। अतः धारा 51 अधिनियम के अन्तर्गत राज्य शासन को सेवा समाप्ति के एक वर्ष के पश्चात् भी सेवा समाप्ति के औपचारिक विभाग की पंच निर्णय हेतु सन्दर्भित करने का अधिकार प्राप्त है। यह सच है कि यदि इन विभागों के सम्बन्ध में धारा 31(3) अधिनियम में दावे प्रस्तुत किये जाते तो पक्षकारों को धारा 65 अधिनियम में ऑर्गेनिक न्यायालय में अपील करने का अधिकार प्राप्त होता, लेकिन इस आधार पर राज्य शासन के धारा 51 में प्रदत्त अधिकार समाप्त नहीं किये जा सकते हैं। अतः समाप्त अधिकार के सम्बन्ध में की गई उक्त आपत्ति सारहीन है।

11- द्वितीय पक्ष के विद्वान अधिवक्ता श्री चामरा की गई यह आपत्ति कि धारा 51(2) अधिनियम में यह प्रावधान है कि सन्दर्भ के साथ संराधन अधिकारी {conciliator} का प्रतिवेदन भेजा जाये, इन सन्दर्भों के साथ प्रतिवेदन नहीं भेजे गये हैं, अतः ये सन्दर्भ चलने योग्य नहीं हैं, स्वीकार की जाने योग्य नहीं है। धारा 51(2) अधिनियम में यह प्रावधान है कि संराधन अधिकारी के द्वारा धारा 31(3) अधिनियम के अन्तर्गत सेवा समाप्त और प्रमुख संराधन अधिकारों के द्वारा राज्य शासन को उपधारा 3 के अन्तर्गत अर्पित किया गया प्रतिवेदन या न्यायालय अथवा

औद्योगिक न्यायालय अथवा बोर्ड को, जैसी भी विधि हो, सन्दर्भ में प्रेषित होने के पूर्व उपलब्ध कराया जायेगा। धारा 51 ई. के तहत मात्र से यह तय हो जाता है सन्दर्भ के साथ, संराधन अधिकारी का प्रतिवेदन भेजना आवश्यक नहीं है। प्रतिवेदन सन्दर्भित न्यायालय के द्वारा सन्दर्भ में कार्यवाही की जाने के साथ तक उपलब्ध कराया जा सकता है।

12- यह तर्क स्वीकार योग्य नहीं है कि बिना संराधन कार्यवाही किये, सन्दर्भ नहीं किये जा सकते हैं, इस सम्बन्ध में धारा 40 एवं धारा 47 का अवलोकन करना होगा, जो निम्नानुसार हैं :-

40. Commencement of conciliation proceedings.- On receipt of the statement of the case under section 39 the conciliator shall, except in a case in which by reason of the provisions of section 47 a conciliation proceeding cannot be commenced, within a week enter the industrial dispute in the register kept for the purpose and thereupon the conciliation proceeding shall be deemed to have commenced from the date of such entry in the register, which date shall be communicated by him to the parties concerned.

47. Conciliation proceedings, not to be commenced or continued in certain cases.- No conciliation proceeding in respect of an industrial dispute shall-

(a) be commenced if-

- (i) the representative of employees is directly affected by the dispute ~~xxxxxxx~~ is a party to a submission relating to such dispute or a dispute relating to an industrial matter to that regarding which the dispute has arisen;
- (ii) it has been referred to arbitration under the provisions of section 51 or 52;
- (iii) by reason of a direction issued under sub-section (2) of section 97 or by reason of any of the other provisions of this Act the employers and employees concerned are in respect of the dispute bound by a registered agreement, settlement, submission or award;

(b) be continued after the date on which-

(i) a submission relating to such dispute is entered into by the employer and employees concerned under section 43 or 49;

(ii) the dispute is referred to arbitration under section 51 or 52;

(iii) the direction referred to in sub-clause (iii) of clause (a) is issued.

धारा 47 के अन्तर्गत में यह प्रावधान है कि इन औद्योगिक विवादों के सम्बन्ध में संराधन कार्यवाही प्रारम्भ नहीं की जायेगी, जो पंच निर्णयार्थ धारा 51 अथवा धारा 52 के अन्तर्गत सन्दर्भित कर दिये गये हों। इसी तरह स्पष्ट हो जाता है कि बिना संराधन कार्यवाही के भी सन्दर्भ किये जा सकते हैं। धारा 47 की में यह स्पष्ट प्रावधान है कि संराधन कार्यवाही चालू रहने के दौरान भी, राज्य शासन धारा 51 अथवा 52 के अन्तर्गत औद्योगिक विवादों के सम्बन्ध में सन्दर्भ कर सकता है। ऐसी स्थिति में, धारा 47 की के अन्तर्गत संराधन कार्यवाही का प्रस्ताव, उक्त तिथि को रद्द जायेगा।

§ discontinued § जिस तिथि को सन्दर्भ किया गया है। निःसंदेह धारा 40 में यह प्रावधान है कि यदि संराधन कार्यवाही चालू रहने के दौरान, धारा 51 अधिनियम के अन्तर्गत सन्दर्भ कर दिया जाता है तो संराधन कार्यवाही स्थगित हो जायेगी और ऐसी स्थिति में यह माना जायेगा कि संराधन कार्यवाही पूर्ण हो गई है और धारा 43 के अन्तर्गत संराधन अधिकारी, अपना प्रतिवेदन प्रस्तुत करेगा।

निःसंदेह संराधन कार्यवाही के सम्बन्ध में, धारा 39 अधिनियम में यह प्रावधान है कि धारा 31 § 1 § तथा § 2 § के अन्तर्गत प्रस्तावित परिवर्तन के सम्बन्ध में दिये गये सूचना पत्र का यदि दूसरे पक्ष द्वारा विरोध किया जाता है और सूचना पत्र देने वाला पक्ष फिर भी यह चाहता है कि परिवर्तन कार्यान्वित किया जाये, तो सूचना पत्र देने वाला पक्ष अपने मामले का पूर्ण विवरण संराधन अधिकारी को भेजेगा। यदि दोनों

के बीच मतभेद हो जाय तो धारा 33 के अन्तर्गत संराधन कार्यवाही प्रारम्भ होगी। धारा 40 अधिनियम के अन्तर्गत संराधन कार्यवाही चालू रहने के दौरान, धारा 51 अधिनियम के अन्तर्गत सन्दर्भ कर दिया जाता है तो संराधन कार्यवाही स्थगित हो जायेगी और ऐसी स्थिति में यह माना जायेगा कि संराधन कार्यवाही पूर्ण हो गई है और धारा 43 के अन्तर्गत संराधन अधिकारी, अपना प्रतिवेदन प्रस्तुत करेगा।



प्रावधान को अमान्य बनाया गया है, अर्थात् जहाँ पर राज्य शासन ने धारा 51 अथवा धारा 52 अधिनियम के अन्तर्गत विवाहों को सन्दर्भित कर दिया है, वहाँ पर संराधन अधिकारी अपनी पंजी में उन विवाहों को पंजीबद्ध नहीं करेगा और उन विवाहों के सम्बन्ध में संराधन कार्यवाही प्रारम्भ नहीं करेगा । इसी प्रकार धारा 43§2§ अधिनियम में यह प्रावधान है कि यदि संराधन अधिकारी के समक्ष समझौता हो जाता है तो, संराधन अधिकारी समझौते का मेमोरैंडम तैयार कर, कार्यवाही का प्रतिवेदन समझौते के साथ, पंजीबद्ध एवं प्रमुख संराधन अधिकारी को भेजेगा । जैसे ही पंजीबद्ध उपायो पंजीबद्ध करता है, समझौता में किया गया परिवर्तन, प्रभावशाली हो जावेगा । धारा 43§2§ में यह प्रावधान है कि यदि उभय पक्षों में यह समझौता नहीं होता है तो संराधन अधिकारी संराधन कार्यवाही समाप्त कर, प्रमुख संराधन अधिकारी को प्रतिवेदन भेजेगा और प्रमुख संराधन अधिकारी उस प्रतिवेदन को राज्य शासन को अग्रेषित करेगा और राज्य शासन यात्रा पत्र में इस आशय की अधिसूचना प्रकाशित करेगा कि उभय पक्षों के मध्य समझौता नहीं हुआ है । संराधन का वाही बन्द करने के पूर्व संराधन अधिकारी धारा 43§6§ के अन्तर्गत पक्षकारों से पूछेगा कि क्या वे विवाद को पंच निर्णय हेतु सौंपने के लिए इच्छुक है । धारा 47 एवं धारा 40 के अन्वय से यह स्पष्ट है कि राज्य शासन के लिए यह आवश्यक नहीं है कि वह संराधन कार्यवाही प्रारम्भ होने अथवा पूर्ण होने के पश्चात् ही अपने गिक विवाहों के निर्णय हेतु श्री न्यायालय अथवा औपेगिक न्यायालय अथवा बोर्ड को सन्दर्भित करे । बिना संराधन कार्यवाही के ही औपेगिक विवाद पंच निर्णय हेतु सन्दर्भित किये जा सकते हैं । इस प्रकार के सन्दर्भों का प्रभाव, यह होगा कि सन्दर्भित किये जाने के पश्चात् उन विवादों के लिए संराधन कार्यवाही प्रारम्भ नहीं की जा सकेगी और यदि कोई कार्यवाही प्रारम्भ कर दी गई है तो वह वहीं सौंप ही जावेगी ।

13- अतः हमारे मत में, राज्य शासन द्वारा किये गये अन्तर्गत सन्दर्भ संराधन अधिकारी का प्रतिवेदन समाप्त नहीं होने पर भी कानूनी योग्य है । इस सन्दर्भों पर धारा 51§2§ का कोई प्रभाव नहीं है । यदि उन विवादों के सम्बन्ध में संराधन कार्यवाही हुई है तो, राज्य शासन, सन्दर्भ की कार्यवाही प्रारम्भ होने के पूर्व, न्यायालय को संराधन अधिकारी का प्रतिवेदन उपलब्ध करावेगा ।

14- तृतीय पक्ष के विधान अधिवक्ताओं का यह तर्क कि धारा 43§6§ अधिनियम के अन्तर्गत, विवादों को पंच निर्णय हेतु सौंपे जाने के लिए तृतीय पक्ष को सहमति

प्राप्त नहीं की गई, आ: धारा 4386 अधिनियम का मान हुआ है, इस कारण सन्दर्भ चलने योग्य नहीं है, जो स्वीकार किया जाने योग्य नहीं है। धारा 4386 अधिनियम का प्रावधान, धारा 51 अधिनियम को लागू नहीं होता है। धारा 51 प्रस्ताव एक के अनुसार केवल मोड को सन्दर्भ देने के लिए एक पक्ष की लिखित सहमति आवश्यक है। लेकिन औद्योगिक न्याय कक्ष को सन्दर्भ दिशे जाने के लिए पक्षकार की सहमति आवश्यक नहीं है।

15- तृतीय पक्ष के विराम अधिकागण ने यह तर्क प्रस्तुत किया कि यह सन्दर्भ सेवा संपादन के विवाद के सम्बन्ध में दिशे को है। सन्दर्भ प्रकरण क्रॉफ 10/93 में सुची प्रस्तुत की गई है, उन्में 12 कर्मचारियों के अतिरिक्त, शेष कर्मचारियों को - निराश्रित बताया गया है। शेष सन्दर्भों में भी लगभग ऐसी ही स्थिति है। उन्होंने निवेदन किया कि यह अधिकरण सन्दर्भ की शर्तों के बाहर नहीं जा सकता है। अतः सन्दर्भ चलने योग्य नहीं है। विराम अधिकागण का यह तर्क सही है कि अधिकरण, सन्दर्भ की शर्तों के बाहर नहीं जा सकता है। न्याय दृष्टांत ए0आर0 आर0 1964 ए0 सी0 1746 एच0गेपन विरुद्ध औद्योगिक अधिकरण उड़ीसा एवं अन्य तथा 1979 लेब0 आर0सी0 827 पोटरो पञ्जूर पंचायत विरुद्ध दो परफेक्ट पोटरो बं0लि0 एवं अन्य से उक्त तर्क की पुष्टि होती है। लेकिन इस आधार पर इन सन्दर्भों की पोषणीयता § maintainability § पर कोई प्रभाव नहीं पड़ता है। वास्तव में इन सन्दर्भों के साथ संलग्न सूची में, जिन कर्मचारियों का नाम, सन्दर्भ की शर्तों से आवृत्त होगा, उनको पंच निर्णय लागू होगा, पंच निर्णय उन कर्मचारियों के सम्बन्ध में नहीं दिया जायेगा, जो सन्दर्भ की शर्तों के अन्तर्गत नहीं आते हैं।

16- तृतीय पक्ष के विराम अधिकागण ने यह तर्क भी प्रस्तुत किया कि अधिनियम के परिशिष्ट ए0 के विषयों के सम्बन्ध में केवल प्रतिनिधि संघ ही विवाद उठा सकता है, राज्य शासन स्वयं सन्दर्भ नहीं कर सकता है। दूसरे मत में यह तर्क ग्राह्य नहीं है। जैसा कि पूर्व में किया है, प्रथम पक्ष का कहना है कि उन्होंने इस संबंध में विवाद उठाया था, जिसके सम्बन्ध में संवर्धन कार्यवाही नहीं थी, जिसके आपस होने पर यह सन्दर्भ दिशे को है। राज्य शासन को धारा 51 अधिनियम के अन्तर्गत न्यायिक अधिकार प्राप्त है। विराम पक्ष के विराम अधिकागण ने यह भी निवेदन किया कि सन्दर्भ प्रकरणों को अनुसूची के अन्तर्गत प्रमाणित, जो सेवा पृथकीकरण के सम्बन्ध में है, अधिनियम के परिशिष्ट 2 के भाग 6 के अन्तर्गत आता है, जिसको श्रवण

उभे का आविर्भाव केवल न्यायालय को है, इस कारण वे सन्दर्भ प्रचलन योग्य नहीं हैं। यह तर्क व्यापार मामलों में ही लागू आधुनिकता में ऐसा नहीं कोई प्रतिबंध नहीं है। राज्य शासन, परिशिष्ट-2 में उल्लिखित विवादों के सम्बन्ध में औद्योगिक न्याय को सन्दर्भित कर सकता है। भारत का अतिरिक्त में राज्य शासन को सन्दर्भ कर सकता है। यह उल्लिखित का कोई भी प्रावधान, धारा 51 की प्रावधानों में नहीं है। यदि उल्लिखित के कुछ विवाद परिशिष्ट-1 में आते हैं और विवादों को सन्दर्भित नहीं आते हैं, तो राज्य शासन उन विषयों को औद्योगिक न्याय को सन्दर्भित कर सकता है। यदि इन सन्दर्भों के परिशिष्ट-एक के विवाद, औद्योगिक न्यायालय को और परिशिष्ट-2 के विवाद का न्यायालय को सन्दर्भित किये जाते उनके कारण पक्षगणों को असुविधा तो होती ही, साथ ही अनावश्यक रूप से समय का भी उपयोग एवं न्यायक्षेत्र में विघ्न होता है।

17- चौथे पक्ष के विज्ञान अधिकारियों ने यह तर्क प्रस्तुत किया कि धारा 5 परिशिष्ट-2 के अन्तर्गत राज्य शासन औद्योगिक विवादों को तभी सन्दर्भित कर सकता है जो औद्योगिक विवादों का समाधान, अन्य तरीकों से नहीं हो सकता है। विज्ञान विज्ञान कि सन्दर्भित विवादों का समाधान, धारा 31(3) सह पठित धारा के अन्तर्गत करने का मार्ग उपलब्ध है, इसलिए यह सन्दर्भ चलने योग्य नहीं है। यह भी व्यापार मामलों में ही लागू आधुनिकता में प्रकट होता है कि राज्य शासन आदेशों में विज्ञान कि उसको इस धारा की संतुष्टि हो गई है कि उभय पक्षों को शासन को औद्योगिक विवादों का समाधान, सन्दर्भ के अतिरिक्त अन्य उपायों से हल कर सकता नहीं है। राज्य शासन की उक्त संतुष्टि, न्यायिक समीक्षा के बाहर है जो सुनवाई नहीं हो जा सकती है। (अवकाशनीय 1971 एम0पी0एल0जे0 949)।  
गोवर्द्धन जीवारी संघ विरुद्ध मध्य प्रदेश राज्य एवं अन्य तथा 1988 एम0पी0एल0एल0 174  
जुनी पाटरी जीवारी संघ विरुद्ध हरियर इण्डस्ट्रीज लि0॥ रिफाई पर ऐस0  
 उपलब्ध नहीं है, किन्तु आधार पर यह कहा जा सके कि राज्य शासन ने दुर्भाग्य  
विधि प्रस्तुत किये हैं। यही कारण है कि तृतीय पक्ष ने तर्क के समय भी इस तर्क  
को नहीं माना। सन्दर्भित प्रकरणों के अतिरिक्तों को न्याय उपलब्ध कराने के लिए  
 यह, सन्दर्भित विषयों में राज्य शासन को कोई दुर्भाग्य होने का प्रश्न भी पैदा  
 करता है। पैदा कि अगर विज्ञान है, प्रथम पक्ष के विज्ञान अधिकारियों का यह कहना  
 कि चौथे पक्ष ने हजारों अतिरिक्तों को बिना विधि का पालन किये केवल से पृथक  
 किया है, इसलिए राज्य शासन ने वास्तविक तर्क को दुर्भाग्य करके हुए यह सन्दर्भ  
 लागू नहीं है। चौथे पक्ष को यह आपास्त आश्चर्य है।

17- यह तर्क भी स्वीकार किया जाने योग्य नहीं है कि प्रथम पक्ष के द्वारा सूचना पत्र नहीं दिया गया था और इस कारण वे सन्दर्भ चलाने योग्य नहीं है। पक्ष के विचारों अधिकांश तारों के कारण प्रस्तावित किया कि प्रथम पक्ष ने द्वितीय पक्ष को सूचना पत्र प्रस्तुत किया था, जिसके नहीं लिए जाने पर सहायक उप न्यायाधीश को विवाद प्रस्तुत किये गये थे। तर्क के समय द्वितीय पक्ष के विद्वान अतिरिक्त रूप से स्वीकार किया कि श्रम आयुक्त के समक्ष कुछ पंचायत बैठकें हुई थी।

18- न्याय में खेडकों का आयोजन किया जाना, सूचना देने व विवाद उत्पन्न होने पर ले जाता है। यह तर्क स्वीकार योग्य नहीं है कि धारा 31 परिष्कारन का सूचना पत्र विशेष तौर पर औद्योगिक विवाद उत्पन्न होना नई आवेदन। धारा 2(17) अधिनियम में दो गई "औद्योगिक विवाद" की परिभाषा स्थापक है। ऐसे विवाद, जिनमें परिष्कारन सूचना पत्र नहीं दिया गया, भी औद्योगिक विवाद माने जायेंगे। §अप्लोकनीय ए0आई0आर0 1969 एम0पी0 248। अतः उक्त तर्क ग्राह्य है।

19- यह भी तर्क प्रस्तुत किया गया कि यह सन्दर्भ वाद कारणों के कु-संयोजन से ग्रहित है। यह कहा गया कि सन्दर्भ के साथ संलग्न सूचि में पृथकीकरण एवं तिथि विभिन्न-भिन्न तिथियां दर्शाई गईं हैं, अतः यह सन्दर्भ वाद कारणों के कु-संयोजन से ग्रहित है। यह तर्क भी स्वीकार योग्य नहीं है। राज्य शासन ने सभी एंजिन सामान के मध्य उत्पन्न सभी विवाद सन्दर्भित कर दिये। यह अधिनियम, संशोधित होकर सामाजिक न्याय हेतु ग्राहित किया गया है। अतः उक्त तर्कों को स्वीकार योग्य नहीं है।

20- अतः उपरोक्त विवेचन के आधार पर हमारे मत में द्वितीय पक्ष के द्वारा उठाई गई प्रारम्भिक आपत्तियां ग्राह्य हैं और वे निरस्त की जाती हैं तथा निर्णित किया जाता है कि यह सन्दर्भ प्रचलन योग्य § maintainable § है।

21- यह सन्दर्भ प्रकरण, खण्डपीठ रायपुर के विद्वान सदस्य न्यायाधीश महोदयों को आवेदनी हेतु भेजे जावें।

द्वितीय पक्ष के प्रति सहायक हैं।

तारी/-

ए0एस0एम0 उपाध्याय  
न्यायाधीश

तारी/-

§ संभूषित §  
अध्यक्ष

कार्यालय, औद्योगिक न्यायालय, मध्य प्रदेश

क्रमांक 469/76

इन्दौर, दिनांक : 6.07.1976

प्रतिनिधि :-

- 01- अरुण सेक्टर, पुनर्निर्माण इंजीनियरिंग श्रमिक संघ, म. 10 हाऊसिंग बोर्ड कॉलोनी, इण्डियन स्टेट, भिलाई, जिला दुर्ग ।
- 02- नियोजक, सिम्पलेक्स इंजीनियरिंग एण्ड फाउण्ड्री वर्क्स, यूनिट-1, भिलाई ।
- 03- अरुण सेक्टर, पुनर्निर्माण इंजीनियरिंग श्रमिक संघ, इण्डियन स्टेट, नंदिनी रोड, भिलाई, जिला दुर्ग ।
- 04- नियोजक, सिम्पलेक्स इंजीनियरिंग एण्ड फाउण्ड्री वर्क्स, यूनिट-2, भिलाई ।
- 05- नियोजक, सिम्पलेक्स इंजीनियरिंग एण्ड फाउण्ड्री वर्क्स, यूनिट-3, भिलाई, राजनान्दगांव इम0908
- 06- नियोजक, वी0के0 कार्बोन्स लिमिटेड, भिलाई, जिला दुर्ग ।
- 07- नियोजक, वी0के0 इंजीनियरिंग कार्पोरेशन, भिलाई ।
- 08- नियोजक, वी0के0 इंजीनियरिंग कार्पोरेशन, यूनिट-2, भिलाई ।
- 09- नियोजक, भिलाई इंजीनियरिंग कार्पोरेशन, उरला, रायपुर ।
- 10- नियोजक, भिलाई इंजीनियरिंग कार्पोरेशन इम्पेक्स, भिलाई, जिला दुर्ग ।
- 11- नियोजक, भिलाई इंजीनियरिंग कार्पोरेशन यूनिट-2, भिलाई ।
- 12- नियोजक, भिलाई वायर्स लिमिटेड, भिलाई, जिला दुर्ग ।
- 13- अरुण सेक्टर, उत्तीसगढ़ केपिटल्स लिमिटेड मजदूर संघ, राजनान्दगांव ।
- 14- नियोजक, इंदिया डिस्टिलरी, औद्योगिक क्षेत्र, नंदिनी रोड, भिलाई ।
- 15- नियोजक, उत्तीसगढ़ डिस्टिलरी, कुम्हारी, जिला दुर्ग ।
- 16- नियोजक, चिखव विशाल इंजीनियरिंग लिमिटेड, भिलाई ।
- 17- नियोजक, सिम्पलेक्स कार्बोन्स लिमिटेड, यूनिट-1, भिलाई ।
- 18- नियोजक, कार्बोन्स लिमिटेड, उरला, यूनिट-2, रायपुर ।
- 19- श्री बी बीएस ऑफिस, अभिभाषक द्वारा श्रम न्यायालय, दुर्ग ।
- 20- श्री एस0एस0 व्यास, अभिभाषक द्वारा औद्योगिक न्यायालय, खडपीठ, रायपुर ।
- 21- श्री एस0एस0 खन्ना, अभिभाषक, एस0आई0जी0-17, पदयनपुर, दुर्ग ।
- 22- अध्यक्ष, औद्योगिक न्यायालय, खडपीठ रायपुर ।

श्री पी0एस0 जाधव  
 प्रभारी पंजीयक,  
 औद्योगिक न्यायालय, म090 इन्दौर.

6/7

## ORDER

(Passed on 31.05.1995)

This order is passed in the context of preliminary objections raised by the second party in the matters of No 1/MPIL/93-15/MPIL/93.

- ① The Deputy Secretary, Labour Department, Govt. of Madhya Pradesh, having been satisfied that there has arisen an industrial dispute between the first and second parties in the above matters and that there exists no other ~~matters~~ manner of resolution of the same except reference to arbitration, has under Section 51 of the MPIL Act 1960 (No 27/1960), henceforth referred to as the Act, has referred the industrial dispute (vide Reference Matters No 1/93-15/93) given in the annexed schedules to the Industrial Courts, of M.P., Raipur Bench.
- ② In all these matters, the issue of dispute is almost similar, namely as below:
  - (1) Whether there is justification for revision of wages and allowances? If yes, what should be the scheme for wage, dearness allowance and other allowances? What direction should be given to the employer in this regard?
  - (2) Whether there is justification for giving casual leave of 15 days, festival leave of 10 days, and medical leave of 30 days annually? If so, what direction should be given to the employer in this regard?
  - (3) Whether severance from work of the employees listed in the annexures attached hereto is legal and justified? If no, what direction should be given to the employer in this regard?
- ③ In all these matters the following preliminary objections were raised by the second party employer:
  - (a) The State Govt has made these references without jurisdiction and hence they are not maintainable.
  - (a) There is a provision in Sec 51(2) that the report of the conciliation officer u/s 43(2) or the report forwarded to the State Govt by the Chief Conciliator u/s 43(2), will be made available to the Labour Court or Industrial Court, as the case may be, prior to making the reference. But the state Govt has not sent the said report with the reference.
  - (b) The first party trade union neither raised a dispute before the second party employer in respect of the referred issues, nor was a notice of change given in proforma 'J' u/s 31 of the Act. The first party send a format in proforma 'K' u/s 39 of the Act. Thus the mandatory provisions were not complied with.
  - (c) Since the said dispute was not raised before the conciliation

officer and the conciliation officer has not forwarded report to the Chief Conciliator, the reference is not maintainable and it is without jurisdiction.

- d) No consent of parties was obtained which is mandatory u/s 43(b) & 46(2) of the Act, before making a reference.
- e) Along with the reference the ~~list~~<sup>list</sup> is given with respect of suspended employees and the reference is not in respect of suspension and as such ~~the~~ the reference is bad in law.
- f) Under Section 62 the limitation provided for preferring a claim against termination of services of employees is given as one year. The dispute under reference has been made much after the period of limitation prescribed by Sec 62(1)(a) of the Act. Since these disputes are barred by limitation, the right accruing to the second party u/s 62(1) of the Act, cannot be snatched away, by making a reference.
- g) The disputes referred to arbitration are not of such nature which cannot be settled by any other means. These disputes could have been submitted to the Labour Court u/s 31(3) of the Act.
- h) Termination of services of employees, reduction in number of permanent and semi-permanent employees are the matter of Schedule F Item 1 and as such no reference can be made under proviso to Sec 51.
- i) There is misjoinder of causes of action.

④ The second party has pleaded that ~~since~~<sup>no</sup> evidence needs to be recorded on the above preliminary objections, and that the whole case can be decided finally on this basis. Hence these objections be decided first.

⑤ First party employees' union has objected to the plea of Second party. It is contended that the ~~objections~~<sup>said preliminary objections</sup> cannot be disposed off finally unless evidence is recorded and as such they be decided along with all the issues involved in the dispute. The objections are raised with a view to mala fide prolong the matter. Second party has terminated thousands of employees and the State Govt has jurisdiction to refer the industrial matter u/s 51 of the Act. Non obstante clause contained in Sec 51 (Notwithstanding anything contained in this Act) is free from control by other provisions of the Act. The first party has raised dispute before the Second Party vide demand dated 13.11.90 which was refused to be taken up by them and hence matter was put before Assistant Labour Commissioner. The conciliation officer called meetings of both parties on 21.11.91, 23.11.91, 2.12.91, 24.12.91, 4.6.92, 5.6.92 etc, but the said attempt failed.

because of the attitude adopted by the Second party. Powers of the State Govt. to refer dispute u/s 51 of the Act are, not controlled by Sec 43 or 51 of the Act. First Party had raised a dispute regarding termination before the conciliation officer (Asst. Labour Commissioner) Raipur within time since Second Party has ~~not~~ participated in conciliation proceedings, no right accrued to the Second Party u/s 62(1) of the Act regarding limitation. Besides, the Industrial Court has powers to condone the delay. The referred dispute was pending since last three years. The Second party was not taking interest in disposal of the matter and as such conciliation proceedings resulted in failure.

⑥ Learned member judge of the Raipur bench of this Industrial Court heard both the parties on preliminary objections, since they were same in all the cases and passed a common order dated 20.10.94. The learned Member opined that all the preliminary objections raised are of legal nature and are of immense importance. Therefore, these preliminary objections should be decided first. In these references it appears that there is no compliance of Sec 51(2) ~~prima facie~~ of the Act. The learned Member also opined that the preliminary objections relate to the tenability of reference and appear complex and far-reaching. Therefore it would be appropriate to refer the matter to the Bench of two members or more. Resultantly the learned Member referred the matter to the President of the Court under Clause 7(1) of the Constitution of Bench of Industrial Court Rule 1964 with the recommendation that the preliminary objections raised by the Second Party may be decided by the bench consisting of two or more members.

⑦ In the light of the order of the learned Member Judge, two-member bench was constituted and the cases were taken up for hearing on preliminary objections. It is true that the question of limitation is a mixed question of law and fact. Questions which are mixed questions of law and fact cannot possibly be decided without recording evidence. But in these cases it ~~appears that~~ does not appear proper that matter be sent to the learned Member judge for recording evidence on preliminary objections since it may cause unnecessary delay. In our opinion, the preliminary objections raised by the Second Party can be decided in the context of the specific circumstances and facts involved in the case and admissions made by the Second Party during the course of arguments.

⑧ Hence arguments of both parties on preliminary objections were heard.

⑨ Regarding limitation the learned counsel for the Second Party



Shri Vyas and Shri Khanuja pleaded that u/s 62(1)(a) the <sup>period</sup> ~~time~~ limitation for presenting claim in respect of termination of a workman u/s 61 is one year. The present references have been made more than a year after the so-called terminations her the disputes raised in the references have become time-barred. Hence these references are not maintainable. The right accruing to the Second Party vide Sec 62(1)(a) has thus been snatched away by the State Govt. vide these references. Had these matters been raised u/s 31(3) <sup>before</sup> the Labour Court, then the Second Party would have had the right to appeal in the Industrial Court. Owing to these references the Second Party has been robbed of the right to appeal. Thus these references being bad in law are not maintainable. In rebuttal of the said argument, learned couns for the first party, Shri Thomas pleaded that these references have been made u/s 51 of the Act. Sec 51 is not governed by Sec 62 or any other provision of this Act. There is no limitation on reference being made by the State Govt.

(11) It is accepted that u/s 62(1)(a) of the Act, ~~limitation period of one year~~ is prescribed to prefer a claim in the Labour Court u/s 61 against termination of services of a workman. It is also accepted that these references have been made for arbitration u/s 51 after more than one year of the termination orders. To resolve the contradiction we have to peruse Sec 51 which reads as follows

(Entire Sec 51 has been quoted with subsections)

It is clear from the perusal of Sec 51 that the legislature has granted the State Govt & wide and <sup>controlled</sup> ~~uncontrolled~~ powers u/s 51 to make references in regard to industrial disputes. The non-obstante clause in Sec 51, makes it free from the other provisos of the MPIR Act, e.g other provisions are not applicable to Sec 51 (Refer MPIR 1969, MP 0-248, Workmen of Asbestos Cement Ltd Vs Industrial Court & others). Thus the one year's limitation ~~period~~ fixed for presenting claims against termination orders u/s 62 is not applicable to references made by the State Govt to u/s 51. No limitation ~~period~~ has been fixed for the State Govt to make references of an industrial dispute either in Sec 5 or elsewhere in the Act. It is true that if a workman ~~is to~~ <sup>is to</sup> prefer a claim in the Labour Court in respect of a termination order u/s 31(3) of the Act, then u/s 62 he would have to present this claim within one year. A claim preferred after one year would be time-barred. But there is no limitation on the State Govt u/s 51. It can make references even after one year. The learned counsel for the first party Shri Thomas states that the Second Party had illegally ~~dismissed~~ <sup>severed</sup> 3-4000 workmen from their work. This is the reason why, on the grounds of collective welfare, the Govt has made the reference. We disagree with the ~~learned~~ arguments of the learned advocates Shri Vyas.

and Sri Khanuja that the State Govt is not competent to refer the matters dealt u/s 31(3) which have got time-barred u/s 62. The powers vested in the State Govt vide Sec 51 cannot be curbed on the said basis. The Second party has not advanced the argument that these references have been made with mala fide intent, and that is correct - in our opinion. Thus u/s 51 the State Govt has the power to refer an industrial dispute for arbitration in respect of termination even after a year. It is true that if the claims in these disputes had been preferred u/s 31(3), the parties would have had the right to appeal to the Industrial Court u/s 65, but this cannot be a ground to deny the power vested in the State Govt by Sec 51. Thus the said objection raised in respect of limitation is ~~unsubstantiated~~ unsustainable.

(11) The objection raised by the learned counsels that u/s 51(2) there is a mandatory provision that the report of the conciliator be sent with the reference, that such report of the conciliator has not been sent with the reference, hence these references are not maintainable, is not acceptable. Sec 51(2) contains the provision that the report of the conciliation officer sent u/s 43(2) and forwarded ~~at~~ under subsection (3) by the Chief Conciliator to the State Govt be made available to the Labour Court or Industrial Court or Board, as the case may be, prior to proceeding with the reference. Here perusal of 51(2) makes it clear that it is not necessary to send the conciliator's report along with the reference. The report can be made available to the court in question before proceeding with the reference.

(12) The argument that no reference can be made without conciliation proceedings is not acceptable. In this regard we must study Sec 40 and Sec 47 which read as below:

(Sec 40 and Sec 47 are quoted)

Sec 47(a) contains the provision that no conciliation proceedings will be commenced in those industrial disputes which have been referred for arbitration u/s 51 or 52. This makes it clear that a reference may be made even without conciliation proceedings. 47(b) contains the clear provision that the State Govt can make a reference in respect of an industrial dispute u/s 51 or 52 even when conciliation proceedings are in progress. In such a situation u/s 47(b) the conciliation proceedings will be discontinued from the date of reference. Sec 48 clearly provides that if a reference is made u/s 51 while conciliation proceedings are in progress then the said conciliation proceedings shall be discontinued and shall be assumed that conciliation proceedings have been completed and the conciliation officer will submit his report u/s 43 ~~also clearly~~, with regard to conciliation proceedings, Sec 39.

no doubt  
 Contains the provision that if, <sup>despite</sup> the opposite party opposing the proposed notice of change u/s 31 (1) and (2), ~~despite which~~ a party wishes to implement such a change, the said party will give a complete report of the matter to the conciliator. If a settlement is reached between the two parties, then the settlement report shall be sent u/s 33 to the Registrar to be registered in the Registers of Agreements. If both parties do not arrive at a settlement then u/s 40 within a week the conciliation officer forwards the complete report of the matter obtained u/s 39 to be registered. The conciliation proceedings are deemed to be commenced from this date. However, Sec 47 has been deemed to be an exception to Sec 40 of the Act. That is, where the State Govt has made a reference in respect of an industrial dispute u/s 51 or 52, the conciliator shall ~~not~~ register those disputes, ~~rather~~ will conciliation proceedings be commenced in respect of those disputes. Similarly u/s 43(2) there is a provision that if a settlement is reached before the conciliation officer, the officer will prepare a memorandum of the settlement and forward it with a copy of the conciliation proceedings to the Registrar & Chief Conciliator. The change will come into force when the Registrar registers the settlement. There is a provision u/s 43(2) that if the parties do not reach settlement then before terminating the conciliation proceedings the conciliator will u/s 43(b) ask both parties whether they are willing to have the matter referred for arbitration. From perusal of Sec 47 & Sec 40 it is clear that it is not necessary that conciliation proceedings be commenced or be completed before the state Govt refers an industrial dispute for arbitration to a Labour Court, Industrial Court or Board. An industrial dispute can be referred for arbitration even without conciliation proceedings. The effect of such a reference shall be that, after the reference is made conciliation proceedings cannot be commenced and if they have been commenced they will be discontinued forthwith.

(13) Thus, in our opinion, the present references made by the state Govt are maintainable even without the report of the conciliation officer being annexed. There is no effect of Sec 51(2) on these references. If conciliation proceedings have taken place in these disputes, the State Govt shall make available to the court, prior to proceeding with the references, the report of the conciliation officer.

(14) The argument of the learned advocates of the Second Party that u/s 43(5) the consent of the second party has to be obtained prior to referring for arbitration, and that since Sec 43(5) has been violated the references are not maintainable, is not acceptable. The provisions of Sec 43(b) are not applicable to Sec 51. According to subsection 1 of Sec 51, the written consent of one party is necessary to refer a matter to the Board but the consent of the parties is not necessary while referring a matter to the Industrial Court.

5) The learned advocates of the second party have advanced the argument that these ~~references~~ references have been made in respect of a dispute regarding termination. However in Ref No 10/93, apart from 12 workmen, all other workmen have been shown to be suspended. More or less similar situation prevails in the remaining references. They have pleaded that the jurisdiction cannot be extended beyond the terms of reference. AIR 1964 AC 1746 H Gammon Vs Industrial Board Orissa & others and 1979 Lab. C 827 Pottley Mazdoor Panchayat Vs The Perfect Pottery Company Ltd & others uphold this argument. However the maintainability of the present references is not affected by this ground. The arbitration order will be applicable to those workmen whose names appear in the annexed list and are covered by the terms of reference, the arbitration order will not be applicable in the matter of those workmen not covered by the terms of reference.

6) The learned advocates for the Second Party have argued that only a Representative Union can raise industrial disputes on the matters covered by Appendix A of the Act, the State Govt cannot itself make a reference. In our opinion, the argument is without ~~substance~~ substance. It has been pointed out earlier, the first party claims that they had raised a dispute on these issues in respect of which conciliation proceedings were carried out upon the failure of which the State Govt has made these references. Wide powers have been vested in the State Govt vide Sec 51. The learned advocates of the Second Party have also pleaded that item No 3 raised in the terms of the reference matters pertains to severance from work which falls under ~~Appendix 2~~ <sup>Schedule</sup> 2, item 6 of the Act and only the Labour Court has the jurisdiction to hear the subject, hence the references are not maintainable. There is no bar anywhere in the Act restricting the State Govt from referring the subjects covered by Appendix 2 to the Industrial Court vide 51. Unrestricted powers are vested in the State Govt to make references. No provision of the Act affects Sec 51. If some of the issues of the reference fall under ~~Appendix 1~~ <sup>Schedule 1</sup> and others under ~~Appendix 2~~ <sup>Schedule 2</sup>, the State Govt can refer those matters to the Industrial Court. If had the issues of the reference covered by Appendix 1 been referred to the Industrial Court, and those covered by Appendix 2 to the Labour Court, inconvenience would be caused to the parties as also unnecessary misuse of time and money, and delay in delivering justice.

7) The learned advocates of the Second Party have advanced the argument that the State Govt can make a reference in an industrial dispute only when the disputes are not likely to be settled by other means. They have pleaded that since, vide 31(3) read with Sec 61, there exists a route to settle the

referred matters, hence the references are not maintainable. This argument is not acceptable. On perusing the reference, it appears that the state Govt has written in its orders that it is satisfied that the industrial disputes present between the two parties are not likely to be settled by any other means than reference. The said satisfaction of the State Govt is beyond the scope of legal review and cannot be challenged (Refer 1971 MPLJ 949 MP Strigelion Workers Union Vs State of MP & Another and 1988 MPLSR 174 Kabri Pottery Workers Union Vs Ishwar Industries Ltd). There are no facts on record on the basis of which we can say that the state Govt has made the references with mala fide intentions. That is why the Second Party has not mentioned anything in this context while advancing arguments. No question at all arises of there being any mala fide intention in the state Govt's making references whose purpose is to provide justice to the affected workmen. As mentioned above the learned counsel for the first party has stated that the second party has severed from work thousands of workers without complying with the law, hence in view of the collective welfare the state Govt has made these references. In our opinion the objection of the second party is without substance.

18) This argument is also not acceptable that the first party had not submitted any notice and hence the references are not maintainable. During arguments the learned counsel of the first party stated that the first party had submitted a notice of demands, and upon these not being received, they had raised the dispute with the Assistant Labour Commissioner. At the time of arguments, the learned advocates of the second party had admitted that some conciliation sittings had taken place before the Labour Commissioner. That such sittings were organised in respect of these disputes leads to the conclusion that the matter was brought to the notice of and the disputes were raised. The argument that without a notice of change being submitted u/s 31, no industrial dispute will have said to have arisen & is not acceptable. The definition of "Industrial dispute" provided in Sec 2(17) is very wide. Even those disputes in which notice of change had not been given ~~and~~ <sup>may</sup> be considered industrial disputes (Refer AIR 1969 MP 248). Thus the said objection is fruitless.

19) The argument was also advanced that these references suffer from a misjoinder of causes of action. It was stated that in the lists annexed to the reference, ~~different~~ <sup>different</sup> dates of severance from work and suspension have been shown, hence the references suffer from misjoinder of causes. This argument is also not acceptable. The state has referred all the disputes arising between all the workers and their <sup>employer</sup> organisation. This Act is a social legislation enacted to ~~delimit~~ <sup>define</sup> social justice. Thus the said technical objections are not acceptable.

- (20) Thus, on the grounds mentioned above, in our opinion the preliminary objections raised by the second party are without substance and they are rejected. It is decided that the references are maintainable.
- (21) The reference matters may be forwarded to the learned Member Judge of the Raipur Bench for further proceedings.

I agree.  
Sgnd.  
(S N Upadhyay)  
Member Judge

Sgnd  
(Shambhu Singh)  
President



क्रमांक - 6-1/93/लोसह/ ए / (1)

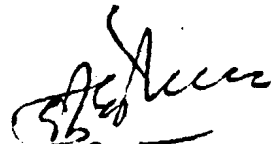
भोपाल, दिनांक 27.7.95  
28

औद्योगिक न्यायालय, मध्यप्रदेश हाण्डपीठ रायपुर की ओर आवश्यक कार्यवाही हेतु भेजा जाता है।

प्रतिलिपि :-

1. निबंधक, शासकीय मुद्रण तथा लेखान सामग्री म0प्र0 भोपाल की ओर म0प्र0 राजपत्र के आगामी अंक में प्रकाशनार्थ।
2. श्रमायुक्त, म. प्र. इंदौर की ओर उनके ज्ञापन क्रमांक +1/8/तीन/93/ 924(2) दिनांक 20/7/95 के संदर्भ में प्रेषित।
3. उप श्रमायुक्त, छत्तीसगढ़ क्षेत्र रायपुर की ओर सूचनार्थ प्रेषित।
4. सहायक श्रमायुक्त, रायपुर/ दुर्ग की ओर सूचनार्थ प्रेषित।
5. संचालक, सूचना तथा प्रकाशन विभाग, भोपाल की ओर स्मृति प्रसारण के लिए।

6. जे.के.ए. अकादमी पुस्तकालय शीत इंजीनियरिंग कनिष्ठ विभाग, एडमिशन बोर्ड कार्यालय इन्डस्ट्रियल इन्स्टीट्यूट किलाह जिला विद्यालय सिद्धपुर इन्जीनियरिंग एण्ड फाउंड्री ए. एन. ए. किलाह

  
(क. डी. प्रसाद)  
अवर सचिव,

मध्यप्रदेश शासन, श्रम विभाग



Govt. of M.P

Department of Labour

Bhopal dated -

Amendment Order

The Order

Order No 6-1/93/16-a (i) Department of Labour, No 6-1/93/16-a  
dated 26.2.93 passed in "Employees of \_\_\_\_\_ who are being  
represented by Pragatished Engineering Shramik Sangh and  
\_\_\_\_\_".

~~Item 4~~ is amended by adding item 4 after item 3  
in the Schedule as follows.

(4) "Is it justified to grant interim relief ~~to the~~  
until the resolution of the dispute to the employees  
severed from work listed in the annexure to  
item No 3. If so what should be the direction  
the employer in this regard

By order, under the name  
Governor, Madhya Pradesh.  
(Sgd)

Deputy Secretary  
Govt of M.P, Department of

Dated 27 . 7 . 95  
28

BEFORE THE HON'BLE INDUSTRIAL COURT  
RAIPUR BENCH, RAIPUR.

Case No. Reference No. 2 /1993/MPI

Between :

प्रगतिशील इंजीनियरिंग श्रमिक संघ  
एम. आई. जी. 1/55  
हुडको कालोनी, गिराई  
दुर्ग. (म. प्र.)

And :

... FIRST PARTY

~~सिम्पलेक्स इंजीनियरिंग एंड फाउंड्री~~  
~~वर्क यूनिट 2 गिराई~~

... SECOND PARTY

STATEMENT OF CLAIM FILED BY FIRST PARTY "SANGH"

The First Party Pragatisheel Engineering Shramik Sangh (hereinafter referred to as the "Sangh") respectfully submits the following Statement of claim.

1. That the Govt. of M.P. vide its order No. 6-1/93/16 dated 26.2.93 has referred the following Terms of Reference to this Hon'ble Court.

Terms of Reference :

1. क्या वेतन एवं भत्तों के पुनरीक्षण को औचित्य है। यदि हाँ तो वेतन महंगाई भत्ता एवं अन्य भत्ता की क्या योजना होनी चाहिए एवं इस संबंध में नियोजन को क्या निर्देश दिये जाना चाहिए ?

2. क्या प्रति वर्ष 15 दिन की आकस्मिक अवकाश, 10 दिन का त्यौहारी अवकाश तथा 30 दिन का चिकित्सा अवकाश दिये जाने की औचित्य है ? यदि हाँ तो इस संबंध में नियोजक को क्या निर्देश दिया जाना चाहिये ?
3. क्या संलग्न परिशिष्ट में उल्लेखित एम्पलाईज की सेवा पृथकीकरण तैय एवं उपलब्ध है ? यदि नहीं तो इस संबंध में नियोजक को क्या निर्देश दिया जाना चाहिये ?

(2) That subsequently vide order No. 6-1/93/16-A dtd. 31.7.95 the Govt. has referred the following Terms of Reference also by adding to the earlier 3 Terms of Reference thus making the total 4.

1. क्या अनुक्रमांक 3 के संलग्न परिशिष्ट में उल्लेखित सेवा से पृथक किये एम्पलाईज को विवाद के निराकरण होने तक अंतरिम राहत प्रदान करने का औचित्य है ? यदि हाँ तो इस संबंध में नियोजक को क्या निर्देश दिया जाना चाहिये ?

objections raised by the



2. क्या प्रति वर्ष 15 दिन की आकस्मिक अवकाश, 10 दिन का त्यौहारी अवकाश तथा 30 दिन का चिकित्सा अवकाश दिये जाने की औचित्य है ? यदि हाँ तो इस संबंध में नियोजक को क्या निर्देश दिया जाना चाहिये ?
3. क्या संलग्न परिशिष्टों में उल्लेखित एम्पलाईज की सेवा पुथकीकरण तैय एवं उचित है ? यदि नहीं तो इस संबंध में नियोजक को क्या निर्देश दिया जाना चाहिये ?

(2) That subsequently vide order No. 6-1/93/16-A dtd. 31.7.95 the Govt. has referred the following Terms Reference also by adding to the earlier 3 Terms of Reference thus making the total 4.

4. "क्या अनुक्रमांक 3 के संलग्न परिशिष्ट में उल्लेखित सेवा से पुथक किये एम्पलाईज को विवाद के निराकरण होने तक अंतरिम राहत प्रदान करने का औचित्य है ? यदि हाँ तो इस संबंध में नियोजक को क्या निर्देश दिया जाना चाहिये ?"

(3) That the Preliminary objections raised by the Second Party Employer have since been decided by the Division Bench of the Hon'ble Industrial Court vide dated 31.5.95.

STATEMENT OF CLAIM IN RESPECT OF

TERMS OF REFERENCE NO. 1.

- (4) The "Sangh" respectfully submits that the following relief may kindly be granted in respect of this terms of Reference.

<u>Pay Scales</u> :	Unskilled	2000-100-2500/-
	Semi-Skilled	3000-150-3750/-
	Skilled	4000-200-5000/-

to be made effective from the date of the reference.

D.A. Linked with AICPI 1982 <sup>Series</sup> ~~Service~~ Simia, per point Rs. 2/- should be paid over & above the prevailing AICPI on the date of the Reference.

Cycle Allowance : Rs. 100/- per month.

House Rent allowance : Rs. 200/- per month or an accomodation in M.P. Housing Board.

Shift allowance (for night-shift) Rs. 10/- per night shift.

5. The above pay Scales, D.A. & allowances are just & proper considering the haphazards of the undertaking, non-existence of other fringe benefits & the facilities available in the surrounding Region & Industries.

STATEMENT OF CLAIM IN RESPECT OF TERMS OF REFERENCE NO. 2.

6. That granting of  
15 days casual leave  
10 days Festival holidays  
30 days Medical leave.

is absolutely just & proper considering the haphazards involved in the undertaking, provisions of the Standards Orders, existence of very little fringe benefits and the leave facilities available in the surrounding Region & Industries.

- (7) It may kindly therefore be allowed from the date of the Reference providing for accumulation of the unavailed leave.

STATEMENT OF CLAIM IN RESPECT OF TERMS OF REFERENCE NO. 3.

- (8) The concerned workers detailed in the Reference were in the employment of the Second Party Employer.
- (9) The relevant details of these workers are given in the enclosed annexure to this statement of claim which may kindly be treated as a part of this statement of claim.
- (10) That inter-alia M.P.I.R. Act. 1960 & the Standard Standing Orders are applicable on the Second Party "Employer" Establishment.
- (11) That these workers were not issued any chargesheet.
- (12) That neither any enquiry whatsoever was conducted.
- (13) That even the termination orders were not passed & communicated to the concerned workers.
- (14) That these workers have not been paid any Retrenchment compensation, one month's notice or notice pay.
- (15) That Junior workers than the Workers covered in the the Reference were retained & they are still in the Employment of the Second Party "Employer". New Worker were also recruited.
- (16) That the action therefore is wholly illegal being in contravention of the relevant provisions of the MPIR Act, 1960 as also in Contravention of the Standard Standing Order.

- (17) That right to work has been held at par with the right to life under Article 21 of the constitution of India And further right to work includes right not to be deprived from work without just & fair procedure established by law. That the concerned workers had put in much more than 240 days service in the previous 12 calendar months from the date than were deprived of their work.
- (18) That the concerned workers were and are always willing to work from which they have been & are being deprived illegally and unjustifiably.
- (19) That if however, the Hon'ble Court finds any lapse/ misconduct on the part of any concerned worker then it is respectfully prayed that powers u/s 107-A may kindly be exercised in the interest of justice.
- (20) It is therefore respectfully prayed that the concerned workers may kindly be put back/reinstated in service along with all benefits/wages/compensation .

STATEMENT OF CLAIM IN RESPECT OF TERMS OF REFERENCE NO. 4.

- (21) That the Reference was made on 26.2.1993 & is pending since then. According to section 78-B of the Act such matters are required to be decided within 180 days whereas already more than 21/2 year have passed. The concerned workers are literally starving.
- (22) That the action of the second party Employer is wholly illegal & unjustified as elaborately submitted in the matter of Terms of Reference No. 3 above. It is clear an act of high handedness & Colossal exercise of power.
- (23) The concerned workers therefore by way of interim relief, may kindly be directed to be put back on the job or alternatively 90% of the monthly.



Wages payable to them may kindly be directed to be paid to them with retrospective effect to be continued till the Reference is finally decided.

(24) The First Party "Sangh" persistently tried for a mutual settlement of these matters but the second Party Employer did not co-operate. It played hide & seek game through-out even before various Governmental efforts including Ministerial efforts which eventually forced the Govt. to make the present Reference.

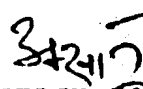
PRAYER : It is therefore respectfully prayed that all the terms of Reference may kindly be decided in favour of the First Party 'Sangh' & the claimed relief may kindly be awarded.

Any other relief that the Hon'ble Court may deem fit & which falls within the ambit of the Reference may kindly also be awarded.

The First Party 'Sangh' begs permission to add to or to amend this statement of claim it & when deemed necessary.

BHILAI (M.P.)

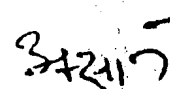
Dated : 11.9.95

  
FIRST PARTY  
प्रधानीय संविकारीय शक्ति संघ,  
भिलाई, वि. दुर्ग (म.प्र.)

Verification :- I,

Bhilai do hereby verify

that the contents of the above statement of claim have been explained to me & having understood them verify that they are true to the best of my personal knowledge & information & received & believed to be true. Verified at Bhilai (Durg) on this the 11th day of September 1995.

  
FIRST PARTY  
Bhilai,

Counsel for First Party

होटेले में ऑफिस क्लेम का प्रवेक्षण

फाइल नं. 2/1993/एम.पी.आर्.आर.  
 एम्प्लोयमेंट कैंडिडेट्स काउंसिल द्वारा चुनित 2 महिला

पिता का नाम	आई/पी.एफ.	पद/विभाग	नियुक्त तिथि	वेतन	अंश में बांटा करने की तिथि
वर्मा/बालाराम वर्मा	2/पी.एफ.	ऑपरेटिव/मशीन शा.	19.04.81	1600	23.12.90 ✓
कुमार/बिहारी राम	6/-	हेल्पर / -	17.05.84	875	-
शेखर/प्रभात	7/-	ऑपरेटिव/-	01.05.87	875	-
कुमार/अ. जैराम	1/-	प्ले.आ./-	12.02.78	1250	-
एन. सिंह/विष्णा	1/-	अप. /-	06.10.87	950	-
राम/सुकराम	1/-	अप. /-	15.01.87	1050	-
न. सिंह/सिंगाराम सिंह	9/4	1/-	1/-	1/-	-
राज/विश्वदयाल	1/-	अ. /-	21.10.85	950	-
राम/बन्धारा राम	10/-	मि.अ. /-	08.06.84	900	-
राधन राव/सोताराम	1/-	1/-	27.06.87	900	-
शर्मा/गोरवेंद्र	1/-	1/-	1/-	1/-	-
पता/कादीर पता	1/-	1/-	1/-	1/-	-
ई. अंतारी/एन. एस. अंतारी	1/-	अ. /-	19.01.82	950	-
सुपता/बाबू नारायण	1/-	मैज.अ. /-	1/-	1/-	-
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म. साह/उदय राम साह	1/-	1/-	1.10.86	1/-	-
सुदेव राव/डी. रघुनाराय	1/-	1/-	01.10.86	900	-
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पटेल/दुष्यु राम	1/-	प्ले.अ. /-	21.07.82	886	-
न. यादव/सुनेश्वर यादव	1/-	प्ले.अ. /-	20.02.81	950	-
राम/सुधापारी	1/-	मि.अ. /-	1/-	1/-	-
साह/फारुख राम	1/-	1/-	05.01.83	1000	-
प्रसाद/सोताराम	8/-	ड्राइवर /-	01.06.78	945	-
शं. /रतन सिंह	3/-	टर्नर /-	02.08.85	975	-
शं./राधाकांत शं.	14/-	प्ले.अ. /-	02.10.84	1/-	-
सिंह/शं. देवा सिंह	16/-	ऑपरेटिव /-	14.02.88	1300	-
प.सी.एन. प्रसाद	1/-	1/-	1/-	1000	-
च./सुनेश्वर चन्द्रशेखर	1/-	अ. /-	18.05.85	800	-
विष्णाथ	1/-	प्ले.अ. /-	02.06.86	775	-
राम/भारोत राव	1/-	प्ले.अ. /-	14.01.85	900	-
फण/बागोराम	1/पी.एफ.	हेल्पर /असिस्टेंट	10.05.86	775	-
र/आगाराम	1/-	अ. /-	02.03.77	900	-
साह/दानोराम	20/पी.एफ.	म.अ.सि.अ. /म. शा.	01.08.83	1023	-
र/सुरेश्वर	13/-	1/-	10.06.83	1100	-
टी/एन. डी.डी	1/-	हेल्पर /-	07.02.85	745	-
बागोराम	1/-	मो.अ. /-	08.02.82	1050	-
र/भायी देहरा	1/-	प्ले.अ. /-	16.11.87	1675	-
पिल्ले/ए. विष्णु	1/-	1/-	17.05.87	1040	-
सिंह/अशोक	1/-	टर्नर /-	20.01.85	970	-
शं/अशोक शं.	15/-	हेल्पर /-	10.08.86	800	-
र/विष्णा राम	1/-	म. /ऑफिस शा.	27.07.84	924	-
र/प्रकाश	3/-	ड्राइवर /-	15.11.77	1023	-

02.	03.	04.	05.	06.	07.
शिवकामा शिंदे/नारदी शिंदे	1/पु.सफ.	फिटर/मोतीन गा.	03-04-81	11000	23-12-90
संतोष वर्मा/शुद्ध राय	1/-	टेलर/मेन्ट.	01-06-82	790	-/-
अशुभाक्ष/मधुसूदन	1/-	फिटर/-	01-05-80	1175	-/-
सुखदेव राव/लक्ष्मण राव	1/-	-/-	26-03-86	950	-/-
महेन सुबल/रामप्रसाद	1/-	फोल्डर/मो.गा.	22-05-84	950	-/-
अमण पोथरी/विदे पोथरी	1/-	टेलर/म.गा.	18-06-82	925	-/-
तोरेय राव/विजयराव	2/पु.सफ.	फोल्डर/मे.गा.	01-10-86	794	-/-
रत.के.लाल/रत.के.अशुभ	1/-	फो.गा/म.गा.		900	-/-
राधेप्रियाम/रु.कु.		टेलर/-	01-03-82	800	-/-
बेनाय राव/मंगल		-/-	15-08-82	850	-/-
सुखदेव शिंदे/के.राय		-/-	01-04-83	-/-	-/-
हेमनाथ यादव/अमलनाथ	2/पु.सफ.	-/-	01-08-88	-/-	-/-
श्याम दास/विजय दास	1/-	-/-	01-05-81	776	-/-
मोहन राव/शुद्ध राव		-/-	01-05-85	800	-/-
भुवन लाल/लालाराम		-/-	12-12-87	800	-/-
अमन लाल/श्रीराम		-/-	01-04-84	800	-/-
विनाय पात/कच पात		-/-	08-03-85	800	-/-
विजयराव/शुद्ध राव		-/-	21-08-84	800	-/-
के.राव/सुखदेव		-/-	01-05-85	800	-/-
काजी राव/सुखदेव	1/-	-/-	01-03-81	776	-/-
विजयराव/पा.सी.देव		-/-	23-10-84	800	-/-
राजु चन्द्राकर/अशुभ राव		-/-	23-10-84	800	-/-
राम लाल/शुद्ध लाल		-/-	25-09-84	800	-/-
जगदाक्ष/पथकी		-/-	20-09-84	800	-/-
के.मोना राव/के.राममूर्ति		फिटर/पाठप लाइन	18-06-87	1000	-/-
रत.के.पोथरी/रत.पोथरी		टेलर/असेम्बली	05-05-85	800	-/-
श्याम कुमार/भाऊ भाऊ		मो.कट./पा.लाइन	24-04-84	900	-/-
विजयराव/भगवान राव		फिटर/पाठप लाइन	02-05-84	800	-/-
मोहन लाल/जगत राम यादव		टेलर/मोतीन गांधी	22-01-84	795	-/-
गुलाब/रामगण		-/-/फेब्रिकेशन	21-20-84	800	-/-
सोविन्द राम/श्यामलाल	2/पु.सफ.	टेलर/मो.गा.	04-03-83	800	-/-
विजयराव/अशुभ	1/-	फिटर/फेब्रिकेशन	02-10-81	690	-/-
संतोष दास/मंगल दास		टेलर/असेम्बली	19-04-86	900	-/-
रामगोपाल/श्रीराम		फिटर/-	01-03-82	900	-/-
गोतम/काऊ जो राजत		फोल्डर/मोतीन गांधी	23-11-88	800	-/-
जय शेट्टार/सुखदेव पोथरी		टेलर/-	01-01-87	800	-/-
रामपाथक/सुखदेव शिंदे	1/-	टेलर/फेब्रिकेशन	20-08-85	890	-/-
नोरो गीर/परमन राम	2/पु.सफ.	मो.कट./-	03-05-85	850	-/-
राजकुमार/राजाराम	1/-	फिटर/फेब्रिकेशन	17-07-85	925	-/-
आर.आर.कोतरे/दोरा कोतरे	1/-	ग्रेन्ड.मे./-	01-03-80	900	-/-
पा.सुधाशंकर/जगन्नाथ			01-02-89	890	-/-
ई.मोहन राव/परमेश्वर	2/-	टेलर/-	24-04-84	950	-/-
बेनाय राम/मो.सफाई	1/-	-/-	01-05-84	950	-/-
सुधाशंकर/काजी सेवक	2/-	फिटर/-	01-03-85	850	-/-
रामाक्षर/रामाक्षर	1/-	टेलर/-	23-03-81	950	-/-
जोय सुधाशंकर/शिवमन	1/-	-/-	15-04-84	700	-/-
भगवान दास/नोहर दास	1/-	फिटर/-	28-11-83	1000	-/-

: 3 :

02.	03.	04.	05.	06.	07.
ठाकुर राम/कन्दू राम	/पी.एफ.	गिरा कटर/पेजोडेगल	11.09.82	900	25.12.90
संम. अन्तारी/ई. जहमद	1/✓	वेल्डर / - -	20.05.86	650	- -
कृष्ण कुमार/व. गु. पिप्ले		- - / - -	05.04.80	1025	- -
जीतलाल/खोरबाहरा	/पी.एफ.	मेन्ड. मेन/- -	15.03.83	855	- -
घामनराव/फायू जी	/पी.एफ.	- - / - -	01.01.83	700	- -
गुलता राव/					- -
तिथाराम/भगवानी साहू		वेल्डर/- -	14.05.83	850	- -
गुंदर लाल/पैतराम	✓	हेल्पर/- -	26.09.83	800	- -
जनक राम/सगरु राम	/पी.एफ.	मेन्डर मेन/- -	14.09.82	875	- -
गोपचन्द महेश्वरी/जमादार महेश	2/- -	फिटर/ - -	02.07.85	950	- -
उदय प्रताप सिंह/गिधनाथ सिंह	/ - -			900	- -
पैतराम/घनश्याम					- -
छत्रपति पाल/बालगोविंद	/ - -		27.06.85	770	- -
के. बोडे पा/के. पिपलमा	/ - -	फिटर/- -	23.01.84	900	- -
अजायब लाल/महमम सिंह	3/- -	गुन्डरमेन/- -	24.01.82	850	- -
अंकलू राम/माटेर सिंह	6/	फिटर/ - -	10.05.84	850	- -
रुद्र प्रताप/रामनरेश	10/	हेल्पर/- -	03.11.85	770	- -
निर्मल सिंह/लाल सिंह	2-पी.एफ.	फिटर/- -	01.01.81	850	- -
राधेश्याम/पु. गु. जी	3/- -	फिटर/- -	28.01.77	1000	- -
इंसु जी/तिरपति	1/- -	मे. मे. ए/- -	02.03.71	850	- -
संम. आर्डी. शिबुको/सच. शिबुको	4संम.महमम 4/पी.एफ.	वेल्डर/- -	12.10.85	850	- -
दोनानाथ चौधरी/मंगल चौधरी	4/	हेल्पर/- -	01.02.85	700	- -
रामकुमार/चौधू राम		- - / - -	24.06.85	775/-	- -
असलम/मैहताज		- - / - -	01.04.87	890	- -
कृष्ण कुमार/वो. पिप्ले					- -
मोहन लाल/जगत राम					- -
रामहनुमान/विनय चौहाण	/पी.एफ.	हेल्पर/पेजोडेगल	22.01.84	890	- -
नरेश कुमार सोनी/राधेश्वर	/ - -	- - / - -	06.10.83	650	- -
गुमाथ सिंह/संम. एन. सिंह		वेल्डर / - -	29.11.84	960	- -
बदरनाथ राव/के. सुध्या राव		हेल्पर / सा. एन. सो.	24.03.88	900	- -
गुन्दर सिंह/पुम्भोटलम सिंह			25.03.89	1100	- -
रामनाथ/बाहू राम	4/पी.एफ.	हेल्पर./पेजोडेगल	01.04.88	775	- -
बोधन सिंह/बु. मान सिंह	/ - -	फिटर/असेम्बली	07.07.81	925	- -
जोषवर/रामचंद पादम	/ - -	फिटर / पेजोडेगल	01.928 88	800	- -
मिखल दास/रंग लाल 1सकर्म		- - / - -	05.02.83	870	- -
मदन लाल/विजय लाल	12		02.08.89	690	- -
बन्धु/सकुर अहमद	4/	मेन्ड. मेन/पेजोडेगल	13.11.86	710	- -
सकोल सिंह/डीलता सिंह	1/✓	वेल्डर/- -	01.02.85	800	- -
रामभुलाल/पू. राम		- - / - -	15.08.84	800	- -
लाल मोहम्मद/रहमोन मो		हेल्पर. - -	09.10.84	822	- -
रामप्रोति साहनी/सातालाल साहनी		वेल्डर / - -	16.08.84	800	- -
संम. रामाराव/संम. कामरुन	8/	- - / - -	10.02.89	760	- -
मार्निन लाल/मकूल दास	/पी.एफ.	फिटर/- -	18.12.86	850	- -
देवानंद/मंगलू सिंह	/ - -	मेन्ड. मेन/- -	06.10.83	880	- -
अणु लाल/अणु गनी	7/	आसी/- -	12.08.83	880	- -
अमन लाल/पुरन लाल		वेल्डर / - -	07.05.83	830	- -
तारन सिंह/भारतम सिंह		आसी/- -	02.03.88	800	- -
		हेल्पर / - -	02.02.89	800	- -

02.	03.	04.	05.	06.	07.
महेश्वर तिलक/आनंद राम		धाराती/देवाराय	01.02.85	650	23.12.90
उदय कुमार/दादुबा देवारे	4/	देवरा/---	01.04.81	375	---
भरत ताल/रामजी ताडना	7/पं. २५	देवरा/---	02.02.84	1060	---
छोटे ताल/दादुबा प्रताप		--- / ---	12.02.84	830	---
रम. र. अंतरा/के. पी. अंतरा		--- / ---		890	---
रामरतन/राम परमेश्वर		--- / ---	03.02.87	600	---
तोतारा/जीवराज		--- / ---	01.04.87	300	---
गीतम राम/धोरा राम	8/	देवरा/---	01.02.88	900	---
दधानिधा/पुरनपर		देवरा/---	09.03.89	800	---
देवनाथ/हृदय राम	5/	--- / ---	16.08.86	800	---
मनीराम/मंगू राम	4/	देवरा/---	16.10.82	1050	---
देवरा/हृदय	8 4/	देवरा/---	22.10.87	760	---
मुकामु तिन्हा/मुकामु		के. मंगू/---		800	---
भोजराम नायर/होरा राम		देवरा/---	01.09.87	800	---
अभिराव/रामनाथ		देवरा/---	01.01.88	800	---
पुनपत तिरठा/पी. सेठ	2/पं. २५	देवरा/---	21.11.81	900	---
भोजराम/राजराज	1/पं. २५	देवरा/---	09.06.80	900	---
चन्नाल/रामनाथ		देवरा/---	07.05.85	850	---
तुनील गुप्ता/पुन. वर प्रताप	६	--- / अंतरा	01.01.82	930	---
अंतामु राम/पी. राम	7/पं. २५	--- / देवरा	07.08.85	0 0	---
देवरा दास/जीवराज		--- / ---	02.08.88	800	---
छे. तदन/गिरधारी		धाराती/---	07.06.85	800	---
कारिक सागर/गुमान सागर		--- / ---	13.12.85	850	---
गीतराज ताड/पुनाराज		--- / ---	06.04.86	900	---
तंतदास/धोरा दास		--- / ---	07.04.85	870	---
रामजा/भरतु तखतुर्मा	7/पं. २५	देवरा/---	01.05.86	790	---
धनू राम/दीन राज राम		धाराती/---	01.06.87	900	---
मानासंग/मेहरा		देवरा/---	01.01.81	900	---
लक्ष्मीनाथ/कारिक	2/	के. मंगू/---	16.06.81	900	---
खिचनाथ/ताडुवार		देवरा/---	10.11.78	960	---
अमृत लाल/होराखाल	7/	--- / ---	10.05.81	860	---
भगवान रमा/दशापी रमा	10/पं. २५	देवरा/---	02.03.76	1050	---
गुलती राम/के. राम ठाडुर		देवरा/---	23.12.82	895	---
देवराय पटेल/मंगू राम	1/पं. २५	देवरा/---	01.11.84	660	---
मन्नु लाल सुपरी/भंगोनाथ सुपरी		देवरा / ---	01.10.77	1150	---
रत. घोष/रत. बी. घोष		देवरा / ---	05.05.85	890	---
कांत कुमार/हृदय राम	5/	देवरा/---	20.03.86	900	---
प्रभुनाथ/विभवदन		देवरा / ---	13.06.88	900	---
विभवनाथ/दादुबा राम		--- / ---	23.06.88	900	---
महेरा कुमार/रघुवीर गुप्ता		देवरा/---	13.03.83	900	---
परमानंद/गीतराज यादव		देवरा/---	01.06.87	600	---
माऊन लाल/दादुबा प्रताप		--- / ---	01.01.86	870	---
मणी प्रताप/होरादास		--- / ---	01.01.88	870	---
तुषीन/विभवा हाडु		--- / ---	01.01.88	870	---
सुंदराम/आनंदराज		--- / ---	01.01.88	800	---
देवर्दन/मंगू तिलक		--- / ---	01.02.87	500	---
दुव्या राम/कडु यादव		--- / ---	01.01.88	870	---
मोहनवर सुतेन/मो. दादुबा		देवरा / ---	19.06.88	870	---

क्र.	02.	03.	04.	05.	06.	07.
185.	श्री. श्री. चन्द्रन/श्री. एन. यागल		टिपर/पेशाकेमल	01.12.86	1000	23.12.90
186.	राजकुमार/नंद गोगीर		हेल्पर/-	15.07.89	900	-
187.	गैदलाल वर्मा/श्री. आर. वर्मा		- / -	27.02.86	950	-
188.	नन्दु राम/धनपार सिंह		टिपर/-	01.05.84	1000	-
189.	सुष्मा देवांगन/ब्राह्म राम देवांगन		हेल्पर/-	25.01.86	900	-
190.	हरिहरम्व हरि मंगल/पुलवी		हेल्पर/-	01.01.85	900	-
191.	बेकुण्ड म राम/कार्तिक राम			01.03.87	950	-
192.	पीलाराम/गणेश राम निवाह		हेल्पर/-	01.05.89	900	-
193.	हरिश्चन्द्र/बिहारी राम		- / -	11.04.89	900	-
194.	चिन्ताराम/गंगा राम		- / -	04.01.89	900	-
195.	रामप्रसाद/माल सिंह सिन्हा		- / -	14.04.89	690	-
196.	केम राम/सेवा राम		- / -	- / -	900	-
197.	मोठ रवीश/मोठगर्जन		- / -	01.01.87	900	-
198.	बृहण कुमार वर्मा/बनज राम वर्मा		टिपो / -	18.02.88	950	-
199.	हर रामतेवक/समाह		माली/गार्डन	19.03.87	900	-
200.	गुरुनाम सिंह/चन्द्रन सिंह				900	-
201.	जलज राम/परज राम		हेल्पर/पेशाकेमल	01.03.89	900	-
202.	श्री. एन. राज				900	-
203.	कपल राम भट्टारी				800	-
204.	कन्देया माल/राजाराम		खतारी/-	01.09.89	890	-
205.	राजेश			01.02.89	790	-
206.	श्री. श्री. चन्द्रन/श्री. आर. गिरी	/पति. एन.	श्री. श्री. म. रम.			-
207.	एम. एच. आन/कायम आन	/पति. एच.	वर्मा. श्री. / म. श्री.			23.12.90

BEFORE THE HON'BLE INDUSTRIAL COURT  
RAIPUR BENCH : RAIPUR.

Case No. Reference No. 2 /1993/MPIL

C.F. . . .

Between :

गणेशगोपाल इंजीनियरिंग प्रॉपर्टी लिमिटेड  
जिला राई

... FIRST PARTY.

AND

- शिवप्रताप - इंजीनियरिंग सपोर्ट फाउंडेशन लिमिटेड

... SECOND PARTY.

- युनिट II - जिला राई - - - - -

In the matter of an application for urgent hearing of terms of Reference No. 4 relating to interim relief.

The First party "Bargh" respectfully submits as

under :-

1. That the Govt. of M.P. vide its order No. 6-1/9./11A dated 31/7/1995 added the following Terms of Reference No. 4 to the main Reference Order dated 26/2/1993.

Terms of Reference No. 4.

\* 4. क्या अनुसूची 3 के संलग्न परिशिष्ट में उल्लेखित सेवा से पृथक किये गये सम्पलाईज को विवाद के निराकरण होने तक अंतरिम राहत प्रदान करने का औचित्य है ? यदि हाँ तो इस संबंध में नियोजक को क्या निर्देश दिया जाना चाहिये ?

2. That from the Statement of claim your honour would be pleased to observe that the action of the second Party in respect of the worker is wholly illegal, unjustified and mala fide.

contd....2..

3. That right to work has been held at par with the Right to life under Article 21 of the Constitution of India. And further right to work includes right not to be deprived from work without just & fair procedure established by law.
4. That apparently even the mandatory provisions of the Standard Standing Orders have not been followed. The concerned workers were and are always willing to work.
5. That section 78-B of the M.P.I.R. Act 1960 provides for the disposal of such matters within 180 days whereas already more than 2½ years have passed & they are literally starving.
6. For ready reference section 78-B is reproduced below :-  
  
"78-B Time Limit for disposal of cases by Labour Court etc. (1) The Labour Court or the Industrial Court shall pronounce its award or decision ordinarily within a period of One hundred & eighty days from the date on which the application is made or the dispute is referred to it".
7. That under these circumstances & facts there is absolute justification for granting interim relief to the concerned workers.

PRAYER: It is therefore respectfully prayed :-

That terms of Reference No. 4 relating to interim relief may kindly be heard & decided urgently.

That as interim relief, concerned workers may kindly

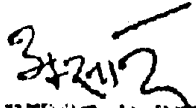


be put back on the jobs or alternatively 90% of the monthly wages payable to them may kindly be directed to be paid to them with retrospective effect to be continued till the Reference is finally decided.

Any other interim relief/order as the Hon'ble Court may deem fit may kindly also be awarded.

Prays accordingly,

Dated :

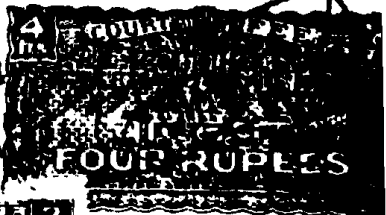
  
FIRST PARTY

सहायकी,

प्रधानमंत्री कार्यालय, नया दिल्ली, पं. सं. 4119

दिनांक 14.04.2020

Counsel for First Party.



शेख अंतरा  
एम. आर्. जी. 1/55 हुडको,  
भिलाई



शपथकर्ता.

:: शपथ पत्र ::

मैं शेख अंतरा आठ श्री शेख अरमान, आयु लगभग 29 वर्ष, निवासी-  
एम. आर्. जी. 1/55 आगदी नगर हुडको, भिलाई दुर्ग । शपथपूर्वक  
निम्नानुसार कथन करता हूँ :-

1. यह कि मैं प्रगतिशील इंजीनियरिंग श्रमिक संघ, भिलाई का महामंत्री हूँ ।
2. यह कि मैंने "संघ" द्वारा माननीय औद्योगिक न्यायालय रायपुर के समक्ष पेश किये जाने वाले स्टेटमेंट आफ क्लेम तथा अंतरिम राहत के बिन्दु पर अर्जेंट सुनवाई हेतु प्रार्थना पत्र को समझ लिया है ।
3. यह कि उनमें वर्णित सभी तथ्य मेरी व्यक्तिगत जानकारी तथा कार्यालय से प्राप्त जानकारी के अनुसार सही एवं सत्य है ।
4. यह कि यह शपथपत्र माननीय औद्योगिक न्यायालय रायपुर के समक्ष लंबित प्रकरण ~~श्रमिक संघ बनाम सिम्पलेक्स इंजीनियरिंग एंड कांस्ट्रक्शन वर्क्स युनिट्स प्रिवेट लिमिटेड~~ क्रमांक रजिस्ट्रेशन नं. 2/1993/एम. पी. आर्. आर. स्तर में पेश किया जाना है ।

शपथकर्ता.

:: सत्यापन ::

मैं शेख अंतरा उपरोक्त शपथकर्ता सत्यापित करता हूँ कि उपरोक्त शपथपत्र की  
कंडिका । लगायत 4 में वर्णित तथ्य मेरी व्यक्तिगत जानकारी के अनुसार सही  
एवं सत्य है । अतः यह शपथपत्र आज दिनांक \_\_\_\_\_ को दुर्ग में सत्यापित  
किया ।

11 SEP 1995

दुर्ग,

दिनांक : 11 SEP 1995

शपथकर्ता.

मैं शपथकर्ता को पहचानता हूँ ।

रजि. सं. 2717 (JANTA)  
NEW HOUSING BOARD  
P.O. INDUSTRIAL ESTATE  
BHILAI 490024

Pragatisheel Engineering  
Shramik Sangh

... First party

Vs

M/s Reekay Engineering Corporation,  
Bhilai

... Second party

REFERENCE NO.5/MP/IR/93

FIXED FOR 12.10.95

APPLICATION FOR ADJOURNMENT

The second party respectfully submits as under :

1. That the second party has presented a Writ Petition No. 1231/95 before the Hon'ble High Court of Madhya Pradesh at Indore, challenging the Order dated 31.05.95 passed by the Division Bench of the State Industrial Court, Madhya Pradesh, Indore in the above reference No. 5/MP/IR/93.

2. That the Hon'ble High Court, by order dated 22.09.95 has ordered to issue notices to the respondents including the first party against the admission of the petition. The notices are returnable within 4 weeks. The respondents including first party have also been directed to file their returns within the said period giving copy thereof to the Petitioner and placing a copy on the record of the case.

3. That the application for grant of Ad-interim Writ of Stay has also been filed alongwith the Writ Petition. The Hon'ble High Court has ordered that the pray for Ad-interim Writ of Stay shall be considered after the respondents including first party are served.

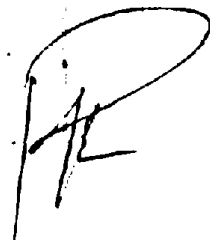
(Contd.2)

4. That the second party has also challenged the action of the State Government in amending the original reference by adding item No.4 for grant of interim relief.

5. That the petition is listed on 20.10.95 for hearing by the Hon'ble High Court, Bench Indore.

6. That in view of the facts stated above, it is necessary that the above reference may kindly be adjourned till the decision on Ad-interim Writ of Stay.

It is, therefore, prayed that the above reference may kindly be adjourned for a period of 2 months so that the Ad-interim Writ of Stay may be considered and decided by the Hon'ble High Court after hearing the parties.



( SECOND PARTY )

Dated: 12.10.95.



( COUNSEL FOR SECOND PARTY )

Dated: 12.10.95

कार्यालय औद्योगिक न्यायालय (खण्डपीठ)

कृष्णा सदन, २६, २७, २८, २९, ३०, ३१, ३२, ३३, ३४, ३५, ३६, ३७, ३८, ३९, ४०, ४१, ४२, ४३, ४४, ४५, ४६, ४७, ४८, ४९, ५०, ५१, ५२, ५३, ५४, ५५, ५६, ५७, ५८, ५९, ६०, ६१, ६२, ६३, ६४, ६५, ६६, ६७, ६८, ६९, ७०, ७१, ७२, ७३, ७४, ७५, ७६, ७७, ७८, ७९, ८०, ८१, ८२, ८३, ८४, ८५, ८६, ८७, ८८, ८९, ९०, ९१, ९२, ९३, ९४, ९५, ९६, ९७, ९८, ९९, १००, १०१, १०२, १०३, १०४, १०५, १०६, १०७, १०८, १०९, ११०, १११, ११२, ११३, ११४, ११५, ११६, ११७, ११८, ११९, १२०, १२१, १२२, १२३, १२४, १२५, १२६, १२७, १२८, १२९, १३०, १३१, १३२, १३३, १३४, १३५, १३६, १३७, १३८, १३९, १४०, १४१, १४२, १४३, १४४, १४५, १४६, १४७, १४८, १४९, १५०, १५१, १५२, १५३, १५४, १५५, १५६, १५७, १५८, १५९, १६०, १६१, १६२, १६३, १६४, १६५, १६६, १६७, १६८, १६९, १७०, १७१, १७२, १७३, १७४, १७५, १७६, १७७, १७८, १७९, १८०, १८१, १८२, १८३, १८४, १८५, १८६, १८७, १८८, १८९, १९०, १९१, १९२, १९३, १९४, १९५, १९६, १९७, १९८, १९९, २००, २०१, २०२, २०३, २०४, २०५, २०६, २०७, २०८, २०९, २१०, २११, २१२, २१३, २१४, २१५, २१६, २१७, २१८, २१९, २२०, २२१, २२२, २२३, २२४, २२५, २२६, २२७, २२८, २२९, २३०, २३१, २३२, २३३, २३४, २३५, २३६, २३७, २३८, २३९, २४०, २४१, २४२, २४३, २४४, २४५, २४६, २४७, २४८, २४९, २५०, २५१, २५२, २५३, २५४, २५५, २५६, २५७, २५८, २५९, २६०, २६१, २६२, २६३, २६४, २६५, २६६, २६७, २६८, २६९, २७०, २७१, २७२, २७३, २७४, २७५, २७६, २७७, २७८, २७९, २८०, २८१, २८२, २८३, २८४, २८५, २८६, २८७, २८८, २८९, २९०, २९१, २९२, २९३, २९४, २९५, २९६, २९७, २९८, २९९, ३००, ३०१, ३०२, ३०३, ३०४, ३०५, ३०६, ३०७, ३०८, ३०९, ३१०, ३११, ३१२, ३१३, ३१४, ३१५, ३१६, ३१७, ३१८, ३१९, ३२०, ३२१, ३२२, ३२३, ३२४, ३२५, ३२६, ३२७, ३२८, ३२९, ३३०, ३३१, ३३२, ३३३, ३३४, ३३५, ३३६, ३३७, ३३८, ३३९, ३४०, ३४१, ३४२, ३४३, ३४४, ३४५, ३४६, ३४७, ३४८, ३४९, ३५०, ३५१, ३५२, ३५३, ३५४, ३५५, ३५६, ३५७, ३५८, ३५९, ३६०, ३६१, ३६२, ३६३, ३६४, ३६५, ३६६, ३६७, ३६८, ३६९, ३७०, ३७१, ३७२, ३७३, ३७४, ३७५, ३७६, ३७७, ३७८, ३७९, ३८०, ३८१, ३८२, ३८३, ३८४, ३८५, ३८६, ३८७, ३८८, ३८९, ३९०, ३९१, ३९२, ३९३, ३९४, ३९५, ३९६, ३९७, ३९८, ३९९, ४००, ४०१, ४०२, ४०३, ४०४, ४०५, ४०६, ४०७, ४०८, ४०९, ४१०, ४११, ४१२, ४१३, ४१४, ४१५, ४१६, ४१७, ४१८, ४१९, ४२०, ४२१, ४२२, ४२३, ४२४, ४२५, ४२६, ४२७, ४२८, ४२९, ४३०, ४३१, ४३२, ४३३, ४३४, ४३५, ४३६, ४३७, ४३८, ४३९, ४४०, ४४१, ४४२, ४४३, ४४४, ४४५, ४४६, ४४७, ४४८, ४४९, ४५०, ४५१, ४५२, ४५३, ४५४, ४५५, ४५६, ४५७, ४५८, ४५९, ४६०, ४६१, ४६२, ४६३, ४६४, ४६५, ४६६, ४६७, ४६८, ४६९, ४७०, ४७१, ४७२, ४७३, ४७४, ४७५, ४७६, ४७७, ४७८, ४७९, ४८०, ४८१, ४८२, ४८३, ४८४, ४८५, ४८६, ४८७, ४८८, ४८९, ४९०, ४९१, ४९२, ४९३, ४९४, ४९५, ४९६, ४९७, ४९८, ४९९, ५००, ५०१, ५०२, ५०३, ५०४, ५०५, ५०६, ५०७, ५०८, ५०९, ५१०, ५११, ५१२, ५१३, ५१४, ५१५, ५१६, ५१७, ५१८, ५१९, ५२०, ५२१, ५२२, ५२३, ५२४, ५२५, ५२६, ५२७, ५२८, ५२९, ५३०, ५३१, ५३२, ५३३, ५३४, ५३५, ५३६, ५३७, ५३८, ५३९, ५४०, ५४१, ५४२, ५४३, ५४४, ५४५, ५४६, ५४७, ५४८, ५४९, ५५०, ५५१, ५५२, ५५३, ५५४, ५५५, ५५६, ५५७, ५५८, ५५९, ५६०, ५६१, ५६२, ५६३, ५६४, ५६५, ५६६, ५६७, ५६८, ५६९, ५७०, ५७१, ५७२, ५७३, ५७४, ५७५, ५७६, ५७७, ५७८, ५७९, ५८०, ५८१, ५८२, ५८३, ५८४, ५८५, ५८६, ५८७, ५८८, ५८९, ५९०, ५९१, ५९२, ५९३, ५९४, ५९५, ५९६, ५९७, ५९८, ५९९, ६००, ६०१, ६०२, ६०३, ६०४, ६०५, ६०६, ६०७, ६०८, ६०९, ६१०, ६११, ६१२, ६१३, ६१४, ६१५, ६१६, ६१७, ६१८, ६१९, ६२०, ६२१, ६२२, ६२३, ६२४, ६२५, ६२६, ६२७, ६२८, ६२९, ६३०, ६३१, ६३२, ६३३, ६३४, ६३५, ६३६, ६३७, ६३८, ६३९, ६४०, ६४१, ६४२, ६४३, ६४४, ६४५, ६४६, ६४७, ६४८, ६४९, ६५०, ६५१, ६५२, ६५३, ६५४, ६५५, ६५६, ६५७, ६५८, ६५९, ६६०, ६६१, ६६२, ६६३, ६६४, ६६५, ६६६, ६६७, ६६८, ६६९, ६७०, ६७१, ६७२, ६७३, ६७४, ६७५, ६७६, ६७७, ६७८, ६७९, ६८०, ६८१, ६८२, ६८३, ६८४, ६८५, ६८६, ६८७, ६८८, ६८९, ६९०, ६९१, ६९२, ६९३, ६९४, ६९५, ६९६, ६९७, ६९८, ६९९, ७००, ७०१, ७०२, ७०३, ७०४, ७०५, ७०६, ७०७, ७०८, ७०९, ७१०, ७११, ७१२, ७१३, ७१४, ७१५, ७१६, ७१७, ७१८, ७१९, ७२०, ७२१, ७२२, ७२३, ७२४, ७२५, ७२६, ७२७, ७२८, ७२९, ७३०, ७३१, ७३२, ७३३, ७३४, ७३५, ७३६, ७३७, ७३८, ७३९, ७४०, ७४१, ७४२, ७४३, ७४४, ७४५, ७४६, ७४७, ७४८, ७४९, ७५०, ७५१, ७५२, ७५३, ७५४, ७५५, ७५६, ७५७, ७५८, ७५९, ७६०, ७६१, ७६२, ७६३, ७६४, ७६५, ७६६, ७६७, ७६८, ७६९, ७७०, ७७१, ७७२, ७७३, ७७४, ७७५, ७७६, ७७७, ७७८, ७७९, ७८०, ७८१, ७८२, ७८३, ७८४, ७८५, ७८६, ७८७, ७८८, ७८९, ७९०, ७९१, ७९२, ७९३, ७९४, ७९५, ७९६, ७९७, ७९८, ७९९, ८००, ८०१, ८०२, ८०३, ८०४, ८०५, ८०६, ८०७, ८०८, ८०९, ८१०, ८११, ८१२, ८१३, ८१४, ८१५, ८१६, ८१७, ८१८, ८१९, ८२०, ८२१, ८२२, ८२३, ८२४, ८२५, ८२६, ८२७, ८२८, ८२९, ८३०, ८३१, ८३२, ८३३, ८३४, ८३५, ८३६, ८३७, ८३८, ८३९, ८४०, ८४१, ८४२, ८४३, ८४४, ८४५, ८४६, ८४७, ८४८, ८४९, ८५०, ८५१, ८५२, ८५३, ८५४, ८५५, ८५६, ८५७, ८५८, ८५९, ८६०, ८६१, ८६२, ८६३, ८६४, ८६५, ८६६, ८६७, ८६८, ८६९, ८७०, ८७१, ८७२, ८७३, ८७४, ८७५, ८७६, ८७७, ८७८, ८७९, ८८०, ८८१, ८८२, ८८३, ८८४, ८८५, ८८६, ८८७, ८८८, ८८९, ८९०, ८९१, ८९२, ८९३, ८९४, ८९५, ८९६, ८९७, ८९८, ८९९, ९००, ९०१, ९०२, ९०३, ९०४, ९०५, ९०६, ९०७, ९०८, ९०९, ९१०, ९११, ९१२, ९१३, ९१४, ९१५, ९१६, ९१७, ९१८, ९१९, ९२०, ९२१, ९२२, ९२३, ९२४, ९२५, ९२६, ९२७, ९२८, ९२९, ९३०, ९३१, ९३२, ९३३, ९३४, ९३५, ९३६, ९३७, ९३८, ९३९, ९४०, ९४१, ९४२, ९४३, ९४४, ९४५, ९४६, ९४७, ९४८, ९४९, ९५०, ९५१, ९५२, ९५३, ९५४, ९५५, ९५६, ९५७, ९५८, ९५९, ९६०, ९६१, ९६२, ९६३, ९६४, ९६५, ९६६, ९६७, ९६८, ९६९, ९७०, ९७१, ९७२, ९७३, ९७४, ९७५, ९७६, ९७७, ९७८, ९७९, ९८०, ९८१, ९८२, ९८३, ९८४, ९८५, ९८६, ९८७, ९८८, ९८९, ९९०, ९९१, ९९२, ९९३, ९९४, ९९५, ९९६, ९९७, ९९८, ९९९, १०००

रायपुर. (म.प्र.)

रेकॉर्ड नं० ५/एम०पी०आई०आर०एल०/९५

भिलाई इंजीनियरिंग कापीरेशन  
उरला.

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प्रथमपक्ष

विरुद्ध

नियोजक, भिलाई इंजीनियरिंग  
कापीरेशन, उरला, रायपुर ४८०१०१

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द्वितीयपक्ष

-: आदेशिका, दिनांक 12-10-95 :-  
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प्रथमपक्ष के लिये अभिभाषक श्री एस० एल० गुप्ता उपस्थित ।

द्वितीयपक्ष के लिये अभिभाषक श्री एच० एन० व्यास उपस्थित ।

श्री व्यास अभिभाषक ने एक प्रार्थना-पत्र इस आधार पर प्रकरण में तिथी बढ़ाये जाने हेतु प्रस्तुत किया है कि माननीय म० प्र० उच्च न्यायालय, खण्डपीठ-इंदौर के समक्ष एक याचिका प्रकरण में दि० ३१-५-९५ को पारित आदेश एवं दि० ३१-७-९५ को अनुसूची क्रमांक-५ जोड़े जाने बाबत आदेश को पुनरीती देते हुए प्रस्तुत की गई है ।

प्रथमपक्ष अभिभाषक श्री एस० एल० गुप्ता को प्रार्थना-पत्र की प्रति दी गई । वे इसका लिखित उत्तर प्रस्तुत नहीं करना चाहते, किन्तु मौखिक रूप से इस प्रार्थना-पत्र का विरोध करते हैं ।

द्वितीयपक्ष की ओर से आज प्रस्तुत प्रार्थना पत्र पर उभयपक्ष अभिभाषक को सुना । माननीय म० प्र० उच्च न्यायालय द्वारा इस न्यायालय की कार्यवाही को स्थगित नहीं किया गया है । द्वितीयपक्ष की ओर से प्रस्तुत याचिका माननीय म० प्र० उच्च न्यायालय द्वारा विचारार्थ ग्राह्य की जाना भी प्रकट नहीं है । ऐसी स्थिति में उक्त आधार पर प्रकरण में तिथी बढ़ाये जाने का कोई औचित्य नहीं है ।

प्रकरण में अनुसूची क्रमांक-५ कर्मचारियों को अंतरिम सहायता दिलाये जाने के संबंध में है । अतः द्वितीयपक्ष की ओर से प्रस्तुत प्रार्थना-पत्र प्रकरण में तिथी बढ़ाये जाने बाबत निरस्त किया जाता है । द्वितीयपक्ष

11211

अभिभाषक श्री व्यास इस आदेश को चुनौती देने हेतु भी समय चाहते हैं, जिसका विरोध प्रथमपक्ष अभिभाषक श्री एस० एल० गुप्ता द्वारा इस आधार पर किया गया कि द्वितीयपक्ष कर्मचारियों को उनके वैध अधिकार से वंचित रखना चाहते हैं।

यह स्पष्ट है कि यह प्रकरण दो वर्ष पूर्व संदर्भित किया गया व द्वितीयपक्ष की ओर से उठाई गई प्रारंभिक आपत्तियाँ कौं निराकरण भी किया जा चुका है, फिर भी द्वितीयपक्ष की ओर से स्टेटमेंट आफ क्लेम का उत्तर पेश न किया जाना द्वितीय पक्ष की मंगला को बाहिर करता है द्वितीयपक्ष प्रकरण में आज जवाब एवं तर्क प्रस्तुत करने हेतु तत्पर नहीं है। और प्रकरण में तिथी बढ़ाये जाने की प्रार्थना करते हैं। उक्त प्रार्थना स्वीकार किये जाने योग्य नहीं है।

प्रथमपक्ष अभिभाषक श्री एस० एल० गुप्ता के तर्क अनुसूची क्रमांक-4 के संदर्भ में श्रवण किये गये। प्रकरण आदेशार्थ।

दस्तावेज-

१ जे० एस० तेंगर १

पुनश्च :

प्रथमपक्ष की ओर से तर्क के दौरान विशेष बल इस बात पर दिया गया है कि संदर्भित प्रकरणों से संबंधित कर्मचारी पिछले दो वर्ष से अधिक से नियोजन से बाहर है तथा इस संदर्भित प्रकरण का निराकरण होना निर्भाष्य में संभावित नहीं है। ऐसी स्थिति में कर्मचारीगण अंतरिम सहाय के रूप में <sup>सहायता</sup> प्राप्त करने के अधिकारी हैं। अतः द्वितीय पक्ष नियोक्त को निर्देश दिये जाते हैं कि वे संदर्भित प्रकरण के साथ तलमन परिशिष्ट में उल्लेखित कर्मचारियों को सेवा में पुनः स्थापित करें। अथवा उन्हें सेवा समाप्ति के समय प्राप्त होने वाला वेतन प्रकरण के अंतिम निराकरण तक प्रति माह अदा करें। इस आदेश का पालन आज से एक माह में किया जावे। पक्षकार सूचित हो। प्रकरण स्टेटमेंट आफ क्लेम के जवाब के लिये दिनांक- 9-11-95 को पेश हो। TRUE-COPY.

दस्तावेज-

१ जे. एस. तेंगर १

Joint Registrar,  
INDUSTRIAL COURT, औद्योगिक न्यायालय  
Bench-Raipur. (M.P.)

Order No. 12/MPTR/92  
New Delhi No. 16/MPTR/95.  
General Secretary  
National Engineering College - (Faculty No. 1)  
Nishanwala - (Muzaffarpur) C.T. - Faculty No. 2

12.10.95

*Complaint*

Shri S.L. Gupta, Adv. for First Party Pragatisheel  
Engg. Shramik Sangh.

Shri H.W. Vyas, Adv. for Party No. 2 Sec. of Steel  
Plant. He filed an application for adjournment on the  
ground that a petition has been filed before the Hon'ble High  
Court of M.P. Bench Indore against the order dated 11.5.95  
and also the order adding to the terms of reference item No. 4  
vide order dated 31.7.95.

Secondly according to Shri Vyas, the reference  
cases cannot be transferred to Industrial Court, Jabalpur.  
Shri S.L. Gupta, Adv. for Party No. 1 does not file any reply  
to the application filed by Shri Vyas, Adv. But opposes it  
orally with his usual vehemence.

Shri H.W. Vyas, Adv. and Shri S.L. Gupta, Adv. sub-  
mitted their respective arguments in respect of application  
dated 12.10.95 filed by Shri Vyas, Adv.

So far as the arguments by Shri Vyas that the  
reference has been made by the Govt. Hon'ble President,  
Industrial Court cannot transfer it from the jurisdiction  
of Industrial Court, Raipur to Industrial Court, Jabalpur  
is concerned, this Court cannot go behind the order passed  
by the Hon'ble President. The objection raised on this count  
deserves to be rejected straight way.

So far as the question that some petition has been  
filed before Hon'ble High Court, Indore is concerned,  
Shri Vyas files copy of proceeding dated 22.9.95. (Justice)

But as is evident from the said proceeding, there  
is no stay on the proceedings of this Court nor it appears  
to have been admitted.

I therefore do not see any reason to adjourn case.

There is a ~~specific~~ term of reference which at serial  
No. 4 was in the mention of granting interim relief to the  
employees. The application filed by Shri Vyas is not  
accepted. Shri Vyas prays for the to challenge the order  
passed by me today.

Shri S.L. Gupta opposes the contention by Shri Vyas on the ground that the management are bent upon stalling the proceedings and the employees will not be able to get their rightful claims. Shri Gupta also states that the management Party No.2 can raise the objections as and when they go to Higher Courts.

Shri Khamuja, Adv. who is also appearing in other cases on behalf of management urges that there is no delay on the part of the management.

It is certain that the reference has been made about two years and preliminary objections had been raised and they had been decided.

The Second Party were therefore well aware of the matter and could have filed reply to the application for interim relief. But instead of filing any reply they preferred to focuss attention on matters other than that of interim relief and speak voluminous about their intention.

As the Party No.2 is reluctant to file reply or advance arguments today and want a somewhat long adjournment for the purpose, I proceed to hear to the arguments by Shri S.L. Gupta on the point. Shri Gupta heard.

For orders.

*M. J.*

Later on

Shri S.L. Gupta, Adv. had brought to my notice that the employees are out of employment since more than two years. The reference is not likely to be decided finally in the near future. The employees therefore deserve to get some relief by way of interim relief. It is hereby ordered that the management will reinststate the employees whose names appear in the annexure enclosed along with the reference received from the Govt. In the alternative the employer is directed



to pay the employees the wages drawn by them at the time of termination. The second party employer to comply with the order within one month from today. Parties be informed.

put up on 9.11.95 for filing reply to statement of claim and further proceedings.

MPJ

TRUE COPY.

A. N. Sankh

(ए. एन. सोरठी)

महाराष्ट्र,

ऑफिसियल साधनालय, अहमदाबाद, जयलक्ष्मी

दिवस अहमदाबाद, राजपुर.

BEFORE THE HON'BLE HIGH COURT OF MADHYA PRADESH  
BHILAI

Pragatishheel Engineering  
Shramik Bnagh,  
AIC-1/55, HIDEU Colony,  
Bhilai Nagar

CAVEATOR/APPLICANT

V/s

1. Manager,  
Simplex Engg. & Foundry Works Ltd.,  
Unit-I, Bhilai.
2. Manager,  
Simplex Engg. & Foundry Works Ltd.,  
Unit-II, Bhilai.
3. Manager,  
Simplex Engg. & Foundry Works Ltd.,  
Unit - III, Tedesara, Rajnandgaon.
4. Manager,  
Beckey Castings Ltd.,  
Bhilai.
5. Manager,  
Beckey Engineering Corporation,  
Bhilai.
6. Manager,  
Beckey Engineering Corporation,  
Unit - II, Bhilai.
7. Manager,  
Bhilai Engineering Corporation,  
Uda, Raipur.
8. Manager,  
Bhilai Engineering Corporation,  
Impax, Bhilai.
9. Manager,  
Bhilai Engineering Corporation,  
Unit - II, Bhilai.
10. Manager,  
Bhilai Wires Ltd.,  
Bhilai.
11. Manager,  
Vishwavishal Engineering Ltd.,  
Bhilai.
12. Manager,  
Simplex Castings Ltd.,  
Unit - I, Bhilai.
13. Manager,  
Simplex Castings Ltd., Uda,  
Unit - II, Raipur.

MANAGER/APPLICANT

CAVEAT PETITION

The Caveator/applicant respectfully begs to submit as under :-

1. That the Govt. of Madhya Pradesh vide order No.6-1/93/16-A, dated 20.2.1993 referred certain industrial disputes for adjudication under Section 51 of the M.P.I.R. Act 1960 to the Industrial Court (M.P.) Raipur.
2. These Reference Order were identical and item No.3 of the termination/refusal to provide work to a number of workers.
3. That Non-Applicants in order to stall the proceedings of the Reference raised a number of Preliminary objections which were ultimately decided by the Division Bench of the Industrial Court (M.P.) Indore.
4. That all the Preliminary objection raised by the Non-Applicants Employees were found baseless and hence were rejected vide order dated 31/5/95 by the Division Bench of the Industrial Court (M.P.) Indore.
5. That the condition of the workers became extremely precarious in the meantime i.e. from the date of Reference 26/2/93 to the determination of the Preliminary objection only. Therefore the State Govt. vide order No. 6-1/93/16-A dated 31/7/95 referred another issue about the Interim Relief to be granted to the concerned workers which is as under :

"क्या अनुक्रमांक 3 के संलग्न परिशिष्ट में उल्लेखित सेवा से पृथक किये गये सम्बन्धीज को विवाद के निराकरण होने तक अंतरिम राहत प्रदान करने का औचित्य है ? यदि हाँ तो इस संबंध में नियोजक को क्या निर्देश दिया जाना चाहिये ?"

6. That the concerned workers were low-paid permanent workers getting not even the Minimum Wages fixed by the M.P. Government and were thrown out of job without any charge-sheet and without any enquiry. Even the termination orders were not issued.
7. That Section 78-B of the M.P.L.R. Act, 1960 provide for the disposal of such cases ordinarily within 180 days.
8. That in these cases on account of the strategy to prolong the matters almost nothing could be done within over 2½ years.
9. That under these circumstances, in pursuance of the referred issue relating to the Interim relief to the workers, Application by the Caveator Applicant were submitted for urgent hearing of this matter on 12/9/95.
10. That the Industrial Court directed the Non-Applicants to file reply and address arguments on this issue on 10/10/1995 which date was adjourned to 12/10/95.
11. That on 12/10/95 instead of filing reply and arguing the said matter, the Non-Applicants submitted identical application for adjournment.
12. That the Industrial Court, however, did not adjourn the matter. On the refusal of the Non-Applicants to argue the matter, the Court heard the arguments of the Caveator Applicants and granted the Interim relief which is that either the concerned workers be put back on their jobs or they be paid wages which they were getting at the time of termination in 1991-92. The court has fixed 9/11/95 as the next date for filing written statement and further proceedings.

13. That the Caveator/Applicant apprehends that in furtherance of the delaying tactics adopted by the Non-applicant they are likely to prefer a writ petition before this Hon'ble Court challenging the interim order dated 12.10.95 passed by the Industrial Court.
14. That along with the writ petition, an Interim application regarding for staying the operation of the interim order dated 12.10.95 & the proceedings are also likely to be submitted.
15. That a photo copy of the interim order dated 12.10.95 against which the writ petition & the Interim Stay applications are likely to be submitted is annexed herewith.

PRAYER :

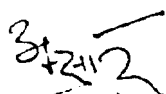
The Caveator/Applicant respectfully pray that it may kindly be granted an opportunity of hearing on the application which may be submitted before your lordships by the Non-Applicants.

Prays accordingly.

Encl : Order dated 12.10.95.

BHILAI (M.P.)

Dated : 16.10.95

  
CAVEATOR/APPLICANT  
Pragatishree Engineering  
Shramik Sangh,  
REC-1/55, HUDCO Colony,  
Bhilai Nagar (M.P.)

Counsel for Caveator/Applicant

BY RECD.A/D

Copy to : The Manager,

with a request kindly to forward us in advance the copies of all petition(s) that may be filed by you in the Hon'ble High Court, Jabalpur.

प्रगतिशील इंजीनियरिंग श्रमिक संघ,  
एम. आई. जी. -1/55,  
हुडको, भिलाई म.प्र.।

कैविएटर/आवेदक

"विस्तार"

सिम्पलेक्स इंजीनियरिंग एण्ड फाउंड्री वर्क्स लिमि.  
भिलाई मध्य प्रदेश  
एवं अन्य

अनावेदक

कैविएट पेटिशन  
=====

प्रगतिशील इंजीनियरिंग श्रमिक संघ विनम्रतापूर्वक विम्वानुसार विनति करता है:-

§1§ यह कि माननीय औद्योगिक न्यायालय जबलपुर कैम्प रायपुर सदस्य जज श्री ए.एन. सोरट्टी ने शासन द्वारा म.प्र. औद्योगिक संबंध अधिनियम 1961 की धारा 51 के अंतर्गत रेफर किये 15 एक समान रेफरेंस प्रकरणों में दिनांक-12-10-95 को अंतरिम आदेशों पारित किये है, इन रेफरेंस प्रकरणों के नम्बर 1/95 लगाय 15/95 है।

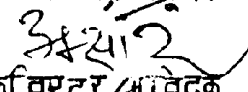
§2§ इन अंतरिम आदेशों के अनुसार संबंधित मजदूरों को जिन्हे औद्योगिक त्रिके से लगभग 4-5 वर्ष पूर्व निकाल दिया गया था, काम देने अथवा पगार देने के आदेश दिये गये हैं। ये मजदूर लगभग भुखमरी की कगार पर हैं। रेफरेंस निर्णयार्थ 26-2-93 को किये गये थे।

§3§ यह कि अनावेदक कम्पनिये इन अंतरिम आदेशों सभी दिनांक-12-10-95 के विस्तार इस माननीय उच्चन्यायालय में स्थगन आवेदन सहित याचिकाएँ पेश करेगी

प्रार्थना: विनम्र प्रार्थना है कि इन याचिकाओं को रजिस्ट्रार करने के पूर्व  
कैविएटर/आवेदक को न्यायहित में अपने तर्क प्रस्तुत करने का अवसर प्रदान किया जाये।

तदनुसार निवेदन,

विनम्रतापूर्वक

  
कैविएटर/आवेदक

प्रगतिशील इंजीनियरिंग श्रमिक संघ  
एम. आई. जी. -1/55, हुडको, भिलाई

पुनश्च: विस्तार से कैविएट पेटिशन अलग से डाक द्वारा भेजी है। कैविएट की प्रति अनावेदक कम्पनियों को भी 18-10-95 को रजि. डाक द्वारा भेजी गई है।

# श्रमिक संघ

फॉर्म नं. MIG/1/55

नगर भिलाई, दुर्ग  
2688/321696

लेबर कम्प नासुल, भिलाई  
रजि. नं. 4119

ब्रांच :- उरला रायपुर, टेडेंसरा राजजांदागांव,  
कुजहारी दुर्ग

दिनांक 19.10.95

श्रीमान् मैनेजर,

सिम्पलेक्स कास्टिंग लिमिटेड

उरला युनिट-शरायपुर (मि. ड.)

विषय :- जाईनिंग रिपोर्ट

संदर्भ :- रेफरेंस क्रमांक 5 / 1995 / एम. पी. आई. आर.

महोदय,

माननीय औद्योगिक न्यायालय जबलपुर, कैंप रायपुर द्वारा पारित आदेश दिनांक 12.10.95 के अनुसार संबंधित श्रमिकों की सूची द्वारा जाईनिंग रिपोर्ट स्वीकार करें, और सूचित करें कि उन्हें इगूटी पर किस दिन उपस्थित होना है। आपके द्वारा निम्न दिनांक को संबंधित कामगार उपस्थित हो जायेंगे।

यदि आप व्यक्तिगत तौर पर जाईनिंग रिपोर्ट चाहते हैं, तो कृपया 27.10.95 तक सूचित करें। तमाम श्रमिक व्यक्तिगत जाईनिंग रिपोर्ट पेश कर देंगे। आपकी ओर से इस संबंध में कोई उत्तर न आने से यह माना जायेगा कि आपने सभी श्रमिकों की ओर से यह जाईनिंग रिपोर्ट स्वीकार कर ली है।

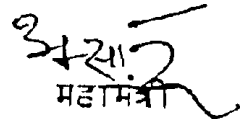
धन्यवाद।

भिलाई,

दिनांक 19.10.95

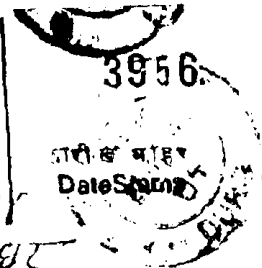
प्रतिलिपि :-

- माननीय औद्योगिक न्यायालय  
जबलपुर & मध्य प्रदेश &

  
महामंत्री

प्रगतिशील इंजीनियरिंग श्रमिक संघ,  
एम. आई. जी. 1/55 हुडको, भिलाई  
जिला दुर्ग & मध्य प्रदेश &

NOT INSURED  
कटो का मूल्य 8/रं.  
Imp. affixed St. P.  
पंजीकृत  
Date Stamp



उरला-2 रायपुर

रावे वाले अधिकारी के हस्ताक्षर  
Signature of Receiving Official

छत्तासगढ़ कामकल

मिल मजदूर संघ

लेबर कम्प जामुब, भिलाई  
रजि. नं. 3981

दिनांक 19.10.

नर्माण के लिये संघर्ष

आई कार्यालय MIG/1/55  
रदी नगर भिलाई, दुर्ग  
: 322688

क

श्रीमान् मैनेजर,

केडियाडिस्ट्रिक्ट लरी औद्योगिक क्षेत्र,  
नं 4 नो रोड भिलाई जिला-दुर्ग [मि. 9]

विषय :- जाईनिंग रिपोर्ट

संदर्भ :- रिपोर्ट क्रमांक 14/1995/स्म. पी. आई. आर.  
पुरा नं. 11

महोदय,

माननीय औद्योगिक न्यायालय जबलपुर, रैंप रायपुर द्वारा पारित आदेश  
दिनांक 12.10.95 के अनुसार संबंधित श्रमिकों की सहादत द्वारा जाईनिंग रिपोर्ट  
स्वीकार करें, और सूचित करें कि उन्हें झूट्टी पर किस दिन उपस्थित होना है।  
आपके द्वारा निम्न दिनांक को संबंधित कामगार उपस्थित हो जायें।

यदि आप व्यक्तिगत तौर पर जाईनिंग रिपोर्ट चाहते हैं, तो कृपया  
27.10.95 तक सूचित करें। तमाम श्रमिक व्यक्तिगत जाईनिंग रिपोर्ट पेश कर  
देंगे। आपकी ओर से इस संबंध में कोई उत्तर न जाने से यह माना जायेगा कि  
आपने सभी श्रमिकों की ओर से यह जाईनिंग रिपोर्ट स्वीकार कर ली है।

धन्यवाद ।

भिलाई,

दिनांक 19.10.95

प्रतिलिपि :-

1. माननीय औद्योगिक न्यायालय  
जबलपुर [मध्य प्रदेश]

महामंत्री

छत्तासगढ़ केमिकल मिल मजदूर संघ,  
स्म.आई.जी. 1/55 हुडको भिलाई,  
जिला दुर्ग [मध्य प्रदेश]

/NOT INSURED  
शुल्क का मूल्य : ₹-  
मुद्रा स्थित : P.  
दिनांक :  
दिनांक :-

केडिया डिस्ट्रिक्ट लरी  
रदी नगर भिलाई

3968



Signature of Receiving Officer



# श्रमिक संघ

लेबर कैंप जामुठ, भिलाई

रजि. नं. 4119

ब्रांच :- उरला रायपुर, डेड़ेसरा राजजादगांव,  
कुहारी दुर्ग

प्रीतिय MIG/1/55

11 र भिलाई, दुर्ग

688/321696

दिनांक 19.10.95

श्रीमान मैनेजर,

~~मि.लाई इंजीनियरिंग~~

~~कापोरेशन उरला, रायपुर म.प्र.~~

विषय :- जाईनिंग रिपोर्ट

संदर्भ :- रैफरेंस क्रमांक 4/1995/सम.पी.आई.आर.

महोदय,

माननीय औद्योगिक न्यायालय जबलपुर, कैंप रायपुर द्वारा पारित आदेश दिनांक 12.10.95 के अनुसार संबंधित श्रमिकों की सहायता द्वारा जाईनिंग रिपोर्ट स्वीकार करें, और सूचित करें कि उन्हें झूठी पर किस दिन उपस्थित होना है। आपके द्वारा नियत दिनांक को संबंधित कामगार उपस्थित हो जाएंगे।

यदि आप व्यक्तिगत तौर पर जाईनिंग रिपोर्ट चाहते हैं, तो कृपया 27.10.95 तक सूचित करें। तमाम श्रमिक व्यक्तिगत जाईनिंग रिपोर्ट पेश कर देंगे। आपकी ओर से इस संबंध में कोई उत्तर न आने से यह माना जाएगा कि आपने सभी श्रमिकों की ओर से यह जाईनिंग रिपोर्ट स्वीकार कर ली है।

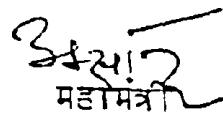
धन्यवाद।

भिलाई,

दिनांक 19.10.95

प्रतिलिपि :-

- माननीय औद्योगिक न्यायालय  
जबलपुर & मध्य प्रदेश &



महोमंत्रि

प्रगतिशील इंजीनियरिंग श्रमिक संघ,  
सम.आई.जी. 1/55 हुडको, भिलाई  
जिला दुर्ग & मध्य प्रदेश &

NOT INSURED

5 टिकटा का मूल्य : 5/- व  
Stamps affixed (R). P.

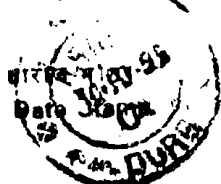
राष्ट्र किया

Registered

मि.लाई इंजीनियरिंग

उरला, रायपुर

3964



प्राप्त करने वाले कार्यालय के हस्ताक्षर  
Signature of Receiving Office

संशोधित - आदेश !! -

इ-एस्कीयल कोर्ट्स फॉर्मेशन ऑफ बेंचोंस इलस 1964 में प्रथम नियम 11 के अधिनियमों का प्रयोजन करते हुए इस कॉमिशन द्वारा जारी क्रमांक आदेश क्रमांक 9252 दिनांक 7.9.55 के केडिका 03 तथा 05 में क्रमशः निम्नांशुसार आंशिक संशोधन किया जाता है: -

1. श्रम न्यायालय, राजनांदगांव तथा श्रम न्यायालय दुई से उत्पन्न होने वाले समस्त मामले/बिवाद एवं व्यवहार की अपीलें श्री ए. एन. सोरठी सदस्य जज, औद्योगिक न्यायालय, खण्डवीठ, जबलपुर के ह्यान पर, श्री जे. एस. सेंगर, सदस्य जज, औद्योगिक न्यायालय, खण्डवीठ, रायपुर द्वारा श्रम न्याय की जाकेगी।
2. श्रम न्यायालय, सागर से उत्पन्न होने वाले समस्त मामले/बिवाद एवं व्यवहार की अपीलें श्री. पी. आर. पेंडसे, सदस्य जज, औद्योगिक न्यायालय, खण्डवीठ, भोपाल के ह्यान पर श्री ए. एन. सोरठी, सदस्य जज, औद्योगिक न्यायालय, खण्डवीठ, जबलपुर द्वारा श्रम न्याय की जाकेगी।

शही -

( श्रीगुरु सिंह )

उपनिदेश

औद्योगिक न्यायालय, नं. 5, इंदौर

प्रतिलिपि :- क्रमांक 11748 से 11743

इंदौर, दिनांक 30.10.55

1. श्री ए. एन. सोरठी, सदस्य जज, औद्योगिक न्यायालय, खण्डवीठ, जबलपुर।
2. श्री ए. एन. उपाध्याय, सदस्य जज, औद्योगिक न्यायालय, इंदौर।
3. श्री पी. आर. पेंडसे, सदस्य जज, औद्योगिक न्यायालय, खण्डवीठ भोपाल।
4. श्री जे. एस. सेंगर, सदस्य जज, औद्योगिक न्यायालय, खण्डवीठ, रायपुर।
5. श्री इंदुजीतसिंह, सदस्य जज, औद्योगिक न्यायालय, इंदौर।
6. श्री एस. सी. भास्कर, सदस्य जज, औद्योगिक न्यायालय, खण्डवीठ, जबलपुर।
7. श्री संभुत पेंजोदक, औद्योगिक न्यायालय, खण्डवीठ, रायपुर/जबलपुर/भोपाल।
8. निहालजी आप्तकार, श्रम न्यायालय, रायपुर, खोरासपुर, दुर्ग, राजनांदगांव, आगवकापु (जामदलपुर), बातापार, दिंदवाड़ा, शीका, लीमी, सतना शहडोल, जबलपुर, क्रमांक 1, 2, भोपाल, बैतुल, 1, 2, 3, जवालेकर, उज्जैन, शतलगा, मन्दसौर, खण्डवा, इंदौर, देवाहा, सागर।

शही -

( श्री एस. जाम्बर )

प्रभारी पंजीक, औद्योगिक न्यायालय, नं. 5, इंदौर

श्रीगुरु सिंह  
औद्योगिक न्यायालय,  
खण्डवीठ, रायपुर  
(नं. 5.)  
(ह्यान)

प्रमाणित प्रतिनिधिप, आदेशिका दिनांक 11/11/95 एवं 20/12/95

समय :- माननीय श्री जे. एन. सींगर, सदस्य जन, औद्योगिक न्यायालय,  
खण्डपीठ, रायपुर ई.म. प्र. ई

रेफरेंस क्रमांक 4/एम. पी. आई. आर. एक्ट/95

भिलाई इंजी० कारपोरेशन उरला,  
रायपुर ई.म. प्र. ई

- - - अपीलार्थी

विरुद्ध

नियोजक भिलाई इंजीनियरिंग,  
कारपोरेशन उरला, रायपुर ई.म. प्र. ई

- - - प्रति अपीलार्थी

प्रोसीडिंग आदेश दिनांक 11/11/95



प्रथम पक्ष अभिभाषक श्री एन० एन० गुप्ता उपस्थित ।  
द्वितीय पक्ष के लिये श्री एच० एन० व्यास अभिभाषक उपस्थित ।  
प्रथम पक्ष की ओर से दिनांक 09/11/95 को प्रस्तुत प्रार्थना पत्रों  
का उत्तर द्वितीय पक्ष द्वारा प्रस्तुत किया गया ।

प्रार्थना पत्रों पर उभयपक्ष अभिभाषक को सुना । प्रार्थना पत्रों  
पर आदेश हेतु दिनांक 20/12/95 | उक्त दिनांक को ही बाद प्रश्न कायम  
किये जायेंगे । द्वितीय पक्ष उसके पूर्व उत्तर बाद पत्र प्रस्तुत करें ।

एक्टर) - (जे. एन. सींगर  
सदस्य)

20/12/95

प्रथमपक्ष के लिए अभिभाषक श्री एन० एन० गुप्ता उपस्थित ।

द्वितीयपक्ष की ओर से श्री एच० एन० व्यास अभिभाषक उपस्थित

द्वितीयपक्ष की ओर से स्टेटमेंट आफ क्लेम का जवाब प्रस्तुत करने  
हेतु समय बाधा, इस संबंध में श्री व्यास ने व्यक्त किया कि इस प्रकरण के  
समान अन्य 13 प्रकरण माननीय श्री ए० एन० तोस्टी, सदस्य म० प्र०  
औद्योगिक न्यायालय, खण्डपीठ, जबलपुर के समय विचाराधीन है, इस  
प्रकरण को भी उनके समय सुनवाई के लिए स्थानांतरित करने की कार्यवाही  
करने हेतु उन्हें समय दिया जावे ।

श्री गुप्ता की स्टेटमेंट आफ बलेस का जवाब प्रस्तुत न किये जाने के संबंध में आपात्त है ।

प्रकरण में आज दिनांक 09/11/95 को प्रथम पथ की ओर से प्रस्तुत आवेदन पत्र पर जांचा किया जाना था जो नहीं किया जा सका है क्योंकि इस प्रकरण के समान अन्य 13 प्रकरणों की सुनवाई कर रहे माननीय सदस्य, म० प्र० औद्योगिक न्यायालय खण्डपीठ, जबलपुर के समक्ष भी सभी प्रकरण में इसी प्रकार के प्रार्थना पत्र प्रस्तुत किये गये हैं । माननीय सदस्य, औद्योगिक न्यायालय खण्डपीठ, जबलपुर आज प्रकरणों की सुनवाई हेतु प्रवास पर नहीं आये है ।

प्रकरण पूर्ववत् कार्यवाही हेतु दिनांक 04/01/96 को पेश हो ।

=====

सही/-

जे० एस० मेहरा

सदस्य जज,

औद्योगिक न्यायालय, म० प्र०  
खण्डपीठ, रायपुर.

Application received on..... 20/26-12-95 - (101)  
 Copy of ..... 4-1-96 .....  
 Copy of ..... 4-1-96 .....  
 Copied by .....  
 Copied by .....  
 Copying & Conspiring Charges Rs. 3=00P-  
 Amount Received on ..... 4-1-96 .....

**CERTIFIED TRUE-COPY.**

*Joint Registrar*  
 Joint Registrar,  
 INDUSTRIAL COURT,  
 Bench-Raipur. (M.P.)



के इस स्थापान के अध्यापकों नहीं है, इस कारण  
आप पुराने नहीं करेंगे ।

म. उ. प्र. मंडल प्रौद्योगिकी विद्यालय, अ. वि.  
स्था. के आदेश दिनांक 20-12-95 के अतिरिक्त सभी  
यह सूचना क्रमांक 100/95 को प्रेषित किया जाता है ।

उपरोक्त दिनांक 23-1-96 को उपस्थित  
रहे ।

म. उ. प्र. (100/95)

15 रेकॉर्ड प्रकरणों के विवरण

- 1/96 सिम्पलेक्स इंजीनियरिंग एण्ड फाउंडरी §श्री अनुजा§
- 2/96 सिम्पलेक्स इंजीनियरिंग एण्ड फाउंडरी §श्री अनुजा§
- 3/96 सिम्पलेक्स इंजीनियरिंग एण्ड फाउंडरी §श्री अनुजा§
- 4/96 भिलाई इंजीनियरिंग कारपोरेशन इम्पेक्स §श्री अनुजा§
- 5/96 भिलाई इंजीनियरिंग कारपोरेशन यूनिट-2 §श्री अनुजा§
- 6/96 भिलाई वार्प लिमिटेड §श्री व्यास§
- 7/96 कोडया डिस्ट्रीब्यूरी भिलाई §श्री अनुजा§
- 8/96 वीके इंजीनियरिंग कारपोरेशन §श्री व्यास§
- 9/96 वीके इंजीनियरिंग कारपोरेशन §श्री व्यास§
- 10/96 उत्तरीय डिस्ट्रीब्यूरी कुम्हारी §श्री व्यास§
- 11/96 सिम्पलेक्स कार्बोनिंग यूनिट-1 §श्री अनुजा§
- 12/96 विद्युत निगम इंजीनियरिंग लि. वीके कार्बोनिंग लिमिटेड §श्री व्यास§
  
- 4/95 भिलाई इंजीनियरिंग कारपोरेशन उरला §श्री व्यास§
- 5/95 सिम्पलेक्स कार्बोनिंग लिमिटेड उरला §श्री अनुजा§

15. निम्नलिखित प्रकरणों की तारीखें प्रथम पक्ष सूचिबन्धन की तिथि के लिये

01-03-96.	8/96	बी.के. इंजीनियरिंग कारपोरेशन	श्री व्यास
	9/96	बी.के. इंजीनियरिंग कारपोरेशन	श्री व्यास
	---	बी.के. कार्पेटिंग लि. भारत जवाहर से जाता है	.
04-03-96.	1/96	सिम्पलेक्स इंजीनियरिंग एण्ड फाब्रिकरी वर्क्स	श्री खन्ना
	2/96	"="	"="
	3/96	"="	"="
	11/96	सिम्पलेक्स कार्पेटिंग यूनिट-1	.
	5/96	सिम्पलेक्स कार्पेटिंग उरला	.
07-03-96.	4/96	भिलाई इंजीनियरिंग कारपोरेशन उरला	श्री व्यास
09-03-96	4/96	भिलाई इंजीनियरिंग कारपोरेशन सिम्पलेक्स	श्री खन्ना
	5/96	"="	"=" यूनिट-2
	12/96	विश्वविद्यालय इंजीनियरिंग	.
12-03-96.	10/96	छत्तीसगढ़ डिस्टीलरी कुम्हाररी	श्री व्यास
	7/96	केडिया डिस्टीलरी भिलाई	श्री खन्ना
13-03-96	6/96	भिलाई वायर्स लि.	श्री व्यास



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प्रथम पक्ष

व्याप्त

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द्वितीय पक्ष

U6-02-95 प्रथम पक्ष के लिये अभिभाषक श्री एस. एल. गुप्ता उपस्थित  
 दिनांक 09-11-95 द्वितीय पक्ष द्वारा अभिभाषक के एस. खन्ना उपस्थित ।

द्वितीय पक्ष की ओर से स्वत्व के कथन का जवाब प्रस्तुत किया  
 गया । प्रथम पक्ष प्रथम पक्ष अभिभाषक को दी गई ।

प्रथम पक्ष अभिभाषक श्री एस. एल. गुप्ता ने व्यक्त किया कि  
 उनके द्वारा दिनांक 09-11-95 को प्रस्तुत प्रार्थनापत्र जिनमें एक श्रमिकों को  
 परमान पुनर्वास वेतन देने से संबंधित सहायता के लिये धा. का निराकरण  
 दिनांक 09-11-96 को किया जा चुका है ।

दिनांक 09-11-95 को ही प्रथम पक्ष की ओर से प्रस्तुत अन्य  
 प्रार्थना पत्रों में प्रार्थना की गई है कि प्रकरण दिन प्रतिदिन सुनवाई के लिये  
 नियत किया जाये । श्री गुप्ता अभिभाषक ने झलहाल प्रेश न करना  
 व्यक्त किया अतः यह प्रार्थना पत्र लंबित रखा जाता है ।

प्रकरण में आज ही वादप्रश्न स्थिर किये गये । प्रकरण  
 मध्य प्रेषण द्वारा प्रेषित अनुसूचि एवं आज निर्धारित वाद प्रश्नों के प्रकाश  
 में प्रकरण प्रथम पक्ष साक्ष हेतु दिनांक \_\_\_\_\_ को नियत किया जाता है।

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 द्वितीय पक्ष की ओर से दिनांक 25-01-96 को प्रस्तुत प्रार्थनापत्र  
 अंतर्गत धारा 105 म.प्र. औद्योगिक संबंध अधिनियम की धारा 15 बटेम्बर  
 आफ कोर्टाक्ट 1971 का उत्तर प्रथम पक्ष की ओर से न दिया जाना व्यक्त  
 व्यक्त किया गया । इस प्रार्थनापत्र के समर्थन में द्वितीय पक्ष की ओर से दो  
 समावास्या की प्रतियां प्रस्तुत की गई है । प्रथम प्रार्थनापत्र पर विचार किया गया।

इंडस्ट्रियल कोर्ट फार्मेशन ऑफ बेन्चस रूल के नियम 48 § के अनुसार इस प्रार्थनापत्र पर सुनवाई औद्योगिक न्यायालय के दो सदस्यों की पीठ द्वारा की जाना लाजमी है । अतः प्रार्थनापत्र व उसके साथ प्रस्तुत दस्तावेज माननीय अध्यक्ष महोदय इंडस्ट्रियल कोर्ट मध्य प्रदेश को उचित कार्यवाही हेतु प्रेषित किये जाये ।

सही/-

जे. एम. सेगर

सदस्य जज

तथा

द्वितीय पक्ष  
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वाच प्रश्न §06-02-96§  
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- §1§ क्या ज्याब्दावे में उल्लेखित कर्मचारी वर्गों के विरुद्ध की गई विभागीय जांच अधि एवं अनुचित है ?
- §2§ क्या कर्मचारी आरोपित दुराचरण के दोषी हैं ?
- §3§ क्या वेतन एवं भत्तों के पुनरीक्षण का औचित्य है ? यदि हां तो वेतन, महंगाई भत्ता एवं अन्य भत्तों की क्या योजना होनी चाहिये एवं इस संबंध में नियोजक को क्या निर्देश दिया जाना चाहिये ?
- §4§ क्या प्रतिवर्ष 15 दिन का आकस्मिक अवकाश 10 दिन का त्यौहारी अवकाश तथा 30 दिन का चिकित्सा अवकाश दिये जाने का औचित्य है ? यदि हां तो इस संबंध में नियोजक को क्या निर्देश दिये जाना चाहिये ?
- §5§ क्या संलग्न परिशिष्ट में उल्लेखित एम्पलाईज का सेवा पृथकीकरण वैध एवं उचित है ? यदि नहीं तो इस संबंध में नियोजक को क्या निर्देश दिये जाना चाहिये ?
- §6§ सहायता एवं व्यय

सही/-  
जे. एस. सेंगर  
सदस्य जज, औद्योगिक न्यायालय  
रायपुर

## CAMP RAIPUR

Pragatisheel Engineering Shramik Sangh,  
MIG/155 HUDCO Colony  
Bhilai, Distt. Durg [M.P]

.... FIRST PARTY

Vs

Bhilai Engineering Corpn Ltd  
Unit-II  
BHILAI (MP)

... SECOND PARTY

REFERENCE NO... 5/1212/96

FIXED FOR 6.2.96

## WRITTEN STATEMENT BY THE SECOND PARTY

The second party respectfully submits as follows :

1. That the contents of paras 1,2 and 3 of the Statement of Claim are matters of record and hence need no reply.
2. That as regards the contents of paras 4 & 5 of the Statement of Claim it is submitted that except Shri Prahalad Singh, whose name is mentioned at Sl. No. 68 of the list attached with the reference, none of the other persons had been employed by the second party in Unit-II of Bhilai Engg Corpn Ltd, Bhilai. Thus, the question of wage revision, grant of different types of leave to such persons does not arise at all. It will be further appropriate to mention here that the persons employed and working in Unit-II of Bhilai Engg Corpn Ltd, Bhilai, are being paid wages as per recommendations of the Wage Board for Engineering Industries. The wages of the persons employed in Unit-II have been revised in March 1990 and thereafter again in March 1994. Thus, a substantial increase has already been made in the wages / emoluments of the workers working in Unit - II of Bhilai Engineering Corporation Limited, Bhilai.

3. That as regards the contents of paras 5 and 7 of the Statement of Claim, it is specifically denied that there is any justification and propriety for granting 15 days Casual Leave, 10 days Festival Holidays and 30 days Medical Leave as claimed by the first party in these paras. It is denied that like comparable industries in the region are giving the benefit of 15 days Casual Leave, 10 days festival Holidays and 30 days Medical Leave. It is also denied that any hazards are involved in the undertaking. It will be appropriate to mention here that the provisions of the factories Act in respect of safety measures are being complied with. It will be relevant to mention here that the service conditions of the employee of the second party are governed by the Madhya Pradesh Industrial Employment (Standing Orders) Rules 1963. These standing orders make a provision for grant of Casual Leave @ 7 days per annum and festival Holidays @ 5 days per annum. The second party is allowing to its employees the benefit of availing the aforesaid Casual Leave and Festival Holidays in accordance with the provisions of Standard Standing Orders. The facilities of leave statutorily provided in the standard Standing Orders are very reasonable and the grant of more leave facilities will be unduly generous. This will definitely have adverse affect on the production also. As regards the medical leave of 30 days, no like comparable Industry in the region is giving any such medical leave. Even the Standard Standing Orders also do not provide for grant of any medical leave to the workers. Thus, in consideration of the like comparable Industries cum region wise basis there is no propriety and justification of granting any medical leave to the workers. Moreover, the grant of such leave will not only be unduly generous, but it also adversely affect the production also. Thus the claim of first party for grant of Casual Leave @ 30 days per annum, Festial Holidays @ 10 days per annum and

4. That in reply to para 8 of the Statement of Claim it is submitted that except Shri Prahalad Singh, whose name appears at Sl.No.68 of the list attached with the reference and the list attached with the Statement of Claim, none of the other persons of the list attached with the Statement of Claim have been employed by the second party in Unit-II of Bhilai Engg Corpn Ltd, Bhilai. There is no Foundry Shop, General Shop, Assembly Shop, Equipment Shop, Heavy Foundry and BECO shop in Unit-II of Bhilai Engg Corpn Ltd, Bhilai. Thus, these persons have no right to claim the relief of reinstatement or other relief in Unit-II of Bhilai Engg Corpn Ltd, Bhilai.

It will be appropriate to stress here that Shri Prahalad Singh, whose name is mentioned at Sl.No.68 of the list attached with the reference was employed by the second party in Bhilai Engg Corpn Ltd, Unit-II, at Bhilai. A charge sheet dated 24.08.1983 had been issued to him for committing serious misconduct enumerated in the charge sheet. Enquiry was held against him by the Enquiry Officer. Accordingly, he has been dismissed from service of the second party by Order dated 15.10.1993 . He has challenged the aforesaid order of his dismissal from service by making an application under section 31, read with section 61 of MPIR Act 1960 (shortly the act 1960) before the Labour Court at Durg. It has been registered as case No.2/MPIR Act 95 and is still pending before the Labour Court. It will be relevant to mention here that earlier to this dismissal order dated 15.10.93 he was not terminated by the second party and was in service.

Shri Vijay Bahadur Singh, whose name is mentioned at Sl.No.70 of the list attached with the statement of claim had never been

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Shri Sarbjeet Singh, who was awarded the contract of machining job in Unit-II of Bhilai Engineering Corpn Ltd, Bhilai.

It was his responsibility to pay wages to him and exercise control and supervision over the work of Shri Vijay Bahadur Singh. The aforesaid contractor Shri Sarbjeet Singh has ceased and closed his contract work w.e.f.30.04.91. He had made full and final payment to the workers employed by him including Shri Vijay Bahadur Singh.

It is further submitted that the name of Shri Vijay Bahadur Singh has not been included in the list attached with the reference and its Sl.No. 70 is blank. Hence, his case for any relief cannot be considered and adjudicated in this reference. The rest of the persons whose names have been mentioned in the list attached with the reference and in the list attached with the Statement of Claim had never been employed in Unit-II of Bhilai Engineering Corpn Ltd, Bhilai. There is no Foundry shop, General Shop, Assembly Shop, Equipment Shop, Heavy Foundry Shop & BECO Shop in Unit II of Bhilai Engg Corpn Ltd, Bhilai. In the light of the above facts, the reference made to this Hon"ble Court in respect of these persons is liable to be rejected.

5. That as regards contents of para 9 of the Statement of Claim the details given by the first party in the Annexure enclosed with the Statement of Claim are not correct. As already submitted that Shri Prahalad Singh, whose name appears at Sl No.68 of the list attached with the reference, has been employed in Unit-II of Bhilai Engg Corpn Ltd, Bhilai, whose services have been terminated by order dated 15.10.95. He has challenged his termination in the Labour Court, Durg and the case is still pending. As regards Shri Vijay Bahadur Singh, whose name appears at Sl.No.70 with the list attached with the statement of claim, he was never employed by the second party. He was employed

by the Contractor Shri Sarbjeet Singh. His name is not included in the list attached with the reference. Hence, his case cannot be considered and adjudicated in this reference. The rest of the persons mentioned in the list attached with the reference have never been employed in Unit-II of Bhilai Engg Corpn Ltd, Bhilai.

6. That the contents of para 10 of the statement of claims need no reply.

7. That as regards paras 11, 12, 13 & 14 of the Statement of Claim, it is submitted that the persons whose names appear at Sl.No.1 to 67, 69 and 71 to 74 have never been employed in Unit-II of Bhilai Engg Corpn Ltd, Bhilai. The details regarding sl.No.68 and 70 of the list attached with the statement of claim have already been mentioned in the foregoing paragraphs. Shri Prahalad Singh was issued charge sheet. Enquiry was held against him and after finding him guilty of the charge he has been dismissed from the service by order dated 15.10.9. Earlier to this he was in service. This action has been taken much subsequent to this reference. In the light of the above facts the question of issuing any charge sheet, holding enquiry, issuing termination letter or payment of retrenchment compensation etc. to the rest of persons whose names are mentioned in the list attached with the statement of claim do not arise.

8. That as regards the contents of para 15 of the Statement of Claim, these are vague, unspecific and lack particulars and hence denied. The first party has not mentioned the names of the alleged junior workers who have been retained in service and are continuing in the employment of the second party as well as the alleged new recruited workers. In absence of their names & details, it is not possible to give proper reply.



statement if the particulars are supplied by the first party.

9. That the contents of para 16 of the statement of claim are denied. It is denied that action of second party is illegal and in contravention of the Provisions of the Act, 1960 and Standard Standing Orders. The correct position has been explained in the foregoing paras.

10. That the allegations made in para 17 of the Statement of Claim have been incorrectly stated and hence denied. It is specifically denied that the provision of Article 21 of the Constitution of India is applicable. As already stated that the persons whose names appear at Sl.No.1 to 67, 69 and 71 to 74 have never been employed in Unit-II of Bhilai Engg Corpn Ltd, Bhilai. The details regarding 68 and 70 of the list attached with the statement of claim have already been given in the foregoing paragraphs. Thus, the question of their completing 240 days of service in Unit-II of Bhilai Engg Corpn Ltd, Bhilai does not arise at all.

11. That in reply to para 18 of the Statement of Claim it is respectfully submitted that in view of the facts mentioned herein above the question of the concerned persons to be willing to work does not arise. Thus the allegations made in para 18 of the statement of claim are denied.

12. That as regards allegations made in para 19 and 20 of the statement of claim it is submitted that the exercise of powers under section 107-A of the Act 1960 is out of question in view of the facts stated herein above and the concerned persons are not entitled to any relief claimed on their behalf by the first party.

13. That in reply to para 21 of the Statement of Claim it is denied that the persons

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mentioned in the list attached with the reference are starving. They must be usefully/gainfully employed elsewhere. As regards Section 78-B of the Act, it relates to its interpretation and needs no reply.

It will be appropriate to mention here that the Statement of claim has been filed by the first party on 12.09.95. The notice for submitting the reply to the statement of claim was received by the second party on 06.10.95. It is therefore, submitted that the second party is not responsible at all for any delay as alleged by the first party.

14. That the allegations made in para 22 of the Statement of Claims are denied. It is specifically denied that any action of the second party is illegal and unjustified. It is also denied that the second party has committed any act of high handedness and colourable exercise of powers.

15. That the allegations made in para 23 of the Statement of Claim are denied. It is specifically denied, that in view of the facts stated herein above, any of the persons whose names appear in the list attached with the reference is entitled to any interim relief at all. Because the Government has no power to make any amendment or addition in the original reference. The amendment made in the original reference is without jurisdiction and incompetent. They are further not entitled to any interim relief because they have not been employed in Unit-II of Bhilai Engg Corpn Ltd, Bhilai. Moreover, they have been shown to be suspended and not terminated from the services. The request for interim relief therefore deserves to be rejected.

16. That in reply to para 24 of the Statement of Claim, it is not disputed that the Government has made the

reference. It is further submitted that the second party has challenged the original reference made by the Government in respect of the so called termination of the services of the persons. The second party has also challenged the order dated 27 / 31.7.1995 of the Government adding item No.4 in the original reference. This has been challenged before the Hon"ble High Court at Indore in Writ petition No.1231/95 which is subjudice.

17. That the persons whose names are mentioned in the list attached with reference are not entitled to any of the relief claimed on their behalf by the first party. The reference made by the Government is liable to be rejected. These persons must be gainfully employed elsewhere. They are, not entitled to any relief atall.

It is, therefore, prayed that the reference made by the Government may kindly be rejected.

The second party begs leave to amend or add to or make alterations in the written statement if and when deemed necessary.

R.K.   
(SECOND PARTY)

Dated : The .... day of .....1995.

V E R I F I C A T I O N

The second party thus hereby declare that what is stated above is true to the best of his knowledge, belief and information. Signed at Bhilai on this ~~20th~~ ~~21st~~ ~~22nd~~ ~~23rd~~ ~~24th~~ ~~25th~~ ~~26th~~ ~~27th~~ ~~28th~~ ~~29th~~ ~~30th~~ ~~31st~~ <sup>6th day of Feb 1976</sup>

R.K. ~~\_\_\_\_\_~~ *[Signature]*  
(SECOND PARTY)

DATE :

*[Signature]*  
(COUNSEL FOR SECOND PARTY)

## BEFORE THE STATE INDUSTRIAL COURT, BENCH

CAMP RAIPUR  
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Pratisheel Engineering Shramik Sangh,  
MIG/155 HUDCO Colony  
Ehilai. Distt. Durg (M.P)

.... FIRST PARTY

Vs

Wishva Vishal Engineering Limited  
Industrial Estate  
Ehilai.

.... SECOND PARTY

REFERENCE NO. 174/2024 ofFIXED FOR 12/11/24WRITTEN STATEMENT OF THE SECOND PARTY

The Second party respectively submits the written statement as follows :

1. That the allegations of Paras 1, 2 & 3 of the Statement of Claim are matters of record and hence need no reply.
2. That the allegations made in Paras 4 & 5 of the Statement of Claim are denied. It is specifically denied that unskilled, semi-skilled, skilled workers employed by the second party are entitled to the pay scale of Rs. 2000-100-2500, 3000-150-3750 & 4000-200-5000 respectively as claimed by the first party. It is specifically denied that they are entitled to Dearness Allowance @ Rs.2/- per unit linked with All India Consumer Price Index, Simla Series. It is further denied that the employees employed by the second party are entitled to the Cycle allowance @ Rs.100/-per month, HRA @ Rs.200/- per month or accomodation in M F Housing Board and Night Shift allowance @ Rs.10/- per Night Shift. It is also denied that hazards are involved in the undertaking of the second party. Such consideration are irrelevant in deciding this issue. It

Specifically denied that the pay scale, Dearness allowance and other allowances claimed by the first party are just and proper and available and allowed by the like comparable industries in the region within which the establishment of the second party is situated. It will be appropriate to stress here that the second party has been paying to its workers the wages @ minimum wages as fixed by the Government of M.P. It will not be out of place to mention here that this is a small scale industry. Even the Government Of Madhya Pradesh is paying to its workers engaged in the Engineering industry, the wages @ minimum wages fixed by the Government. The second party does not have the paying capacity for paying increased wages as claimed by the first party. The second party is not in such financial position to bear any additional financial burden for increase in the wages and other allowances as claimed by the first party. There is no justification & propriety for increase in the wages and other allowances as claimed by the first party. The claim of the first party in respect of wages revision and other allowances is therefore liable to be rejected.

3. That as regards the contents of para 5 & 7 of the statement of the claim, it is specifically denied that there is any justification or propriety for granting 15 days casual leave, 10 days festival leave and 30 days Medical leave as claimed by the first party. It is denied that any like or comparable industry in this region is giving benefits of 15 days casual leave, 10 days festival leave and 30 days medical leave. It is denied that any standards are involved in the undertaking of the second party.

It will be appropriate to mention here that provisions of Factory Act in respect of Safety measures are complied with. It will

relevant to mention here that workers employed by the second party given casual leave @ 7 days per annum & festival leave @ 5 days annum in accordance with the provisions of the Standard Standing Orders. The facilities of leave statutorily provided in the Standard Standing Orders are very reasonable and the grant of more leave facilities will be unduly generous. This will definitely have adverse effect on the production also. As regards medical leave of 30 days, like comparable industry in the region is giving medical leave. In the Standard Standing Orders do not provide any grant of medical leave. Thus in consideration of the like comparable industry-cum-common basis, there is no propriety of granting any medical leave to workers. More over the grant of such leave will not only be unduly generous but it will also adversely affect the production. Moreover as stated above the establishment of the second party is continuously running in loss. Thus the claim of the first party for grant of casual leave @ 15 days per annum, festival leave @ 10 days annum and medical leave @ 30 days per annum deserves to be rejected.

4. That the allegation made in para the statement of claim is denied. It is specifically denied that the persons whose names are mentioned in the list attached with reference as well as in the statement of claim had been employed by second party. It will be appropriate to state here that only Shri N. Sarkar whose name appears at Sl.No.8 of the above list had been employed by the second party. Rest of the persons whose names are in the above list have never been employed by the second party. It will be further appropriate to mention that the second party have awarded the job contracts to different contractors for doing the job of fabrication, machining, erection, construction, cleaning, painting

and temporary civil works. It was the sole responsibility of the concerned contractors to engage their own labour/workers to carry out the contract work/job. It was also their responsibility to pay wages/salaries to such respective employees engaged by them. It is/are the respective contractors themselves who use to exercise the complete control and supervision over the workers/employees engaged by them. The second party has nothing to do with the aforesaid functions of the contractors. The rest of the workers detailed in both the list attached with the reference as well as statement of claim may have been engaged by the contractors. It is within the specific knowledge of the concerned person as to by which contractor they had been engaged. The respective contractors will be in a better position to clarify the names of the workers who may have been engaged by them in carrying out the contract work/job awarded to them. The Government has not impleaded such contractors in the present reference. So the reference in respect of such person other than Shri Tapan Sarkar is incompetent as against the second party. The same is also liable to be dismissed and rejected for want of necessary parties.

5. That in reply to para 9 of the statement of claim, it is stated that Shri Tapan Sarkar at Sl.No.8 of the list had only been employed by second party. As regards the rest of the persons, the position has been explained in Para-4 above of the written Statement. They have never been employed by second party.

6. That the contents of paras 10 of the statement of claim need no reply.



7. That as regards para 11, 12 & 13 of the statement of claim, it has already been asserted hereinabove that Shri Tapan Sarkar has only been employed by the second party.

8. That as regards the contents of para 14 of the statement of claim, it is submitted that Shri Tapan Sarkar had only been employed by the second party. He has voluntarily left his service with effect from 27.03.91. He is not entitled to get any compensation. Rest of the persons of the list had never been employed by the second party.

9. That as regards the contents of Para-15 of the Statement of Claim, these are vague, unspecific and lack in particular and hence denied. The first party has not mentioned the names of the alleged junior workers who have been retained in service and are continuing in the employment of the second party. In absence of their names, it is not possible to deal with the allegations. The second party reserves the right to amend the Written Statement if particulars are provided by first party.

10. That the allegation made in Para-16 of the statement of claim are denied. It is specifically denied that any action of the second party is illegal being in contravention of the provisions of the act, 1960 and the standard standing orders.

11. That the allegations made in Para 17 of the statement of claim have been incorrectly stated and hence denied. It is specifically denied that the provisions of Article 21 of the Constitution of India are applicable. It is further submitted that Shri Tapan Sarkar who had only been employed by the second party was

responsible for relinquishing and covering his contract of employment. It is specifically denied that he had completed 240 days of service during proceeding 12 months.

12. That the allegations made in para 18 of the statement of claim are denied. It is specifically denied that Shri Tapan Sarkar was always willing to work. It is also denied that he has been deprived from work. As already stated, he had voluntarily and of his own accord left the service.

13. That in reply to para 19 of the statement of claim, it is submitted that the provisions of section 107-A of the MPID Act can not be attracted and applied in the present case.

14. That the allegations made in para 20 of the statement of claim is denied. It is specifically denied that the worker Shri Tapan Sarkar who was employed by the second party is entitled to reinstatement alongwith benefits/wages/compensation.

15. That in reply to para 21 of the Statement of Claim, it is denied that the workers are starving. They must be usefully/gainfully employed elsewhere. As regards Section 73-B of the Act, it relates to its interpretation and needs no reply.

It is submitted that no delay has been caused by the second party at all. On the contrary there are serious lapses on the part of the first party which have caused delay in the matter. It is pertinent to note that the statement of claim has been filed by the first party on 12.09.95.

16. That the allegations made in para 22 of the Statement of Claim are denied being false and baseless. It is specifically denied that any action of the second party is illegal and unjustified. It is also denied that the second party has committed any act of high handedness and colourable exercise of powers.

17. That the allegations made in para 23 of the Statement of Claim are denied being false and baseless. It is specifically denied that, in view of the facts stated herein above the worker Shri Tapan Sarkar of second party is entitled to any interim relief at all. Because the Government has no power to make any amendment in the original reference. The amendment made in the original reference for grant of interim relief is without jurisdiction and is incompetent. It is pertinent to note that in a list attached with the reference, the worker Shri Tapan Sarkar has been shown to be suspended. The request for interim relief, therefore, deserves to be rejected in limine.

18. That in reply to para 24 of the Statement of Claim, it is specifically denied that first party has been trying for mutual settlement and second party did not cooperate. It is not disputed that the Government has made the reference. It is further submitted that the second party has challenged the original reference made by the Government. The second party has also challenged the order dated 27/31.7.1995 of the Government adding item No.4 to the original reference. This has been challenged before the Hon'ble High Court at Indore in Writ petition No. 1231/95.

19. That the first party as well as Shri Tapan Sarkar, worker of the second party is not entitled to any

relief claimed by him. The reference made by the Government is liable to be rejected. That Shri Tapan Sarkar, worker of the second party is usefully/gainfully employed elsewhere. He is, therefore, not entitled to any relief at all.

20. That it is submitted that in so far as issue No.3 & 4 are concerned the purported reference u/s 51 being in contravention of the mandatory provisions of Section 51 of the Act itself is liable to be rejected in limini. Further, it is pertinent to note that the first party at no point of time had raised a specific demand in that regard on the second party. Since there was no demand on second party at any relevant time, there can not be an industrial dispute as observed by their lordship of the Supreme court in the matter of Sindhu Resettlement Corporation Ltd, and Industrial tribunal, Gujarat and others.

21. That the claim raised by the first party in respect of cycle allowance, house rent allowance or accommodation in M.P. Housing Board and night shift allowance are beyond the scope of reference because no such specific points have been mentioned in the reference. The above points raised by the first party, therefore, do not deserve any consideration.

In view of the above it is therefore, prayed that the reference made by the Government may kindly be rejected.

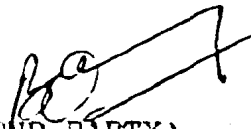
The second party begs leave to amend or add to or make alterations in the written statement, if and when deemed necessary.

  
(SECOND PARTY)

Dated :

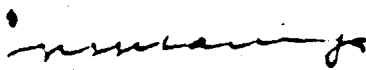
VERIFICATION

The second party does hereby declare that what is stated above is true to the best of his knowledge, belief and information. Signed at Bhilai this ~~6/5 day 1 Feb 1976~~ 6/5 day 1 Feb 1976.



(SECOND PARTY)

DATED: .....



(COUNSEL FOR SECOND PARTY)

BEFORE THE STATE INDUSTRIAL COURT,  
RAIPUR

7/MAR/93 070  
4/MAR/95 New

STATE OF RAJASTHAN ENGINEERING SUPPLY & MAINT. SANGH  
Plot No. 157, Sector 1, Colony  
B-1, Jaipur  
Dist. RAIPUR, R.P.T.

.....FIRST PARTY

RAJASTHAN ENGINEERING CORPORATION LIMITED  
Projects Division  
Jaipur  
RAIPUR, M.F.

.....SECOND PARTY

REFERENCE NO. 4/M.P.C.R. / ..... 95  
E.I.C.T. S. ....

WRITTEN STATEMENT BY THE SECOND PARTY

The Second party respectfully submits the written statement as follows:

1. That the allegations of Paras 1, 2 & 3 of the Statement of Claim are matters of record and hence need no reply.
2. That the allegations made in Paras 4 & 5 of the Statement of Claim are denied. It is specifically denied that unskilled, semi-skilled, skilled workers employed by the second party are entitled to the pay scale of Rs. 2000-100-2500, 3000-150-3750 & 4000-200-5000 respectively as claimed by the first party. It is specifically denied that they are entitled to Dearness Allowance @ Rs.27/- per unit linked with All India Consumer Price Index, Base Series. It is further denied that the employees employed by the second party are entitled to the Cycle allowance @ Rs.100/- per month, HRA @ Rs.200/- per month or

.....2.....

accommodation in M.P. Housing Board and Night Shift allowance @ Rs.17/- per Night Shift. It is also denied that hazards are involved in the undertaking of the second party. Such considerations are irrelevant in deciding this issue. It is denied that no other fringe benefits are given. It is specifically denied that the pay scale, Dearness allowance and other allowances claimed by the first party are just and proper and are available and allowed by the like comparable industries in the region within which the establishment of the second party is situated. It will be appropriate to stress here that the second party has been paying to its workers the wages @ minimum wages as fixed by the State Government of M.P. All other industries situated in Urla Industrial Area are also paying the minimum wages @ minimum wages fixed by the State Government. The establishment of the second party came into operation in the month of March, 1970 only. It will not be out of place to mention here that even in the Government Of Madhya Pradesh is paying its workers engaged in the Engineering industry, the wages @ minimum wages fixed by the Government. As the establishment of this party has been newly set up in the month of March, 70 and due to industrial unrest created by the first party, the establishment of the second party remained closed for a period of about six months from 09.10.70 to 10.04.71 and as a result of which there was no production at all. It is further submitted that till date the productivity level has not reached up to the level. The establishment is continuously running at loss. The establishment has therefore no paying capacity for increased wages as claimed

by the first party. The second party is not in such financial position to bear any additional financial burden for increase in the wages and other allowances as claimed by the first party. In the light of the above facts, there is no justification & propriety for increase in the wages and other allowances as claimed by the first party. The claim of the first party in respect of wage revision and other allowances is therefore liable to be rejected.

3. That as regards the contents of paras 6 & 7 of the statement of the claim, it is specifically denied that there is any justification or propriety for granting 15 days casual leave, 10 days festival leave and 30 days Medical leave as claimed by the first party. It is denied that any like or comparable industry in this region is giving benefits of 15 days casual leave, 10 days festival leave and 30 days medical leave. It is denied that any hazards are involved in the undertaking of the second party.

It will be appropriate to mention here that provisions of Factory Act in respect of Safety measures are complied with. It will be relevant to mention here that workers employed by the second party are given casual leave @ 7 days per annum & festival leave @ 5 days per annum in accordance with the provisions of the Standard Standing Orders. The facilities of leave statutorily provided in the Standard Standing orders are very reasonable and the grant of more leave facilities will be unduly generous. This will definitely have adverse affect on the



production also. As regards medical leave of 30 days, no like comparable industry in the region is giving medical leave. Even the Standard Standing Orders do not provide any grant of medical leave. Thus in consideration of the like comparable industry-  
 same region basis, there is no propriety of granting any medical leave to the workers. Moreover the grant of such leave will not only be unduly generous but it will also adversely affect the production. Moreover as stated above the establishment of the second party is continuously running in loss. It will be further relevant to stress here that the provisions of the Employees State Insurance Act, 1948 are applicable to the establishment of the second party. Thus the claim of the first party for grant of casual leave @ 15 days per annum, festival leave @ 10 days per annum and medical leave @ 30 days per annum deserves to be rejected.

TERM No. 3 :-

Allegations made in para No. 3 to 20 are denied in total as they are false. The factual position is submitted as under :

- a. It is specifically denied that all the 131 persons mentioned in the schedule annexed with the reference were engaged directly or indirectly with this party.
- b. It is submitted that number of persons were engaged by several independent contractors, many of whom were engaged on Civil nature of work. The contractors are liable and responsible for action / notice given by them in relation to

the employees. They have not been employed as parties in this case. This party cannot be made liable and responsible for any action taken by the contractors particularly when they being the immediate employers have not been made parties to this case. The reference is therefore bad and not maintainable in respect of those persons and deserves to be answered in negative.

It is pertinent to mention here that this industry came into production w.e.f. March '90. The nature of work of this industry is to fabricate structures like beams, columns, etc of different size as per the requirement of the purchaser. There is no specific item to be manufactured or patented worth marketing and time was and is essential for the contract for every purchaser because the work of the purchaser i.e., erection of his work depended on the supply of structures fabricated by this party. Non supply of the structures in time attracted heavy penalties and liquidated damages. This is one of the important reasons that different types of contractors had to be engaged who had with them a team of workers to do a particular type of fabrication. The persons engaged on this job realised that the time was always the essential part of the contract with the purchaser and acting under misguidance of outsiders and the first party union, they started creating troubles right from close of the first year of the factory which went on increasing every day and since May '91 they paralyzed the

working of the industry. A few instances are quoted below. The party craves leave to put forth all such instances in evidence at the proper stage :-

Date	Brief Name of disturbances
01.05.91	Illegal strike
14.05.91	Illegal strike
25.06.91	Illegal strike
26.06.91	Illegal strike
27.06.91	Illegal strike
01.07.91 to 12.07.91	Go Slow putting only 10 % output.
20.07.91 to 24.07.91	Threats, Intimidation and illegal strike.
30.07.91 to 16.08.91	Go slow and output reduced to 10%.
17.08.91 to 19.08.91	Disputed with go slow, threats, intimidation by workers, contractors surrendered their contract.
20.08.91	Officers of the company intimidated and assaulted.
24.08.91	Illegal strike and workers went to create disturbances in other factories.
14.09.91 to 24.09.91	Number of officers of the company as well as the contractors assaulted.
27.09.91	Obstructions, threat and assault.
04.10.91 to 08.10.91	Gherao, assault, illegal strike etc.

d. A number of reports have been made to the Police. The cases have been registered and have been filed by the Police against large number of workers.

: 7 :

- e. The situation in the factory had become so alarming under the leadership of the first party that even the willing workers were not getting courage to come to the factory. A large number of officers expressed their desire to leave the establishment and the contractors surrendered their contract. The entire disturbances from April '91 was instigated, inspired and conducted by the party No. 1. The situation was absolutely beyond the control of the management and the management had no option but to declare temporary stoppage from 09.10.91.
- f. It is worth while mentioning that the Praqatisheel Engineering Shramik Sangh is an organ of Chhatisgarh Multi Morcha which is known for creating disturbance in the industries, creating havoc, National Loss & they always aim at creating such a situation compelling firing by the Police. They adopted the same Modus-operandi in Bailadila, Rajhara, Rajnandgaon & Bhilai. They were intending to repeat the same at Industrial Estate, Urla where this party had just started the industry in a small way.
- g. Repeated meetings were held by the District Authorities of Raipur in which Labour Department was always the necessary part and since January '92 they insisted on the management to lift the temporary stoppage and to start the industry. The authorities always assured to ensure Industrial peace and Law & Order in the factory and the area. Consequently the Management lifted the temporary stoppage w.e.f. 10.04.92.

One can imagine the tremendous national loss that is accrued during this period of six months of disturbances solely due to the illegal, criminal and untrade union like activities of the first party.

ii. With the above background, necessary details in brief of the 131 persons mentioned in the annexure are as given as under.

i. The following persons were never engaged directly or indirectly by this party.

Sl. No.	Sl.No. under Reference	Sl. No. of Statement of Claim	Name[s] S/Shri
01	12	12	Tripathi Sahu
02	13	20	S Narayan Murthy
03	13	28	A Raju
04	16	76	Bisawa
05	17	77	Omprakash Giri
06	21	31	H Sasi
07	27	95	Jagdishan
08	27	97	Ch Narayan
09	28	98	Tawa Ram
10	29	99	Raj Kumar
11	105	105	Kailash Sharma
12	108	108	A P Yadav
13	115	115	E L Tambre
14	122	122	A K Sahu
15	125	125	Sharma
16	127	127	Mohd. Mohd Khan
17	130	130	Joginder Yadav
18	131	131	H Sashi

After lifting the temporary stoppage the Management gave an advertisement in the News Paper asking the workers to resume work within seven days failing which it will be presumed that they have voluntarily terminated their employment themselves.

Sl. No.	Sl. No. under Reference	Sl. No. of Statement of Claim	Name[s]
			S. Shri
01	109	109	Dilip Kumar Verma
02	110	110	Dilip Kumar Sharma
03	111	111	Raj Kumar Verma
04	112	112	Lakmilanth Farqaniva
05	113	113	Kamlesh Sahu
06	114	114	Bama Sahu
07	115	115	Nahesh Kumar Ram
08	117	117	Neth Ram Sahu
09	118	118	Kamla Bai
10	119	119	Mahipal Yenchilwar
11	120	120	Bhagwan Singh
12	121	121	Khilawan Yadav
13	123	123	Tikeshwar Verma
14	124	124	Parmeshwar Puri
15	125	125	Ajeeb Mohd.
16	127	127	Jalil Khan
17	128	128	Mohd. Kenon

As a result of this advertisement Mr Bhagwan Singh and Mr T K Verma came and resigned and took their final payment. As such there is no case about these two persons. Mr Jalil Khan also reported for duty and is still working as such there is no case of this person also. None of the rest of the persons reported for duty, hence subsequently notice were published in the News Papers on 19.04.92 and 20.04.92, but, none of them reported for duty. It is therefore obvious that they have themselves terminated their employment and there is no case for these persons. Alternatively it is submitted that they have been continuously absent for more than 10 days which is a serious misconduct under the standing order and this party craves leave to prove the misconduct in the Court.

: 10 :

The following persons were employed by the contractor Mr J T Patel who had surrendered his contract and left the work w.e.f. 26.08.91. He made the final payment to his workers but the workers mentioned in the list below did not take their payment at the time of termination of the contract.

SL No	Sl.No. under Reference Annexure	Sl. No. of Statement of Claim	Name[s] S Shri
01	1	1	Ram Swardoop Pal
02	2	2	Rajendra Pal
03	3	3	Raj Dev Singh
04	4	4	Vinod Yadav
05	5	5	Vijay Shankar Singh
06	6	6	Hiralal Yadav
07	7	7	Subash Kumar
08	8	8	Narsingh Sahu
09	9	9	Purnan Verma
10	10	10	Yadav Das
11	11	11	Goverdhan Das Sahu
12	13	13	Kanhaiya Lal
13	14	14	Puranchand Sethi
14	15	15	Ch Ranga Reddy
15	16	16	A Ramu
16	17	17	K Parsuram Reddy
17	18	18	P Ananth Rao
18	19	19	M Joga Rao
19	21	21	Komal Sahu
20	22	22	Khubi Ram Sahu
21	23	23	U Channa Rao
22	24	24	D Ganesh Reddy
23	25	25	Thanwar Ram Sahu
24	26	26	D R Pandit
25	27	27	R D Pandit
26	29	29	M Murthy
27	30	30	M Janardhan Rao

He therefore invited them to collect the dues by publishing an advertisement on 01.09.91 and 03.09.91 and only Mr Subash Kumar and Mr Narsingh Sahu took their dues. The rest of the employees of the list did not turn up.

: 11 :

- l. After the lifting of the temporary stoppage this party though not duty bound, invited all the above persons to work with the new contractors who have been appointed in his place, but, none of the above persons turned up to accept the alternative job. Consequently these persons have no case. Question of retrenchment compensation also does not arise as none of them had been in 240 days service with the contractor and does not come for work although an alternative job was offered to them.
- m. The following persons were engaged by the contractor Mr P T Bani who surrendered and terminated his contract on 26.08.91 and made final payment to his workers, but, the persons mentioned in the list below did not receive the payment. They were invited by the contractor to collect their dues by publishing an advertisement in the news papers on 01.09.91 and 03.09.91 and Mr Trinath Malik, Mr Ramchandran Pillai & Mr Ajay Sahu collected their dues. The rest of the persons did not turn up to receive the payment.

SL No	Sl.No. under Reference Annexure	Sl. No. of Statement of Claim	Name(s) S/Shri
01	58	58	Raju Das
02	59	59	Trinath Mallik
03	60	60	Sharugan Sav
04	61	61	Fyarelal
05	62	62	Jaikishore
06	63	63	Muktar Alam
07	64	64	Lalk Khan
08	65	65	Furan Gop
09	66	66	Ashok Kumar
10	67	67	Gopal Prishna
11	68	68	Madusudan Pillai
12	69	69	Ramchandran Pillai



: 12 :

Sl. No	Sl.No. under Reference Annexure	Sl. No. of Statement of Claim	Name[s] S/Shri
13	70	70	K Balaji Reddy
14	71	71	Jaqmohan Sahu
15	72	72	Girivar Verma
16	73	73	Shiv Kumar Verma
17	74	74	Shiv Kumar Sharma
18	75	75	Gaya Rai
19	78	78	Hariprasad Upadya
20	79	79	Bikam Lal Nirmalkar
21	80	80	Champalal Sahu
22	82	82	Uttam Mukiya
23	83	83	Kavaldari Pandit
24	84	84	Brandev Pandit I
25	85	85	Brandev Pandit II
26	86	86	Tarachand Sahu
27	87	87	PK Sashi
28	88	88	Ch Malleshwar Rao
29	89	89	Shiv Kumar Dewagan
30	90	90	Ashok dubey
31	91	91	P Govind Rao
32	92	92	Jegdish sarva
33	94	94	Aray Sahu
34	95	95	Madannath
35	96	96	Prasad Kumar

n. The following persons were engaged by the contractor M/s. Krishna Engineering Works. During the period of disturbance Mr Uttam Panday, Mr P N Hota & Mr Anulva Hota resigned and took their final payment. While Mr P N Giri and Mr D N Giri were terminated from services for serious misconduct. On lifting of the temporary stoppage, the contractor M/s Krishna Engineering Works resumed his work and gave an advertisement on 13.04.92 and 21.04.92 to resume duties mentioning specifically that if they do not resume within the time prescribed, it will be presumed that they have resigned and terminated their own employment, but, none turned up.

Sl. No	Sl.No. under Reference Annexure	Sl. No. of Statement of Claim	Name[s] S/Shri
1	31	31	Prabhu Nath Giri
2	32	32	Dharam Nath Giri
3	33	33	Dhananjay Giri
4	34	34	Mohd Imtiyaz Khan
5	35	35	Asfak Khan
6	36	36	Mohd. Samshad Khan
7	37	37	Mohd. Muzim Khan
8	38	38	Mohd. Tufail Khan
9	39	39	Mohd. Parvez Siddiqui
10	40	40	E Seemadri
11	41	41	Hridayanand Singh
12	42	42	Rajendra Prasad
13	43	43	Babulal Prasad
14	44	44	Nand Kishore Verma
15	45	45	Sudama Yadav
16	46	46	Kanhaiya Lal Sharma
17	47	47	Bhim Sethi
18	48	48	Lalan
19	49	49	C H Naidu
20	50	50	S Narayan Murthy
21	51	51	Kasiram
22	52	52	Hariram Thakur
23	53	53	Uttam Pandey
24	54	54	Narayan Prasad
25	55	55	Subashwar Rao
26	56	56	P N Hota
27	57	57	Anulya Hota

- a. The following persons were engaged by the contractor M/s D S Construction. During the period of disturbance, Mr Jitendra Prasad and Mr Radeshyam Azad were terminated for serious misconduct. While the rest were invited to resume work by notice dated 10.04.92 and 18.04.92, but, none reported for duty.

Sl. No	Sl.No. under Reference Annexure	Sl. No. of Statement of Claim	Name[s] S/Shri
1	100	100	Jitendra Prasad
2	101	101	Radeshyam Azad
3	102	102	Yashwant Dev Nayak
4	103	103	Shyam Ratan
5	104	104	Sukhi Ram
6	105	105	Kamal Narayan Sahu
7	107	107	Narsingh Verma

As stated briefly above none of the persons mentioned in the schedule have any case and they have terminated their own employment. New recruitment has already been done and as such question of them taking back does not arise.

The dismissal of these persons for misconduct narrated in the chart mentioned above is perfectly legal and justified and call for no interference by this Hon'ble Court. This party prays for permission to prove the misconduct in the court if for any reason, whatsoever, finds the enquiry to be defective.

It is further submitted that from the date of cessation of their employment either from the establishment of British Engineering Corporation Limited, Projects Division or by any contractor, each of them are gainfully employed and are not entitled to any back wages unless the Court finds any of them to be reinstated.

It is further submitted that Management has lost confidence in all the above persons and therefore, they do not deserve to be reinstated, if the court came to the conclusion that their cessation of employment is not proper.

It is further submitted that the concerned persons have not availed of any remedy available to them under section 31 & 32 of MPDR Act to challenge their cessation of employment, hence available right has accrued to this party and vested right cannot be snatched, by this reference. The reference is invalid and incompetent as this court also.

FORM NO. 4

This Honorable Court was pleased to pass an order on 12.10.1995, granting interim relief to the persons mentioned in the Annexure.

The operation of this order dated 12.10.95, passed by this Honorable court has been stayed by order passed on 03.11.95 by Honorable High Court of Madhya Pradesh - Indore Bench in W/P No.1231/95. The operative part of the order is reproduced below:

"A grievance has been made by the petitioners at even though all those facts were brought to the notice of the respondent No.3 by filing application, but the respondent No.3 has proceeded in the matter and has passed interim order on 12.10.95 to the detriment of the petitioners. Counsel for the petitioners has taken issue through the impugned order which has been passed by the respondent No.3 on 12.10.1995.

Since the matter is already subjudicial in this court and the petitioner's prayer for stay was not rejected, a judicial propriety is required that the respondent No.3 should have stayed its hand more so, when this fact was already brought to its notice, but it decided to proceed in the matter.

Having heard counsel for the parties, I am of the view that the interim order passed by the respondent No.3 later on 12.10.1995 by which the employees have been directed to be reinstated deserves to be stayed.

It is accordingly stayed. However, it is challenged that further proceeding in the matter shall conclude but the respondent No.3 shall until further, orders shall not pass any final award in the matter."

In view of this stay this party is not submitting any statement required for this issue. The party deserves the right to submit the statement of claim at the proper opportunity.

In premises it is submitted that reference be decided in the negative after decision in W P No.1231/95.

Prays accordingly.

VERIFICATION

The second party does hereby declare that what is stated above is true to the best of his knowledge, belief and information. Signed at Ghilai this 6<sup>th</sup> day of Feb 96.

*Bhavana*

(SECOND PARTY)

DATED: 6/2/96

*Harj*

(COUNSEL FOR SECOND PARTY)

Pragatishel Engineering Shramik Sangh,  
MIG/155 HUDCO Colony  
Bhilai, Distt. Durg [M.P]

.... FIRST PARTY

Vs

BEC Impex International Private Limited  
Industrial Estate,  
Bhilai (M.P)

.... SECOND PARTY

REFERENCE NO. 4/96 95

FIXED FOR 2.4.79

WRITTEN STATEMENT BY THE SECOND PARTY

The Second party respectfully submits the Written Statement as follows :

1. That the contents of Para 1, 2 & 3 of the Statement of Claim are matters of record and hence need no reply.
2. That as regards contents of Para 4 of the Statement of Claim, it is specifically denied that the so called workers whose names are mentioned in the attached list with reference are entitled to get any relief in terms of Reference No. 1.

It will be relevant to mention here that SEC Impex International Private Limited was an Export Oriented Independent Unit newly setup in the month of September, 1989. Some Foreign countries had placed the orders for supplying to them some Engineering items. The second party had awarded contracts of different types of engineering items to various contractors. These contractors had to engage their own labours / workers to independently carry out their respective contract jobs awarded to them. The wages etc. were to be paid by the respective contractors to their respective workers. They have to exercise the control and supervision over their respective workers engaged by them. The second party has nothing to do with the aforesaid functions of the contractors. Thus there did not exist any privity of contract and relationship of Master & Servant.

between the contract labour and the second party, because the persons whose names are mentioned in the attached list with the reference were never employed by the second party. As these persons were not engaged by the second party and they were not the employees of the second party, so the reference in respect of these persons impleading the second party is incompetent. It is also liable to be rejected for want of necessary parties as the respective contractors who may have engaged these persons have not been joined as parties by the Government.

It will be further appropriate to mention here that BEC Impex International Private Limited has ceased its functioning with effect from 08.05.91 because the orders received from Foreign countries have been completed by the respective contractors and no further orders have been placed by any country.

It will not be out of place to mention here that as per the information given by the respective contractors the persons whose names appear at Sl. No. 1- 33 of the list attached with the reference and who were daily rated and temporarily employed were stopped from work as there was no work available for them. They approached Assistant Labour Commissioner at Raipur. In the month of August, 1990 an understanding was reached on 07.08.90 that these persons will be given work by the respective contractors as and when work for them will be available. In pursuance of the above understanding these persons came on 08.08.90 and approached respective contractors to provide them work. They were directed to come on 12.08.90 by their respective contractors.

As informed by the respective contractor, Mr Basheer asked four persons to come for work. They refused to go on work alleging that all the 33 persons should be taken on work enmass. They will not resort to work in piece-meal. Thus they acted against the aforesaid understanding for which they themselves are responsible.

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ing work was progressing day by day and nearing completion so all  
ne 33 persons could not be engaged enmass. Thus the 33 persons  
hemselves are responsible for not accepting the work on piece-meal as  
er the aforesaid understanding.

It has also been intimated by the respective contractors  
at persons at Serial Number 39, 52 & 55 have collected their final  
ayment on 27.03.91 in terms of agreement dated 24.03.91 entered into  
etween the respective contractors and Metal Engineers Workers Union  
[AITUC], Bhilai.

There has been an agreement between Metal Engineering  
orkers Union [AITUC] and respective contractors.

The second party was also present at the time of the agreement.  
ne of the terms of the agreement was that "Workers can take the  
option to go on Lay Off for a maximum period of 45 days. In case any  
ontractor gets job in BEC Impex International Private Limited or any  
here else, they will take back their workers. In case they do not get  
the job within 45 days, the workers can be retrenched".

As per the above agreement the respective contractors were laying  
off their respective workers which continued for 45 days as no job was  
available to any of them. The workers were paid lay off compensation  
for the period of 45 days by the respective contractors. After the  
period of 45 days, majority of the respective workers of the  
respective contractors had been given their final payment in terms of  
the agreement dated 24.03.91. The persons whose names appear at  
Serial Number 34 to 38, 40 to 51, 53, 54, 56 & 57 had not turned up to  
collect their final payment from their respective contractors.

As the functioning of the BEC Impex International Private Limited  
has ceased and the unit had been closed and these persons have not  
been employed by the second party, so the question of Wage Revision,  
arness Allowance, Cycle Allowance, House Rent Allowance and Night  
shift allowance does not arise, as the unit has ceased functioning



3. That as regards contents of Para 5, 6 & 7 of Statement of Claim, the reliefs claimed therein do not deserve consideration in view of the facts stated above that BEC Impex International Private Limited has ceased its functioning.

4. That as regards the allegations made in the para 8 & 9 of the statement of claim, it is specifically denied that persons whose names are mentioned in the list attached with the reference as well as the statement of claim had been employed by the second party. It will be appropriate to stress here that the persons whose names are mentioned in the list attached with the reference as well as the statement of claim had never been employed by the second party. As already stated in the foregoing paras that the second party had awarded the job contracts to different contractors for preparing the engineering items. It was the sole responsibility of the concerned contractors to engage their own labour/workers to carry out the contract work/job. It was their responsibility to pay wages to such respective employees engaged by them. It was the respective contractors themselves who used to exercise the complete control over the labours/workers engaged by them. Second party has nothing to do with the aforesaid function of the contractors. The persons whose names appear in the list attached with the reference as well as the statement of claim may have been engaged by the contractors. It is within the specific knowledge of the concerned person as to by which contractor they have been engaged. The respective contractors will be in a better position to clarify the names of the workers who would have engaged by them in carrying the contract work awarded to them. The Government has not impleaded such contractors in the present reference. So, the reference in respect of such persons as against the second party is incompetent. The same is also liable to be dismissed and rejected for want of necessary parties.

Statement of Claim need no reply.

6. That as regards the contents of paras 11, 12, 13 and 14 of the statement of claim, it is submitted that the persons whose name are mentioned in the list attached with the reference had not been employed by the second party. Thus, the question of issuing any charge sheet, to hold enquiry or to pay them compensation by the second party did not arise. It is further submitted that as per the agreement dated 24.03.91 entered into between the respective contractors and the Metal Engg Workers Union (AITUC) Bhilai, the workers engaged by the respective contractors have been retrenched as informed by the concerned contractors. The majority of their workers have taken final payments in terms of the agreement. It has further been informed by the contractors that the persons in Sl.No.34 to 38, 40 to 51, 53, 54, 56 and 57 did not turn up to collect their final payment for which they themselves are responsible. At the most they can get their final payment in accordance with the agreement dated 23.01.91, from their respective contractors. It will be appropriate to mention that BEC Impex International Pvt Ltd, has ceased its functioning w.e.f. 08.05.91, as detailed in para 2 of the written statement.

7. That as regards the allegations made in Para 15 of the Statement of Claim, it has already been denied that the persons whose names are mentioned in the list attached with the reference had been employed by the second party. Thus the question of retaining the junior workers than these persons and their being in employment of the second party does not arise at all. It is also denied that any new worker has been recruited by the second party. It is further submitted that on completion of the jobs given on the contract to the respective contractors, they have retrenched the workers with effect from 07.05.91 in agreement with the Union.

statement of claim are denied. As already stated that the respective contractors have retrenched their respective workers in agreement with the Union on completion of the respective contract job awarded to them and majority of such workers have taken their full and final payment as per the terms of the agreement. So the question of any action being illegal and being in contravention of the provisions of MPRI Act, 1960 and standing orders does not arise. 137

9. That the allegations made in Para 17 of the Statement of claim have been incorrectly stated and hence denied. It is specifically denied that the Provisions of Article 21 of the Constitution of India are applicable. As already stated that the functioning of BEC Impex International Private Limited has ceased w.e.f. 08.05.91. It is specifically denied for want of knowledge that the persons whose names appear in the list attached with the reference have completed 240 days service in the preceding 12 months as alleged in this Para. The first party is called upon to strict proof of the same.

10. That as regards contents of Para 18 of the Statement of Claim, it is submitted that as BEC Impex International Private Limited has ceased its functioning w.e.f. 08.05.91, so the question of concerned workers being willing to work does not arise at all. In view of the facts stated in the fore going paras, the question of illegality and unjustifiability does not arise.

11. That in reply of Para 19 of the Statement of Claim, it is submitted that the provisions of Section 107A of MPRI Act, 1960 are not attracted because BEC Impex International Private Limited has ceased its functioning w.e.f. 08.05.91.

12. That as regards of contents of Para 20 of the statement of claim, it is stated that in view of the facts stated in the fore going paras, the concerned persons are not entitled to any relief at all against the second party.

13. That as regards the contents of Para 21 of the statement of claim, it is denied that the persons whose names are mentioned in the attached list with reference are starving. They must be usefully / gainfully employed else where. As regards Section 78 B of the Act, 1960, it is a matter of Interpretation and needs no reply. It will be appropriate to mention here that the Statement of Claim has been filed by the first party on 12.09.95. The notice for submitting the reply to the Statement of Claim was received by the Second party on date 06.10.95. It is therefore submitted that the second party is not responsible for any delay as alleged by the first party.

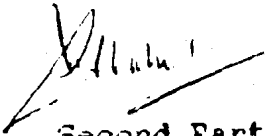
14. That the allegations made in Para 22 of the Statement of Claim are denied. It is denied that any action of the second party is illegal and unjustified. It is also denied that the second party has committed any act of high handedness and colourable exercise of powers.

15. That the allegation made in Para 23 of the Statement of Claim are denied. It is specifically denied, that in view of the facts stated herein above, any person whose names appear in the attached list with reference is entitled to any interim relief at all. Because the Government has no powers to make amendment in the original reference. The amendment made in the original reference is without jurisdiction and is incompetent. They are further not entitled to any interim relief, because they have not been employed by the second party. BEC Impex International Private Limited has also ceased its functioning w.e.f. 3/5/91. So the request for interim relief is liable to be rejected.

Statement of claim, it is undisputed that Government has made the reference. As the concerned persons were not employed by the second party and moreover the functioning of BEC Impex International Private Limited has ceased functioning w.e.f. 08.05.91 and which is in the knowledge of the first party, so the question of any mutual settlement is of no relevance. It is further submitted that the second party has challenged the original reference made by the Government in respect of the so called termination of the services of the concerned persons. The second party has also challenged the order dated 27 / 31.07.95 of the Government adding item no. 4 in the Original reference. This has been challenged before the Honourable High Court at Indore in Writ Petition No. 1231 / 95 and which is Subjudice.

17. That the persons whose names are mentioned in the attached list with reference are not entitled to any relief claimed on their behalf by the first party. The reference made by the Government is therefore liable to be rejected. These persons must be gainfully employed elsewhere. They are not entitled to any relief at all.

It is therefore prayed that the reference may kindly be rejected. The second party begs leave to amend or add to or make alteration in the Written statement if and when deemed necessary.

  
Second Party

Dated : ~~11.01.96~~

VERIFICATION

The second party does hereby declare that what is stated above is true to the best of my knowledge, information and belief.

Signed at Bhilai, this 5th day of Feb. ....1996.

*[Handwritten Signature]*  
Second Party

Dated : .....

COUNSEL FOR SECOND PARTY

BEFORE THE STATE INDUSTRIAL COURT, MADHYA PRADESH BENCH: JABALPUR

CAMP: RAIPUR

Pragatisheel Engineering Shramik Sangh  
MIG-155, HUDCO Colony, Bhilai,  
Durg (M.P.)

... FIRST PARTY

Vs

Simplex Engineering & Foundry Works Ltd.,  
55, Industrial Estate,

Bhilai (M.P.).

... SECOND PARTY

OLD REFERENCE NO. 1/MP/IR/93

NEW REFERENCE NO. 5/MP/IR/95

6.2.75  
FIXED FOR ~~XXXXX~~

WRITTEN STATEMENT BY THE SECOND PARTY

The second party respectfully submits the written statement as follows:

1. That the contents of Paras 1, 2 & 3 of the Statement of claim are matters of record and hence need no reply.

2. That the allegations made in Para 4 & 5 of the Statement of Claim are denied. It is specifically denied that the unskilled, semi-skilled and skilled workers of the second party are entitled to pay scale of Rs.2000-100-2500-3000-150-3750 and Rs.4000-200-5000 respectively as claimed by the first party. It is specifically denied that they are entitled to Dearness Allowance @ Rs.2/- per point linked with the All India Consumer Price Index, Shimla Series. It is further denied that the employees of the second party are entitled to Cycle Allowance @ Rs.100/- per month, House Rent Allowance @ Rs.200/- per month or accommodation in M.P. Housing Board and

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Night Shift Allowance @ Rs.10/- per night shift. It is also denied that hazards are involved in the undertaking. Moreover, such considerations are irrelevant in testing the issue. It is denied that no other fringe benefits are given to the workers of the second party. It is specifically denied that the pay scales, Dearness Allowance and other allowances claimed by the first party are just and proper and are available and allowed by the like comparable industries in the region within which the second party is situated.

It will be appropriate to stress here that the second party has been paying to its workers the wages in accordance with the recommendations of the Wage Board for Engineering Industries.

It will be relevant to stress here that the Metal & Engineering Workers Union is a registered Trade Union for the employees of the Engineering Industries for the local area of Durg District.

In the year 1990, a Notice of change was given by the above Union for wage revision of the workers of the second party and for grant of some fringe benefits. As no agreement could be reached between the Union and the second party, the matter was taken up in conciliation. The settlement was arrived at in presence of the Assistant Labour Commissioner, Raipur. By this settlement dated 14.03.1991, the wages of the workers of the second party were revised to



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their benefits and some fringe benefits were also added. This settlement was to continue in force for a period of 4 years. After the expiry of the period of 4 years, the above Union again gave a Notice of Change to the second party for revision of wage scale etc. By agreement dated 30.07.95 between the above Union and the second party, the wages of the workers of the second party have again been revised to their benefits and an increase has also been given in the fringe benefits with effect from 01.07.94. This agreement is effective and in force for 4 years. Thus substantial increase has been made in the wages / emoluments of the workers by virtue of the aforesaid settlement. The Company if required shall rely on the said agreement at the appropriate time.

3. The Government of Madhya Pradesh

has been issuing Notifications fixing the minimum rates of wages of the workers engaged in the Engineering Industries. The Irrigation Department and P.W. Department of the Government of Madhya Pradesh are also covered under Engineering Industries. The Government is paying to its workers engaged in the above industries the minimum wages fixed by the Government for Engineering Industry or at rates as Notified by the Collectors of the respective districts. The second party is paying much more wages than the minimum rate of wages fixed by the Government of Madhya Pradesh. The second party is also paying wages more than the wages payable in the like comparable industries in the region within which the industry of the second party is situated. The second party is not in such financial

position to bear any additional financial burden of increase in wages and other allowances as claimed by the first party. In the light of the above facts, there is no scope and propriety for increase in wages of the workers of the second party as claimed by the first party. The claim of the first party in respect of wage revision and other allowances is liable to be rejected.

4. That as regards the contents of Para-6 and 7 of the Statement of Claim, it is specifically denied that there is any justification and propriety for granting 15 days Casual Leave, 10 days Festival Holidays and 30 days Medical Leave as claimed by the first party in this para. It is denied that like comparable industries in the region are giving the benefits of 15 days Casual Leave, 10 days Festival Holidays and 30 days Medical Leave. It is denied that any hazards are involved in the undertaking. It will be appropriate to mention here that the provisions of Factories Act in respect of safety measures are being complied with. It will be relevant to mention here that the service condition of the employees of the second party are governed by the Madhya Pradesh Industrial Employment (Standing Orders) Rules, 1963. These standing orders make a provision for grant of Casual Leave @ 7 days per annum and Festival Holidays @ 5 days per annum. The second party is allowing to its employees the benefit of availing the aforesaid Casual Leave and Festival Holidays in accordance with the provisions of Standard Standing Orders. The facilities of leave statutorily provided in the Standard Standing Orders are very reasonable and the grant of more leave facilities will be unduly

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generous. This will definitely have adverse affect on the production also. As regards the medical leave of 30 days, no like comparable industry in the region is giving any medical leave. Even the Standard Standing Orders also do not provide for grant of any medical leave to the workers. Thus in consideration of the like comparable industries cum region basis there is no propriety of granting any medical leave to the workers. Moreover, the grant of such leave will not only be unduly generous, but it would also adversely affect the production also. Thus the claim of first party for grant of Casual Leave @ 15 days per annum, Festival Holidays @ 10 days per annum and Medical Leave @ 30 days per annum deserves to be rejected.

5. That the allegations made in Para-8 of the Statement of Claim have been incorrectly stated and hence denied. It is specifically noted that all the persons whose names find place in the list attached with the reference as well as the Statement of Claim had been employed by the second party. It will be appropriate to mention here that S/Shri Asha Das and Ramnath Deshpukh whose names appear at Sl. No. 1 & 4 respectively in the list attached with the reference had only been employed by the second party. The rest of the persons whose names appear in the list attached with the reference had never been employed by the second party. It will further be appropriate to state here that the second party has awarded the job contracts to different contractors for doing the job of fabrication, machining, assembly, painting, packing etc. It was the sole responsibility of the concerned contractors to engage

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their own labour/workers to carry out the contract work/job. It was also their responsibility to pay wages to such respective workers engaged by them. It was/are the respective contractors themselves who use to exercise the complete control and supervision over the workers engaged by them. The second party has nothing to do with the aforesaid functions of the contractors. Except S/Shri Ashim Das & Ramnath Deshmukh the rest of the persons detailed in both the list attached with the reference had never been employed by the second party. They may have been engaged by the contractors. It is within the specific knowledge of the concerned persons as to by which contractor they had been engaged. The respective contractors will be in a better position to clarify the names of the workers who may have been engaged by them in carrying out the contract work/job awarded to them. There did not exist privity of contract between the second party and such persons who may have been engaged by the contractors. The Government is not impleaded such contractors in the present reference. So the reference in respect of such persons other than S/Shri Ashim Das and Ramnath Deshmukh is incompetent as against the second party. The same is also liable to be dismissed and rejected for want of necessary parties.

6. That in reply to Para 9 of the Statement of Claim, it is stated that S/Shri Ashim Das & Ramnath Deshmukh had only been employed by the second party. As regards the rest of the persons, the position has been explained in Para 5 above of the Written Statement. They have never been employed by the second party. As regards Shri Ashim Das he had been

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Dismissed from service by order dated 20/01/92. for grave misconducts. He has expired on 01/07/92. Thus the reference in his respect is infructuous. As regards Shri Rannath Deshmukh, he is in the employment of the second party and is still continuing in service.

7. That the contents of Para-10 of the Statement of Claim need no reply.

8. That as regards the contents of Para-11, 12 & 13 of the Statement of Claim, it has already been asserted herein above that S/Shri Ashim Das & Rannath Deshmukh had only been employed by the second party. The correct position in respect of the above 2 employees has been given in the foregoing paras. The rest of the persons whose names are mentioned in the list attached with the reference had never been employed by the second party.

9. That in reply to Para 11 of the Statement of Claim, it is submitted that Shri Ashim Das had been dismissed from service by order dated 20/01/92. He has also expired on 01/07/92. Thus the reference in his respect has become infructuous. As regards Shri Rannath Deshmukh, he is in the employment of the second party and is continuing in his service. Thus the question of payment of any compensation to these persons does not arise. As already stated, the rest of the persons of the list attached with the reference have never been employed by the second party. They are, therefore, not entitled to any compensation as against the second party.

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10. That as regards the contents of Para-15 of the Statement of claim, these are vague, unspecific and lack in particulars and hence denied. The first party has not mentioned the names of the alleged junior workers who have been retained in service and are continuing in the employment of the second party. In absence of their names, it is not possible to deal with the allegations. The second party reserves the right to amend the Written Statement if the particulars are supplied by the first party.

11. That the allegations made in Para-16 of the Statement of Claim are denied. It is specifically denied that any action of the second party is illegal being in contravention of the provisions of relevant Act, 1960 and the standard standing orders.

12. That in reply to Para-17 of the Statement of Claim, it is submitted that Article-21 of the Constitution of India is not applicable. It is further submitted that Shri Ahim Das who was an employee of the second party had been dismissed from service by order dated 20/01/92. The other employee, Shri Rannath Dashmukh of the second party is in the employment of the second party. He is still continuing in service. The rest of the persons whose names appear in the list attached with the reference as well as Statement of Claim have never been employed by the second party. The correct position has been explained in the foregoing paras.

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13. That as regards the contents of Para-18 of the Statement of Claim, the correct position regarding the employees of the second party has been explained in the foregoing paras. It is denied that any action of the second party is illegal and unjustified.

14. That as regards the contents of Para-19 of the Statement of claim, it is stated that the provisions of Section-107A are not attracted. The correct position has been explained in the foregoing paras.

15. That the allegations made in Para-20 of the Statement of claim are denied. It is specifically denied that any workers of the second party is entitled to reinstatement with any benefits/wages/compensation. They are not entitled to any relief claimed by them.

16. That in reply to Para-21 of the Statement of claim, it is denied that the workers are starving. As regards Section 73B of the Act, 1960, it relates to its interpretation and need no reply. It is submitted that no delay has been caused by the second party at all. On the contrary, it is submitted that the first party is only responsible for the delay. It is pertinent to note that the Statement of claim by the first party has been filed on 12.09.95.

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17. That the allegations made in Para-22 of the Statement of Claim are denied being false and baseless. It is specifically denied that any action of the second party is illegal and unjustified. It is also denied that the second party has committed any act of high-handedness and any act amounting to colourable exercise of powers.

18. That the allegations made in Para-23 of the Statement of Claim are denied being false and useless. It is specifically denied in view of the facts stated herein above that any worker of the second party is entitled to any interim relief at all. Because the Government has no power to make any amendment in the original reference. The amendment made in the original reference for grant of interim relief is without jurisdiction and is incompetent. It is pertinent to note that in a list attached with the reference, the workers have been shown to be suspended. The request for interim relief, therefore, deserves to be rejected in limine.

19. That in reply to Para-24 of the Statement of Claim, it is specifically denied that the first party has been trying for mutual settlement and the second party did not cooperate. It is not disputed that the government had made the reference. It is further submitted that the second party has challenged the original reference made by the government. The second party has also challenged the order dated 7/31.7.1955 of the Government adding Item No.4 to the original reference. This has been challenged before the Hon'ble High Court at Indore in Writ Petition.



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20. That the first party as well as the workers of the second party are not entitled to any other relief claimed by them. The reference made by the Government is liable to be rejected. That the workers of the second party are usefully / gainfully employed elsewhere. They are, therefore, not entitled to any relief at all.

21. That it is submitted that in so far as issue No.3 & 4 are concerned the purported reference u/s 51 being in contravention of the mandatory provisions of Section 51 of the Act itself is liable to be rejected in limine. Further, it is pertinent to note that the first party at no point of time had raised a specific demand in that regard on the second party. Since there was no demand on second party at an relevant time there cannot be an industrial dispute as observed by their lordships of the Supreme Court in the matter of Sindhu Resettlement Corporation Ltd., and Industrial Tribunal, Gujarat and others.

22. That the claim raised by the first party in respect of cycle allowance, house rent allowance or accomodation in M.P. Housing Board and night shift allowance are beyond the scope of reference because no such specific points have been mentioned in the reference. The above points raised by the first party, therefore, do not deserve any consideration.

In view of the above, it is therefore, prayed that the reference made by the Government may kindly be rejected.

1955:

The second party begs leave to amend or add to or make alterations in the Written Statement if and when deemed necessary.

6.2.70

( SECOND PARTY )

Dated: ~~1955~~ 1955.

VERIFICATION

The second party does hereby declare that what is stated herein above is true to the best of his knowledge, belief and information.

Signed at Bhilai, this 20th day of December, 1955.

(COUNSEL FOR SECOND PARTY)

6.2.70

Dated: ~~1955~~ 1955.

## DEPARTMENT WORKER

SI. NO	WORKER'S NAME	FATHER'S NAME	JOINING AS PER RECORD	G R A D E S				SI. NO. IN THE LIST ATTACHED WITH THE REFERENCE	REMARKS
				(SK)	(SS)	(US)	TEMP		

1	ASHIM DAS	N. DAS	14/07/87			1		1	
2	RAMNATH DESHMUKH	PUNA RAM	12/10/90			1		4	

BEFORE THE STATE INDUSTRIAL COURT, MADHYA PRADESH BENCH: JABALPUR

CAMP: RAIPUR

Pragatisheel Engineering Shramik Sangh  
MIG-1/55, HUDCO Colony, Bhilai,  
Durg (M.P.)

... FIRST PARTY

Vs

Simplex Engineering & Foundry Works Ltd.,  
11, Industrial Estate,  
Bhilai (M.P.)

... SECOND PARTY

OLD REFERENCE NO. MPIR/2/93

NEW REFERENCE NO. MPIR/5/95

FIXED FOR ~~20.12.95~~ 6.2.96

WRITTEN STATEMENT BY THE SECOND PARTY

The second party respectfully submits the Written Statement as follows :

1. That the contents of Paras 1, 2 & 3 of the Statement of claim are matters of record and hence need no reply.

2. That the allegations made in Para 4 & 5 of the Statement of Claim are denied. It is specifically denied that the unskilled, semi-skilled and skilled workers of the second party are entitled to pay scale of Rs.2000-100-2500-3000-150-3750 and Rs.4000-200-5000 respectively as claimed by the first party. It is specifically denied that they are entitled to Dearness Allowance @ Rs.2/- per point linked with the All India Consumer Price Index, Shimla Series. It is further denied that the employees of the second party are entitled to Cycle Allowance @ Rs.100/- per month, House Rent Allowance @ Rs.200/- per month or accommodation in M.P. Housing Board and

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Night Shift Allowance @ Rs.10/- per night shift. It is also denied that hazards are involved in the undertaking. Moreover, such considerations are irrelevant in testing the issue. It is denied that no other fringe benefits are given to the workers of the second party. It is specifically denied that the pay scales, Dearness Allowance and other allowances claimed by the first party are just and proper and are available and allowed by the like comparable industries in the region within which the second party is situated.

It will be appropriate to stress here that the second party has been paying to its workers the wages in accordance with the recommendations of the Wage Board for Engineering Industries.

It will be relevant to stress here that the Metal & Engineering Workers Union is a registered Trade Union for the employees of the Engineering Industries for the local area of Durg District.

In the year 1990, a Notice of Change was given by the above Union for wage revision of the workers of the second party and for grant of some fringe benefits. As no agreement could be reached between the Union and the second party, the matter was ceased in conciliation. The settlement was arrived at in presence of the Assistant Labour Commissioner, Raipur. By this settlement dated 14.03.91 the wages of the workers of the second party were revised to their benefits and some fringe benefits were also added. This

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settlement was to continue in force for a period of 4 years. After the expiry of the period of 4 years, the above Union again gave a Notice of Change to the second party for revision of wage scale etc. By agreement dated 30.07.95 between the above Union and the second party, the wages of the workers of the second party have again been revised to their benefits and an increase has also been given in the fringe benefits with effect from 01.07.94. This agreement is effective and in force for 4 years. Thus substantial increase has been made in the wages / emoluments of the workers by virtue of the aforesaid settlement. The company, if required, shall rely on the said agreement at the appropriate time.

3. The Government of Madhya Pradesh has been issuing Notifications fixing the minimum rates of wages of the workers engaged in the Engineering Industries. The Irrigation Department and P.W. Department of the Government of Madhya Pradesh are also covered under Engineering Industries. The Government is paying to its workers engaged in the above industries the minimum wages fixed by the Government for Engineering Industry or at rates as Notified by the Collectors of the respective districts. The second party is paying much more wages than the minimum rate of wages fixed by the Government of Madhya Pradesh. The second party is also paying wages than the wages payable in the like comparable industries in the region within which the industry of the second party is situated. The second party is not in such financial position to bear any additional financial burden of increase in wages and other allowances as claimed by the first party. In the

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light of the above facts, there is no scope and propriety for increase in wages of the workers of the second party as claimed by the first party. The claim of the first party in respect of wage revision and other allowances is liable to be rejected.

4. That as regards the contents of Para-6 and 7 of the Statement of Claim, it is specifically denied that there is any justification and propriety for granting 15 days Casual Leave, 10 days Festival Holidays and 30 days Medical Leave as claimed by the first party in this para. It is denied that like comparable industries in the region are giving the benefits of 15 days Casual Leave, 10 days Festival Holidays and 30 days Medical Leave. It is denied that any hazards are involved in the undertaking. It will be appropriate to mention here that the provisions of Factories Act in respect of safety measures are being complied with. It will be relevant to mention here that the service condition of the employees of the second party are covered by the Madhya Pradesh Industrial Employment (Standing Orders) Rules, 1963. These standing orders make a provision for grant of Casual Leave @ 7 days per annum and Festival Holidays @ 5 days per annum. The second party is allowing to its employees the benefit of availing the aforesaid Casual Leave and Festival Holidays in accordance with the provisions of Standard Standing Orders. The facilities of leave statutorily provided in the Standard Standing Orders are very reasonable and the grant of more leave facilities will be unduly generous. This will definitely have adverse affect on the production also. As regards the medical leave of 30 days, no like comparable industry in the region is giving any medical

leave. Even the Standard Standing Orders also do not provide for grant of any medical leave to the workers. Thus in consideration of the like comparable industries cum region basis there is no propriety of granting any medical leave to the workers. Moreover, the grant of such leave will not only be unduly generous, but it would also adversely affect the production also. Thus the claim of first party for grant of Casual Leave @ 15 days per annum, Festival Holidays @ 10 days per annum and Medical Leave @ 30 days per annum deserves to be rejected.

5. That the allegations made in para-8 of the Statement of Claim have been incorrectly stated and hence denied. It is specifically denied that all the persons whose names are mentioned in the list attached with the reference as well as the Statement of Claim have been employed by the second party. It will be appropriate to stress here that the persons whose names are mentioned in Annexure-A of the Written Statement had only been employed by the second party. It will be further appropriate to mention here that the second party has awarded the job contract to different contractors for doing the job of fabrication, turning, machining, painting, packing etc. It was the sole responsibility of the concerned contractors to engage their own labour/workers to carry out the contract work/job. It was also their responsibility to pay wages/salaries to such respective employees engaged by them. It was/are the respective contractors themselves who use to exercise the complete control and supervisor over the workers engaged by them.



The second party has nothing to do with the aforesaid functions of the contractors. The rest of the workers detailed in both the list attached with the reference as well as statement of claim may have been engaged by the contractors. It is within the specific knowledge of the concerned persons as to by which contractor they had been engaged. The respective contractors will be in a better position to clarify the names of the workers who may have been engaged by them in carrying out the contract work/job awarded to them. There did not exist privity of contract between the second party and such persons who may have been engaged by the contractors. The Government has not impleaded such contractors in the present reference. So the reference of such persons other than the workers detailed in Annexure-A is incompetent as against the second party. The same is liable to be dismissed and rejected for want of necessary parties.

6. That in reply to para-9 of the Statement of Claim, it is stated that the persons whose names are mentioned in Annexure-A of the Written Statement had only been employed by the second party. As regards the rest of the persons, the position has been explained in Para-5 above of the Written Statement. They have never been employed by the second party.

7. That the contents of Para-10 of the Statement of Claim need no reply.

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8. That as regards the contents of Paras-11, 12 & 13 of the Statement of Claim, it is submitted that 3/Shri Govindram, Mahesh Shukla and Shiv Prasad whose names appearing at Sl.Nos. 10, 11 & 12 of Annexure-A and at Sl.Nos. 73, 47 & 74 of the list attached with the reference were issued separate charge sheets for grave misconducts. Enquiries were also held against them. They were found guilty in the enquiry and therefore, they have rightly been dismissed from service by orders dated 26/11/91, 21/09/91, 26/11/91 respectively.

As already stated that the persons whose names are mentioned in Annexure-A of the Written Statement had only been employed by the second party. The rest of the persons had never been employed by the second party.

As regards the persons detailed in Annexure-A of the Written Statement, it is submitted that the factory works in 2 shifts, i.e. A-shift and B-shift. A-shift commences from 7.00 AM and ends at 3.30 PM. B-shift starts from 3.30 PM and ends at 12.00 in the night. The employees of both the shifts have lunch interval from 11.00 AM to 11.30 AM and 7.00 PM to 7.30 PM respectively.

By order dated 22.12.90, Shri M.H.Khan, Machinst had been dismissed from service by the company on account of serious misconduct enumerated in the above order. The above order was given to Shri M.H.Khan, who after reading the same refused to accept the same and returned it back. The order was sent by registered post.

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On 23.12.90 S/Shri Keshav Das, Ram Ashray, B.R. Yadav and Govardhan Behera alongwith some other workers of "A" Shift gathered in front of the entrance gate of the factory and instigated all the workers of "A" Shift not to enter the factory premises and attend to their duties and do their respective jobs until and unless the dismissal order of Shri M.H. Khan is withdrawn by the Company. Shri M.H. Khan also accompanied them. Thus the above mentioned 4 workers and all other workers of "A" shift acting in a concerted manner and under a common understanding did not report for duty and totally ceased the work in consequence of their demand of withdrawing the dismissal order of Shri M.H.Khan. The aforesaid 4 workers and all other workers of "A" shift resorted to strike on 23.12.90 from 7.30 AM which is illegal being in contravention of the provisions of law and without giving any prior notice to the management. On 23.12.90 S/Shri Ram Anwar Prasad, Shiv Kumar Singh, Arun Choudhary and D.K.Dutta joined hands with S/Shri Keshav Das, Ram Ashray, B.L.Yadav and Govardhan Behera and all the aforesaid 8 workers instigated the workers of "B" Shift not to enter the factory premises and start their respective jobs. Thus S/Shri Shiv Kumar Singh, Arun Choudhary, B.K.Dutta and other workers of "B" Shift acting in a concerted manner and under a common understanding also had not reported for duty and thereby ceased their work and joined the strike. These four workers of "B" shift above named were also raising slogans that till the dismissal order of Shri M.H.Khan is withdrawn, no worker shall perform their duty. Thus there was total cessation of work in both the shifts. The aforesaid cessation of work by the above mentioned 8 workers and other workers of "A" Shift and "B" Shift

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amounts to strike which is illegal being resorted to in contravention of the provisions of law. These 8 workers are shown at Sl. Nos. 1 to 8 of the Annexure-A.

The second party had advised the workers that the dismissal order of Shri M.H.Khan is quite legal and justified on account of serious misconducts committed by him and the above mentioned 8 persons and other workers should not take drastic steps of going on and continuing the aforesaid illegal strike. But all the efforts of the management in persuading them to call off the strike and resume their duties went futile. The Management has pasted notices on the notice board calling upon the striking workers including the above mentioned 8 persons abstaining from continuing the illegal strike, but in vain. Notice dated 11.02.91 was also sent for publication which was published in the Daily Deshbandhu dated 12.02.91 advising the striking workers to call off the illegal strike and resume their duties. On the contrary the above 8 persons had been instigating the workers to continue the strike till the above referred demand is satisfied by the management. They had also been threatening the willing workers of dire consequence if they did not continue the strike. They had also been causing obstructions to the willing workers from going inside the factory premises.

Thus it will be seen that the second party had been making sincere efforts in persuading the striking workers to call off their strike and resume their duties, but none of the persons mentioned in Annexure-A resumed their

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duty and have not turned up for duty at all except S/Shri B.N.Raju and P.Padmanabhan Rao. Thus they have voluntarily and of their own accord relinquished and severed their contract of employment. Under the circumstances, there was no necessity of issuing any charge sheet, holding any enquiry and passing of any order. It is further submitted that Shri M.H.Khan whose name appears at Sl.No.207 of the list attached with the reference has been given fresh appointment w.e.f. 18.01.92 and he is still continuing in service. It is further submitted that S/Shri B.N.Raju and P. Padmanabhan Rao at Sl.No.202 and 119 of the list attached with the reference had reported for duty on 03.01.91 and 10.02.92 respectively. They are still continuing in service. The persons whose names appear at Sl. Nos. 42, 36, 43, 38 & 141 of the list attached with the reference and at Sl.No. 2, 3, 5, 13 & 14 in Annexure-A have taken their final payments also.

It is submitted that the then striking employees never withdrew their illegal and unjustified strike and continued to persist in the wrong without caring whatsoever as to what would happen to the second party. The entire work of the second party at factory was paralyzed. The second party was put into perplexing situation and predicament for no fault on its part. The second party was not in a position to run the factory. It made repeated appeals to the then striking employees to withdraw their strike and resume duties but repeated genuine appeals of the second party had no effect whatsoever on the then striking employees who continued their strike at the instigation of certain vested interests. Not only

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this but some of the striking employees had also indulged in the acts of violence and other unlawful activities and as such the second party for no fault on its part was unable to run its factory. Those who were prepared to work were also not allowed and they were stopped by the then striking employees and fearing the consequences they were also not reporting for duties. After making repeated appeals and even giving newspapers publications the then striking employees did not withdraw their illegal & unjustified strike and also did not report for duties. Under the circumstances, the second party could not wait for indefinite period and since there was no other option before the second party but to run its factory that being the constitutional right of the second party, the second party with the help of non-striking employees somehow managed to run its factory. Thus it would be seen that for no fault on the part of the second party, the second party has been dragged into the problems by the first party. Since the concerned striking employees did not withdraw their illegal and unjustified strike even after the declaration by the competent authority and since they did not obey the Interim order No. 128/MPWR 90 dated 27.12.90 passed by Presiding Officer, Labour Court, Buzg, who had in his order Interalia prohibited the striking workers from continuing the strike, and in view of the fact that they continued their illegal and unjustified strike unabated, and in view of the fact that they did not resume on duties inspite of the repeated requests their action is nothing but voluntary relinquishment of the services and in view of the facts and the circumstances mentioned herein above this Honourable Court be pleased to treat the action on the part of the then striking employees as an act of voluntary relinquishment and severing of contract of employment of their

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9. That in reply to Para-14 of the Statement of Claim, it is submitted that S/Shri Govindram, Mahesh Shukla & Shiv Prasad have been dismissed from service after holding enquiry. Shri M.H.Khan has been given fresh appointment with effect from 18.01.92 and he is still continuing in service. It is further submitted that S/Shri B.N.Raju & P.Padmanabhan Rao have reported for duty on 03.01.91 and 10.02.91 respectively. They are still continuing in service. The rest of the employees of the second party whose names are mentioned in Annexure-A have voluntarily and of their own accord relinquished and severed their contract of employment as mentioned in detail herein above and they are not entitled to any compensation. It is further stated that S/Shri Ram Ashray, Govardhan Bahara, Shiv Kanai Singh, .I.P. Vijayan Pillai & N.M.Ansari, whose names appear at Sl.Nos. 42, 36, 43, 38 & 141 of the list attached with the reference and at Sl.Nos. 2, 3, 5, 13 & 14 in Annexure-A have taken their final payment also.

10. That as regards the contents of Para-15 of the Statement of claim, these are vague, unpecific and lack in particulars and hence denied. The first party has not mentioned the names of the alleged junior workers who have been retained in service and are continuing in the employment of the second party. In absence of their names, it is not possible to give proper reply. The second party reserves the right to amend the Written Statement if the particulars are supplied by the first party.

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11. That the allegations made in Para-16 of the Statement of Claims are denied. It is specifically denied that any action of the second party is illegal being in contravention of the provisions of relevant act, 1960 and the standard standing orders.

12. That the allegations made in Para-17 of the Statement of Claim have been incorrectly stated and hence denied. It is specifically denied that the provisions of Article 21 of the Constitution of India are applicable. The employees of the second party whose names are mentioned in Annexure-A are themselves responsible for relinquishing their services as detailed in the Written Statement except the 3 employees who have been dismissed from service. It is specifically denied that all the workers of Annexure-A have completed 240 days service. It will be appropriate to mention here that the workers whose names are mentioned at Sl.Nos. 16, 17 and 18 in Annexure-A and at Sl. Nos. 35, 41 and 49 in the list attached with the reference have not actually worked for 240 days as alleged in this para. The first party is called upon to strict proof of the same.

13. That the allegations made in Para-18 of the Statement of Claim have been incorrectly stated and hence denied. It is specifically denied that the workers of the second party were always willing to work as alleged in this para. It is also denied that they have been deprived from work. It will not be out of place to mention here that the second party have been calling upon and pursuing the striking workers to call



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off the illegal strike resorted to by them with effect from 23.12.59 and join their duty. Despite the efforts of the second party the workers did not resume their duty at all. Thus the workers voluntarily and of their own accord have relinquished their services for which they are themselves responsible.

14. That in reply to Para-19 of the Statement of Claim, it is submitted that the provisions of Section 107-A of the MPR Act cannot be attracted and applied in the present case. Because they have resorted to illegal strike and instigated and incited the workers to go on strike. They also had obstructed the willing workers from attending their duty. The strike resorted to by the workers is illegal being without any prior notice and without following the procedure prescribed under law.

15. That the allegations made in Para-20 of the Statement of Claim are denied. It is specifically denied that the workers of the second party are entitled to reinstatement alongwith benefits / wages / compensation. As already stated, the workers of the second party have voluntarily of their own accord relinquished their services. So they are not entitled to any of the relief claimed by them.

In the light of the above facts, the workers of the second party are not entitled to any relief at all.

16. That in reply to Para-21 of the Statement of Claim, it is denied that the workers are starving. They must be usefully / gainfully employed elsewhere. As regards Section-78-B of the Act, it relates to its interpretation and need no reply. It is further submitted that no delay has been caused by the second party. The first party has filed the Statement of Claim on 12.09.95. Thus the first party himself is responsible for delay.

17. That the allegations made in Para-22 of the Statement of Claim are denied. It is specifically denied that any action of the second party is illegal and unjustified. It is also denied that the second party has committed any act of high-handedness and colourable exercise of powers. The act of high-handedness and any have been adopted by the workers of the second party as detailed in the Written Statement.

18. That the allegations made in Para-23 of the Statement of Claim are denied. It is specifically denied that in view of the facts stated herein above, any worker of the second party is entitled to any interim relief at all. Because the Government has no power to make any amendment in the original reference. The amendment made in the original reference for grant of interim relief is without jurisdiction and is incompetent. They are further not entitled to interim relief because in the list attached with the reference, the workers of the second party have been shown to be suspended and not terminated from services. The request for interim relief, therefore, deserves to be rejected.

19. That in reply to Para-24 of the Statement of Claim, it is specifically denied that the first party has been trying for mutual settlement and the second party did not cooperate. It is not disputed that the government had made the reference. It is further submitted that the second party has challenged the original reference made by the Government in respect of the so called termination of the services of the workers. The second party has also challenged the order dated 27/31.7.1995 of the Government adding Item No.4 of the original reference. This has been challenged before the Hon'ble High Court at Indore in Writ Petition No.1231/95.

20. That the first party as well as the workers of the second party are not entitled to any other relief claimed by them. The reference made by the Government is liable to be rejected. The workers of the second party are usefully / gainfully employed elsewhere. They are, therefore, not entitled to any relief at all.

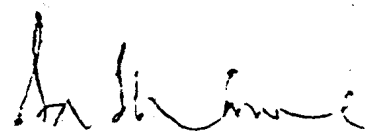
21. That it is submitted that in so far as issue No.3 & 4 are concerned the purported reference u/s 51 being in contravention of the mandatory provisions of Section 51 of the Act itself is liable to be rejected in limine. Further, it is pertinent to note that the first party at no point of time had raised a specific demand in that regard on the second party. Since there was no demand on second party at any relevant time there cannot be an industrial dispute as observed by their lordships of the Supreme Court in the matter of Sindhu Resettlement Corporation Ltd., and Industrial Tribunal, Gujarat and others.

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22. That the claim raised by the first party in respect of cycle allowance, house rent allowance or accomodation in M.P. Housing Board and night shift allowance are beyond the scope of reference because no such specific points have been mentioned in the reference. The above points raised by the first party, therefore, do not deserve any consideration.

In view of the above, it is therefore, prayed that the reference made by the Government may kindly be rejected.

The second party begs leave to amend or add to or make alterations in the Written Statement if and when deemed necessary.



( SECOND PARTY )

6.2.96

Dated: The ~~20th day of December, 1995~~

VERIFICATION

The second party does hereby declare that what is stated herein above is true to the best of his knowledge, belief and information.

Signed at Bhilai, this 20th day of December, 1995.

(COUNSEL FOR SECOND PARTY)

6.2.96

Dated: The ~~20th day of December, 1995~~

ANNEXURE - A

DEPARTMENT WORKERS

WORKER'S NAME	FATHER'S NAME	JOINING AS PER RECORD	G R A D E S				SI. NO. IN THE LIST ATTACHED WITH THE REFERENCE
			(SK)	(SS)	(US)	TEMP	
KESHAV DAS	DHANI RAM	01/05/87		1			33
RAMAGRA (B)	GHURAHU	15/11/77	1				42
GOVERTHAN BEHRA	MATIHAV BEHRA	16/11/87	1				36
RAMATI HAR PRASAD	PARMHWAR	01/05/87	1				34
SHIVKAMAL SINGH	MARKANDE SINGH	01/09/82			1		43
ARUN CHOUDHARY	DEEPCHAND CHOUDHARY	17/06/83		1			48
B. N. RATU	B. S. RAJU	05/03/87	1				202
M. H. KHAN	KAYYAM ALI	01/01/89	1				207
PADINARH RAO (B)	K. SUBBARAO	01/06/87		1			119
GOVIND RAM (B)	SHYAM LAL	01/05/87			1		73
MAHESH SHUKLA (B)	RAMPRASAD	01/09/85		1			47
SHIV PRASAD (B)	DASHRATH PRASAD	01/05/87			1		74
K. P. U. PILLAI	P. PILLAI	01/01/89	1				38
N. M. ANSARI	K. B. ANSARI	01/10/88	1				141
ANJUL HAQUE	MAHBOOB	01/07/82	1				45
MANGAL DALAT	S. DALAT	01/12/90			1		75
RAMPRATAP SAHU	CHINTA RAM	02/03/90		1			41
L. R. DEWANGAN	TEJ RAM	02/08/90			1		49

*[Handwritten signature]*

BEFORE THE STATE INDUSTRIAL COURT, MADHYA PRADESH BENCH: JABALPUR

CAMP: RAIPUR

Pragatisheel Engineering Shramik Sangh  
M13-1/55, RUCCO Colony, Bhillai,  
Durg (M.P.)

... FIRST PARTY

Vs

Simplex Engineering & Foundry Works Ltd.,  
Unit-III,  
Tedesara, Rajnandgaon,  
(M.P.)

... SECOND PARTY

OLD REFERENCE NO. 3/MP/IR/93

NEW REFERENCE NO. 6/MP/IR/95

FIXED FOR ~~6.2.96~~ 6.2.96

WRITTEN STATEMENT BY THE SECOND PARTY

The second party respectfully submits the Written Statement as follows:

1. That the contents of Paras 1, 2 & 3 of the Statement of claim are matters of record and hence need no reply.

2. That the allegations made in Para 4 & 5 of the Statement of Claim are denied. It is specifically denied that the unskilled, semi-skilled and skilled workers of the second party are entitled to pay scale of Rs.2000-100-2500-3000-150-3750 and Rs.4000-200-5000 respectively as claimed by the first party. It is specifically denied that they are entitled to Dearness Allowance @ Rs.2/- per point linked with the All India Consumer Price Index, Shimla Series. It is further denied that the employees of the second party are entitled to Cycle Allowance @ Rs.100/- per month, House Rent Allowance @ Rs.200/- per month or accommodation in M.P. Housing Board and

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Night Shift Allowance @ Rs.10/- per night shift. It is also denied that hazards are involved in the undertaking. Moreover, such considerations are irrelevant in testing the issue. It is denied that no other fringe benefits are given to the workers of the second party. It is specifically denied that the pay scales, Dearness Allowance and other allowances claimed by the first party are just and proper and are available and allowed by the like comparable industries in the region within which the second party is situated.

It will be appropriate to stress here that the second party has been paying to its workers the wages in accordance with the recommendations of the Wage Board for Engineering Industries.

It will be relevant to stress here that the Metal & Engineering Workers Union is a registered Trade Union for the employees of the Engineering Industries for the local area of Durg District.

In the year 1990, a Notice of Change was given by the above Union for wage revision of the workers of the second party and for grant of some fringe benefits. As no agreement could be reached between the Union and the second party, the matter was taken up in conciliation. The settlement was arrived at in presence of the Assistant Labour Commissioner, Raipur. By this settlement dated 14.03.1991. The wages of the workers of the second party were revised to their benefits and some fringe benefits were also added. This

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settlement was to continue in force for a period of 4 years. After the expiry of the period of 4 years, the above Union again gave a Notice of Change to the second party for revision of wage scale etc. By agreement dated 30.07.95 between the above Union and the second party, the wages of the workers of the second party have again been revised to their benefits and an increase has also been given in the fringe benefits with effect from 01.07.94. This agreement is effective and in force for 4 years. Thus substantial increase has been made in the wages / allowances of the workers by virtue of the aforesaid settlement. The Company if required shall refer to the said agreement at the appropriate time.

3. The Government of Madhya Pradesh has been issuing Notifications fixing the minimum rates of wages of the workers engaged in the Engineering Industries. The Irrigation Department and P.W. Department of the Government of Madhya Pradesh are also covered under Engineering Industries. The Government is paying to its workers engaged in the above industries the minimum wages fixed by the Government for Engineering Industry or at rates as Notified by the Collectors of the respective districts. The second party is paying much more wages than the minimum rate of wages fixed by the Government of Madhya Pradesh. The second party is also paying wages more than the wages payable in the like comparable industries in the region within which the industry of the second party is situated. The second party is not in such financial position to bear any additional financial burden of increase in wages and other allowances as claimed by the first party. In the



light of the above facts, there is no scope and propriety for increase in wages of the workers of the second party as claimed by the first party. The claim of the first party in respect of wage revision and other allowances is liable to be rejected.

4. That as regards the contents of Para-6 and 7 of the Statement of Claim, it is specifically denied that there is any justification and propriety for granting 15 days Casual Leave, 10 days Festival Holidays and 30 days Medical Leave as claimed by the first party in this para. It is denied that like comparable industries in the region are giving the benefits of 15 days Casual Leave, 10 days Festival Holidays and 30 days Medical Leave. It is denied that any hazards are involved in the undertaking. It will be appropriate to mention here that the provisions of Factories Act in respect of safety measures are being complied with. It will be relevant to mention here that the service condition of the employees of the second party are governed by the Madhya Pradesh Industrial Employment (Standing Orders) Rules, 1953. These standing orders make a provision for grant of Casual Leave @ 7 days per annum and Festival Holidays @ 5 days per annum. The second party is allowing to its employees the benefit of availing the aforesaid Casual Leave and Festival Holidays in accordance with the provisions of Standard Standing Orders. The facilities of leave statutorily provided in the Standard Standing Orders are very reasonable and the grant of more leave facilities will be unduly generous. This will definitely have adverse affect on the production also. As regards the medical leave of 30 days, no like comparable industry in the region is giving any medical

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leave. Even the Standard Standing Orders also do not provide for grant of any medical leave to the workers. Thus in consideration of the like comparable industries on region basis there is no propriety of granting any medical leave to the workers. Moreover, the grant of such leave will not only be unduly generous, but it would also adversely affect the production also. Thus the claim of first party for grant of Casual Leave @ 15 days per annum, Festival Holidays @ 10 days per annum and Medical Leave @ 20 days per annum deserves to be rejected.

5. That the allegations made in Para-2 of the Statement of Claim have been incorrectly stated and hence denied. It is specifically denied that all the persons whose names are mentioned in the list attached with the reference as well as the Statement of Claim had been employed by the second party. It will be appropriate to mention here that the persons whose names appear in Appendix-A of the Written Statement had only been employed by the second party. It will be further appropriate to state here that the second party has awarded the job contracts to different contractors for doing the job of fabrication, machining, assembly, painting, packing etc. It was the sole responsibility of the concerned contractors to engage their own labour/workers to carry out the contract work/job. It was also their responsibility to pay wages/salaries to such respective employees engaged by them. It was/are the respective contractors themselves who use to exercise the complete control and supervision over the workers engaged by them. The second party has nothing to do with the aforesaid functions of the

Contractors. The rest of the workers detailed in both the list attached with the reference as well as the Statement of Claim may have been engaged by the contractors. It is within the specific knowledge of the concerned persons as to by which contractor they had been engaged. The respective contractors will be in a better position to clarify the names of the workers who may have been engaged by them in carrying out the contract work/job awarded to them. There did not exist privity of contract between the second party and such persons who may have been engaged by the contractors. The Government has not impleaded such contractors in the present reference. So the reference in respect of such persons other than the workers detailed in Annexure-A is incompetent as against the second party. The same is also liable to be dismissed and rejected for want of necessary parties.

5. That in reply to Para 9 of the Statement of Claim, it is stated that the persons whose names are mentioned in Annexure-A of the Written Statement had only been employed by the second party. As regards the rest of the persons, the position has been explained in Para-5 above of the Written Statement. They have never been employed by the second party.

7. That the contents of Para-10 of the Statement of Claim need no reply.

8. That as regards the contents of Para-11, 12 & 13 of the Statement of Claim, it has already

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asserted herein above that the persons whose names are listed in Annexure-A of the Written Statement had only been employed by the second party. The rest of the persons have never been employed by the second party.

As regards the persons detailed in Annexure-A of the Written Statement, it is submitted that on 20.11.90, the then employees namely S/Shri Ashok Chiratkar, Shiv Shankar Vishwakarma, Devlal Sahu and Krishna Singh met with the General Manager of the second party and put forth the demands for revision of wage structure, free medical treatment, introduction of incentive bonus scheme, Bonus and loan for construction of house etc. The company could not have agreed with the exorbitant demands and explained to them that the company was not in a position to bear the financial burden. On 20.11.90 the then employees of the company reported for their duty as usual at 8.00 A.M. However, after reporting for their duties the aforesaid 5 persons collected the workers within the factory premises and told them that they have met the General Manager and put forth the demands regarding revision of wages and instigated them saying that the General Manager had agreed to concede to their demands. Thereafter they instigated their workers of the second party not to resume their respective jobs until and unless their above demands are agreed to by the management. Thereafter, the aforesaid 5 persons and other employees of the second party, acting in a concerted manner for a common understanding did not resume their respective work and came out of the factory premises at about 8.45 AM.

They gathered in front of the factory gate and addressed the gathering of the workers. They instigated the workers not to resume their respective jobs/works until and unless their demands are satisfied. They also indulged in various unlawful activities such as filthy slogans, threatening the willing workers not to resume duty etc. as mentioned in detail in the application made before the Hon'ble Labour Court at Rajnandgaon. Thus the aforesaid 5 persons and other employees of the second party had resorted to strike which is illegal being in contravention of the provision of MPR Act, 1960 and also without giving prior notice.

The management has pasted notices on the Notice Board calling upon the striking workers including the above 5 persons advising them to desist from continuing the illegal strike but in vain. Various notices dated 20.11.90, 22.11.90, 23.11.90, 25.11.90, 26.11.90, 01.12.90, 06.12.90, 12.12.90, 15.12.90, 26.03.91, 25.04.91, 14.05.91, 25.06.91 and 26.07.91 were pasted on the Notice Board advising the striking workers to withdraw the illegal and unjustified strike and resume their duties, but to no effect. On the contrary, the above 5 persons have been instigating the workers to continue the strike till their above referred demands were satisfied by the management. They had also been threatening the willing workers of dire consequence if they did not participate in the strike. They had also been causing obstructions to the willing workers from going inside the factory premises.

The application under Section-80 read with Section-61 of the MPIR Act, 1960 was filed in the Labour Court at Rajnandgaon on 21.01.91 for declaration of the strike as illegal. An application under Section-107 of the Act, 1960 was also presented alongwith the main application on the same day, i.e. 21.01.91. By Interim Order dated 20.03.91, the Presiding Officer of Labour Court, Rajnandgaon restrained the persons whose names are mentioned in Annexure-A and other striking employees from continuing the strike and directed them to resume their work. They were also directed not to instigate any worker from going on duty and further not to cause any obstruction to the willing workers from going on duty. A notice dated 26.03.91 was also pasted on the Notice Board of the establishment with copies to various authorities mentioning therein about the Interim Order dated 20.03.91 passed in Case No. 3/MPIR/91 by the Labour Court, Rajnandgaon. A copy of the order dated 21.03.91 was also attached with the notice pasted on the Notice Board on 26.03.91. A copy of the notice dated 26.03.91 was also sent to daily newspaper Nav Bharat which was published therein. Despite the above notice pasted on the Notice Board on 26.03.91 and its publication in the Daily Nav Bharat, the workers whose names are mentioned in Annexure-A and other striking employees did not resume their duties and continued the strike. Thereafter also various notices as mentioned above were displayed on the Notice Board calling upon the striking workers to call off the strike and resume their duties. Individual notices were also sent to all the persons mentioned in Annexure-A through registered post with A/D at their

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addresses given by them. These registered covers were received back "Undelivered". Thus it will be seen that the second party has been making efforts calling upon the striking employees to call off their strike and resume their duties from time to time, but none resumed their duties and have not turned up for duty at all. Thus the concerned have voluntarily and of their own accord relinquished and severed their contract of employment.

It is submitted that the then striking employees never withdrew their illegal and unjustified strike and continued to persist in the wrong without caring whatsoever as to what would happen to the second party company. The entire work of the second party at its factory was paralyzed. The Company was put into perplexing situation and predicament for no fault on its part. The Company was not in a position to run the factory. It made repeated appeals to the then striking employees to withdraw their strike and resume duties but repeated genuine appeals of the Company had no effect whatsoever on the then striking employees who continued their strike at the instigation of certain vested interests. Not only this but some of the striking employees had also indulged in the acts of violence and other unlawful activities and as such the second party for no fault on its part was unable to run its factory. Those who were prepared to work were also not allowed and they were stopped by the then striking employees and fearing the consequences they were also not reporting for duties. After making repeated appeals and even giving newspapers publications the then striking employees did not withdraw their illegal &

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unjustified strike and also did not report for duties. Under the circumstances after waiting for a prolonged period and since there was no other option before the second party company but to run its factory that being the constitutional right of the second party, the second party with the help of non-striking employees somehow managed to run its factory. Thus it would be seen that for no fault on the part of the second party, the second party has been dragged into the problems by the first party. Since the concerned the then striking employees did not withdraw their illegal and unjustified strike even after the declaration by the competent authority and since they did not obey the interim order of the Honourable Court who had in his order interalia prohibited the striking workers from continuing the strike, and in view of the fact that they continued their illegal and unjustified strike unabated, and in view of the fact that they did not resume on duties inspite of the repeated requests and in view of the facts and the circumstances mentioned herein above this Honourable Court be pleased to treat the action on the part of the then striking employees as an act of voluntary relinquishment and severance of contract of employment by themselves.

It is further submitted that S/Shri Krishna Prasad Singh, Dev Lal Sahu, Shiv Shankar Prasad & Madan Rai, had reported for duty subsequently. They are still continuing in service.

As regards Shri Ashok Chiratkar, he has been dismissed from service by order dated 15.11.91 for grave misconducts as charges were proved against him in the



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9. That in reply to Para 14 of the Statement of Claim, it is submitted that Shri Ashok Chiratkar at Sl.No.1 of Annexure-A has been dismissed from service by order dated 15.11.91 for grave misconducts. The other two persons S/Shri Madan Rai and Shiv Shankar at Sl.No. 2 & 3 of Annexure-A had reported for duty and are still continuing in service. Thus they are not entitled to any compensation etc.

10. That as regards the contents of Para-15 of the Statement of claim, these are vague, unspecific and lack in particulars and hence denied. The first party has not mentioned the names of the alleged junior workers who have been retained in service and are continuing in the employment of the second party. In absence of their names, it is not possible to deal with the allegations. The second party reserves the right to amend the Written Statement if the particulars are supplied by the first party.

11. That the allegations made in Para-16 of the Statement of Claim are denied. It is specifically denied that any action of the second party is illegal being in contravention of the provisions of relevant Act, 1960 and the standard standing orders.

12. That in reply to Para-17 of the Statement of Claim, it is submitted that Article-21 of the Constitution of India is not applicable. It is further submitted that Shri Ashok Chratkar has been dismissed from service. S/Shri Madan Rai & Shiv Shankar Prasad had reported for duty and they

are still continuing in service. The rest of the persons whose names appear in the list attached with the reference as well as Statement of Claim have never been employed by the second party. The correct position has been explained in the foregoing paras.

13. That as regards the contents of Para-18 of the Statement of Claim, the correct position regarding the employees of the second party whose names appear in Annexure-A has been explained in the foregoing paras. It is denied that any action of the second party is illegal and unjustified. the rest of the persons whose names appear in the list attached with the reference and Statement of Claim have never been employed by the second party.

14. That as regards the contents of Para-19 of the Statement of claim, it is stated that the provisions of Section-107A are not attracted. The correct position has been explained in the foregoing paras.

15. That the allegations made in Para-20 of the Statement of claim are denied. It is specifically denied that any workers of the second party is entitled to reinstatement with any benefits/wages/compensation. They are not entitled to any relief claimed by them.

16. That in reply to Para-21 of the Statement of claim, it is denied that the workers are starving. As regards Section 78B of the Act, 1960, it relates to its interpretation and need no reply. It is submitted that no

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delay has been caused by the second party at all. On the contrary, it is submitted that the first party is only responsible for the delay. It is pertinent to note that the Statement of Claim by the first party has been filed on 12.01.95.

17. That the allegations made in Para-22 of the Statement of Claim are denied being false and baseless. It is specifically denied that any action of the second party is illegal and unjustified. It is also denied that the second party has committed any act of high-handedness and any act amounting to culpable exercise of powers. The act of high-handedness and any have been adopted by the workers of the second party as detailed hereinafter in this written statement.

18. That the allegations made in Para-23 of the Statement of Claim are denied being false and useless. It is specifically denied in view of the facts stated herein above that any worker of the second party is entitled to any interim relief at all. Because the Government has no power to make any amendment in the original reference. The amendment made in the original reference for grant of interim relief is without jurisdiction and is incompetent. It is pertinent to note that in a list attached with the reference, the workers have been shown to be suspended. The request for interim relief, therefore, deserves to be rejected in limine.

19. That in reply to Para-24 of the Statement of Claim, it is specifically denied that the first party has been trying for mutual settlement and the second party

did not cooperate. It is not disputed that the government had made the reference. It is further submitted that the second party has challenged the original reference made by the Government. The second party has also challenged the order dated 27/31.7.1995 of the Government adding Item No.4 to the original reference. This has been challenged before the Hon'ble High Court at Indore in Writ Petition No.1231/95.

20. That the first party as well as the workers of the second party are not entitled to any other relief claimed by them. The reference made by the Government is liable to be rejected. That the workers of the second party are usefully / gainfully employed elsewhere. They are, therefore, not entitled to any relief at all.

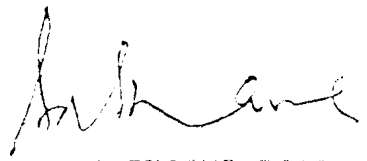
21. That it is submitted that in so far as issue No.3 & 4 are concerned the purported reference u/s 51 being in contravention of the mandatory provisions of Section 51 of the Act itself is liable to be rejected in limine. Further, it is pertinent to note that the first party at no point of time had raised a specific demand in that regard on the second party. Since there was no demand on second party at any relevant time there cannot be an industrial dispute as observed by their lordships of the Supreme Court in the matter of Sindhu Resettlement Corporation Ltd., and Industrial Tribunal, Gujarat and others.

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22. That the claim raised by the first party in respect of cycle allowance, house rent allowance or accomodation in M.P. Housing Board and night shift allowance are beyond the scope of reference because no such specific points have been mentioned in the reference. The above points raised by the first party, therefore, do not deserve any consideration.

In view of the above, it is therefore, prayed that the reference made by the Government may kindly be rejected.

The second party begs leave to amend or add to or make alterations in the Written Statement if and when deemed necessary.



(SECOND PARTY)

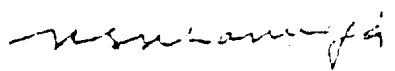
6.2.96

Dated: ~~20th day of December, 1995~~

VERIFICATION

The second party does hereby declare that what is stated herein above is true to the best of his knowledge, belief and information.

Signed at Bhilai, this 20th day of December, 1995.



(COUNSEL FOR SECOND PARTY)

6.2.96

Dated: ~~20th day of December, 1995~~

ANNEXURE - A

DEPARTMENT WORKER

WORKER'S NAME	FATHER'S NAME	JOINING AS PER RECORD	G R A D E S				SI. NO. IN THE LIST ATTACHED WITH THE REFERENCE	REMARK
			(SK)	(SS)	(US)	TEMP		
K CHIRATKAR	NARAYAN	01/09/90		1			145	
V RAI	AJEET KUMAR RAI	15/12/88		1			98	
SHANKAR	RANGLAL	17/12/87		1			69	

*[Handwritten Signature]*

CAMP RAIPUR

Pragatishil Engineering Shramik Sangh  
MIG-1/55, HJOCO Colony, Bhilai,  
Durg (M.P.)

... FIRST PARTY

Vs

Simplex Castings Limited  
5, Industrial Estate  
Bhilai (M.P.)

... SECOND PARTY

OLD REFERENCE NO. MPIR 14/93

NEW REFERENCE NO. MPIR 13/95

2.2.96

FIXED FOR ~~2002-03~~

WRITTEN STATEMENT BY THE SECOND PARTY

The second party respectfully submits the Written Statement as follows :

1. That the contents of Paras 1, 2 & 3 of the Statement of claim are matters of record and hence need no reply.

2. That the allegations made in Para 4 & 5 of the Statement of Claim are denied. It is specifically denied that the unskilled, semi-skilled and skilled workers of the second party are entitled to pay scale of Rs.2000-100-2500-3000-150-3750 and Rs.4000-200-5000 respectively as claimed by the first party. It is specifically denied that they are entitled to Dearness Allowance @ Rs.2/- per point linked with the All India Consumer Price Index, Shimla Series. It is further denied that the employees of the second party are entitled to Cycle Allowance @ Rs.100/- per month, House Rent Allowance @

Rs.200/- per month or accommodation in M.P. Housing Board and Night Shift Allowance @ Rs.10/- per night shift. It is also denied that hazards are involved in the undertaking. Moreover, such considerations are irrelevant in deciding the issue. It is denied that no other fringe benefits are given to the workers of the second party. It is specifically denied that the pay scales, Dearness Allowance and other allowances claimed by the first party are just and proper and are available and allowed by the like comparable industries in the region within which the second party is situated.

It will be appropriate to stress here that the second party has been paying to its workers the wages in accordance with the recommendations of the Wage Board for Engineering Industries.

It will be relevant to stress here that the Metal & Engineering Workers Union is a registered Trade Union for the employees of the Engineering Industries for the local area of Durg District.

In the year 1990, a Notice of Change was given by the above Union for wage revision of the workers of the second party and for grant of some fringe benefits. As no agreement could be reached between the Union and the second party, the matter was taken up in conciliation. The settlement was arrived at in presence of the Assistant Labour Commissioner, Raipur. By this settlement dated 14.03.91 the wages of the workers of the second party were revised to their



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benefits and some fringe benefits were also added. This settlement was to continue in force for a period of 4 years. After the expiry of the period of 4 years, the above Union again gave a Notice of Change to the second party for revision of wage scale etc. By agreement dated 30.07.95 between the above Union and the second party, the wages of the workers of the second party have again been revised to their benefits and an increase has also been given in the fringe benefits with effect from 01.07.94. This agreement is effective and in force for 4 years. Thus substantial increase has been made in the wages / emoluments of the workers by virtue of the aforesaid settlement.

3. The Government of Madhya Pradesh has been issuing Notifications fixing the minimum rates of wages of the workers engaged in the Engineering Industries. The Irrigation Department and P.W. Department of the Government of Madhya Pradesh are also covered under Engineering Industries. The Government is paying to its workers engaged in the above industries the minimum wages fixed by the Government for Engineering Industry or at rates Notified by the Collectors of the respective districts. The second party is paying much more wages than the minimum rate of wages fixed by the Government of Madhya Pradesh or notified by the Collectors. The second party is also paying wages more than the wages payable in the like comparable industries in the region within which the industry of the second party is situated. The second party is not in such financial position to bear any additional financial burden of increase in wages and other allowances as claimed by

the first party. In the light of the above facts, there is no scope and propriety for increase in wages of the workers of the second party as claimed by the first party. The claim of the first party in respect of wage revision and other allowances is liable to be rejected.

4. That as regards the contents of Paras-6 and 7 of the Statement of Claim, it is specifically denied that there is any justification and propriety for granting 15 days Casual Leave, 10 days Festival Holidays and 30 days Medical Leave as claimed by the first party in this para. It is denied that like comparable industries in the region are giving the benefits of 15 days Casual Leave, 10 days Festival Holidays and 30 days Medical Leave. It is denied that any hazards are involved in the undertaking. It will be appropriate to mention here that the provisions of Factories Act in respect of safety measures are being complied with. It will be relevant to mention here that the service condition of the employees of the second party are governed by the Madhya Pradesh Industrial Employment (Standing Orders) Rules, 1963. These standing orders make a provision for grant of Casual Leave @ 7 days per annum and Festival Holidays @ 5 days per annum. The second party is allowing to its employees the benefit of availing the aforesaid Casual Leave and Festival Holidays in accordance with the provisions of Standard Standing Orders. The facilities of leave statutorily provided in the Standard Standing Orders are very reasonable and the grant of leave facilities as demanded by the Union is not sustainable. This will definitely have adverse

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affect on the production also. As regards the medical leave of 30 days, no like comparable industry in the region is giving any medical leave. Even the Standard Standing Orders also do not provide for grant of any medical leave to the workers. Thus in consideration of the like comparable industries cum region basis there is no propriety of granting any medical leave to the workers. Moreover, the grant of such leave will not only be unduly generous, but it would adversely affect the production also. Thus the claim of first party for grant of Casual Leave @ 15 days per annum, Festival Holidays @ 10 days per annum and Medical Leave @ 30 days per annum deserves to be rejected.

5. That the allegations made in Para 8 of the Statement of Claim have been incorrectly stated and hence denied. It is specifically denied that all the persons whose names are mentioned in the list attached with the reference as well as the Statement of Claim had been employed by the second party. It will be appropriate to stress here that the persons whose names are mentioned in Annexure-A of the Written Statement had only been employed by the second party. It will be further appropriate to mention here that the second party had awarded the job contracts to different contractors for doing the job of moulding, fabrication, machining, erection, construction, cleaning, painting and temporary civil works. It was the sole responsibility of the concerned contractors to engage their own labour/workers to carry out the contract work/job. It was also their responsibility to pay wages/salaries to such respective employees engaged by them. It was/is the respective contractors

themselves who use to exercise the complete control and supervision over the workers / employees engaged by them. The second party has nothing to do with the aforesaid functions of the contractors. The rest of the workers detailed in both the list attached with the reference as well as Statement of Claim may have been engaged by the contractors. It is within the specific knowledge of the concerned persons as to by which contractor they had been engaged. The respective contractors will be in a better position to clarify the names of the workers who may have been engaged by them in carrying out the contract work / job awarded to them. There did not exist privity of contract between the second party and such persons who may have been engaged by the contractors. The Government has not impleaded such contractors in the present reference. So the reference in respect of such persons other than the workers detailed in Annexure-A is incompetent as against the second party. The same is also liable to be dismissed and rejected for want of necessary parties.

6. That in reply to Para 9 of the Statement of Claim, it is stated that the persons whose names are mentioned in Annexure-A of the Written Statement had only been employed by the second party. As regards the rest of the persons, the position has been explained in Para-5 above of the Written Statement. They have never been employed by the second party.

7. That the contents of Para-10 of the Statement of Claim need no reply.

8. That as regards the contents of Para-11, 12 & 13 of the Statement of Claim it has already been asserted hereinabove that the persons whose names are mentioned in Annexure-A of the Written Statement had only been employed by the second party. The rest of the persons have never been employed by the second party.

As regards the persons detailed in Annexure-A of the Written Statement, it is submitted that on 25.10.90, Sl. Nos. 1 to 5, S/Shri Tumath, Salak Ram, Dumlal Thakur, Roshan Kumar and Radheshyam Singh who were in "A" shift and other employees of the second party had resumed their duties at their respective places of work as usual. Similarly Sl. Nos. from 6 to 8 had also resumed their duty on 25.10.90 at their respective places of work in General Shift as usual alongwith other employees of General Shift. After availing their lunch interval from 10.00 AM to 10.30 AM, persons whose names are mentioned at Sl.Nos. 1 to 5 of Annexure-A entered the factory premises but they did not resume their work thereafter. They went to the employees of General Shift and instigated them to stop their work. The persons at Sl. No. 6 to 8 on the Annexure A S/Shri Sayed Ahmed, Sunil Kumar Saha and Phulchand also joined hands with the above mentioned 5 persons and instigated all the employees of General Shift and came out of their work places. All the above 8 persons collected the employees of A-Shift and General Shift in front of the Company's office inside the factory premises. they started raising slogans that till their demands regarding the revision of wage structure and other allowances are

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not satisfied, no employee should resume their duty and they should cease their work. They also demanded that contractor's employee, Shri Purav Ram who had taken final payment should also be taken back on duty by the respective contractor. Thus all the above 8 persons and other employees of the A-shift and General Shift totally ceased their work in between 10.30 AM and 10.40 AM on 25.10.90. The above 8 persons and other employees of A-shift and General Shift ceased their work as aforesaid acting in a concerted manner and with a common understanding to coerce the second party to fulfill their demands as mentioned herein above. The above concerted action of the 8 persons and other concerned employees appeared to be pre-planned in order to cause willful damage also to the work in process. The above mentioned 8 persons also instigated the employees of B-shift not to resume their duties and not to do any work till the demands raised by them are fully satisfied. The persons at Sl. No. 9 to 11 of Annexure-A S/Shri Awtar Singh, Dalchand and Asha Kumar and other employees of the B-shift did not resume their duties and totally ceased their work. Thus the persons whose names are mentioned hereinabove and other employees of the second party resorted to strike in the manner aforesaid without giving any prior notice and without following the procedure prescribed under the MPIL Act, 1960. Thus the strike resorted to by them including the persons whose names are mentioned in Annexure-A and other employees of second party is totally illegal being against the provisions of law. The second party pasted notices on the Notice Board of the establishment dated 25.10.90, 26.10.90, 27.10.90 and 28.10.90 calling upon the striking workers to resume their duties in the respective shifts but to no effect.

An application under Section-80 read with Section-61 of the MPR Act, 1960 was filed in the Labour Court at Durg on 29.10.90 for declaration of the strike as illegal. An application under Section-107 of the Act, 1960 was also presented alongwith the main application on the same day, i.e. 29.10.90. By Interim Order dated 29.10.90, the Presiding Officer of Labour Court, Durg restrained the aforesaid 11 persons and other striking employees from continuing the strike and directed them to resume their work. They were also directed not to instigate any worker from going on duty and further not to cause any obstruction to the willing workers from going on duty. A notice dated 29.10.90 was also pasted on the Notice Board of the establishment with copies to various authorities. A copy of the order dated 29.10.90 was also attached with the notice pasted on the Notice Board on 29.10.90. A copy of the notice dated 29.10.90 was also sent to daily Nav Bharat Press, Raipur which was published in the edition of 30.10.90. Despite the above notice pasted on the Notice Board on 29.10.90 and its publication in the Daily Nav Bharat on 30.10.90, the workers whose names are mentioned in Annexure A and other striking employees did not resume their duties and continued the strike. Thereafter also notice were pasted on the Notice Board calling upon the striking workers to call off the strike and resume their duties. Individual notices were also sent to all the persons mentioned in Annexure A through registered post with A/D at their addresses given by them. These registered covers were received back "Undelivered". Thus it will be seen that the second party has been making efforts calling upon the striking employees to call off their strike and resume their duties immediately, but none of

the persons mentioned in Annexure A resumed their duties and have not turned up for duty at all. Thus the persons whose names are mentioned in Annexure A have voluntarily and of their own accord relinquished and severed their contract of employment with the second party.

It is submitted that the then striking employees never withdrew their illegal and unjustified strike and continued to persist in the wrong without caring whatsoever as to what would happen to the second party. The entire work of the second party at factory was paralyzed. The second party was put into perplexing situation and predicament for no fault on its part. The second party was not in a position to run the factory. It made repeated appeals to the then striking employees to withdraw their strike and resume duties but repeated genuine appeals of the second party had no effect whatsoever on the then striking employees who continued their strike at the instigation of certain vested interests. Not only this but some of the striking employees had also indulged in the acts of violence and other unlawful activities and as such the second party for no fault on its part was unable to run its factory. Those who were prepared to work were also not allowed and they were stopped by the then striking employees and fearing the consequences they were also not reporting for duties. After making repeated appeals and even giving newspapers publications the then striking employees did not withdraw their illegal & unjustified strike and also did not report for duties. Under the circumstances, the second party could not wait for indefinite



period and since there was no other option before the second party but to run its factory that being the constitutional right of the second party, the second party with the help of non-striking employees somehow managed to run its factory. Thus it would be seen that for no fault on the part of the second party, the second party has been dragged into the problems by the first party. Since the concerned striking employees did not withdraw their illegal and unjustified strike even after the declaration by the competent authority and since they did not obey the interim order of the Honourable Court who had in his order interalia prohibited the striking workers from continuing the strike, and in view of the fact that they continued their illegal and unjustified strike unabated, and in view of the fact that they did not resume on duties inspite of the repeated requests their action is nothing but voluntary relinquishment of the services and in view of the facts and the circumstances mentioned herein above this Honourable Court be pleased to treat the action on the part of the then striking employees as an act of voluntary relinquishment and severing of contract of employment of their own accord.

It will be further appropriate to mention here that the workers at Sl.No. 2, 8, 9, 10, 11 of Annexure-A and whose names are appearing at Sl. No. 362, 313, 368, 315, 266 in the list attached with the reference have voluntarily of their own accord approached the second party for final settlement. They have been paid their final dues on 29.03.95, 18.06.93, 29.04.94, 17.08.94 & 22.02.91 respectively.

It is further submitted that Shri Tumnath appearing at Sl.No 256 of the list attached with the reference reported for duty on 25.08.92 and he was allowed to join duty on the same day. But from 06.08.92 he absented from duty without any intimation or sanction of leave and thereafter he has not turned up for duty uptill now. Shri Misri Lal Chandrakar appearing at Sl.No.370 of the list attached with the reference has joined his duty with effect from 20.02.92 and is still continuing in employment.

9. That in reply to Para-14 of the Statement of Claim, it is submitted that the employees of the second party have voluntarily and of their own accord relinquished their services as mentioned in detail hereinabove and are not entitled to any compensation.

10. That as regards the contents of Para-15 of the Statement of claim, these are vague, unspecific and lack in particulars and hence denied. The first party has not mentioned the names of the alleged junior workers who have been retained in service and are continuing in the employment of the second party. In absence of their names, it is not possible to deal with the allegations. The second party reserves the right to amend the Written Statement if particulars are supplied by first party.

11. That the allegations made in Para-16 of the Statement of Claim are denied. It is specifically denied that any action of the second party is illegal being in contravention of the provisions of relevant Act,

10. That the allegations made in Para-17 of the application have been inaccurately stated and hence denied. It is specifically denied that the provisions of Article 11 of the Constitution of India are applicable. The employees of the second party whose names are mentioned in Annexure B are themselves responsible for relinquishing and severing their contract of employment as detailed in foregoing pages of the Written Statement. It is specifically denied that all the workers whose names are mentioned in Annexure-A have completed 240 days service. It will be appropriate to mention here that the workers whose names are mentioned at Sl. Nos. 8, 29, 30, 31 & 32 B/Sri Fajiyas Ahmed, Chander Singh, Manthir Ram Bahu, Mathura Prasad, Paraneswar Prasad and Surjeet Kumar Sharma in Annexure-A and at Sl. Nos. 394, 17, 280, 12, 13 & 285 in the list attached with the reference have not actually worked for 240 days as alleged in this para. The first party should prove the same in Court.

10. That the allegations made in Para-18 of the Statement of Claim have been inaccurately stated and hence denied. It is specifically denied that the workers of the second party were always willing to work as alleged in this para. It is also denied that they have been deprived from work. It will not be out of place to mention here that the second party has been calling upon and pursuing the striking workers to call off the illegal strike resorted to by them with effect from 25.10.90 and join their duty. Despite the efforts of the second party, the workers did not resume their duty at all. Thus the workers voluntarily and of their own accord relinquished their services for which they are themselves responsible.

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14. That in reply to Para-19 of the Statement of Claim, it is submitted that the provisions of Section 107-A of the MPIR Act cannot be attracted and applied in the present case. In view of the facts mentioned herein above since the concerned have resorted to illegal strike and instigated and incited the workers to go on strike. They also had obstructed the willing workers from attending their duty. The strike resorted to by the workers are illegal being without any prior notice and without following the procedure prescribed under law and the conduct of the concerned first party is highly inequitable and unlawful. The concerned employees have of their own accord severed their contract of employment.

15. That the allegations made in Para-20 of the Statement of Claim are denied. It is specifically denied that the workers of the second party are entitled to reinstatement alongwith benefits / wages / compensation. As already stated in the foregoing paras that the workers of the second party have voluntarily of their own accord relinquished their services. So they are not entitled to any of the relief claimed by them.

16. That in reply to Para-21 of the Statement of Claim, it is denied that the workers are starving. They must be usefully/gainfully employed elsewhere. As regards Section-78B of the Act, it relates to its interpretation and needs no reply. It is submitted that no delay has been caused by the second party at all. On the contrary there are

serious lapses on the part of the first party which have caused delay in the matter. It is pertinent to note that the statement of claim is filed by the first party as late as on 12.09.95.

17. That the allegations made in Para-22 of the Statement of Claim are denied being false and baseless. It is specifically denied that any action of the second party is illegal and unjustified. It is also denied that the second party has committed any act of high-handedness and any act amounting to colourable exercise of powers. The act of high-handedness and any have been adopted by the workers of the second party as detailed hereabove in this Written Statement.

18. That the allegations made in Para-23 of the Statement of Claim are denied being false and useless. It is specifically denied in view of the facts stated herein above that any worker of the second party is entitled to any interim relief at all. Because the Government has no power to make any amendment in the original reference. The amendment made in the original reference for grant of interim relief is without jurisdiction and is incompetent. It is pertinent to note that in a list attached with the reference, the workers have been shown to be suspended. The request for interim relief, therefore, deserves to be rejected in limine.

19. That in reply to Para-24 of the Statement of Claim, it is specifically denied that the first party has been trying for mutual settlement and the second party

did not cooperate. It is not disputed that the government had made the reference. It is further submitted that the second party has challenged the original reference made by the Government. The second party has also challenged the order dated 27/31.7.1995 of the Government adding Item No.4 to the original reference. This has been challenged before the Hon'ble High Court at Indore in Writ Petition No.1231/95.

20. That the first party as well as the workers of the second party are not entitled to any other relief claimed by them. The reference made by the Government is liable to be rejected. That the workers of the second party are usefully / gainfully employed elsewhere. They are, therefore, not entitled to any relief at all.

21. That it is submitted that in so far as issue No.3 & 4 are concerned the purported reference u/s 51 being in contravention of the mandatory provisions of Section 51 of the Act itself is liable to be rejected in limine. Further, it is pertinent to note that the first party at no point of time had raised a specific demand in that regard on the second party. Since there was no demand on second party at any relevant time there cannot be an industrial dispute as observed by their lordships of the Supreme Court in the matter of Sindhu Resettlement Corporation Ltd., and Industrial Tribunal, Gujarat and others.

22. That the claim raised by the first party in respect of cycle allowance, house rent allowance or accomodation in M.P. Housing Board and night shift allowance are beyond the scope of reference because no such specific points have been mentioned in the reference. The above points raised by the first party, therefore, do not deserve any consideration.

In view of the above, it is therefore, prayed that the reference made by the Government may kindly be rejected.

The second party begs leave to amend or add to or make alterations in the Written Statement if and when deemed necessary.

*[Handwritten Signature]*  
( SECOND PARTY )

6.2.96

Dated: ~~20th December 1995~~

VERIFICATION

The second party does hereby declare that what is stated herein above is true to the best of his knowledge, belief and information.

Signed at Bhilai, this 20th day of December, 1995.

*[Handwritten Signature]*  
(COUNSEL FOR SECOND PARTY)

6.2.96

Dated: ~~20th December 1995~~

## DEPARTMENT WORKERS

WORKER'S NAME	FATHER'S NAME	JOINING AS PER RECORD	G R A D E S				SL. NO. IN THE LIST ATTACHED WITH THE REFERENCE
			(SK)	(SS)	(US)	TEMP	
ANATH	SRIRAM	01/10/83	1				256
SHAN KUMAR SAHU	BOUWA RAM SAHU	01/02/90	1				362
LIYYAZ AHMED	MOHD. UNIS AHMED	15/02/90		1			364
VIT KUMAR SAHU	PARASH RAM	05/06/85	1				269
DOL CHAND RAM (B)	MAHESH RAM	12/02/87		1			268
AL CHAND (B)	BODHAN LAL	01/04/89		1			263
SHRA LAL CHANDRAKAR	BAHUR SINGH	01/05/89				1	370
AKASH MESHAM (B)	LT. GOVFRIDHAN MESHAM	20/02/90	1				313
ISAD METHEU	LT. VERGHESH METHEU	05/05/98	1				363
KRISHNAR LAL	DEVKUNANDAN LAL	01/03/80	1				315
DHNU PRASAD PATEL (B)	FAKIRA	15/02/90		1			266
IOK GADEWAL (B)	DAYACHAND GADEWAL	16/08/87		1			261
NIU PRASAD DAS (B)	S. K. DAS	01/01/88	1				301
HERU RAM	SHYAM LAL	05/07/85		1			263
AKIRA	RAMAIYYA					1	229
AM SINGH SAHU	RAJBHAN SINGH	01/01/90					300
SA SINGH	GURNAM SINGH	01/05/88		1		1	237
ESHWAR RAM SAHU	ANKALU RAM	01/01/88			1		239
MLAL GANDA (B)	GANESH RAM	09/04/86		1		1	236
DJ KUMAR SHARMA	BHAGWAT PRASAD	05/08/88				1	259
AYAN SAHU	RAMCHARAN	14/01/89				1	257
AGESHWAR RAO	P. NAGRAJ	01/07/85		1			262
HELAL	CHATURLAL	01/01/89				1	260
SWATHI RAJBHOR	SUCHAN RAJBHOR	01/02/87		1			365

*Ans*



## ANNEXURE - A

## DEPARTMENT WORKERS

WORKER'S NAME	FATHER'S NAME	JOINING AS PER RECORD	G R A D E S				SL. NO. IN THE LIST ATTACHED WITH THE REFERENCE
			(SK)	(SS)	(US)	TEMP	
JI DUBEY	FUNIT RAM	01/01/90				1	258
HU RAM NISHAD	BERHA RAM NISHAD	03/07/83	1				228
HJANT NAYAK	DINANATH	17/12/87		1			298
NDAR SINGH	JANGI RAM	10/06/90				1	17
HIR RAM SAHU	MEHATTAR RAM SAHU	23/01/90		1			360
HURA PRASAD	JHUMUK LAL	01/01/90				1	18
MESHWAR PRASAD	ITWARI RAM	01/04/90		1			16
PET KUMAR SHARMA	DOUWA PRASAD	16/02/90				1	265

*Handwritten signature*

CAMP: RAIPUR

Pragatisheel Engineering Shramik Sangh  
MIG-1/55, HUDCO Colony, Bhilai,  
Durg (M.P.)

... FIRST PARTY

Vs

Simplex Castings Limited  
Special Steel Castings Division,  
Urla Industrial Estate  
Urla (Raipur)

... SECOND PARTY

OLD REFERENCE NO. MPIR 15/93

NEW REFERENCE NO. MPIR 14/95

FIXED FOR ~~6.2.96~~ 6.2.96

WRITTEN STATEMENT BY THE SECOND PARTY

The second party respectfully

submits the Written Statement as follows :

1. That the contents of Paras 1, 2 & 3 of the Statement of claim are matters of record and hence need no reply.

2. That the allegations made in Para 4 & 5 of the Statement of Claim are denied. It is specifically denied that the unskilled, semi-skilled and skilled workers of the second party are entitled to pay scale of Rs.2000-100-2500-3000-150-3750 and Rs.4000-200-5000 respectively as claimed by the first party. It is specifically denied that they are entitled to Dearness Allowance @ Rs.2/- per point linked with the All India Consumer Price Index, Shimla Series. It is further denied that the employees of the second party are entitled to Cycle Allowance @ Rs.100/- per month, House Rent Allowance @

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Rs.200/- per month or accommodation in M.P. Housing Board and Night Shift Allowance @ Rs.10/- per night shift. It is also denied that hazards are involved in the undertaking. Moreover, such considerations are irrelevant in deciding the issue. It is denied that no other fringe benefits are given to the workers of the second party. It is specifically denied that the pay scales, Dearness Allowance and other allowances claimed by the first party are just and proper and are available and allowed by the like comparable industries in the region within which the second party is situated.

It will be appropriate to stress here that the second party has been paying to its workers the wages in accordance with the recommendations of the Wage Board for Engineering Industries.

It will be relevant to stress here that the Metal & Engineering Workers Union is a registered Trade Union for the employees of the Engineering Industries for the local area of Durg District.

In the year 1990, a Notice of Change was given by the above Union for wage revision of the workers of the second party and for grant of some fringe benefits. As no agreement could be reached between the Union and the second party, the matter was taken up in conciliation. The settlement was arrived at in presence of the Assistant Labour Commissioner, Raipur. By this settlement dated 14.03.91 the wages of the workers of the second party were revised to their

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benefits and some fringe benefits were also added. This settlement was to continue in force for a period of 4 years. After the expiry of the period of 4 years, the above Union again gave a Notice of Change to the second party for revision of wage scale etc. By agreement dated 30.07.95 between the above Union and the second party, the wages of the workers of the second party have again been revised to their benefits and an increase has also been given in the fringe benefits with effect from 01.07.94. This agreement is effective and in force for 4 years. Thus substantial increase has been made in the wages / emoluments of the workers by virtue of the aforesaid settlement.

3. The Government of Madhya Pradesh has been issuing Notifications fixing the minimum rates of wages of the workers engaged in the Engineering Industries. The Irrigation Department and P.W. Department of the Government of Madhya Pradesh are also covered under Engineering Industries. The Government is paying to its workers engaged in the above industries the minimum wages fixed by the Government for Engineering Industry or at rates Notified by the Collectors of the respective districts. The second party is paying much more wages than the minimum rate of wages fixed by the Government of Madhya Pradesh or notified by the Collectors. The second party is also paying wages more than the wages payable in the like comparable industries in the region within which the industry of the second party is situated. The second party is not in such financial position to bear any additional financial burden of increase in wages and other allowances as claimed by

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the first party. In the light of the above facts, there is no scope and propriety for increase in wages of the workers of the second party as claimed by the first party. The claim of the first party in respect of wage revision and other allowances is liable to be rejected.

4. That as regards the contents of Paras-6 and 7 of the Statement of Claim, it is specifically denied that there is any justification and propriety for granting 15 days Casual Leave, 10 days Festival Holidays and 30 days Medical Leave as claimed by the first party in this para. It is denied that like comparable industries in the region are giving the benefits of 15 days Casual Leave, 10 days Festival Holidays and 30 days Medical Leave. It is denied that any hazards are involved in the undertaking. It will be appropriate to mention here that the provisions of Factories Act in respect of safety measures are being complied with. It will be relevant to mention here that the service condition of the employees of the second party are covered by the Madhya Pradesh Industrial Employment (Standing Orders) Rules, 1963. These standing orders make a provision for grant of Casual Leave @ 7 days per annum and Festival Holidays @ 5 days per annum. The second party is allowing to its employees the benefit of availing the aforesaid Casual Leave and Festival Holidays in accordance with the provisions of Standard Standing Orders. The facilities of leave statutorily provided in the Standard Standing Orders are very reasonable and the grant of leave facilities as demanded by the Union is not sustainable. This will definitely have adverse

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affect on the production also. As regards the medical leave of 30 days, no like comparable industry in the region is giving any medical leave. Even the Standard Standing Orders also do not provide for grant of any medical leave to the workers. Thus in consideration of the like comparable industries cum region basis there is no propriety of granting any medical leave to the workers. Moreover, the grant of such leave will not only be unduly generous, but it would adversely affect the production also. Thus the claim of first party for grant of Casual Leave @ 15 days per annum, Festival Holidays @ 10 days per annum and Medical Leave @ 30 days per annum deserves to be rejected.

5. That the allegations made in Para 8 of the Statement of Claim have been incorrectly stated and hence denied. It is specifically denied that all the persons whose names are mentioned in the list attached with the reference as well as the Statement of Claim had been employed by the second party. It will be appropriate to stress here that the persons whose names are mentioned in Annexure-A of the Written Statement had only been employed by the second party. It will be further appropriate to mention here that the second party had awarded the job contracts to different contractors for doing the job of moulding, fabrication, machining, erection, construction, cleaning, painting and temporary civil works. It was the sole responsibility of the concerned contractors to engage their own labour/workers to carry out the contract work/job. It was also their responsibility to pay wages/salaries to such respective employees engaged by them. It was/is the respective contractors

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themselves who use to exercise the complete control and supervision over the workers / employees engaged by them. The second party has nothing to do with the aforesaid functions of the contractors. The rest of the workers detailed in both the list attached with the reference as well as Statement of Claim may have been engaged by the contractors. It is within the specific knowledge of the concerned persons as to by which contractor they had been engaged. The respective contractors will be in a better position to clarify the names of the workers who may have been engaged by them in carrying out the contract work / job awarded to them. There did not exist privity of contract between the second party and such persons who may have been engaged by the contractors. The Government has not impleaded such contractors in the present reference. So the reference in respect of such persons other than the workers detailed in Annexure-A is incompetent as against the second party. The same is also liable to be dismissed and rejected for want of necessary parties.

6. That in reply to Para 9 of the Statement of Claim, it is stated that the persons whose names are mentioned in Annexure-A of the Written Statement had only been employed by the second party. As regards the rest of the persons, the position has been explained in Para-5 above of the Written Statement. They have never been employed by the second party.

7. That the contents of Para-10 of the Statement of Claim need no reply.

...7...

8. That as regards the contents of Paras 11, 12 and 13 of the Statement of Claim, it has already been asserted herein above that the persons whose names are mentioned in Annexure-A of the Written Statement had only been employed by the second party. The rest of the persons have never been employed by the second party.

It is further submitted that the factory works in 4 shifts i.e. 'A' shift which commences at 6.00 a.m. and ends at 2.00 p.m., General Shift which commences from 8.00 a.m. and ends at 5.00 p.m., 'B' Shift which commences at 2.00 p.m. and ends at 10.00 p.m. and 'C' Shift which commences at 10.00 p.m. and ends at 6.00 a.m. next day. There is an Arc Furnace in which Iron & Steel Scrap is melted for manufacture of Ingots and Moulds and Castings etc. When the Iron & Steel is melted, then with the help of crane it is filled in Teaming Ladle and thereafter it is poured into different types of Moulds. It will be proper to mention here that in absence of the Crane Operator the above process cannot be carried out. On 17.12.90 the Crane Operator of 'C' Shift S/Shri Ramadhar absented from duty without prior intimation or sanction of leave. Accordingly the work of Arc Furnace of 'C' shift was not possible to be carried out and therefore all the workers of 'C' shift employed in Steel Melting Shop were given lay-off on 17.12.90.

A notice was also displayed on the Notice Board of the Company on 17.12.90 at 11.00 p.m. in the above respect of lay-off of the workers. The workers of 'C' shift did not go out of the factory premises and remained within the factory premises.



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That on 18.12.90 the workers of 'A' shift including S/Shri Ram Yadav and Shri B. Mohan Rao entered the factory premises. S/Shri Surinder Kumar Singh and Bansal Yadav and other workers of 'C' Shift informed S/Shri Rameshwar Yadav and Shri B. Mohan Rao and other workers of 'A' shift that the workers of 'C' shift have been laid-off by the Management on 17.12.90. Therefore all the above mentioned 4 persons instigated the workers of 'A' shift not to resume their work and go to their duty places till the Management gives in writing an assurance that the workers of 'C' Shift on 17.12.90 will be paid their full wages instead of lay-off compensation. Thus S/Shri B. M. Rao, Rameshwar Yadav & other workers of 'A' shift acting in a concerted manner and with a common understanding did not attend their duties and resumed their work. As a result of which there was a total cessation of work of 'A' shift on 18.12.90. All the above 4 persons were also raising slogan against the Management. The aforesaid cessation of work by S/Shri Radheyshyam Yadav, R.M.Rao and other workers of 'A' shift amounts to strike which is illegal. The said strike was resorted to in contravention of provisions of law and also without giving any prior notice to the Management. All the above 4 persons and other workers of 'A' shift gathered in front of Time Office of the Company inside the factory premises and did not allow any staff and executive members of the Management of 'A' shift to go to their respective offices.

On 18.12.90 the workers of General Shift, 'B' Shift and 'C' shift entered the factory premises in the respective shifts at the appointed time of starting of the

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shifts. The workers of the General Shift, 'B' Shift and 'C' Shift included S/Shri Charan Shetty, Bhedh Ram, Sarjoo Ram, Samaru Ram & Yogesh Kumar of General Shift, S/Shri Nepal Singh, Mohd. Nayim, Ramesh Ram Yadav & Ravinder Yadav of 'B' shift and S/Shri S.K.Singh & Shri Ganesh Ram of 'C' shift acting in a concerted manner and under common understanding did not attend their duties and resumed their respective jobs and resorted to an illegal and unjustified strike. S/Shri S.K.Singh, Ramadhar, as well as B.M.Rao, Sarjoo Ram, Bhedhram, Nepal Singh & Ganesh Ram, instigated the workers of General Shift not to resume their duties and do their respective jobs untill and unless an assurance in writing is given by the Company to pay full wages to the workers of 'A' shift on 17.12.90 instead of lay off compensation. They also raised filthy slogans on the start of 'A' shift against the management and addressed meeting within the factory premises without the permission of the management. Similary, the workers of 'B' shift including the non-applicants S/Shri Nepal Singh. Mohd. Nayim, Ganesh Ram Yadav & Rajinder Yadav, acting in concerted manner and under a common understanding did not resume their duties and do their respective jobs on 18.12.90 and further said that untill and unless an assurance in writing is given to pay full salary to the workers of 'C' shift on 17.12.90, they will not resume their duties. They also resorted to an illegal and unjustified strike. The workers of 'C' shift of 18.12.90 including the non-applicants S/Shri Surinder Kumar Singh and Rameshwar Yadav resorted to strike.

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The application under Section-80 read with Section-61 of the MPIR Act, 1960 was filed in the Labour Court at Raipur on 21.12.90 for declaration of the strike as illegal. An application under Section-107 of the Act, 1960 was also presented alongwith the main application on the same day, i.e. 21.12.90. By Interim Order dated 21.12.90, the Presiding Officer of Labour Court, Raipur restrained the persons whose names are mentioned in Annexure-A and other striking employees from continuing the strike and directed them to resume their work. They were also directed not to instigate any worker from going on duty and further not to cause any obstruction to the willing workers from going on duty. Various notices respectively dated 21.12.90, 23.12.90, 25.12.90, 31.12.90, 15.01.91, 31.01.91, 28.02.91, 29.03.91, 26.04.91, 18.05.91, 22.06.91, 17.07.91, 26.08.91, 19.09.91, etc. were pasted on the Notice Board of the establishment with copies to various authorities mentioning therein about the Interim Order dated 21.12.90 passed in Case No. MPIR/151/90 by the Labour court, Raipur and calling upon them to withdraw their illegal strike. A copy of the order dated 21.12.90 was also attached with the notice pasted on the Notice Board on 21.12.90. A copy of the notice dated 21.12.90 was also sent to Daily Nav Bhaskar, Raipur which was published in the edition of 31.12.90. Despite the above notices pasted on the Notice Board and the publication in the Daily Nav Bhaskar the workers whose names are mentioned in the publication and other striking employees did not resume their duties and continued the strike. Individual notices were also sent to all the persons mentioned in Annexure-A through registered post with A/D at their addresses given by them. These

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registered covers were received back "Undelivered". Thus it will be seen that the second party has been making efforts calling upon the striking employees to call off their strike and resume their duties immediately, but none of the persons mentioned in Annexure-A resumed their duties and have not turned up for duty at all. Thus the persons whose names are mentioned in Annexure-A have voluntarily and of their own accord relinquished and severed their contract of employment except the workers S/Shri B. Mohan Rao, Charan Sethi, Rameshwar Yadav, Ajay Kumar, B.P. Shrivastava, Bachai Prasad, Budh Ram, Harish Kumar, Jewan Yadav, Khemlal Verma, Mohamed Akhtar, Rambihan Yadav, Ramsahay Prasad & Subhan Ansari who have reported for duty are still in service. Their Sl. No. in the list attached with reference is 72, 74, 77, 118, 114, 71, 309, 99, 80, 192 101, 81 84 & 73. Their Sl.No. in Annexure-A is 2, 3 12, 13, 14 15, 16, 17, 18, 19, 20, 21, 22 & 23.

It is submitted that the then striking employees never withdrew their illegal and unjustified strike and continued to persist in the wrong without caring whatsoever as to what would happen to the second party. The entire work of the second party at factory was paralyzed. The second party was put into perplexing situation and predicament for no fault on its part. The second party was not in a position to run the factory. It made repeated appeals to the then striking employees to withdraw their strike and resume duties but repeated genuine appeals of the second party had no effect whatsoever on the then striking employees who continued their strike at the instigation of certain vested interests. Not only

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this but some of the striking employees had also indulged in the acts of violence and other unlawful activities and as such the second party for no fault on its part was unable to run its factory. Those who were prepared to work were also not allowed and they were stopped by the then striking employees and fearing the consequences they were also not reporting for duties. After making repeated appeals and even giving newspapers publications the then striking employees did not withdraw their illegal & unjustified strike and also did not report for duties. Under the circumstances after waiting for a prolonged period and since there was no other option before the second party but to run its factory that being the constitutional right of the second party, the second party with the help of non-striking employees somehow managed to run its factory. Thus it would be seen that for no fault on the part of the second party, the second party has been dragged into the problems by the first party. Since the concerned the then striking employees did not withdrew their illegal and unjustified strike even after the declaration by the competent authority and since they did not obey the interim order of the Honourable Court who had in his order interalia prohibited the striking workers from continuing the strike, and in view of the fact that they continued their illegal and unjustified strike unabated, and in view of the fact that they did not resume on duties inspite of the repeated requests their action is nothing but relinquishment of services and in view of the facts and the circumstances mentioned herein above this Honourable Court be pleased to treat the action on the part of the then striking employees as an act of voluntary relinquishment and severance of contract of employment by them.

It will be further appropriate to mention here that the workers at Sl.No. 112 by name of Yogesh Dubey of Annexure A and whose name is appearing at Sl. No. 112 in the list attached with the reference have voluntarily of his own accord approached the second party for final settlement. He has been paid his final dues on 01.10.92.

9. That in reply to Para-14 of the Statement of Claim, it is submitted that the employees of the second party have voluntarily and of their own accord relinquished their services as mentioned in detail hereinabove and are not entitled to any compensation.

10. That as regards the contents of Para-15 of the Statement of claim, these are vague, unspecific and lack in particulars and hence denied. The first party has not mentioned the names of the alleged junior workers who have been retained in service and are continuing in the employment of the second party. In absence of their names, it is not possible to deal with the allegations. The second party reserves the right to amend the Written Statement if particulars are supplied by first party.

11. That the allegations made in Para-16 of the Statement of Claim are denied. It is specifically denied that any action of the second party is illegal being in contravention of the provisions of relevant Act, 1960 and the standard standing orders.

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12. That the allegations made in Para-17 of the Statement of Claim have been incorrectly stated and hence denied. It is specifically denied that the provisions of Article-21 of the Constitution of India are applicable. The employees of the second party whose names are mentioned in Annexure-A except some employees whose names are detailed in the foregoing paras are themselves responsible for relinquishing and severing their contract of employment. The correct position has been explained in the foregoing paras. It is specifically denied that all the workers whose names are mentioned in Annexure-A have completed 240 days of service. It will be appropriate to mention here that the workers whose names are mentioned at Sl. Nos. 11, 49, 50, 51, 52, 53, 54, 55, 56 & 57 in Annexure-A and at Sl.No. 100, 234, 232, 13, 153, 233, 193, 230, 111 & 152 in the list attached with the reference have not actually worked for 240 days as alleged in this para. The first party should prove the same in Court.

13. That the allegations made in Para-18 of the Statement of Claim have been incorrectly stated and hence denied. It is specifically denied that the workers of the second party were always willing to work as alleged in this para. It is also denied that they have been deprived from work. It will not be out of place to mention here that the second party has been calling upon and pursuing the striking workers to call off the illegal strike resorted to by them with effect from 18.12.90 and join their duty. Despite the efforts of the second party, the workers did not resume their duty at all. Thus the workers voluntarily and of their own accord relinquished their

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14. That in reply to Para-19 of the Statement of Claim, it is submitted that the provisions of Section 107-A of the MPIR Act cannot be attracted and applied in the present case. In view of the facts mentioned herein above since the concerned have resorted to illegal strike and instigated and incited the workers to go on strike. They also had obstructed the willing workers from attending their duty. The strike resorted to by the workers are illegal being without any prior notice and without following the procedure prescribed under law and the conduct of the concerned first party is highly inequitable and unlawful. The concerned employees have of their own accord severed their contract of employment.

15. That the allegations made in Para-20 of the Statement of Claim are denied. It is specifically denied that the workers of the second party are entitled to reinstatement alongwith benefits / wages / compensation. As already stated in the foregoing paras that the workers of the second party have voluntarily of their own accord relinquished their services. So they are not entitled to any of the relief claimed by them.

16. That in reply to Para-21 of the Statement of Claim, it is denied that the workers are starving. They must be usefully/gainfully employed elsewhere. As regards Section-78B of the Act, it relates to its interpretation and needs no reply. It is submitted that no delay has been caused by the second party at all. On the contrary there are



serious lapses on the part of the first party which have caused delay in the matter. It is pertinent to note that the statement of claim is filed by the first party as late as on 12.09.95.

17. That the allegations made in Para-22 of the Statement of Claim are denied being false and baseless. It is specifically denied that any action of the second party is illegal and unjustified. It is also denied that the second party has committed any act of high-handedness and or act amounting to colourable exercise of powers. The act of high-handedness <sup>(and any)</sup> have been adopted by the workers of the second party as detailed hereinabove in this Written Statement above.

18. That the allegations made in Para-23 of the Statement of Claim are denied being false and useless. It is specifically denied in view of the facts stated herein above that any worker of the second party is entitled to any interim relief at all. Because the Government has no power to make any amendment in the original reference. The amendment made in the original reference for grant of interim relief is without jurisdiction and is incompetent. It is pertinent to note that in a list attached with the reference, the workers have been shown to be suspended. The request for interim relief, therefore, deserves to be rejected in limini.

19. That in reply to Para-24 of the Statement of Claim, it is specifically denied that the first party has been trying for mutual settlement and the second party did not cooperate. It is not disputed that the government had

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made the reference. It is further submitted that the second party has challenged the original reference made by the Government. The second party has also challenged the order dated 27/31.7.1995 of the Government adding Item No.4 to the original reference. This has been challenged before the Hon'ble High Court at Indore in Writ Petition No.1231/95.

20. That the first party as well as the workers of the second party are not entitled to any other relief claimed by them. The reference made by the Government is liable to be rejected. That the workers of the second party are sefully / gainfully employed elsewhere. They are, therefore, not entitled to any relief at all.

21. That it is submitted that in far as issue No.3 & 4 are concerned the purported reference s 51 being in contravention of the mandatory provisions of tion 51 of the Act itself is liable to be rejected in limini. ther, it is pertinent to note that the first party at no point time had raised a specific demand in that regard on the second y. Since there was no demand on second party at any relevant there cannot be an industrial dispute as observed by their ships of the Supreme Court in the matter of Sindhu ttlement Corporation Ltd., and Industrial Tribunal, Gujarat others.

22. That the claim raised by the first in respect of cycle allowance, house rent allowance or dation in M.P. Housing Board and night shift allowance are

beyond the scope of reference because no such specific points have been mentioned in the reference. The above points raised by the first party, therefore, do not deserve any consideration.

In view of the above, it is therefore, prayed that the reference made by the Government may kindly be rejected.

The second party begs leave to amend or add to or make alterations in the Written Statement if and when deemed necessary.

*[Handwritten Signature]*  
( SECOND PARTY )

6.2.96

Dated: ~~20th day of December, 1995~~

VERIFICATION

The second party does hereby declare that what is stated herein above is true to the best of his knowledge, belief and information.

Signed at Bhilai, this 20th day of December, 1995.

*[Handwritten Signature]*  
(COUNSEL FOR SECOND PARTY)  
6.2.96

Dated: ~~20th day of December, 1995~~

ANNEXURE - A  
DEPARTMENT WORKER

WORKER'S NAME	FATHER'S NAME	JOINING AS PER RECORD	G R A D E S				SL.NO. IN THE LIST ATTACHED WITH THE REFERENCE
			(SK)	(SS)	(US)	TEMP	
ADHAR YADAV	BALESHWAR YADAV	31/03/87		1			79
DHAN RAO (B)		16/02/87	1				72
DAN SETHI	BAJIA SETHI	04/03/87		1			74
SH KUMAR	RAMCHARAN SAHU	01/05/87	1				288
J RAM	KHEIDU RAM SAHU	01/04/87			1		119
J RAM	SHIV PRASAD	05/09/88			1		222
DHAR DAS	GOPAL CHANDRAN	16/05/89		1			102
SINGH	BHAJAN SINGH	20/03/87		1			76
MEED NAIM	MOHD. ZALIL KHAN	10/09/87			1		120
RAM YADAV	RAM RATAN YADAV	01/07/86	1				108
RA YADAV	MAHENDRA YADAV	13/06/90		1			100
RAJ YADAV	RAJ KUMAR YADAV	04/03/87		1			77
IMAR	JOGENDRA	01/11/88			1		118
VASTAVA	VINDHYACHAL	01/10/87	1				114
PRASAD	SUNDER PRASAD	14/05/87	1				71
I	SUNHAR	21/12/90				1	309
UMAR SAHU	MANRAKHAN LAL	27/03/87		1			93
DAV	DUKI RAM YADAV	26/11/87			1		80
VERMA	KEJU RAM VERMA	01/06/90				1	192
AKHTAR	MOHD. ZALIL KHAN	01/10/85	1				101
YADAV	SHIVSAR YADAV	31/03/87			1		81
PRASAD	SATYA DEO PRASAD	14/05/87			1		84
ARI	ALI HUSSAIN ANSARI	27/02/87	1				73
EY	SHANKAR LAL DUBEY	14/10/89			1		112
SI	KARTIK RAM					1	122
	CHANDRA PANDEY						

ANNEXURE - A  
DEPARTMENT WORKER

WORKER'S NAME	FATHER'S NAME	JOINING AS PER RECORD	G R A D E S				SL. NO. IN THE LIST ATTACHED WITH THE REFERENCE
			(SK)	(SS)	(US)	TEMP	
AGWATI JANGHEL	DASHRATH JANGHEL	01/04/87		1			103
D LAL	MANGLU RAM	01/09/88				1	189
NEPAT RAM	RAMLAL YADAV	01/11/81	1				109
WHAIYYA LAL	PYRELAL SAHU	01/09/88				1	191
LA RAM	PYRELAL	01/04/87		1			287
HAMMED HABIB	HOHD. AASIF	22/06/87		1			123
HAMMED MUSA	MOND. MATLU	04/09/90			1		86
IDU SAHU	CHINTA RAM	25/05/88		1			113
KASH DUBEY	GAJANAND DUBEY	27/03/87		1			78
E LAL SAHU	BISHAT RAM SAHU	01/01/90		1			116
HESHYAM YADAV	AGAR SINGH	01/10/87		1			110
NIKANT UPADHYAYA	DADAN UPADHYAYA	11/03/86			1		304
KHILAWAN	FERUDAS MANIKPURI	01/07/89				1	291
FRASAD	DHAN SINGH	01/09/88			1		190
SEWAK LODHI (B)		10/11/87		1			75
ETAL PRASAD	GANBHIR PRASAD	08/07/89				1	121
HCHAND	BUDH RAM	13/03/90				1	154
MUDDIN (II)	SURHAN KHAN	01/04/87			1		117
HATH KURRE	BACHHU RAM KURRE	11/05/88			1		83
I RAM KURRE	BACHHU RAM KURRE	24/03/87			1		82
DEO YADAV	NAGINA YADAV	16/10/86		1			115
L KUMAR	BHOJ RAM	25/09/89		1			289
I PRASAD	DHASU PATEL	04/06/89				1	294
JAT RAM SAHU	KAPIL RAM SAHU	20/09/90			1		292
ISHORE SHARMA	DURGA PRASAD	01/05/90			1		19

ANNEXURE - A  
DEPARTMENT WORKER

WORKER'S NAME	FATHER'S NAME	JOINING AS PER RECORD	G R A D E S				SL.NO. IN THE LIST ATTACHED WITH THE REFERENCE	R:
			(SK)	(SS)	(US)	TEMP		
A RAM	DHANU RAM	16/07/90				1	153	
AJ SONI	ANGAD SONI	09/02/90				1	293	
ODHAN YADAV	SITA RAM YADAV	01/06/90				1	193	
AR PRASAD	MANGLU RAM	01/07/90		1			290	
SHI RAM	SHYAM RATAN	04/07/89				1	111	
AKASH	RAM CHARAN	16/07/90				1	152	

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BEFORE THE INDUSTRIAL COURT, BENCH AT RAIPUR (M.P.)REF NO :- 5/MPiR/93  
8/MPiR/95GENERAL SECRETARY  
PRAGATISHEEL ENGINEERING SHRAMIK SANGH  
MIG-I-55, HUDCO COLONY  
BHILAI.

..... PARTY NO.1

VERSUS

BEEKAY ENGINEERING CORPORATION  
UNIT-1, 45/47, INDUSTRIAL ESTATE  
BHILAI.

..... PARTY NO.2

STATEMENT OF CLAIM OF SECOND PARTY

The second party submits as under :-

- 1) That the Government of Madhya Pradesh vide its order No.6-1/93/16-A dated 25/2/93 has referred the following terms of Reference to this Hon'ble Court :-

TERMS OF REFERENCE :-

१. क्या वेतन भत्ते के पुनरीक्षण का औचित्य है ?  
यदि हाँ तो वेतन, मँहगाई भत्ता को क्या योजना होनी चाहिये एवं इस संबंध में नियोजन का क्या निर्देश दिये जाना चाहिये ।
२. क्या प्रतिवर्ष १५ दिन का आकस्मिक अवकाश २० दिन का त्योहारों अवकाश तथा ३० दिन का चिकित्सा अवकाश दिये जाने का औचित्य है ?  
यदि हाँ तो इस संबंध में नियोजक को क्या निर्देश दिया जाना चाहिये ?

Contd. ... 2

३. क्या संलग्न परिशिष्ट में उल्लेखित एम्प्लॉईज को पृथक्करण वेध एवं उचित है ?  
यदि नहीं तो इस संबंध में नियोजक को क्या निर्देश दिया जाना चाहिये ?
2. That subsequently vide order No 6-1/93/16A dated 31/7/95, the Government has referred the following terms of reference also by adding to the earlier 3 terms of reference this making the total 4.
४. क्या अनुक्रमांक ३ के संलग्न परिशिष्ट में उल्लेखित सेवा से पृथक् किये एम्प्लॉईज के निराकरण होने तक अंतरिम राहत प्रदान करने का औचित्य है ?  
यदि हाँ तो इस संबंध में नियोजक को क्या निर्देश दिया जाना चाहिये ?
- 2) That in regard to TERM No.1 OF THE REFERENCE the second party submits as under :-
- A) That the workers of this party were represented by the Metal & Engineering Workers Union since 1984. This Union is sponsored their case and gave a notice of demand for the revision of the pay structure and other terms and conditions at par with the Engineering Wage Board recommendations. After lot of negotiations, an agreement was arrived at between the management of this party and the Metal & Engineering Workers Union on 13/3/1985. Keeping in view the recommendations of the Wage Board, it may be mentioned that the Wages payable under the Engineering Wage Board were very much higher than the wages fixed by the Government of Madhya Pradesh.
- B) In February, 1986 the said Union gave another notice of change which was ceased in conciliation by The Assistant Labour Commissioner, Raipur and tripartite settlement was arrived at between the parties before the Conciliator and The Assistant Labour Commissioner on 1/4/86 effective from 1/1/86 for a period of 4 years from the date of settlement. The important terms and conditions of the settlement are reproduced below:-

### TERMS OF SETTLEMENT

1. It is agreed by both the parties that the prevailing pay scales of the workmen governed by the terms of registered settlement dated 13th March, 1985 and payable under the recommendations of Central Wage Board for Engineering Industries will be further revised and fixed w.e.f. 1st January, 1985 as follows :-



Sl. NO.	CATEGORIES	REVISED PAY SCALE
1.	Un skilled	Rs 530-10-630
2.	Semi skilled-A	Rs.550-12-622-13-674.
3.	Semi skilled-B	Rs.565-14-705.
4.	Skilled-A	Rs.595-16-755.
5.	Skilled-B	Rs.615-18-795.
6.	Skilled-C	Rs.725-22-945.
7.	Skilled-D	Rs.800-25-1050.
8.	Skilled-E	Rs.900-30-1200.
9.	Skilled-F	Rs.950-33-1082-40-1242.
10.	Clerk/Driver Gr-I	Rs.565-145-705.
11.	Clerk/Driver Gr-II	Rs.580-15-730.

In addition to the above, the workmen will also be paid V D A. with effect from 1st January, 1986. The prevailing wages viz., Basic, D. A. and V. D. A. will be merged as basic wages and the workmen will be paid V. D. A. over and above All India Average Consumer Price Index No. 589 for Industrial Workers (Base year 1960-100). The Prevailing system of adjustment of V. D. A. as per recommendations of central Wage Board for Engineering Industry will be followed in future also as follows:-

- a) The adjustment of V. D. A. will be made twice a year.
- b) From 1st January on the basis of average of All India Consumer Price Index from preceding April to September and
- c) From 1st July on the basis of average of All India Price index from preceding October to March
- d) The V. D. A. will be paid @ Rs.1.25 per point to all workmen covered under this settlement.
- e) Similarly, when there will be fall in consumer Price Index the rate of V. D. A. will be reduced at the above rates.

2. It is also agreed by both the parties that in case of any wage revision in future to be brought into force by the Government, by order of any Court or recommendations of Central Wage Board to be set up in future for Engineering Industry. The Management shall reserve the right to split up the prevailing wages and to reduce the rate of yearly increment also settled under this settlement as per its convenience and the workmen shall have no right of any additional benefits of wages.

However, if the prevailing rates of wages will be less than the wages prescribed by the Government by order of any Court or recommendations of Central Wage Board, the workmen shall have right to get additional wages.

- 3: It is agreed by both the parties that the workmen will be given yearly increment as per the new pay scales as per this settlement. The prevailing system of payment of yearly increments to the workmen on 1st January and 1st July in each year will be followed by the Management in future also.
  - 4: It is agreed by both the parties that in framing the wage structure 8 hours as standard work for a workman to do every day and 26 days in a calendar month is taken into consideration. The weekly holiday will be treated as rest day and working days in each month will be taken into consideration for computation of monthly wages.
  - 5: It is agreed by both the parties that the prevailing designation of the workmen, category-wise as per the recommendations of Central Wage Board for Engineering Industry, i.e. Un-skilled, Semi-skilled, Skilled employee will be re-designated trade-wise viz., Turner, Fitter, Machinist, Welder and Helper etc.
  - 6: It is agreed by the Union that the workmen will exert their level best to give optimum production and shall maintain discipline in the Company. The management also agreed to give its full co-operation to enable the workmen to give the aforesaid production.
  - 7: It is also agreed by both the parties that the Charter of Demand submitted in this Industrial Dispute shall stand settled and no financial liability will be thrown on the head of the management by the Union during the operation of this settlement. The matter regarding payment of house rent allowance to the Workmen will be resolved between the parties themselves, by negotiations.
  - 8: It is agreed by both the parties that this settlement is binding on management, Union and the workmen for a period of 'four years' from the date of this settlement. All the benefits will be payable to new workmen also.
  - 9: It is agreed by both the parties that this settlement and revised pay scales shall come into operation with effect from 1st January 1986.
- C) That due to this substantial increase in wages the relations between the employees and the management were very cordial and another settlement was arrived at between the management and the said Union on 5/9/90 effective from 1/1/90 to 31/12/93, wherein a guaranty benefit of Rs. 75/- (Rupees Seventy five only) P.M. was given to every worker. The terms of settlement are reproduced below:-

TERMS OF AGREEMENT

- 1] THAT the Management agreed to pay Rs. 75/- as guaranteed benefit to the workmen. In addition to this, the workmen who have completed more than one year of service and less than five years will get one increment and the workmen who have completed more than five years of service will get two increment as fitment benefit.
- 2] THAT the Management and the Union agreed to revise and fix prevailing wages (Basic + V.D.A.) and pay scales w.e.f. 1/1/90, which are being governed by the terms of settlement dated 1/4/86. The revised wages and pay scales will be as follows :-

**PRESCRIBED TIME SCALE PAY OF EMPLOYEES WORKING  
IN BEEKAY ENGINEERING CORPORATION, BHILAI (M.P.)**

SL. NO.	CATEGORIES OF EMPLOYEES	PRESENT PAY SCALE	REVISED PAY SCALE W E F 1/10 90
1	Un skilled	Rs 530-10-630	Rs 925-16-1005-18-1059
2	Semi skilled A	Rs 550-12-622-13-674	Rs 945-19-1040-21-1103
3	Semi skilled B	Rs 565-14-705	Rs 960-22-1070-25-1135
4	Skilled A	Rs 595-16-755	Rs 990-25-1115-28-1199
5	Skilled B	Rs 615-18-795	Rs 1010-30-1160-34-1262
6	Skilled C	Rs 725-22-945	Rs 1120-35-1295-39-1412
7	Skilled D	Rs 800-25-1050	Rs 1195-40-1395-44-1527
8	Skilled E	Rs 900-30-1200	Rs 1295-48-1535-52-1691
9	Skilled F	Rs 950-33-1082-40-1242	Rs 1345-53-1610-58-1784

IN addition to the above, the workmen will also be paid variable dearness allowance w e f. 1/1/90. The prevailing wages viz. Basic & V.D.A. will be merged as Basic wages and the workmen will be paid V.D.A. over and above All India Average Consumer Price Index Number 845 for Industrial Workers (Base year 1960-100). The prevailing system of adjustment of V.D.A. will be as follows :-

- a) The adjustment of V.D.A. will be made twice a year
- b) From 1st January on the basis of average of All India Consumer Price Index from preceeding April to September and
- c) From 1st July on the basis of average of All India Consumer Price Index from preceeding October to March.

- 1) The V.D.A. will be paid @ Rs. 1.50 (Rupees One and paise fifty only) per point to all workmen covered under this agreement.
- e) Similarly when there will be fall in All India Consumer Price Index, the V.D.A. will be reduced at the above rates.
- 3] THAT the management has agreed to pay :-
- a) Revised house rent allowance to the workmen @ 5% (five percent) on basic wages only subject to payment of minimum house rent allowance Rs. 50/- (Rupees fifty only) per month.
- b) Revised medical allowance to the workmen @ 5% (five percent) per month w.e.f. 31/8/90, subject to the condition that the Company is exempted from the operation of provisions of Employees State Insurance Act, 1948 by the Government, failing which workmen will be bound by the provisions of Employees State Insurance Act, 1948.
- c) Revised cycle allowance to the workmen @ Rs. 15/- (fifteen only) per month.
- d) Moped/Scooter allowance to the workmen @ Rs. 30/- (Rupees Thirty only) / Rs. 50/- (Rupees fifty only) per month.
- 4] THAT the Management and the Union agreed for payment of House rent allowance, Medical allowance and Cycle allowance to the workmen on the following conditions :-
- i) The aforesaid payment of House rent allowance @ 5% (five percent) on basic wages only will be payable to a workmen, only on his performing duty for atleast a day in a month.
- ii) The aforesaid payment of cycle allowance @ Rs. 15/- per month will be payable to workmen, only on his performing duty for atleast Ten days in a month.
- iii) The aforesaid payment of House rent allowance, Cycle allowance and Medical allowance will be payable to a workmen on his completing one year of service.
- iv) That the Management and the Union agreed to split up the Basic wages + V.D.A., to reduce the rate of V.D.A. and yearly increments settled under this agreement in Case any wage revision is to be brought into force in future by the Central/State Government, By order of any Court or recommendations made by the Central Wage Board for Engineering Industries to be constituted in future. However, if the wages settled under this agreement are less then the wages prescribed by the Central/State Government, By order of any Court of recommendations of Central Wage Board for Engineering Industries, the workmen shall have right to get additional wages.
- 5] THAT the Management agreed to promote the workmen to their next higher category and grade who have completed five years of service. This promotion policy will come into force with effect from 1/1/90. However, in future the management and Union will jointly frame a promotion policy

which will include on the job test/written test by the management and the workmen has to qualify these test. Moreover past service record of the workmen will also be taken into account as a condition precedent for promotion.

- 6] THAT the Management and Union agreed for payment yearly increment prescribed in new pay scales as per this agreement. The prevailing system of payment of yearly increments by the management to the workmen on 1st January and 1st July every year will continue in future also.
- 7] THAT the Management and Union agreed to take into consideration eight hours as standard work for every workman to perform duty everyday and 26 days in a calendar month to frame the wage structure. The weekly holiday will be treated as rest day and working days in each calendar month will be taken into account for computation of monthly wages.
- 8] THAT the Management agreed to give two days annual leave during the calendar year to the workmen in addition to leaves prescribed under the Factories Act, 1948. The workmen who has worked for 240 days or more shall be allowed during the subsequent calendar year, leave with wages for a number of days calculated at the rate of -
  - i) If an adult, one day for every 17.94 days of work performed by him
- 9] THAT the Management and Union agreed for giving suitable designations to the workmen as per the category and grade given to the workmen under this agreement
- 10] THAT the Union agreed that the charter of demands disputes dated 30/8/90 submitted in this Industrial dispute shall stand settled and in future no additional liability (financial) will be born by the Management.
- 11] THAT the union agreed that the workmen will exert their level best to give optimum production and shall maintain proper discipline in the Company. The Management will also give its full co-operation to enable the workmen to give the aforesaid production.
- 12] THAT the Management and the Union agreed that this agreement will be binding for a period of four years from 1/1/90 to 31/12/93 with effect from 1.1.90.
- 13] THAT the Union agreed that the workmen will give consent letters to the management accepting the benefits enumerated in this agreement. A copy of annexure of consent letter is enclosed herewith.

THE condition were accepted every employee irrespective of the fact whether they were members of this Union or not.

- D) IT appears that workers of this party joined another fraction of the AITUC which formed the Union in the name of Samyukta Engineering Majdoor Sangh who gave a notice of change on 7.11.94

and an agreement was arrived at on 8/12/94 effective from 1/1/94 to 31/12/97. This agreement is in force even today and the Pragatisheel Engineering Shramik Sangh Party No.1 has no locus-standi to raise the present dispute. The terms of agreement are reproduced below :-

### TERMS OF AGREEMENT

- 1] THAT the Management agreed to pay Rs.100/- (Rupees One hundred only) as guaranteed benefit to the employees. In addition to this, the employees who have completed more than one year of service shall get two special Increments.
- 2] THAT the Management and the Union agreed to revise and fix prevailing wages (Basic + V D A )and pay scales w e f 1/1/94 Which are being governed by the terms of settlement dated 5/9/90. The revised wages and pay scales will be as follows :-

#### **PRESCRIBED TIME PAY OF EMPLOYEES WORKING IN BEEKAY ENGINEERING CORPORATION, 45/47 INDUSTRIAL ESTATE BUILAI**

SL. NO.	CATEGORIES OF EMPLOYEES	PRESENT PAY SCALE	REVISED PAY SCALE W E F 01/01/94
1.	Un skilled	Rs.925-16-1005-18-1059	Rs.1553-22-1663-24-1735
2.	Semi skilled -A	Rs.945-19-1040-21-1103	Rs.1573-25-1698-27-1779
3.	Semi skilled-B	Rs.960-22-1070-25-1145	Rs.1588-28-1728-31-1821
4.	Skilled-A	Rs.990-25-1115-28-1199	Rs.1618-31-1773-34-1875
5.	Skilled-B	Rs.1010-30-1160-34-1262	Rs.1638-36-1818-40-1938
6.	Skilled-C	Rs.1120-35-1295-39-1412	Rs.1748-41-1953-45-2088
7.	Skilled-D	Rs.1195-40-1395-44-1527	Rs.1823-46-2053-50-2203
8.	Skilled-E	Rs.1295-48-1535-52-1691	Rs.1923-54-2193-58-2367
9.	Skilled-F	Rs.1345-53-1610-58-1784	Rs.1973-59-2268-64-2460
10.	Skilled-G		Rs.2048-65-2373-70-2583
11.	Skilled-H		Rs.2153-71-2513-75-2700

IN addition to the above, the employees shall also be paid variable dearness allowance w e f 1.1.94. The prevailing wages, viz Basic & V.D.A. over and above All India Average Consumer Price Index Number 1197 for Industrial Workers (Base year 1960-100). The prevailing system of adjustment of V.D.A. will be as follows :-

- a) The adjustment of V D A. will be twice a year,
  - i) from 1st January on the basis of average of All India Consumer Price Index from preceeding April to September.

ii) from 1st July on the basis of average of all India Consumer Price Index from preceeding October to March.

- b) The V.D.A. shall be paid @ Rs. 1.65 (Rupees One and paise sixty five only) per month to all employees covered under this agreement.
- c) Similarly, when there will be fall in All India consumer Price Index the variable dearness allowance will be reduced at the above rate.
- 3] The Management agrees to pay :-
- a) House rent allowance to the employees @ Rs. 5% (five percent) per month on Basic wages.
- b) Medical allowance to the employees @ Rs. 5% (five percent) per month on Basic wages plus V.D.A. subject to maximum limit of Rs. 125/- (Rupees One hundred and twenty five only) and also subject to the condition that the Company is exempted from the operation of provisions of Employees State Act, 1948 by the Government, failing which Employees will be bound by the provisions of Employees State Insurance Act, 1948.
- c) Revised cycle allowance to the employees @ Rs 30/- (Rupees Thirty only) per month.
- d) Revised Moped Scooter allowance to the employees @ Rs 100/- (Rupees One hundred only) / @ Rs. 150/- (Rupees One hundred and fifty only) per month respectively.
- 4] THAT the Management and the Union agreed for the payment of house rent allowance, medical allowance, cycle allowance, moped/scooter allowance on the following conditions -
- i) The aforesaid payment of house rent allowance @ Rs. 5% (five percent) shall be payable to the employees only on his performing duty for atleast a day in a month
- ii) The aforesaid payment of cycle allowance shall be payable to the employees @ Rs 30/- (Rupees thirty only) on his performing duty for atleast ten days in a month
- iii) The aforesaid payment of moped/scooter allowance shall be payable to the employees @ Rs. 100/- (Rupees One hundred only) / @ Rs 150/- (Rupees One hundred and fifty only) on his performing duty for atleast ten days in a month.
- iv) The aforesaid payment of house rent allowance, conveyance allowance, medical allowance, moped/scooter allowance shall be payable to the employees on his completing one year of service
- 5] THAT the Management has agreed to pay education allowance @ Rs 250/- (Rupees Two hundred and fifty only) once in a year to employees subject to the production of supporting documents of admission of their children in School/Collage

- 6] THAT the Management has agreed to provide cloth for Two pairs of Tencot Uniform to the employees once in a year from next calendar year i.e. 1995-96.
- 7] THAT the Management has agreed to pay Uniform stitching allowance @ Rs.100/- (Rupees One hundred only) to each employees once in a year from next calendar year i.e. 1995-96.
- 8] THAT the Management agreed to promote the employees to their next higher category and grade who have completed five year of service subject to their aptitude, performance and good conduct. However, in future the management and the Union will jointly frame a promotion policy which will include beside others the following :-
- i) Trade test (written & practical).
  - ii) Seniority.
  - iii) Past record and conduct.
  - iv) Qualification.
- 9] THAT the Management and the Union agreed that the prevailing system of payment of yearly increments to the employees on 1st January and 1st July of every year shall continue in future also.
- 10] THAT the Management and the Union agreed to take into consideration eight hours as standard working hours every day and twenty six days as working day in calendar month to frame the wage structure. The weekly holiday will be treated as rest day
- 11] THAT the Management will set up a Standardisation committee to denote suitable designation and grades to the employees.
- 12] THAT the Union agreed that, THE CHARTER OF DEMAND INDUSTRIAL DISPUTE dated 7/11/94 shall stand settled and in future no additional liability (financial) will be born by the management during the operation of this agreement.
- 13] THAT the Union agreed that, the employees shall exert their level best to give optimum production and shall maintain proper discipline in the Company. That the management shall also give its full co-operation to enable the employees to give the aforesaid production
- 14] THAT the Management and the Union agreed that this agreement shall be binding for the period of four years from 1/1/94 to 31/12/97.
- 15] THAT the Union agreed that the employees will give consent letter to the management accepting the benefits enumerated in this agreement. A copy of Annexure of consent letter is enclosed herewith.

This agreement has been signed not only by the office bearers of the Union but a lot number of workers also who had actively participated in the negotiations.



E] That it may also be mentioned here that the Pragatisheel Engineering Shramik Sangh Party No. 1 have not submitted any list of the workmen of its party whose case is being spoused by them. In view of the heavy payments being made by this party, no worker has any grudge and no worker has authorised the Party No. 1 to raise any demand or disturb their cordial relationship and peaceful working. The Union has not any case for revision of wage structure. It may be mentioned that the lowest wage payable to a Un-skilled regular worker employed by this party directly comes to Rs. 2346.66 which is more than the double payable according to the wages fixed by Government of M.P. for the Engineering Industry.

In the premises submitted above, it is prayed that this term be answered in negative.

### TERM NO. 2 OF THE REFERENCE

That as regards the contents of para 6 & 7 of the statement of claim, it is specifically denied that there is any justification propriety for granting 15 days casual leave, 10 days festival holidays and 30 days medical leave as claimed by the first party in this para. It is denied that like comparable industries in the region are giving the benefits of 15 days casual leave, 10 days festival holidays and 30 days medical leave. It is denied that any hazards are involved in the undertaking. It will be appropriate to mention here that the provisions of factories Act in respect of safety measures are being complied with. It will be relevant to mention here that the service condition of the employees of the Second Party are covered by the Madhya Pradesh Industrial Employment (Standing orders) Rules, 1963. These standing orders make a provision for grant of casual leave @ 7 days per annum and festival holidays @ 5 days per annum. The Second party allowing to its employees the benefit of availing the aforesaid casual leave and festival holidays in accordance with the provisions of Standard Standing Orders. The facilities of leave statutorily provided in the Standard Standing Orders are very reasonable and the grant of more leave facilities will be unduly generous, which will have definitely adverse effect on the production also. As regards the medical leave of 30 days no like comparable industry in the region is giving any medical leave. Even the standard standing orders also do not provide for grant of any medical leave to the workers. Thus in consideration of the like comparable industries in region there is no propriety of granting any medical leave to the workers. Moreover, the grant of such leave will not only be unduly generous, but it would adversely affect the production also.

It is further submitted that this party is allowing leave as under -

1. National holidays with wages 3 days
2. Festival holidays with wages ;
3. Casual leave 7 days with wages. ; As per Act
4. Optional holiday. ;
5. Annual leave with wages as per section 79 of the factories Act
6. Maternity leave as per Act.

It is further submitted that in addition to the leave mentioned above, this management is further giving an additional benefit for 2 days earned leave to any employee working for 240 days as per agreement dated 5/9/90 reproduced above.

It is thus submitted that party No. 1 has not made out any case for permitting more leaves. In fact, according to present Government Industrial Policy, more production should be done and leave should be curtailed. It is thus cleared that there is absolutely no case for any increase in the leave.

Party No.2 is paying to its workers Medical allowance & Medical benefits. Also the Party No.2 provided specialised medical benefits as and when required.

This party is allowing to its regular department employees Medical benefit, which are much higher and more beneficial than benefit allowed by Employees State Insurance Corpn.. Hence Hon'ble Supreme Court while admitting Special Leave to Appeal (Civil) No.8485/90 passed an order on 24.04.91, directing the Employees State Insurance Corpn. not to prosecute the employer.

The relevant part of the same is reproduced below :

"Pending further orders on the appeal, the appellant should continue to enjoy the facilities under the Management and no action should be taken to prosecute respondent company in non-compliance with the provision of the Employee's State Insurance Scheme. The operation of the Scheme in relation to the company in question will be kept in abeyance until further orders."

Thus the claim of the first party for grant of casual leave @ 15 days per annum, festival holidays @ 10 days per annum and medical leave @30 days per annum deserves to be rejected.

### TERM NO. 3

It is specifically denied that all persons mentioned in the Annexure were the employees of this party. It is submitted as under :-

It is submitted that Sl.No.1 Jaiprakash Mishra, Sl.No.3 Deenanath Yadav, Sl.No.4. Krishnarao Jhadav Sl.No.11. Surender Tiwari were employed by this party. They were charge sheeted for serious misconducts and dismissed after a thorough enquiry conducted strictly in accordance with principles of natural justice wherein they were afforded full opportunity to defend themselves. A brief statement about charge sheet etc. is given below :-

Sl.No. in Reference	Name & Father's name	Charges
(1)	(2)	(3)
1.	Mr. Jaiprakash Mishra S/o. Shri Biswanath Mishra	i) Wilfully disobeyed the reasonable order of the Manager, Shri.Padmanabhen to go to the work place.

(1)	(2)	(3)
		ii) Behaved disorderly by abusing your Senior officer and trying to assault him which amounts to act subversive of discipline.
		iii) Refused to accept the suspension order on 31.12.90 which is disobedience of reasonable order on your part.
		iv) You behaved disorderly with the Watchman Shri. Ajit Ram Sahu on 1/1/91 at about 12.00 Hrs. by pushing him forcibly & entering the factory which amounts to causing intimidation & an act subversive of discipline.

Finding of the Enquiry officer (4)	Date of Removal (5)
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Charges No. 1 & 2 is proved. Charges No. 3 is proved. Charges No. 4 is proved.	22.11.91
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(1)	(2)	(3)
3. Mr. Deenanath Yadav S/o. Shri Sitaram Yadav	12(1)(d) Willful disobedience of lawful orders of the superiors. 12(1)(f) Riotous and disorderly behaviour during working hours at the undertaking and intimidation, an act subversive of discipline.	

(4)

(5)

Charges No.1 - fully established.  
Charges No.2 - fully established.

(1)	(2)	(3)
१		उपक्रम में कार्य के घंटों के दौरान चलना पूर्ण या उच्छ्रृंखल व्यवहार एवं शारीरिक विवाधता जो किसी व्यक्ति के जीवन या क्षेत्र का संकट उत्पन्न करता है तथा उनकी आय पर विपरीत प्रभाव डालता है।
२		विधि के उपबंधों का उल्लंघन करते हुए अन्य व्यक्तियों को हस्ताक्षर में भाग लेने के लिए प्रोत्साहित करना, उकसाना या हस्ताक्षर में प्रवेश करने में अन्यायपूर्ण कार्य करना।
३		अपने कृत्य से उपक्रम को कोई गंभीर आर्थिक क्षति पहुंचाना।

(4)	(5)
१. आरोप सिद्ध पाया जाता है।	
२. आरोप सिद्ध पाया जाता है।	
३. आरोप सिद्ध होता है।	

(1)	(2)	(3)
१		उपक्रम में कार्य के घंटों के दौरान चलना पूर्ण या उच्छ्रृंखल व्यवहार एवं शारीरिक विवाधता जो किसी व्यक्ति के जीवन या क्षेत्र का संकट उत्पन्न करता है तथा उनकी आय पर विपरीत प्रभाव डालता है।

(1)	(2)	(3)
		२ विधि के उपबंधों का उल्लंघन करते हुए अन्य व्यक्तियों को हडताल में भाग लेने के लिए उदीप्त करना, उकसाना या हडताल को अप्रसर करने में अन्यथा कार्य करना ।
		३ अपने कृत्य से उपक्रम को कोई गंभीर आर्थिक क्षति पहुंचाना ।

(4)	(5)
१. आरोप सिद्ध पाये जाते हैं ।	06.12.92
२. आरोप सिद्ध पाये जाते हैं ।	
३. आरोप सिद्ध पाये जाते हैं ।	

(1)	(2)	(3)
4. Mr Krishnarao Jhadav S o. Shri Shesh Ram - Jhadav.		12(1)(d) - Willful disobedience of any lawful orders of the superiors.  12(1)(f) - Disorderly behaviour during working hours at the undertaking, an act subversive of discipline.  12(2)(d) - Sleeping during working hours

(4)

(5)

१. आरोप सिद्ध होना पाता है ।
२. आरोप सिद्ध होना पाता है ।
३. आरोप सिद्ध होना पाता है ।

(1)

(2)

(3)

- १ उपक्रम में कार्य के धंटों के दौरान बलवापूर्ण या उच्छ्रमपूर्ण व्यवहार जो किमो च्यक्तल के जीवन या क्षेत्र का गंभीर खतरा उत्पन्न करता है, या जो कि गंभीर पर्याप्त प्रभाव डालता है ।
- २ विधि के आदेशों का उल्लंघन करने हुए अन्य व्यक्तियों भा हडताल में भाग लेने के लिए उद्योग करना, उकसाना या हडताल को अग्रसर करने में अन्यथा कार्य करना ।
- ३ अपने कृत्य से उपक्रम को कोई गंभीर आर्थिक क्षति पहुंचाना ।

(4)

(5)

- आरोप सिद्ध पाया जाता है ।  
 आरोप सिद्ध पाया जाता है ।  
 आरोप स्वमेव सिद्ध होता है ।

(1)	(2)	(3)
		१ उपक्रम में कार्य के घंटों के दौरान बलवा पूर्ण या उच्छ्रृंखल व्यवहार एवं शारीरिक विवाधता जो किसी व्यक्ति के जीवन या क्षेत्र का संकट उत्पन्न करता है तथा उनकी आय पर विपरीत प्रभाव डालता है ।
		२ भाग के लक्ष्यों में उपक्रम के लक्ष्य प्राप्त करने का हडताल में भाग लेने के लिए उद्योक्त करना, उकसाना या हडताल को अग्रसर करने में अन्यथा भाग लेना ।
		३ अपने कृत्य से उपक्रम को कोई गंभीर आर्थिक क्षति पहुंचाना ।

(4)	(5)
आरोप सिद्ध पाया ।	06.12.92
आरोप सिद्ध पाया ।	
आरोप सिद्ध पाया ।	

(1)	(2)	(3)
11.	Mr. Surender Tiwari S/o. Shri Markande- Tiwari	१ उपक्रम में कार्य के घंटों के दौरान बलवा पूर्ण या उच्छ्रृंखल व्यवहार एवं शारीरिक विवाधता जो किसी व्यक्ति के जीवन या क्षेत्र का संकट उत्पन्न करता है तथा उनकी आय पर विपरीत प्रभाव डालता है ।

(1)	(2)	(3)	4
		२ विधि के अधिनियमों का अन्वयण करने हुए राज्य प्रशासकों को हड़ताल में भाग लेने के लिए उदीप्त करना, उकसाना या हड़ताल को अग्रसर करने में अन्यथा कार्य करना ।	
		३ अपने कृत्य से उपक्रम को कोई गंभीर आर्थिक क्षति पहुंचाना ।	
(4)	(5)		
आरोप सिद्ध पाया ।	12.12.92		
आरोप सिद्ध पाया ।			
आरोप सिद्ध पाया ।			

Sl. No. 11 Mr. Surender Tiwari has filed an application against the Dismissal order dtd. 12.12.92 in the Labour Court, Durg (CASE NO: 161/MP/LR/93) on 07.12.93. We have also submitted written statement in the Labour Court and the Case is pending in the Labour Court, Durg for further proceedings.

Sl. No. 6 Mr. Mahavir Prasad resigned on personal grounds on 04.11.91 and has taken his final payment.

Sl. No. 2 Mr. Anand Kumar Soni, No. 5 Mr. Kartar Singh, No. 7 Mr. Gulab Chouhan, No. 8 Mr. Nand Kumar, No. 9 Mr. Kalpnath Rai, No. 10 Mr. Chandeshwar and No. 12 Mr. Bakirshan Thakur were employed by different - contractors. Sl. No. 2, 5, 7, 10 and 12 have resigned and taken their final payment as detailed below :-



Sl. No. in Ref.	Name & Father's name	Employed with	Date of resignation	Date of acceptance	Date of payment
2	AnandKumar Soni S/o. Bhoraj Soni	Contractor Joginder- Singh	01.09.92	01.09.92	01.09.92
5	Kartar Singh S/o. Makhan Singh	Contractor Mukha Singh	24.01.95	24.01.95	24.01.95
7	Gulabi Chowhan S/o. Jokhan Chowhan	Contractor V.T John	13.08.95	13.08.95	13.08.95
0	Chandeswar S/o Genesh Kanti	Contractor Ramballi Sharma	04.09.93	04.09.93	04.09.93
	Balkrishna Thakur S/o Ravinder- Thakur	Contractor Ramballi- Sharma	28.02.95	28.02.95	28.02.95

Sl No. 13 Mr. Mahender Rao S/o Shri. Keshav Rao has been transferred to our Branch office, Calcutta vide order dated 14/6/91. But he did not reported on duty and filed an application before Labour Court, Durg (Case No. 68/MPIR/91) which was rejected vide order of Labour court, Durg Dtd. 18/7/91. Also he has filed a Misc. Application No 55/MPIR in the Industrial Court, Raipur which was dismissed vide order dated 21/7/93

He was charge sheeted on 12.9.91 and also published the copy in the local Hindi News paper. But he neither replied to the charge sheet nor reported on duty. His services were terminated vide order dated 19/11/91.

He has filed an application (Case No 36/MPIR 92) before Labour Court, Durg which was also rejected vide order dated 23/9/92.

The dismissal these persons for established misconducts mentioned above is perfectly legal & justified and calls for no interference by this Hon'ble Court. This party prays for permission to prove the misconducts in the Court, if for any reason, whatsoever, it finds the enquiry to be defective.

It is further submitted that after the ceasation of the employment either from our establishment or from the establishments of the contractors, the workmen have been

gainfully employed and are not entitled to any back wages, incase the Court finds any of them to be reinstated.

It is further submitted that the concerned workman have not availed of any remedy available to them under section 31 & 61 of the M.P.I.R. Act to challenge their cessation of employment, hence a valuable right has accrued to this party and this vested right can not be snatched by this reference. The reference is invalid and incompetent on this count also.

It is further submitted that management has lost confidence in all the above persons on account of their unlawful activities, aggressiveness and militance and, therefore, they do not deserve to be reinstated, if the court comes to this conclusion that their ceassation of employment is not proper

Therefore, the above cases cannot be considered at all and their names should be deleted from the Annexure

- b) It is submitted that a number of persons were engaged by several independent contractors who are liable and responsible for action taken by them in relation to their employees and have not been made parties in this case. This party cannot be made liable and responsible for any action taken by the Contractor. The reference is therefore, bad and not maintainable in respect of those persons and deserves to be answered in the negative

#### TERM NO. 4

This Hon'ble Court has pleased to pass an order on 12/10/95 granting interim relief to the persons mentioned in the Annexure.

The operation of this order dated 12/10/95, passed by this Hon'ble Court has been stayed by order passed on 3/11/95 by Hon'ble High Court, M.P. Indore vide W.P.No.1231/95. The operative part of this order is reproduced below:-

'Having heard counsel for the parties, I am of the view that the interim order passed by the respondent No.3 lateron on 12/10/95 by which the employees have been directed to be reinstated deserves to be stayed.

It is accordingly stayed, However, it is clarified that further proceedings in the matter shall continue; but the respondent No.3 shall until further orders shall not to pass any final award in the matter.'

In view of this stay this party is not submitting any statement required to this issue. The party deserves the right to submit the statement of claim at the proper opportunity.

It is further submitted that if on any count whatsoever the Court orders reinstatement of any person it is submitted that each persons mentioned in the annexure is gainfully employed and is not entitled to any back wages.

In premises it is submitted that reference be decided in the negative decision in WP No.1231/95.

Prays accordingly.



SECOND PARTY

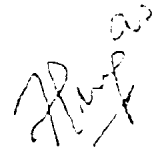
VERIFICATION

I, P.K Daas S/o. Late. H.S.Daas aged 36 years working as Assistant General Manager (P & A) in Beekay Engineering Corporation, Bhilai, resident at Bhilai Distt. Durg (M P) do hereby solemnly affirm & verify the contents of the above information are true to my knowledge, derived from official records and believed to be true.

Verified & Signed at Bhilai on 17/01/95 1995

P K DAAS  
Asstt General Manager (P&A)

SECOND PARTY



COUNSEL OF SECOND PARTY

57-6-2-56

BEFORE THE INDUSTRIAL COURT, BENCH AT RAIPUR (M.P.)

REF. NO :- 6/MP/IR/93  
 9/MP/IR/95  
 3/MP/IR/96

GENERAL SECRETARY  
 PRAGATISHEEL ENGINEERING SHRAMIK SANGH  
 MIG-I-55, HUDCO COLONY  
 BHILAI

..... PARTY NO.1

VERSUS

BEEKAY ENGINEERING CORPORATION  
 UNIT-2, INDUSTRIAL ESTATE  
 BHILAI

..... PARTY NO.2

STATEMENT OF CLAIM OF SECOND PARTY

The second party submits as under :-

- 1) That the Government of Madhya Pradesh vide its order No 6-1/93/16-A dated 25/2/93 has referred the following terms of Reference to this Hon'ble Court :-

TERMS OF REFERENCE :-

१. क्या वेतन भत्ते के पुनरीक्षण का औचित्य है ?  
 यदि हाँ तो वेतन, मंहगाई भत्ता को क्या योजना होनी चाहिये एवं इस संबंध में नियोजन को क्या निर्देश दिये जाना चाहिये ।
२. क्या प्रतिवर्ष १५ दिन का आकस्मिक अवकाश १० दिन का लोहारी अवकाश तथा ३० दिन का चिकित्सा अवकाश दिये जाने का औचित्य है ?  
 यदि हाँ तो इस संबंध में नियोजक को क्या निर्देश दिया जाना चाहिये ?

Contd ... 2

३. क्या संलग्न परिशिष्ट में उल्लेखित एम्प्लॉईज को पृथक्करण वेध एवं उचित है ?  
यदि नहीं तो इस संबंध में नियोजक को क्या निर्देश दिया जाना चाहिये ?
2. That subsequently vide order No 6-1/93/16A dated 31/7/95, the Government has referred the following terms of reference also by adding to the earlier 3 terms of reference this making the total 4.
४. क्या अनुक्रमांक ३ के संलग्न परिशिष्ट में उल्लेखित सेवा से पृथक् किये एम्प्लॉईज के निराकरण होने तक अंतरिम राहत प्रदान करने का औचित्य है ?  
यदि हाँ तो इस संबंध में नियोजक को क्या निर्देश दिया जाना चाहिये ?
- 2) That in regard to TERM No. 1 OF THE REFERENCE the second party submits as under -
- A) That the workers of this party were represented by the Metal & Engineering Workers Union since 1984. This Union is spoused their case and gave a notice of demand for the revision of the pay structure and other terms and conditions at par with the Engineering Wage Board recommendations. After lot of negotiations, an agreement was arrived at between the management of this party and the Metal & Engineering Workers Union on 13/3/1985. Keeping in view the recommendations of the Wage Board, it may be mentioned that the Wages payable under the Engineering Wage Board were very much higher than the wages fixed by the Government of Madhya Pradesh.
- B) In February, 1986 the said Union gave another notice of change which was ceased in conciliation by The Assistant Labour Commissioner, Raipur and tripartite settlement was arrived at between the parties before the Conciliator and The Assistant Labour Commissioner on 1/4/86 effective from 1/1/86 for a period of 4 years from the date of settlement. The important terms and conditions of the settlement are reproduced below:-

### TERMS OF SETTLEMENT

It is agreed by both the parties that the prevailing pay scales of the workmen governed by the terms of registered settlement dated 13th March, 1985 and payable under the recommendations of Central Wage Board for Engineering Industries will be further revised and fixed w.e.f. 1st January, 1985 as follows :-

Sl. NO.	CATEGORIES	REVISED PAY SCALE
1.	Un skilled	Rs 530-10-630.
2.	Semi skilled-A	Rs 550-12-622-13-674.
3.	Semi skilled-B	Rs 565-14-705.
4.	Skilled-A	Rs 595-16-755.
5.	Skilled-B	Rs 615-18-795.
6.	Skilled-C	Rs 725-22-945.
7.	Skilled-D	Rs 800-25-1050.
8.	Skilled-E	Rs 900-30-1200.
9.	Skilled-F	Rs 950-33-1082-40-1242
10.	Clerk/Driver Gr-I	Rs 565-145-705.
11.	Clerk/Driver Gr-II	Rs 580-15-730.

In addition to the above, the workmen will also be paid V.D.A. with effect from 1st January, 1986. The prevailing wages viz., Basic, D.A. and V.D.A. will be merged as basic wages and the workmen will be paid V.D.A. over and above All India Average Consumer Price Index No. 589 for Industrial Workers (Base year 1960-100). The Prevailing system of adjustment of V.D.A. as per recommendations of central Wage Board for Engineering Industry will be followed in future also as follows:-

- a) The adjustment of V.D.A. will be made twice a year.
  - b) From 1st January on the basis of average of All India Consumer Price Index from preceding April to September and
  - c) From 1st July on the basis of average of All India Price index from preceding October to March
  - d) The V.D.A. will be paid @ Rs 1.25 per point to all workmen covered under this settlement
  - e) Similarly, when there will be fall in consumer Price Index the rate of V.D.A. will be reduced at the above rates.
2. It is also agreed by both the parties that in case of any wage revision in future to be brought into force by the Government, by order of any Court or recommendations of Central Wage Board to be set up in future for Engineering Industry. The Management shall reserve the right to split up the prevailing wages and to reduce the rate of yearly increment also settled under this settlement as per its convenience and the workmen shall have no right of any additional benefits of wages.

However, if the prevailing rates of wages will be less than the wages prescribed by the Government by order of any Court or recommendations of Central Wage Board, the workmen shall have right to get additional wages.

- 1: It is agreed by both the parties that the workmen will be given yearly increment as per the new pay scales as per this settlement. The prevailing system of payment of yearly increments to the workmen on 1st January and 1st July in each year will be followed by the Management in future also.
- 4: It is agreed by both the parties that in framing the wage structure 8 hours as standard work for a workman to do every day and 26 days in a calendar month is taken into consideration. The weekly holiday will be treated as rest day and working days in each month will be taken into consideration for computation of monthly wages.
- 5: It is agreed by both the parties that the prevailing designation of the workmen, category-wise as per the recommendations of Central Wage Board for Engineering Industry, i.e. Un-skilled, Semi-skilled, Skilled employee will be re-designated trade-wise viz., Turner, Fitter, Machinist, Welder and Helper etc
- 6: It is agreed by the Union that the workmen will exert their level best to give optimum production and shall maintain discipline in the Company. The management also agreed to give its full co-operation to enable the workmen to give the aforesaid production.
- 7: It is also agreed by both the parties that the Charter of Demand submitted in this Industrial Dispute shall stand settled and no financial liability will be thrown on the head of the management by the Union during the operation of this settlement. The matter regarding payment of house rent allowance to the Workmen will be resolved between the parties themselves, by negotiations
- 8: It is agreed by both the parties that this settlement is binding on management, Union and the workmen for a period of 'four years' from the date of this settlement. All the benefits will be payable to new workmen also.
- 9: It is agreed by both the parties that this settlement and revised pay scales shall come into operation with effect from 1st January 1986.
- C) That due to this substantial increase in wages the relations between the employees and the management were very cordial and another settlement was arrived at between the management and the said Union on 5/9/90 effective from 1/1/90 to 31/12/93, wherein a guaranty benefit of Rs. 75/- (Rupees Seventy five only) P.M. was given to every worker. The terms of settlement are reproduced below:-

TERMS OF AGREEMENT

- 1] THAT the Management agreed to pay Rs. 75/- as guaranteed benefit to the workmen. In addition to this, the workmen who have completed more than one year of service and less than five years will get one increment and the workmen who have completed more than five years of service will get two increment as fitment benefit.
- 2] THAT the Management and the Union agreed to revise and fix prevailing wages (Basic + V.D.A.) and pay scales w.e.f. 1/1/90, which are being governed by the terms of settlement dated 1/4/86. The revised wages and pay scales will be as follows :-

**PRESCRIBED TIME SCALE PAY OF EMPLOYEES WORKING  
IN BEEKAY ENGINEERING CORPORATION, BHILAI (M.P.)**

SL. NO.	CATEGORIES OF EMPLOYEES	PRESENT PAY SCALE	REVISED PAY SCALE W E F. 1/10/90
1.	Un skilled	Rs.530-10-630	Rs.925-16-1005-18-1059
2.	Semi skilled A	Rs.550-12-622-13-674	Rs.945-19-1040-21-1103
3.	Semi skilled B	Rs.565-14-705	Rs.960-22-1070-25-1145
4.	Skilled A	Rs.595-16-755	Rs.990-25-1115-28-1199
5.	Skilled B	Rs.615-18-795	Rs.1010-30-1160-34-1262
6.	Skilled C	Rs.725-22-945	Rs.1120-35-1295-39-1412
7.	Skilled D	Rs.800-25-1050	Rs.1195-40-1395-44-1527
8.	Skilled E	Rs.900-30-1200	Rs.1295-48-1535-52-1691
9.	Skilled F	Rs.950-33-1082-40-1242	Rs.1345-53-1610-58-1784

In addition to the above, the workmen will also be paid variable Dearness allowance w.e.f. 1/1/90. The prevailing wages viz. Basic & V.D.A. will be merged as Basic wages and the workmen will be paid V.D.A. over and above All India Average Consumer Price Index Number 845 for Industrial Workers (Base year 1960-100). The prevailing system of adjustment of V.D.A. will be as follows :-

- a) The adjustment of V.D.A. will be made twice a year.
- b) From 1st January on the basis of average of All India Consumer Price Index from preceeding April to September and
- c) From 1st July on the basis of average of All India Consumer Price Index from preceeding October to March.



d) The V.D.A. will be paid @ Rs. 1 50 (Rupees One and paise fifty only) per point to all workmen covered under this agreement.

e) Similarly when there will be fall in All India Consumer Price Index, the V.D.A. will be reduced at the above rates.

3] THAT the management has agreed to pay :-

a) Revised house rent allowance to the workmen @ 5% (five percent) on basic wages only subject to payment of minimum house rent allowance Rs. 50/- (Rupees fifty only) per month.

b) Revised medical allowance to the workmen @ 5% (five percent) per month w.e.f. 31/8/90, subject to the condition that the Company is exempted from the operation of provisions of Employees State Insurance Act, 1948 by the Government, failing which workmen will be bound by the provisions of Employees State Insurance Act, 1948.

c) Revised cycle allowance to the workmen @ Rs. 15/- (fifteen only) per month.

d) Moped/Scooter allowance to the workmen @ Rs. 30/- (Rupees Thirty only) - Rs. 50/- (Rupees fifty only) per month

4] THAT the Management and the Union agreed for payment of House rent allowance, Medical allowance and Cycle allowance to the workmen on the following conditions:-

i) The aforesaid payment of House rent allowance @ Rs. 5% of minimum Rs. 50/- per month will be payable to a workmen, only on his performing duty for atleast a day in a month.

ii) The aforesaid payment of cycle allowance @ Rs. 15/- per month will be payable to workmen, only on his performing duty for atleast Ten days in a month

iii) The aforesaid payment of House rent allowance, Cycle allowance and Medical allowance will be payable to a workmen on his completing one year of service.

iv) That the Management and the Union agreed to split up the Basic wages + V.D.A. , to reduce the rate of V.D.A. and yearly increments settled under this agreement in Case any wage revision is to be brought into force in future by the Central/State Government, By order of any Court or recommendations made by the Central Wage Board for Engineering Industries to be constituted in future. However, if the wages settled under this agreement are less then the wages prescribed by the Central/State Government, By order of any Court of recommendations of Central Wage Board for Engineering Industries, the workmen shall have right to get additional wages.

5] THAT the Management agreed to promote the workmen to their next higher category and grade who have completed five years of service. This promotion policy will come into force with effect from 1/1/90. However, in future the management and Union will jointly frame a promotion policy

which will include on the job test/written test by the management and the workmen has to qualify these test. Moreover past service record of the workmen will also be taken into account as a condition precedent for promotion.

- 6] THAT the Management and Union agreed for payment yearly increment prescribed in new pay scales as per this agreement. The prevailing system of payment of yearly increments by the management to the workmen on 1st January and 1st July every year will continue in future also.
- 7] THAT the Management and Union agreed to take into consideration eight hours as standard work for every workman to perform duty everyday and 26 days in a calendar month to frame the wage structure. The weekly holiday will be treated as rest day and working days in each calendar month will be taken into account for computation of monthly wages.
- 8] THAT the Management agreed to give two days annual leave during the calendar year to the workmen in addition to leaves prescribed under the Factories Act, 1948. The workmen who has worked for 240 days or more shall be allowed during the subsequent calendar year, leave with wages for a number of days calculated at the rate of -
  - i) If an adult, one day for every 17.94 days of work performed by him.
- 9] THAT the Management and Union agreed for giving suitable designations to the workmen as per the category and grade given to the workmen under this agreement.
- 10] THAT the Union agreed that the charter of demands disputes dated 30/8/90 submitted in this Industrial dispute shall stand settled and in future no additional liability (financial) will be born by the Management.
- 11] THAT the union agreed that the workmen will exert their level best to give optimum production and shall maintain proper discipline in the Company. The Management will also give its full co-operation to enable the workmen to give the afore said production.
- 12] THAT the Management and the Union agreed that this agreement will be binding for a period of four years from 1/1/90 to 31/12/93 with effect from 1/1/90.
- 13] THAT the Union agreed that the workmen will give consent letters to the management accepting the benefits enumerated in this agreement. A copy of annexure of consent letter is enclosed herewith.

THE condition were accepted every employee irrespective of the fact whether they were members of this Union or not.

- D) IT appears that workers of this party joined another fraction of the AITUC which formed the Union in the name of Samyukta Engineering Majdoor Sangh who gave a notice of change on 7/11/94

and an agreement was arrived at on 8/12/94 effective from 1/1/94 to 31/12/97. This agreement is in force even today and the Pragatisheel Engineering Shramik Sangh Party No 1 has no locus-standi to raise the present dispute. The terms of agreement are reproduced below :-

### TERMS OF AGREEMENT

- 1] THAT the Management agreed to pay Rs. 100/- (Rupees One hundred only) as guaranteed benefit to the employees. In addition to this, the employees who have completed more than one year of service shall get two special Increments.
- 2] THAT the Management and the Union agreed to revise and fix prevailing wages (Basic + V.D.A.) and pay scales w.e.f. 1/1/94. Which are being governed by the terms of settlement dated 5/9/90. The revised wages and pay scales will be as follows :-

### **PRESCRIBED TIME PAY OF EMPLOYEES WORKING IN BEEKAY ENGINEERING CORPORATION, 45/47 INDUSTRIAL ESTATE BHILAI**

SL NO.	CATEGORIES OF EMPLOYEES	PRESENT PAY SCALE	REVISED PAY SCALE W E F. 01/01/94
1.	Un skilled	Rs.925-16-1005-18-1059	Rs.1553-22-1663-24-1735
2.	Semi skilled -A	Rs.945-19-1040-21-1103	Rs.1573-25-1698-27-1779
3.	Semi skilled-B	Rs.960-22-1070-25-1145	Rs.1588-28-1728-31-1821
4.	Skilled-A	Rs.990-25-1115-28-1199	Rs.1618-31-1773-34-1875
5.	Skilled-B	Rs.1010-30-1160-34-1262	Rs.1638-36-1818-40-1938
6.	Skilled-C	Rs.1120-35-1295-39-1412	Rs.1748-41-1953-45-2088
7.	Skilled-D	Rs.1195-40-1395-44-1527	Rs.1823-46-2053-50-2203
8.	Skilled-E	Rs.1295-48-1535-52-1691	Rs.1923-54-2193-58-2367
9.	Skilled-F	Rs.1345-53-1610-58-1784	Rs.1973-59-2268-64-2460
10.	Skilled-G		Rs.2048-65-2373-70-2583
11.	Skilled-H		Rs.2158-71-2513-75-2738

IN addition to the above, the employees shall also be paid variable dearness allowance w.e.f. 1.1.94. The prevailing wages, viz Basic & V D A over and above All India Average Consumer Price Index Number 1197 for Industrial Workers (Base year 1960-100). The prevailing system of adjustment of V.D.A. will be as follows :-

- ) The adjustment of V D A. will be twice a year.
  - i) from 1st January on the basis of average of All India Consumer Price Index from preceeding April to September

- ii) from 1st July on the basis of average of all India Consumer Price Index from preceeding October to March.
- b) The V.D.A. shall be paid @ Rs. 1.65 (Rupees One and paise sixty five only) per month to all employees covered under this agreement.
- c) Similarly, when there will be fall in All India consumer Price Index the variable dearness allowance will be reduced at the above rate.
- 3] The Management agrees to pay :-
- a) House rent allowance to the employees @ Rs. 5% (five percent) per month on Basic wages.
- b) Medical allowance to the employees @ Rs. 5% (five percent) per month on Basic wages plus V D.A. subject to maximum limit of Rs. 125/- (Rupees One hundred and twenty five only) and also subject to the condition that the Company is exempted from the operation of provisions of Employees State Act, 1948 by the Government, failing which Employees will be bound by the provisions of Employees State Insurance Act, 1948.
- c) Revised cycle allowance to the employees @ Rs. 30/- (Rupees Thirty only) per month.
- d) Revised Moped/Scooter allowance to the employees @ Rs. 100/- (Rupees One hundred only) / @ Rs. 150/- (Rupees One hundred and fifty only) per month respectively.
- 4] THAT the Management and the Union agreed for the payment of house rent allowance, medical allowance, cycle allowance, moped/scooter allowance on the following conditions -
- i) The aforesaid payment of house rent allowance @ Rs. 5% (five percent) shall be payable to the employees only on his performing duty for atleast a day in a month
- ii) The aforesaid payment of cycle allowance shall be payable to the employees @ Rs. 30/- (Rupees thirty only) on his performing duty for atleast ten days in a month.
- iii) The aforesaid payment of moped/scooter allowance shall be payable to the employees @ Rs. 100 /- (Rupees One hundred only)/ @ Rs. 150/- (Rupees One hundred and fifty only) on his performing duty for atleast ten days in a month.
- iv) The aforesaid payment of house rent allowance, conveyance allowance, medical allowance, moped/scooter allowance shall be payable to the employees on his completing one year of service.
- 5] THAT the Management has agreed to pay education allowance @ Rs. 250/- (Rupees Two hundred and fifty only) once in a year to employees subject to the production of supporting documents of admission of their children in School/Collage.

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- 6] THAT the Management has agreed to provide cloth for Two pairs of Tericot Uniform to the employees once in a year from next calendar year i.e. 1995-96.
- 7] THAT the Management has agreed to pay Uniform stitching allowance @ Rs 100/- (Rupees One hundred only) to each employees once in a year from next calendar year i.e. 1995-96.
- 8] THAT the Management agreed to promote the employees to their next higher category and grade who have completed five year of service subject to their suitability, performance and good conduct. However, in future the management and the Union will jointly frame a promotion policy which will include beside others the following :-
- i) Trade test (written & practical).
  - ii) Seniority.
  - iii) Past record and conduct.
  - iv) Qualification.
- 9] THAT the Management and the Union agreed that the prevailing system of payment of yearly increments to the employees on 1st January and 1st July of every year shall continue in future also
- 10] THAT the Management and the Union agreed to take into consideration eight hours as standard working hours every day and twenty six days as working day in calendar month to frame the wage structure. The weekly holiday will be treated as rest day.
- 11] THAT the Management will set up a Standardisation committee to denote suitable designation and grades to the employees.
- 12] THAT the Union agreed that, THE CHARTER OF DEMAND INDUSTRIAL DISPUTE dated 7/11/94 shall stand settled and in future no additional liability (financial) will be born by the management during the operation of this agreement.
- 13] THAT the Union agreed that, the employees shall exert their level best to give optimum production and shall maintain proper discipline in the Company. That the management shall also give its full co-operation to enable the employees to give the aforesaid production.
- 14] THAT the Management and the Union agreed that this agreement shall be binding for the period of four years from 1/1/94 to 31/12/97
- 5] THAT the Union agreed that the employees will give consent letter to the management accepting the benefits enumerated in this agreement. A copy of Annexure of consent letter is enclosed herewith.

This agreement has been signed not only by the office bearers of the Union but a lot number of workers also who had actively participated in the negotiations

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That it may also be mentioned here that the Pragatisheel Engineering Shramik Sangh Party No. 1 have not submitted any list of the workmen of its party whose case is being spoused by them. In view of the heavy payments being made by this party, no worker has any grudge and no worker has authorised the Party No. 1 to raise any demand or disturb their cordial relationship and peaceful working. The Union has not any case for revision of wage structure. It may be mentioned that the lowest wage payable to a Un skilled regular worker employed by this party directly comes to Rs 216.00 which is more than the double payable according to the wages fixed by Government of M.P. for the Engineering Industry.

In the premises submitted above, it is prayed that this term be answered in negative.

### RM NO. 2 OF THE REFERENCE

That as regards the contents of para 6 & 7 of the statement of claim, it is specifically denied that there is any justification propriety for granting 15 days casual leave, 10 days festival holidays and 30 days medical leave as claimed by the first party in this para. It is denied that like comparable industries in the region are giving the benefits of 15 days casual leave, 10 days festival holidays and 30 days medical leave. It is denied that any hazards are involved in the undertaking. It will be appropriate to mention here that the provisions of factories Act in respect of safety measures are being complied with. It will be relevant to mention here that the service condition of the employees of the Second Party are covered by the Madhya Pradesh Industrial Employment (Standing orders) Rules, 1963. These standing orders make a provision for grant of casual leave @ 7 days per annum and festival holidays @ 5 days per annum. The Second party allowing to its employees the benefit of availing the aforesaid casual leave and festival holidays in accordance with the provisions of Standard Standing Orders. The facilities of leave statutorily provided in the Standard Standing Orders are very reasonable and the grant of more leave facilities will be unduly generous, which will have definitely adverse effect on the production also. As regards the medical leave of 30 days no like comparable industry in the region is giving any medical leave. Even the standard standing orders also do not provide for grant of any medical leave to the workers. Thus in consideration of the like comparable Industries cum region basis there is no propriety of granting any medical leave to the workers. Moreover, the grant of such leave will not only be unduly generous, but it would adversely effect the production also.

is further submitted that this party is allowing leave as under -

ational holidays with wages	3 days.	
stival holidays with wages.		}
asual leave 7 days with wages.		} As per Act.
tional holiday.		}
ual leave with wages as per section	79 of the factories Act.	
ernity leave as per Act.		

It is further submitted that in addition to the leave mentioned above, this management is further giving an additional benefit for 2 days earned leave to any employee working for 240 days as per agreement dated 5/9/90 reproduced above.

It is thus submitted that party No. 1 has not made out any case for permitting more leaves. In fact, according to present Government Industrial Policy, more production should be done and leave should be curtailed. It is thus cleared that there is absolutely no case for any increase in the leave.

Party No. 2 is paying to its workers Medical allowance & Medical benefits. Also the Party No. 2 provided specialised medical benefits as and when required.

This party is allowing to its regular department employees Medical benefit, which are much higher and more beneficial than benefit allowed by Employees State Insurance Corpn.. Hence Hon'ble Supreme Court while admitting Special Leave to Appeal (Civil) No. 8485/90 passed an order on 24.04.91, directing the Employees State Insurance Corpn. not to prosecute the employer

The relevant part of the same is reproduced below

"Pending further orders on the appeal, the appellant should continue to enjoy the facilities under the Management and no action should be taken to prosecute respondent company in non-compliance with the provision of the Employee's State Insurance Scheme. The operation of the Scheme in relation to the company in question will be kept in abeyance until further orders."

Thus the claim of the first party for grant of casual leave @ 15 days per annum, festival holidays @ 10 days per annum and medical leave @ 30 days per annum deserves to be rejected.

#### TERM NO. 3 & 4

There is no Annexure given by the State Government of M.P. while making the reference. The Union while submitting the statement of claim of this party has given a list of workers which cannot be looked into by this Hon'ble Court since it is not a part of the original reference.

That in view of the submissions made above, it is submitted that the reference is totally void and the First party has not made out any case on any of the terms and Hon'ble Court be pleased to decide all the terms in the negative.

Prays accordingly.

SECOND PARTY

VERIFICATION

I, P.K.Daas S/o. Late. H.S.Daas aged 36 years working as Assistant General Manager (P & A) in Beekay Engineering Corporation, Bhilai, resident at Bhilai Distt. Durg (M.P) do hereby solemnly affirm & verify the contents of the above information are true to my knowledge, derived from official records and believed to be true.

Verified & Signed at Bhilai on 20<sup>th</sup> December 1995.



P.K.DAAS  
Asstt. General Manager (P&A)

SECOND PARTY



COUNSEL OF SECOND PARTY



REFERENCE NO. (1) 4/MPIR/93  
(11) 7/MPIR/95

General Secretary,  
Pragatishil Engineering Shramik Sangh,  
Housing Board Colony,  
Industrial Estate,  
Bhilai, Distt. Durg (M.P.)

First Party

Versus

Beekay Engineering and Castings Ltd.,  
27/28, Light Industrial Area,  
Bhilai, Distt. Durg (M.P.)

Second Party

STATEMENT OF CLAIM OF THE SECOND PARTY

The second Party M/s Beekay Engineering and Castings Ltd.

submits as under :-

1. (1) That the Government of Madhya Pradesh vide its order No. 6-1/93/18-A dated 18.2.93 has referred the following Terms of Reference to this Hon'ble Court :-

TERMS OF REFERENCE :

1. क्या वेतन प्रश्नों के पुनरावलोकन का औचित्य है ? यदि हाँ तो वेतन महंगाई भत्ता एवं अन्य प्रश्नों की क्या योजना बनाने चाहिये एवं इस संबंध में नियोजक को क्या निर्देश दिये जाना चाहिये ?
2. क्या प्रतिवर्ष 15 दिन का आकस्मिक अवकाश 10 दिन का त्योहारों अवकाश तथा 30 दिन का चिकित्सा अवकाश दिये जाने का औचित्य है ? यदि हाँ तो इस संबंध में नियोजक को क्या निर्देश दिये जाना चाहिये ?
3. क्या तालमूल्य परिशिष्ट में उल्लेखित रम्यालाईज का सेवा पृथकीकरण वैध एवं उचित है ? यदि नहीं तो इस संबंध में नियोजक को क्या निर्देश दिये जाना चाहिये ?

That subsequently vide order No.6-1/93/16-A dated 31.7.95, the Government has referred the following Term of Reference also by adding to the earlier 3 Terms of Reference. Thus, making the total Terms of Reference as 4.

- 4. "क्या अनुक्रमिक 3 के संलग्न परिशिष्ट में उल्लेखित सेवा से पृथक विधे सम्पनाइज को विवाद के निराकरण होने तक अंतरिम राहत प्रदान करने का औचित्य है ? यदि हां तो इस संबंध में नियोजक को क्या निर्देश दिया जाना चाहिये ?"

That in regard to term No.1 of the reference the Second Party submits as under :-

That on 20.6.80/7.8.80 a notice of change was given by Metal and Engineering workers Bhilai, regarding revision of pay structure. A reference was made by the Government of M.P. to the Industrial Court, Indore registered as reference No.1731. This reference was made against the following parties (second party No.1 to 8)

LIST OF PARTIES

- Bhilai Wires Limited, Bhilai.
- Bhilai Engineering Corporation Private Ltd. Bhilai.
- Simplex Castings, Bhilai.
- Bharat Industrial Works, Bhilai.
- Simplex Engineering & Foundry Works, Bhilai.
- Simplex Udyog, Bhilai.
- Beco Steel Castings, Bhilai.
- Engineering Mazdoor Union, Bhilai.

The Industrial Court passed an award on 10.10.85. The operative part of the award in para 32 is reproduced below :-

" Thus I find that :-

1. There is propriety of onward revision of wages of the employees of second party No. 2 to 7.
2. The employees of the Second party No. 2 to 7 are entitled to wages, including allowances as per -  
Recommendations of the Wage Board for Engineering Industry with following modifications/conditions :-
  - a. Wages and allowances should be fixed in accordance with the Recommendations of the Wage Board, but they be payable with effect from 1.3.79.
  - b. The number of workers as on 1st January, 1979 should be taken as the number of workers for grouping of Industrial unit under paras 7.50 and 7.51 of the recommendations.
  - c. The term wages will include all wages and allowances payable under the Recommendations of the Wage Board.
  - d. Employers will be entitled to split and adjust the amounts payable as basic wage, dearness allowance and variable dearness allowance while fixing wages.
  - e. Incentive bonus and other benefits which are not included by the Wage Board under the term wages, will not be included and adjusted in fixing wages as per this award.
  - f. Recommendations of Wage Board will be implemented notwithstanding the fact that according to the Recommendations they were to be in force for five years.
  - g. This award will not take away the existing benefits. This award will also not take away wages which are already higher. Part of wages will be protected.
  - h. This award is without prejudice to the existing earnings and benefits where ever they are higher.

i. This award will not have adverse effect on scheme of wage scales and D.A. which give higher benefit to the workmen and it will be open to the workmen to claim benefits of such schemes of wage scales and dearness allowance. Thus latter wages will continue.

j. The present employer, the second party No.2 Unilal Engineering Corporation Pvt. Ltd. will be liable to pay wages to the employees of the Boco Steel Castings, Bhilai, also as per this award."

That a writ petition was filed by the Union in the High Court of Madhya Pradesh registered as M.P. No. 1139 of 1986 and also by the management registered as M.P. No. 264/86. During the pendency of these writ Petitions a compromise Agreement was drawn on 4.7.87, between the Union of Bhilai, Bilaspur and the Metal and Engineering Workers Union and a compromise order was passed by the High Court of M.P. in M.P. No. 1139/86 on 29.7.87 in which term Nos. 3.1,3.2,3.3,3.4,3.5,4.0,5.0,5.1,5.2,5.3,5.4,5.5,5.6,5.7, and 5.8 were incorporated by modifying the award of the Industrial Court. The agreement also was made a part of the impugned award. The above terms, as modified, are reproduced below :-

TERMS OF SETTLEMENT :

1 It is agreed that the Wage scales as applicable to Group 'B' to the Wage Board shall be made applicable to the employees and the categorisation and pay fixation of the Workers company shall be as per Annexure- 'A' which is part of this settlement w.e.f. 1.7.1987.

It is agreed between the parties that in full and final settlement of all claims that may arise out of the said reference before the Industrial Court in case No. I/MFIR/81 decided on 10.10.85 (deemed to be stayed in respect of Shalal Wires Limited), the company shall pay a sum of Rs.3.50 lacs in 2 years instalments, first instalment being payable by 15th Aug.1987.

It is also agreed that the amount payable to each such worker from the lumpsum payment of the aforesaid sum, shall be worked out by both the parties.

The arrears due to each worker shall be worked out by both the parties taking into account (a) experience (b) Designation (c) Salary and other relevant factors of the concerned workers.

It is also agreed that new wage structure shall be introduced by 1.1.88. The arrears due to each worker, wages as per Annexure - 'A' and the new wage structure to be introduced w.e.f. 1.1.88 shall be paid to the employees on execution and discharge of a consent letter, the proforma of which is Annexure- 'B' to this settlement.

That arrears will be paid as mentioned above and the company shall collect from each workman an amount equivalent to 15% of gross arrears payable to each employee under this settlement as contribution to the Union Funds and this amount shall be paid to the Union within 7 days of the payment of arrears by Payee Account Cheque. It is further agreed that a sum of 10% will be deducted from the arrears payable to the Workers to meet all court and other expenses incurred by the Union so far and that may be required to be incurred in future since the case is still kept pending and is to be

EFFICIENCY OF WORKMAN :

All workmen will work to the maximum of their efficiency and shall achieve the following minimum machine efficiencies with normally available raw materials in India.

<u>Machine/Position</u>	<u>Material</u>	<u>Absolute machine efficiency</u>
Thick Wire Drawing	LC	70
	MS	60
	HC	70
Fine Wire Drawing	LC	70
	MS	65
	HC	60
Strip Mill	LC	80
Galvanising (including Strip)	-	80
Stranding	-	90
Blueing	-	80

This figure is not of absolute efficiency but Standard efficiency.

Machine-wise and production-wise targets are given in the Annexure C and D. In the event of an increase in the speed of one or more of the existing machines or any improvement in the working methods, the production targets will be revised upward suitably.

With the achievement of the above production targets, workmen will also ensure that quality of products is maintained and scrap generation is minimum as per norms fixed by the Management from time to time.

It is agreed that by virtue of this memorandum of settlement all kinds of disputes or demands regarding implementation of the recommendations of the Engg. Wage Board and the award passed by the Industrial Court in case No. 12001/73 on 10.10.85 by Hon'ble Member Judge Industrial Court M.P. Indore or that could have been passed, if the case was continued after the company ceased to be relief undertaking, stand resolved and settled finally.

5.2 The Union on behalf of the Workers undertakes to ensure discipline amongst the workers and maintain optimum production.

5.3 It is agreed that strict discipline shall be maintained at the work place and only constitutional methods shall be adopted for redressal of grievances if any.

5.4 It is agreed that workmen shall do all types of work which they have performed and/or are performing as well as any other work as assigned from time to time.

5.5 It is also agreed that if by any judicial, executive or legislative action, the wage structure is required to be revised, the total emoluments now payable shall be absorbed in the total emoluments in the revised Wage - Structure.

5.6 This settlement is in supercession of all previous Settlements, agreements, privileges, wages and customs prevalent in the company and applicable to the employees.

5.7 This settlement shall be effective from 1.7.87.

5.8 That the parties shall move an application before the appropriate authorities including the Hon'ble High Court and Industrial Court of M.P. to pass an award in terms of this

That this became a basis for pay revision practically for all Engineering Industries, including this Party.

Accordingly, negotiated and settled Wage/Allowances were introduced by this party w.e.f. 1.1.1987 in agreement with the Engineering workers union claimed to be representing a large number of workers of this party and in fact all the workers accepted the terms as far as pay revision is concerned but they did not give optimum production to minimise the financial burden of this company.

That despite non maintenance of efficiency standards, the management of this party have been entering into wage agreements from time to time. Details are as under :

Prior to 01.01.87, the wage and allowances were paid to the workmen of this Party as per the recommendations of the Central Wage Board for Engineering Industries. From 01.01.87 the wage and allowances of the workmen were regulated by a Memorandum of Settlement, arrived/registered on 17.04.1987/24.04.1987, under Section 43 of M.P. Industrial Relations Act, 1960.

The above Memorandum of Settlement, operative from 01.01.1987 to 31.12.1990, was superseded by another Memorandum of Agreement arrived on 24.09.90, under Section 33(2) (A) of the MP Industrial Relation Act, 1960 for a period of four years from 01.01.91 to 31.12.94. Pay Scales/Total minimum emoluments are as under :

Contd...9



Revised w.e.f. 01.01.1991

Grade	Pay Scale	Basic	V.D.A.	H.R.A.	Med.	C.A.	Attd.	Gross/Total min. Emoluments
	933-17-1005-19-1111	967.00	79.50	50.00	25.00	20.00	15.00	1156.50
A	953-20-1073-22-1151	993.00	79.50	50.00	25.00	20.00	15.00	1182.50
B	973-23-1111-25-1211	1019.00	79.50	51.00	25.00	20.00	15.00	1209.50
	1005-26-1161-29-1281	1057.00	79.50	53.00	25.00	20.00	15.00	1249.50
	1075-32-1217-36-1371	1087.00	79.50	54.00	25.00	20.00	15.00	1282.50
	1140-37-1363-41-1526	1214.00	79.50	61.00	25.00	20.00	15.00	1414.50
	1220-42-1472-46-1656	1304.00	79.50	65.00	25.00	20.00	15.00	1500.50
	1335-50-1635-54-1851	1435.00	79.50	72.00	25.00	20.00	15.00	1646.50
	1410-55-1740-60-1980	1520.00	79.50	76.00	25.00	20.00	15.00	1735.50

- ES :
1. Medical Allowance was subsequently allowed @ 5% of the Basic Pay(+V.D.A.
  2. V.D.A. is revised twice in a year i.e. on 1st Jan. and 1st July.
  3. In addition certain fringe benefits are also allowed as enumerated in Sl.No. 7 of this statement.

ii) From 01.01.95 the Wage and Allowances have been revised by a Memorandum of settlement arrived on 03.10.93 for a period of four years from 01.01.95 to 31.12.98.

Pay Scales/Total minimum emoluments are as under :-

Revised w.e.f. 01.01.1995

Grade	Pay Scale	Basic	V.D.A.	H.R.A.	Med.	C.A.	Attd.	190 All.	Gross/Total Emoluments
	1600-22-1800-24-1972	1712.00	115.50	86.00	91.67	42.00	20.00	22.00	2089.77
A	1710-25-1835-27-1916	1735.00	115.50	87.00	92.52	42.00	20.00	22.00	2114.92
B	1730-28-1870-31-1963	1758.00	115.50	88.00	93.67	42.00	20.00	22.00	2140.07
	1762-31-1917-34-2019	1793.00	115.50	90.00	95.42	42.00	20.00	22.00	2178.82
	1782-36-1962-40-2062	1818.00	115.50	91.00	96.67	42.00	20.00	22.00	2206.07
	1897-41-2102-45-2237	1938.00	115.50	97.00	102.67	42.00	20.00	22.00	2308.07
	1977-46-2207-50-2357	2023.00	115.50	101.00	106.92	42.00	20.00	22.00	2431.32
	2092-54-2362-50-2536	2146.00	115.50	107.00	113.07	42.00	20.00	22.00	2566.47

RES : 1. Medical Allowance @ 5% of the Basic Pay(+V.D.A.

2. V.D.A. is revised twice in a year i.e. on 1st Jan. and 1st July.

3. In addition certain fringe benefits are also allowed as enumerated in Sl.No. 7 of this statement.

That according to the agreement last entered on 8.10.05 the lowest wages and allowances in the min. of the grade payable to any unskilled employee governed by the settlement of this party comes to Rs. 2089.77 which increases depending on the length of service, experience etc. The monthly wage and allowance includes :-

Basic Pay

Variable Dearness Allowance (Linked with AICPI for Industrial workers)

House Rent Allowance @ 5% of the B.P.

Conveyance Allowance @ Rs.42.00, 70.00 and Rs.100.00 for Cycle, Moped and Scooter/Motor Cycle respectively.

Medical Allowance @ 5% of the B.P.(+) V.D.A.

Attendance Allowance @ Rs.20.00 P.M.

I.S.D. (Quality) Allowance @ Rs. 22.00 P.M.

That in addition to the above wage and allowances, this party also allows the following facilities :-

Education Allowance @ Rs.250.00 P.A..

Uniform Stitching Allowance @ Rs.100.00 P.A.

Two sets of uniform cloth P.A.

Two pairs of safety boots P.A. and safety appliances as required.

In addition, the company also allows specialised treatment, if required, in deserving cases, at Company's cost in specialised centres; besides financial assistance, which is a very heavy financial burden.

It may also be mentioned that from 1.1.95 variable D.A. payable to the workers is calculated @ Rs.1.65 per point according to all India Average Consumer Price Index -(Shimla series) as detailed in the settlement. The relevant portion of the Settlement is reproduced below :-

VARIABLE DEARNESS ALLOWANCE :-

The workmen shall be entitled for Variable dearness Allowance, based on All India Consumers Price Index for Industrial Workers (Base Year 1960-100) above 1303 points w.e.f. 1.1.95

From 1.1.95 the V.D.A. shall be calculated @ Rs. 1.65 per point increase or decrease. As on 1.1.95 the V.D.A. works out to Rs. 115.50 P.M. calculated as under :

A.I.A.C.P.I. as on 31.12.94	=	1303 Pts.
A.I.A.C.P.I. as on 01.01.95	=	1373 Pts.
		-----
Increase	=	+(70) Pts.
70 Points x Rs. 1.65	=	Rs. 115.50

The V.D.A. shall be adjusted twice in a year i.e. on 1st January and 1st July every year based on A.I.A.C.P.I.No. for the period April to Sept. and October to March respectively.

In case there is a fall in the A.I.A.C.P.I. No., the V.D.A. shall be proportionately reduced @ Rs.1.65 per point.

It will, thus be seen that Wages being paid by this party to its workmen are more than double of the wages fixed by Govt. of M.P. for Engg. Industry from time to time.

This party also allows many other facilities/Fringe benefits which are much more than permitted by the Govt. of M.P.. thus

The Pragatishil Engineering Shramik Sangh has never submitted any list of our employees, whose cause is being espoused by them. In any case the Union has not made out any case for increase of wage as demanded in their statement of claim.

0.0 In view of the recession in the Engineering Industry, in India this party does not have the capacity to bear any further financial burden.

ERM NO.2 of the Reference :

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1. That as regards the contents of paras 6 and 7 of the Statement of claim, it is specifically denied that there is any justification and propriety for granting 15 days casual leave, 10 days Festival Holidays and 30 days Medical leave as claimed by the first party in this para. It is denied that like comparable industries in the region are giving the benefits of 15 days casual leave, 10 days Festival Holidays, and 30 days Medical Leave. It is denied that any hazards are involved in the undertaking. It will be appropriate to mention here that the provisions of the Factories Act, in respect of safety measures, are being complied with. It will be relevant to mention here that the service conditions of the employees of this party are governed by the Madhya Pradesh Industrial Employment (Standing Orders) Rules, 1963. These Standing Orders make a provision for grant of Casual Leave @ 7 days per annum and Festival Holidays @ 5 days per annum. This party is allowing, to its employees, the benefits of availing the aforesaid Casual leave and Festival Holidays in accordance with the provisions of Standard Standing Orders. The facilities of leave, statutorily provided in the

Standard Standing Orders are very reasonable and the grant of more leave facilities will be unduly generous which will have, definitely, adverse effect on the production also. As regards the medical leave of 30 days, no like comparable industry in the region, is giving any medical leave. Even the Standard Standing Orders also do not provide for grant of any medical leave to the workers. Thus in consideration of the like comparable industries on region basis, there is no propriety of granting any medical leave to the workers. Moreover, the grant of such leave will not only be unduly generous, but it would also adversely effect the production. Thus the claim of the first party for grant of Casual Leave @ 15 days per annum, Festival Holidays @ 10 days per annum and Medical Leave @ 30 days per annum deserves to be rejected.

It is further submitted that this party is allowing leave as under :-

National Holidays with wages - 3 days ) As per  
 Festival Holidays with wages - 5 days ) Standing Orders.  
 Casual Leave with wages - 7 days )  
 Annual Leave with wages as per section 79 of the Factories Act.

1 This party is allowing to its regular departmental employees medical benefits which are much higher and beneficial than benefits allowed under E.S.I. Scheme. Such benefits are being given by many other industries of Bilai and as such Honourable. Supreme Court, while admitting special leave to appeal (Civil No. 8485/90) filed by some industries of Bilai, which are allowing similar higher benefits, passed an order on 24.04.91 directing the Employees State Insurance

Pending further orders on the appeal, the appellant should continue to enjoy the facilities under the Management and no action should be taken to prosecute respondent company in non-compliance with the provisions of the Employees State Insurance Scheme. The operation of the Scheme in relation to the company in question will be kept in abeyance until further orders."

QUALIFICATION OF EMPLOYEES :-

It is specifically denied that all persons mentioned in the annexure were the employees of this party. It is submitted as under :-

Serial number 1 & 3 Shri Kalanath Verma and Durga Prasad respectively, were charge sheeted for major misconducts and have been removed from services on dates mentioned below against each name after conducting a thorough Departmental Enquiry. Enquiry was conducted strictly in accordance with Principles Of Natural Justice; where-in the delinquents were afforded full opportunity to defend themselves. The charges being found proved, without doubt, the employees were awarded punishment of dismissal. Brief charges against these employees (serial wise) are given below :-

Name & Father's Name	Charges	Findings of the Enq. of	Date of Removal
Kalanath Verma 3/0 Shri Jadugar Verma	1. Riotous or disorderly behaviour, during working hours at the undertaking or conduct endangering the life and safety of any person, intimidation, physical duress, or any act)		

b. Name & Father's Name Ref.	Charges	Findings of the Enq.off	Date of Removal
	2. Inciting, in-stigating) others to take part or otherwise acting in furtherance of a strike in contravention of the provisions of Law 12(1)(L)	)Charges )Prooved	11.8.92
	3. Wilful damage to work in process or to any other property of the undertaking. 12(1)(n)	)	
Durga Prasad Rao	1. Rictous or disorderly behaviour, during working hours at the undertaking or conduct endangering the life and safety of any person, intimidation, physical duress, or any act subversive of Discipline. 12(1)(f)	)	
S/o Shri Krishna Murthy	2. Inciting, in-stigating) others to take part or otherwise acting in furtherance of a strike in contravention of the provisions of Law. 12(1)(L)	)Charges )Prooved	11.8.92
	3. Willful damage to work in process or to any other property of the undert-	)	

were not employed by this party; but were reported to be employed by contractors engaged by this party for civil and other work. According to the Contractors Shri N.V. Ramasan and Shri D. Shyama Rao, they were charge Sheeted for serious misconducts and removed from service after thorough departmental enquiry conducted on the principles of natural justice.

The details of each person are as under :

Sl No. in Ref.	Name & Father Name	Charges	Findings of the Enq.off	Da Re
2.	Kapil Deo S/o Amritlal Sharma (Empd. by N.V.Rameshan Contractor)	1. willfull disobediance of lawful and reasonable orders of superiors 12 (i) (d)		
		2. Riotous or disorderly behaviour, during working hours at the undertaking or conduct endangering the life and safety of any person, intimidation, pysical duress, or any act subversive of Discipline 12(1)(f)		
		3. Inciting, instigating others to take part or otherwise acting in furtherance of a strike in contravention of the the provisions of Law 12(1)(L)	Charges Prooved	11.
		4. Wilful damage to work in process or to any other property of the		





(d) It is submitted that Shri Kapil Deo and Niladri (Sl. No.2 & 4 in the annexure/ref.) were engaged by independent contractors, who are liable and responsible for actions taken by them in relation to their employees. They have not been made parties in this case. This party cannot be made liable and responsible for any action taken by the contractors. The reference is, therefore, bad and not maintainable in respect of those persons and deserves to be answered in the negative.

14) The dismissal of these persons for established misconducts mentioned above is perfectly legal & justified and calls for no interference by this Hon'ble Court. This party prays for permission to prove the misconducts in the Court, if for any reason, what so ever, it finds the enquiry to be defective.

It is further submitted that after the cessation of the employment either from our establishment or from the establishments of the contractors, the workmen have been gainfully employed and are not entitled to any back wages, incase the court finds any of them to be reinstated.

It is further submitted that the concerned workment have not availed of any remedy available to them Under Section 31 & 61 of the M.P.I.R.Act to challenge their ceassation of employment, hence a valuable right has accrued to this party and this wasted right can not be snatched by this reference. The reference is invalid and incompetent on this count also.

It is further submitted that management has lost confidence in all the above persons on account of their unlawful activities, aggressiveness and militancy and, therefore, they do not deserve to be reinstated, if the court comes to this conclusion that their ceassation of employment is not proper.

11 13 11

FORM NO. 4 :-  
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15. This Honourable Court was pleased to pass an order on 12.10.95 granting an interim relief.

16. The operative portion of the order dated 12.10.95 by this Honourable Court has been stayed by the order passed on 03.11.1995 by The Honourable High Court of M.P. (Indore Bench) vide W.P. No. 1231/95.

The operative part of the order is reproduced below :-.

Quote :

"Having heard counsel for the parties, I am of the view that the interim order passed by the respondent No. 3 on 12.10.95 by which the employees have been directed to be reinstated deserves to be stayed.

It is accordingly stayed. However, it is clarified that further proceedings in the matter shall continue; but the respondent No. 3 shall until further orders shall not pass any final award in the matter". Unquote.

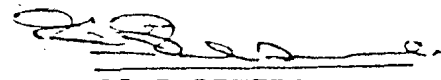
7. In view of the stay, this party is not submitting any statement with regard to this order.

1. This party reserves its rights to submit the statement of the claim at proper opportunity.

Contd...20

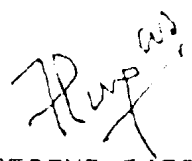
9. In premises, it is submitted that this reference may be decided in negative after decision in W.P. No. 1231/95.

Prays accordingly.



[G.P.PETER]  
Personal Manager.  
Beekay Engineering & Casting Ltd.

SECOND PARTY



COUNSEL FOR THE SECOND PARTY

Date : 19.12.1995

6.2.96.

BEFORE THE HON'BLE INDUSTRIAL COURT JABALPUR BENCH RAIPUR

M.P.NO.

10/11/93  
12/11/93  
6/11/93

General Secretary,  
Pragatisheel Engineering Sharmik sangh,  
Housing Board Colony,  
Industrial Estate,  
BHILAI, DISTT: DURG(M.P.)

First Party

VERSUS

BHILAI WIRES LIMITED,  
Industrial Area,  
BHILAI, Distt:Durg(M.P.)

Second Party

STATEMENT OF CLAIM OF THE SECOND PARTY

The Second Party BHILAI WIRES LTD., BHILAI submits as under :-

1. The First party Pragatisheel Engineering Sharmik Sangh (hereinafter referred to as the 'Sangh') respectfully submits the following statement of claim.

(1) That the Government of Madhya Pradesh vide its orders

No. 6-1/93/16-A dated 26.02.93 has referred the following Terms of Reference to this Hon'ble Court :-

TERMS OF REFERENCE :-

- 1. क्या वेतन एवं भत्ता का अनुसूची पुनरीक्षण का औचित्य है? यदि हाँ तो वेतन वृद्धि के प्रति भत्ता एवं अन्य भत्ता का क्या व्यवस्था होना चाहिये एवं इस संबंध में नियोजक को क्या निर्देश दिये जाना चाहिये ?
- 2. क्या प्रत्यक्ष 15 दिन का मासिक अवकाश 10 दिन का त्र्यमासिक अवकाश तथा 10 दिन का वार्षिक अवकाश दिये जाने का औचित्य है? यदि हाँ तो इस संबंध में नियोजक को क्या निर्देश दिये जाना चाहिये ?
- 3. क्या वेतन परीक्षा में उत्तीर्ण अभ्यर्थी को तथा प्रथमिकता के संदर्भ में उचित वेतन का प्रावधान है? यदि हाँ तो इस संबंध में नियोजक को क्या निर्देश दिये जाना चाहिये ?

That subsequently vide order No.6-193/16-A dated 31.07.95, the Government has referred the following Terms of Reference Also by adding to the earlier 3 Terms of Reference thus making the total 4.

1.1 क्या अनुक्रमिक 3 के संलग्न पारामिटर में उल्लेखित सेवा में उद्योग कर्मियों सम्पत्तियों को विचार के निराकरण होने तक अंतरिम राहत प्रदान करने का औचित्य है ? यदि हाँ तो इस संबंध में तय्यारक को क्या निर्देश दिया जाना चाहिये ?

2. That in regard to term No.1 of the reference the Second Party submits as under :-

(i) A notice of change was given by Metal and Engineering Workers Bhilai, regarding revision of pay - structure, a reference was made by the Government of M.P. to the Industrial Court, Indore registered as No. 1/NPIR/81 this reference was made against second party No.1 to 8 and the Industrial Court passed an award on 10.10.85, the operative part of the award in para 32 is reproduced below :-

- 1) Bhilai Wires Limited, Bhilai,
- 2) Bhilai Engineering Corporation (P)Ltd., Bhilai
- 3) Simplex Castings, Bhilai,
- 4) Bharat Industrial Workes, Bhilai
- 5) Simplex Engineering & Foundry works, Bhilai,
- 6) Simplex Udyog, Bhilai,
- 7) Baco Steel Castings, Bhilai,
- 8) engineering Mazdoor Union, Bhilai.

"Thus I find that :-

1. There is propriety of upward revision of wages of the employees of second party No.2 to 7.
2. The employees of the Second Party No.2 to 7 are entitled to wages, including allowances as per recommendations of the wage board for Engineering industry with following modifications/conditions:-
  - a. Wages and allowances should be fixed in accordance with the recommendations of the Wage Board, but they be payable with effect from 1.5.79.

b. The number of workers as on 1st January, 1973 should be taken as the number of workers for grouping of Industrial Unit under paras 7.60 and 7.61 of the recommendations.

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c. The term wages will include the wages and allowances payable under the recommendations of the Wage Board.

d. Employers will be entitled to split and adjust the amounts payable as basic wages, dearness allowance and variable dearness allowance while fixing wages

e. Incentive bonus and other benefit which are not included by the wage Board under the term wages, will not be included and adjusted in fixing wages as per this award.

f. Recommendations of Wage Board will be implemented not with standing the fact that according to the recommendations they were to be in force for five years.

g. This award will not take away the existing benefits. This award will also not take away wages which are already higher than as payable under this award.

The higher part of wages will be protected.

h. This award is without prejudice to the existing earnings and benefits where even they are higher.

i. This award will not have adverse effect on scheme of wage scales and D.A. which give hinger benefit to the workman and it will be open to the workmen to claim benefits of such schemes, of wages scales and dearness allowance.

Thus better wages will continue .

j. The present employer, the second party No.2, Bhilai Engineering Company will be liable to pay wages to the employees of the Beco Steel Castings, Bhilai, also as per this award.

3. That a writ petition was filed by the Union in the High Court of Madhya Pradesh registered as M.P. No.1139, of 1986 and also by the Management registered as M.P.No.26

During the pendency of these writ Petitions a Compromise Agreement was drawn on 4.7.87, between the Management of Bhilai Wires and the Metal and Engineering Workers Union a Compromise order was passed by the High Court of M.P in M.P No. 1139/86 on 28.7.87 in which term No. 3.1, 3.2, 3.3, 3.4, 3.5, 4.0, 5.0, 5.1, 5.2, 5.3, 5.4, 5.5, 5.6, 5.7 and 5.8 were incorporated by modifying the award of the Indust Court. The agreement also was made a part of the impugned

TERMS OF SETTLEMENT :

- 3.1 It is agreed that the Wage Scale as applicable to Group 'B' to the Wage Board shall be made applicable to the employees and their categorisation and pay fixation of the Workers company shall be as per Annexure - 'A' which is a part of this settlement w.s.f. 01.07:1987.
  
- 3.2 It is agreed between the parties that in full and final settlement of all claims that may arise out of the said reference before the Industrial Court in Case No. 1/MP/IR/81 decided on 10.10.85 (deemed to be stayed in respect of Bhilai Wires Limited). The Company shall pay a sum of Rs. 3.30 lacs to their workers who are on roll of the company as on 1.9.86. This amount of Rs. 3.30 lacs shall be in 2 years instalments, first instalment being payable by 15th Aug, 1987. It is also agreed that the amount payable to each such worker from the lumpsum payment of the aforesaid sum, shall be worked out by both the parties.
  
- 3.3 The arrears due to each worker shall be worked out by both the parties taking into account (a) experience (b) Designation (c) Salary and other releant factor of the concerned workers.
  
- 3.4 It is also agreed that new wage structure shall be introduced by 1.1.88. The arrears due to each worker, as per Annexure - 'A' and the new wage structure to be introduced w.e.f. 1.1.88 shall be paid to the employees on execution and discharge of a consent letter, the proforma of which is Annexure - 'B' to this Settlement.



3.5 That arrears will be paid as mentioned above and the Company shall collect from each workman an amount equivalent to 15% of gross arrears payable to each employee under this settlement as contribution to the Union Funds and this amount shall be paid to the Union within 7 days of the payment of arrears by Payee Account Cheque. It is further agreed that a sum of 10% will be deduct from the arrears payable to the workers to meet all court and other expenses incurred by the Union so far and that may be required to be incurred in future since the case is still kept pending and is to be finally closed.

EFFICIENCY OF WORKMAN:

4.0 All workman will work to the maximum of their efficiency and shall achieve the following minimum machine efficiencies with normally available raw materials in India.

<u>Machine/Section</u>	<u>Material</u>	<u>Absolute machine Efficiency.</u>
Thick Wire Drawing	LC	70
	MS	60
	HC	70
Fine Wire Drawing	LC	70
	MS	65
	HC	60
Strip Mill	LC	80
Galvanising (including strip)		90
Stranding	-	90
Blueing	-	80

This figure is not of absolute efficiency but standard efficiency.

Machine wise and production wise target are given in the Annexure 'C' and 'D'. In the event of an increase in the speeds of one or more of the existing machines or any improvement in the working methods,

ained and scrap generation is minimum as per norms fixed by the Management from time to time. 21

## 5.0 GENERAL

5.1 It is agreed that by virtue of this memorandum of settlement all types of disputes or demands regarding implementation of the recommendations of the Engg. Wage Board and the Award passed by the Industrial Court in Case No. 1/MPIR, 81 on 10.10.85 by Hon'ble Member Judge Industrial Court M.P. Indore or that could have been passed if the case was continued after the company ceased to be relief undertaking stand resolved and settled finally.

5.2 The Union on behalf of the Workers undertakes to ensure discipline amongst the workers and maintain optimum productions.

5.3 It is agreed that strict discipline shall be maintained at the works place and only constitutional methods shall be adopted for redressal of grievances, if any.

5.4 It is agreed that workmen shall do all type of work which they have performed and/or are performing as well as any other work as assigned from time to time.

5.5 It is also agreed that if by any judicial executive or legislative action, the wage structure is required to be revised the total emoluments now payable shall be absorbed in the total emoluments in the revised Wage Structure.

5.6 The settlement is in suppression of all previous settlement, agreement, privileges, wages and customs prevalent in the company and applicable to the employees.

5.7 This settlement shall be effective from 1.7.87.

5.8 That the parties shall move an application before the appropriate authorities including the Hon'ble High Court and Industrial Court of M.P. to pass an award in terms of this settlement.

6. That this became a basis for pay revision practically for all the parties except the distillaries i.e. Kedia Distillary Ltd, and Chattisgarh Distillaries Ltd. Distillaries are not Engineering Industries but fermentation Inds specified in Item 31 of the schedule to MPR Act and accordingly agreement was signed between Metal and Engineering Workers Union and this party on 4.7.87. It may be mentioned here that the said Union claimed to be representing a large numbers of workers of this party and in fact all the parties - accepted the terms as far as pay revision is concerned but they did not appear to the standard subefficiency as mentioned in clause IV of the agreement which was specifically agreed by the union so that management may not suffer very heavy financial losses.

7. That despite non maintenance of efficiency standards, the management of this party have been entering in to an agreement with Metal and Engineering Workers from time to time.

(A) 9th April'1988 (B) 10th June'1991

Effective w.e.f. (01.7.83) w.e.f (01.01.91)

8. That according to the agreement last entered on 10.5.91 (effective from 01.01.91) the lowest wages payable to any unskilled regular employee governed by the agreement of this party comes to Rs. 525.00 Basic + DA + Other All that comes to Rs 1068.50 which increase depending on the length of service, experience etc. According to the agreement being followed today the time scale of various category of employees are as under :-

SCALE CHART

SL.NO	GRADE	PAY SCALE (Rs)
01.	Unskilled	525-16-1005-16-1059
02.	Semiskilled - A	545-19-1040-21-1103
03.	Semiskilled-B	560-22-1070-25-1145
04.	Skilled - A	590-25-1115-26-1199
05.	Skilled -B	1010-30-1160-34-1262
06.	Skilled - C	1120-35-1295-39-1412
07.	Skilled- D	1195-40-1395-44-1527
08.	Skilled - E	1295-48-1535-52-1691
09.	Skilled - F	1345-53-1610-58-1784

... following facilities :-

- (a) House Rent Allowance - 40.00
- (b) Conveyance Allowance - 13.00
- (c) Medical Allowance - 15.00
- (d) Dress & shoes - One Pair
- (e) VDA - Linked with AIACPI
- (f) PDA - 63.50

(h) In addition, the company also allows specialised treatment if required to a deserving worker and if required the patient is treated at Company's cost as other specialised centres which is a very heavy financial burden on the company.

9A) The total emoluments payable to a lowest paid employees of the categories specified in para 8 above are as under :-

Sl. No.	GRADE	Basic	PDA	VDA	Allowance	Total
01.	Un-Skilled	923	+ 53.50	+ 770	+ 80	= 1826.50
02.	Semi Skilled - A	945	+ 53.50	+ 770	+ 80	= 1868.50
03.	Semi Skilled - B	960	+ 53.50	+ 770	+ 80	= 1873.50
04.	Skilled - A	990	+ 53.50	+ 770	+ 80	= 1903.50
05.	Skilled - B	1010	+ 53.50	+ 770	+ 80	= 1913.50
06.	Skilled - C	1100	+ 53.50	+ 770	+ 80	= 2003.50
07.	Skilled - D	1199	+ 53.50	+ 770	+ 80	= 2109.50
08.	Skilled - E	1295	+ 53.50	+ 770	+ 80	= 2208.50
09.	Skilled - F	1345	+ 53.50	+ 770	+ 80	= 2268.50

It will thus be seen that wages being paid by this party to its regular departmental employees is more than double of the wages fixed by Govt. of M.P. for Ingg. Industry from time to time. This party is allowing facilities also which are much more than permitted by the Govt. of M.P. which an average great heavy financial burden per year.

10. It may also be mentioned that from 01.01.91 variable D.A payable to the workers is calculated at 1.50 per point (As per agreement) according to all India Average consumer Price Index - (Siala Series) as detailed in the agreement.

(3)

The relevant portion of the agreement is reproduced below :-

- a) The adjustment of VDA will be made twice a year.
- b) From 1st January on the basis of average of All India Consumer Price Index from preceeding April to September
- c) From 1st July on the basis of average of All India Consumer Price Index from preceeding October to March.
- d) The VDA will be paid @ Rs. 1.50 (Rupees One & Paise Fifty only) per point to all workmen covered under this agreement.
- e) Similarly when there will be fall in All India Consumer Price Index, the VDA will be reduced at the above rates.

10A) The VDA increased twice a year is. on 1st January and 1st July and as on 1st Jan. 1995, the VDA has been increased by Rs. 104.76 and on 1st July 1995 a further increase of Rs. 87.51 has been done, based on AIACPI.

That the agreement dated 10.06.91 effective from 01.01.91 was valid upto 31.12.94. Thereafter negotiation are still going on with Unions who represent the workers of this factory and settlement could not be arrived at because of this dispute pending before this Hon'ble Court. It is further submitted that the Metal Engg. Workers Union, Bilal has challenged this reference before the High Court of M.P. Jabalpur which is still pending. The very subject matter of this very reference being subjudiced pending before the High Court, the Judicial Propriety requires that this honourable Court should refrain from adjudicating on this reference.

- 11) The Pragatishil Engineering Shramik Sangh has never submitted any list of our employees whose cause is being spoused by them. In any case the Union has not made out any case for increase of wage as demanded in their statement of claim.
- 12) In view of the recession in the Engineering Industry, in India and heavy financial burden already being shouldered by this party, despite much less than the agreed production. This party does not have the capacity to bear any further financial burden.

TERMS NO. 2 OF THE REFERENCE 1

01) That as regards the contents of paras 6 and 7 of the Statement of claim, it is specifically denied that there is any justification and propriety for granting 15 days casual leave, 10 days Festival Holidays and 30 days Medical leave as claimed by the first party in this para. It is denied that like comparable industries in the region are giving the benefits of 15 days Casual leave, 10 days Festival Holidays, and 30 days Medical Leave. It is denied that any hazards are involved in the under taking. It will be appropriate to mention here that the provisions of Factories Act in respect of safety measures are being complied with. It will be relevant to mention here that the service condition of the employees of the second party are covered by the Madhya Pradesh Industrial Employment (Standing Orders) Rules, 1963. These Standing Orders make a provision for grant of Casual leave @ 7 days per annum and Festival Holidays @ 5 days per annum. The second party is allowing to its employees the benefit of availing the aforesaid Casual leave and Festival Holidays, in accordance with the provisions of Standard Standing Orders. The facilities of leave statutorily provided in the Standard Standing Orders are very reasonable and the grant of more leave facilities will be unduly generous, which will have definitely, adverse affect on the production xx also. as regards the medical leave of 30 days, no like comparable industry in the region is giving any medical leave. Even the standard Standing Orders also do not provide for grant of any medical leave to the workers. Thus in consideration of the like comparable industries cum region basis there is no propriety of granting any medical leave to the workers. Moreover, the grant of such leave will not only be unduly generous, but it would also adversely affect the production also. Thus the claim of the first party for grant of Casual Leave @ 30 days per annum, Festival Holidays @ 10 days per annum and medical leave @ 30 days per annum deserves to be rejected.

(11)

02. It is further submitted that this party is allowing leave as under :-

- 01. National Holidays with wages - 3 days.
- 02. Festival Holidays with wages - 5 days As per
- 03. Casual leave 7 days with wages - 7 days Standing
- 04. Sick Leave with wages - 7 days orders
- 05. Optional Holidays - 5 days and
- 06. Annual leave with wages - As per Factory
- section 79 of the Factories Act- Act.
- 07. Maternity leave As per Act.

This party is allowing to its regular department employees Medical benefit, which are much higher and more beneficials than benefit allowed by Employees State Insurance Corpn. hence Hon'ble Supreme Court while admitting Special Leave to Appeal (Civil) No. 8885/90 passed an order on 24.04.91, directing the Employees State Insurance Corpn. not to prosecute the employer.

The relevant part of the same is reproduced below :-  
 "Pending further orders on the appeal, the appellant should continue to enjoy the facilities under the Management and no action should be taken to prosecute respondent company in non-compliance with the provision of the employees' State Insurance Scheme. The operation of the Scheme in relation to the company in question will be kept in abeyance until further orders.

TERMS NO. 3.1

01. It is specially denied that all persons mentioned in the annexure were the employees of this party. It is submitted as under :-

3A. It is submitted that a number of persons were engaged by several independent contractors who are liable and responsible for action/notice given by them in relation to their employees. They have not been made parties in this case. This party cannot be made liable and responsible for any action taken by the contractors. The reference is therefore, bad and not maintainable in respect of those persons and deserves to be answered in the negative.

:: 12 ::

However, as per information received from Contractor the following persons left/resigned from their job and have taken full & final dues from contractors.

A. SHRI S.K. SINGH (CONTRACTOR)

Sl.No.	Name	Father's name	Date of leaving/ Resigned date (as per <del>the</del> record)
01.	Chandra Ball	Darshunisad	17.11.90
02.	Vijai Kr. Sharma	Giraman Sharma	22.11.90
03.	Nitai Chakraborty	Vimal Chakraborty	22.11.90
04.	Bhagatram Sinha	Brighu Ram Sanu	22.11.90
06.	Sarhuram	Chinta Ram	22.11.90
07.	Jayat Ram Thakur	Gajendra Singh Thakur	21.11.90
08.	Canga Ram Sanu	Khedulal	21.11.90
09.	Dasharat Lal Nirmalkar	Sukram Nirmalkar	13.11.90
10.	Rajkumar Dewanganon	Bisnaru Ram	13.11.90
11.	Santram Nirmalkar	Kartick Nirmalkar	22.11.90
12.	Gajanand Yadav	Pyaralal	21.11.90
13.	Balwant Nisad	Makhan Nisad	20.11.90
14.	Mohanlal Sahu	Dirwa Ram	18.11.90
15.	Sufal Ram Nisad	Ram Prasad	20.11.90
16.	Ramjee Sanu	Badanlal Sanu	22.11.90
17.	Nageswar Chourasia	Balroof Chourasia	20.11.90
18.	Ram Buj Verma	Matheri Verma	19.11.90
19.	Swapan Das	Chandra Das	31.12.90
20.	Nand Ku. Sanu	Manrakhan Sanu	17.11.90
21.	Dukhitram Nisad	Ganpat Ram Nisad	22.11.90
22.	Thakur Ram Nisad	Salkram Lodhi	19.11.90
23.	Tikaram Sanu	Kallash Ram Sahu	19.11.90
24.	Gyansingh Thakur	Mehatar Thakur	21.11.90
25.	Monharan Nisad	Chaitu ram Nisad	21.11.90
26.	Ramu Kurmi	Dewaru Kurmi	20.11.90
27.	Shyamal Nisad	Keshaw Nisad	20.11.90
28.	Jagatram Yadav	Manrakhan Yadav	18.11.90
29.	Paradesh Dewanganon	Jethu Ram	01.12.90
30.	Balkundan Singh	Bramnades Singh	17.11.90
31.	Kamal Ram Patel	Indal Ram Patel	18.11.90
32.	Umed Kumar	Kisunde Singh	13.11.90
33.	Heeralal	Ram Pd. Dewanganon	20.11.90
34.	Madhu Sharma	Pati Sharma	6.12.90 (2nd half)
35.	Panatikram Sahu	Phoolisingh Sanu	22.11.90
36.	Krishna Ku. Nirmalkar	Kasiram Nirmalkar	13.11.90
37.	Baldev Lodhi	Tuka Ram Lodhi	30.11.90
38.	Sumitra Bai	Gajanand	27.11.90
39.	Kumari Bai	Sukram	Aug. '90
40.	Mayaram Verma	Dhansingh Verma	18.11.90
41.	Kripal Singh	Thakur Singh	22.11.90
42.	Ramayter	Parde...	



(3A) RAJANAM SINGH YADAV (CONTRACTOR)

Sl.No.	Name	Father Name	Date of Leaving/Resignation
47.	Sukransanu	<del>Chand</del> Ram Sahu	19.11.90
48.	Nand Kr. Yadav	Tulshi Ram Yadav	10.11.90
49.	Satrugner Yadav	Chhannu Yadav	23.11.90
50.	Bano Pandey	Chhansyam Pandey	24.11.90
51.	Channu Ram	Sahu Ram	24.11.90
52.	Ishwarlal Verma	Pratapu Ram	16.11.90
54.	Churawan Sahu	Anandram Sahu	23.11.90
55.	Ishwar Sonowani	Ramlal	24.11.90
56.	Shiv Prasad	Gopi Singh	18.11.90
57.	Benlal	Budharu Ram Singh	19.11.90
58.	Garoon Yadav	Morglu Ram Yadav	19.11.90
59.	Shajewan Das	Tilakram	24.11.90
60.	Durjan Sahu	Parau Ram	19.11.90
61.	Aashok Verma	Milan Verma	24.11.90
62.	Balmiki Singh	Rameshwar Singh	24.11.90
63.	Purna Ram Thakur	Ram Pratap	02.11.90
64.	Vinod Sharma		12.11.90
65.	Kanti Ram Nisad	Chattru Nisad	13.11.90
66.	Dayalu Nisad	Purani Nisad	24.11.90
68.	Yadubans Yadav	Ram Narayan	01.11.90
67.	Farnu Ram	Kartick Ram	15.11.90
69.	Vijai Patel	Sonji Patel	04.07.90
70.	Acgu Ram		24.11.90
71.	Kamra Yadav	Kamlal Yadav	10.11.90
72.	Monglu Ram Loont	Monglu Ram Loont	23.11.90
73.	Kamesh Chandrakar	Ram Narayan	20.11.90
74.	Kam Narayan Kam	Muratilal	06.12.90
75.	Arum Kr.		05.06.90

(38)

That the following Serial Nos. were never employed either by Company or by any contractor directly or indirectly.

<u>Sl.No.</u>	<u>Name</u>	<u>Father's Name</u>
21.	Jagat Ram Lodhi	Salik Ram Lodhi
2624.	Maya Ram Dewangan	Darshu Ram Dewangan
39.	Goutam Singh	Ram Din
42.	Babun Das	Manohar Das
43.	Ramavtar	-
44.	Rajkumar	-
79.	Durga Yadav	Manghu Yadav
80.	Tikaram	-
81.	Maniram Dewangan	Chetru
82.	Rajkumar Sharma	-
85.	Dhanna Ram	Mangla Ram
86.	Heeralal Dewangan	-
87.	Sukram	Ram Prasad
169.	Umesh Kr. Singh	Kisundev Singh

(3C)

That following persons are reported to have been employed by the contractor and they resigned/left their job much earlier from the date mentioned against them in the reference, as such the reference is not maintainable in respect of these persons.

<u>Sl.No.</u>	<u>Name</u>	<u>Father's Name</u>	<u>Date of leaving</u>
05.	Sankarlal Dewangan	Kanaiyalal	May '89
32.	Sadhu Ram Verma	Ram Ratan Verma	July 89
76.	Ashok Sonawani	Ramlal Sonawani	Sept '89
77.	Raju Yadav	Parchoo Ram Yadav	Sept. '88
78.	Ashok Yadav	Tulshi Ram Yadav	Sept. '88

(3D)

The following serial Nos. are in employment with this party as on date and as such the reference in respect of following persons are not tenable.

<u>Sl.No.</u>	<u>Name</u>	<u>Father's Name</u>
88.	Ram Parvesh	Uchit Ram
112.	Suresh Kr. Roy	B.C. Roy
121.	Gokaram Yadav	Shevaram Yadav
125.	Nagendra Das	Nandalal Das
130.	P.B. Kayal	M. Kayal
139.	Yogeswar Yadav	Ramjee Yadav
140.	Hari Ram Sahu	Lakhore Sahu
141.	Radhey Ram Sahu	K.L. Sahu
143.	Sewa Ram	Lakhanlal
168.	Indal Singh	G. Singh

- 2). The following Sl. No. were unauthorisely absent from their duty They were charge sheeted and they submitted their replies where they Admitted their absence after that repeated notices were given to them, but they did not report for duty consequently, they were dismissed from their services for misconduct of unauthorised absence. The party seeks permission to prove the misconduct in the court of the court feels that the dismissal has been done without enquiry, though, as the admission of the concerns person. The details of each person in brief are given in chart below :-

Sl. No.	Name	Date of unauthoris ed absent	Date of Notice/ charge sheet.	Date of Telegraphic Notice	Date of Dismiss.
89.	Balkisum Ram	21.02.91	13.03.91 & & 29.04.91	04.04.91	20.05.91
90.	Sonu Ram	20.02.91	13.03.91 & & 29.04.91	04.04.91	20.05.91
91.	Nand Kr. Mirmalkar	21.02.91	13.03.91 & & 29.04.91	04.04.91	20.05.91
92.	Kablesh Kr.	21.02.91	13.03.91 & & 29.04.91	04.04.91	20.05.91
93.	Rajkumar Sharma	21.02.91	13.03.91 & & 29.04.91	04.04.91	20.05.91
94.	Gautam Singh	21.02.91	13.03.91 & & 29.04.91	04.04.91	20.05.91
95.	Shiv Prasad Mirmalkar	21.02.91	13.03.91 & & 29.04.91	04.04.91	20.05.91
96.	Norothan Lohi	21.02.91	13.03.91 & & 29.04.91	04.04.91	20.05.91
97.	Ramsingh Mirmalkar	21.02.91	13.03.91 & & 29.04.91	04.04.91	20.05.91
98.	Annu Ram Thakur	21.02.91	13.03.91 & & 29.04.91	04.04.91	20.05.91
99.	Hariklal Manikpuri		13.03.91 & & 29.04.91	04.04.91	20.05.91
100.	Channulal Dewangan	21.02.91	13.03.91 & & 29.04.91	04.04.91	20.05.91

Sl.No.	Name	Date of Unauthorised absent	Date of Notice/charge sheet.	Date of Telegraphic notice	Date of Dismissed
01	02	03	04	05	
101.	Lohar Ram	21.2.91	13.3.91 & 29.4.91	04.4.91	20.05.91
102.	Permanand Verma	17.01.91	14.2.91 &	22.02.91	26.03.91
103.	Gajanand Verma	17.01.91	14.2.91 &	22.02.91	26.03.91
104.	Narendra Kr. Nirmalkar	17.01.91	14.2.91	22.02.91	26.03.91
105.	Sankarlal Verma	17.01.91	14.02.91	22.02.91	26.03.91
106.	Ram Sagar	17.01.91	14.02.91	22.02.91	26.03.91
107.	Ghasia - I	17.01.91	14.2.91	22.02.91	26.03.91
108.	Raju Yadav	17.01.91	14.2.91	22.2.91	26.03.91
109.	Amarsingh Sanu	18.01.91	14.2.91	22.02.91	26.03.91
110.	Bajjnath Thakur	17.01.91	14.2.91	22.02.91	26.03.91
111.	Kasi Ram	17.01.91	14.2.91	22.02.91	26.03.91
113.	Ghasia Nisad	18.01.91	14.2.91	22.2.91	25.2.91
114.	Shanshyam Shergo	17.01.91	14.2.91	22.02.91	26.03.91
115.	Vijai Kr. Mallan	17.01.91	14.02.91	22.02.91	26.03.91
116.	Maheshwar Prasad	17.01.91	14.02.91	22.02.91	26.03.91

Sl.No.	Name	Date of Unauthorised absent	Date of Notice/charge sheet	Date of Telegraphic notice	Date of dismissal
117.	Baratu Ram Yadav	17.01.91	14.02.91	22.02.91	26.3.91
118.	Markanday Verma	17.01.91	14.02.91	22.02.91	26.03.91
19.	T.A. Khan	17.01.91	14.02.91	22.02.91	26.03.91
20.	Radhey Chouhan	17.01.91	14.02.91	22.02.91	26.03.91
22.	Vijai kr. Verma	19.05.91	10.06.91 02.08.91		19.5.91
23.	Radhey Shyam Rai	17.01.91	14.02.91	22.02.91	26.03.91
4.	Rampyare Sanu	24.01.91	14.02.91	22.02.91	26.03.91
6.	Ishwar Prasad	18.01.91	14.02.91	22.02.91	26.03.91
7.	Budhram Sanu	17.01.91	14.02.91	22.02.91	26.03.91
1.	Ramesh Tande	17.01.91	14.02.91	22.02.91	26.03.91
.	B.N. Prasad	17.01.91	14.02.91	22.02.91	26.03.91
.	Rajdeo	31.01.91	14.02.91	22.02.91	26.03.91
.	Pilu Ram	17.01.91	14.02.91	22.02.91	26.03.91

Sl.No.	Name	Date of Unauthorised Absence	Date of Notice/charge sheet.	Date of telegraphic notice	Date Dismissal
133.	Udai Ram Sahu	18.01.91	14.02.91	22.02.91	26.03.91
134.	Sambhu Varma	17.01.91	14.02.91	22.02.91	26.03.91
135.	Bisram Varma	17.01.91	14.02.91	22.02.91	26.03.91
136.	Rajballen Singh	25.01.91	14.02.91	22.02.91	26.03.91
137.	Vedram Markan	17.05.91	10.06.91 02.08.91	-	17.03.91
138.	Ghanshyam Sahu	18.01.91	14.02.91	22.02.91	26.03.91
142.	Bisram Singh Dhoori.	17.01.91	14.02.91	22.02.91	26.03.91
144.	Kanta Prasad	18.01.91	14.02.91	22.02.91	26.03.91
145.	Santu K...	18.01.91	14.02.91	22.02.91	26.03.91
146.	Secular...	17.01.91	14.02.91	22.02.91	26.03.91
147.	Krishna Kr. Dewangan	18.01.91	14.02.91	22.02.91	26.03.91
151	Sudhanta K... Dhoori.	18.01.91	14.02.91	22.02.91	26.03.91

The dismissal of these person is perfectly legal & justified and calls for no interference by the Hon'ble Court.

11 19 11

(3F) VOLUNTARILY RESIGNATION :-

The following serial Nos who had voluntarily resigned from their services & taken all their full & final dues. ~~There~~ Their case could not be consider at all & their names should be deleted from annexure.

<u>Sl. No.</u>	<u>Name</u>	<u>Mode of Payment- Paid by cheque.</u>
1) 154	Punerdeo Mondal	Cheque No. 267782 on S.B.I. Sector - 1, Shilai.
2) 159	Ramvilash Mondal	Cheque No. 267784 on S.B.I., Sector - 1, Shilai
3) 160	P.K. Nandi	Cheque No. 267783 on S.B.I., Sector - 1, Shilai.

The following serial Nos. were charge sheeted for serious misconduct, and a thorough enquiry was conducted according to principle of natural justice. They were afforded full opportunity to defend themselves their charge having being found proved beyond the doubt. They were dismissed from service, a brief summary is given below :-

Sl.No.	Name	Charges	Findings of enquiry	Date of Removal
148	L.M. Misra	Theft, fraud or dishonesty in connection with the business or property of the undertaking Under Standing Order 12(1) (b)	Charges Proved	14.02.91
149	Maxin Banadur	-do-	-do-	-do-
150	I.N. Singh	-do-	-do-	-do-
152	Dau Ram	1. Riotous or disorderly behaviour, during working hours at the undertaking or conduct endangering the life or safety of any person, intimidation, physical duress, or any act subversive of discipline. (12) (1) (F)	-do-	06.02.91
		2. Inciting, instigating others to take part or otherwise acting in furtherance of a strike in contravention of the provisions of any law for the time being in force. 12 (1) (L)		
		3. Wilful damage to work in process or to any other property of the undertaking. 12 (1) (n)	Charges proved	
153	Laljee Michael- kar	1. Wilful disobedience of any lawful or reasonable order of a superior involving safety of any person or property or other matter having an adverse effect upon the work or wages of other employees. 12 (1) (d)	-	27.04.91



Sl.No.	Name	Charges	Finding of Enquiry	Date of Enquiry
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2. Wilful slowing down in performance of work, or obatement or instigation thereof  
12(1) (a)

3. Riotous or disorderly behaviour, during working hours at the undertaking or conduct endangering the life of any person, intimidation, physical duress, or any act subversive of discipline. charges — proved  
12(1) (f)

155 Mqni Ram Lodhi 1. Riotous or disorderly behaviour, during working hours, at the undertaking or conduct endangering the life or safety of any person, intimidation, physical duress, or any act subversive of discipline. charges Proved 8.5.92  
12(1) (f)

2. Wilful slowing down in performance of work, or obatement or instigation thereof.  
12(1) (a)

3. Wilful damage to work in process or to any other property of the undertaking.  
12(1) (n).

62 Nandlal Yadav 1. Inciting, instigating others to take part of otherwise acting in furtherance of a strike in contravention of the provisions of any law for the time being in force. -do- 7.7.91  
12(1) (j)

2. Riotous or disorderly behaviour, during working hours at the undertaking or conduct endangering the life or safety of any person, intimidation, physical duress, or any act subversive of discipline.

Sl.No.	Name	Charges	Finding of enquiry	Dt. of removal
		3. Wilful damage to work in process or to any other property of the undertaking.	Charges removed.	7.7.91
		12(1) (a).		
156	Md. Wasir	1. Wilful disobedience of any lawful or reasonable order of a superior involving safety of any person or property or other matter having an adverse effect upon the work or wages of other employees.	-do-	3.5.92
		2. inciting, instigating others to take part or otherwise acting in furtherance of a strike in contravention of the provisions of any law for the time being in force.	12(1)(a)	
		3. Wilful damage to work in process or any other property of the undertaking.	12(1)(L)	
		12(1) (a).		
157	Ramchilwan Dewang n	1. Wilful disobedience of any lawful or reasonable order of a superior involving safety of any person or property or other matter having an adverse effect upon the work or wages of other employees.	-do-	20.4.92
		12 (1)(d)		
		2. Wilful slowing down in performance of work, or obatement or instigation thereof.		

Sl.No.	Name	Charges	Binding of enquiry	Dt. of
		3. Wilful damage to work in process or to any other property of the undertaking. 12(1) (n).	Charges Proved	20.4.92
158	P.M. Sah	1. Wilful disobedience of any lawful or reasonable order of a superior involving safety of any person or property or other matter having an adverse effect upon the work or wages of other employees. 12 (1) (d)  2. Wilful slowing down in performance of work, or obstinacy or instigation thereof. 12(1) (m)  3. Wilful damage to work in process or to any other property of the undertaking. 12(1) (n)	-do-	20.04.92
161	Birendra Singh	1. Riotous or disorderly behaviour, during working hours at the undertaking or conduct endangering the life or safety of any person, intimidation, physical duress, or any act subversive of discipline. 12(1) (f)	-do-	07.07.91
163	Gorokh Prasad	1. Riotous or disorderly behaviour, during working hours at the undertaking or conduct endangering the life or safety of any person, intimidation, physical duress, or any act subversive of discipline. 12(1) (f)	-do-	03.07.91

Sl.No.	Name	Charges	Finding of Enquiry	Dt. of Removal
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2. Inciting, instigating others to take part or otherwise acting in furtherance of a strike in contravention of the provisions of any law for the time being in force.  
12 (2) (L)

3. Wilful damage to work in process or to any other property of the undertaking.  
12(1) (n)

164 Surendra Singh

4. 12 (1) (D)  
1. Wilful disobedience Charges of any lawful or reasonable order of a superior involving safety of any person or property or other matter having an adverse effect upon the work or wages of other employees.  
12(1) (d).  
Proved

18.08.91

2. Inciting, instigating others to take part or otherwise acting in furtherance of a strike in contravention of the provisions of any law for the time being in force.  
12(1) (L)

3. Wilful damage to work in process or to any other property of the undertaking.  
12(1) (n).

Sl.No.	Name	Charges	Finding of Enquiry	Dt. of Removal
165	Suresh Pd. Gupta	<ol style="list-style-type: none"> <li>1. Wilful disobedience of any lawful or reasonable order of a superior involving safety of any person or property or other matter having an adverse effect upon the work of wages of other employees. 12(1) (d)</li> <li>2. Inciting, instigating others to take part or otherwise acting in furtherance of a strike in contravention of the provisions of any law for the time being in force. 12(1) (L)</li> <li>3. Wilful damage to work in process or to any other property of the undertaking. 12(1) (n)</li> </ol>	Charges Proved.	10.08.91
166	Mahesh Nirmalkar	<ol style="list-style-type: none"> <li>1. Wilful disobedience of any lawful or reasonable order of a superior involving safety of any person or property or other matter having an adverse effect upon the work or wages of other employees. 12(1) (d)</li> <li>2. Wilful damage to work in process or to any other property of the undertaking. 12(1) (n)</li> </ol>		03.05.91

Sl. No.	Name	Charges	Finding of Enquiry	Date of Removal
137.	Rampakar Yadav	<p>1. Neglect of work.</p> <p>1. Wilful disobedience of any lawful or reasonable order of a superior involving safety of any person or property or other master having an adverse effect upon the work of wages of other employees- 12(1) (d)</p> <p>2. Inciting, instigating others to take part or otherwise acting in furtherance of a strike in contravention of the provisions of any law for the time being in force 12(1) (1)</p> <p>3. Wilful damage to work in process to any other property of the undertaking. 12(1) (2)</p>	charges proved	18.08.91

The dismissal of these persons for misconduct narrated in the chart mentioned above is perfectly legal & justified and calls for no interference by this honorable Court. This party prays for permission to prove the misconduct in the court if for any reason, whatsoever, finds the enquiry to be defective.

It is further submitted that from the date of cessation of their employment either from the establishment of bilateral contract, each of them are gainfully employed, and are not entitled to any back wages in case the court finds, any of them to be reinstated.

It is further submitted that management has lost confidence in all the above person and therefore, they do not deserve to be reinstated, if the court came to the conclusion that their cessation of employment is not proper.

It is further submitted that the concerned person have not availed of any remedy available to them under section 31 & 61 of MPIL Act to challenge their cessation of employment, hence available right has accrued to this party and vested right cannot be snatched. by this reference. The reference is

500  
Reference No. 4

This hon'ble Court was pleased to pass an order 12.10.1995, granting interim relief to the persons mentioned in the Annexure.

The operation of this order dated 12.10.95, passed by this hon'ble Court has been stayed by order passed on 03.11.95 by Hon'ble High Court of M.P. - Indore Bench in W/P No. 1231/95. The operative part of the order is reproduced below :

"A grievance has been made by the petitioners that even though all those facts were brought to the notice of the respondent No.3 by filing application, but the respondent no.3 has proceeded in the matter and has passed interim order on 12.10.95 to the detriment of the petitioners. Counsel for the petitioners has taken me through the impugned order which has been passed by the respondent no.3 on 12.10.1995.

Since the matter is already adjudicated in this court and the petitioner's prayer for stay was not rejected, a judicial propriety is required that the respondent no. 3 should have stayed its hand more so , when this fact was already brought to its notice, but it decided to proceed in the matter.

Having heard counsel for the parties, I am of the view that the interim order passed by the respondent no.3, is dated on 12.10.1995 by which the employees have been directed to be reinstated deserves to be stayed.

It is accordingly stayed. However, it is clarified that further proceedings in the matter shall continue and the respondent no.3 shall until further order.

In view of this stay this party is not submitting any statement required for this issue. The party deserves the right to submit the statement of claim at the proper opportunity.

In premises it is submitted that reference be decided in the negative after decision in W P No. 1231/95.


Prays accordingly.

VERIFICATION

Shri A.K. Choudhary S/o. Late Shri F. Lal Choudhary aged 42 years working as DY. MANAGER (P&A) in Bhilai Wires Ltd., Bhilai, resident of Bhilai, Dist- Durg, do hereby solemnly affirm & verify the contents of above informations are true to my knowledge, derived from official records and believed to be true.

Sign & verify at Bhilai on 20.12. 1995

A.K. Choudhary  
(DY. Manager (P&A))

  
counsel of second party.

6/2/96





11/2/11

इनको भी निकालने के पूर्व कोई जांच नहीं की गई थी, आरोप-पत्र भी नहीं दिया गया ।

भरती के समय नियुक्ति पत्र द्वितीयपथ संस्थान द्वारा जारी नहीं किये जाते । मैं जब भरती हुआ था, मुझे कोई नियुक्ति पत्र नहीं दिया गया । मैं जनरल मैनेजर के देखरेख में काम करता था। वर्ष 1990 में द्वितीयपथ संस्थान में लगभग 3-3½ तो श्रमिक काम करते थे । हमारी हाजिरियां टाईम आफिस में टाईम कीपर द्वारा लगाई जाती थी । टाईम कीपर का नाम मुझे याद नहीं है । हाजिरी कार्ड कुछ लोगों को दिया जाता था, हाजिरी कार्ड बहुत कम लोगों को मिलता था, मुझे हाजिरी कार्ड नहीं मिला । हाजिरियां हाजिरी रजिस्टर में लकड़मई लगाई जाती थी । हमें वेतन मुगलान भी टाईम आफिस से किया जाता था । मुगलान के समय पेमेंट स्लिप पर हस्ताक्षर किये जाते थे । प्रदर्ष पी-1 मजदूरसंघ लगायत पी-4 हमारे साथ कार्यरत श्रमिकों के हाजिरी कार्ड हैं, जिन्हें मैं जानता हूँ । प्रदर्ष पी-1-सी लगायत प्रदर्ष पी-4 सी इनकी छाया प्रतियां हैं । प्रदर्ष पी-5 कर्मचारी श्री हाकिम के भविष्य निधी खाते की पर्ची है, जिसकी फोटो प्रति प्रदर्ष पी-5 सी है ।

हम लोगों को वेतन के अलावा अन्य किसी प्रकार का भत्ता नहीं मिलता था । उस समय हमें साढ़े 400- 500 रुपये वेतन प्राप्त होता था । हमें छुट्टियां नहीं मिलती थी, साप्ताहिक छुट्टियों का पैसा काट लिया जाता था ।

इस प्रश्न को पूछने के संबंध में श्री अमिभाषक श्री कै० एस० खन्ना को अभिवचन न होने संबंधी आपत्ति है । आपत्ति सुरक्षित रखते हुए प्रश्न पूछने की अनुमति दी गई ।

नौकरी से निकलने के बाद मैं और मेरे साथी सभी लोग बेरोजगार हैं। कूट परीक्षा द्वारा श्री कै० एस० खन्ना, अमिभाषक द्वितीयपथ संस्थान की  
और से :-

यह कहना गलत है कि मुझे 15 अगस्त, 26 जनवरी, 2 अक्टूबर की छुट्टियां मिलती थी । छुट्टी के लिए मैंने आवेदन पत्र दिये, तबयं कहा कि छुट्टी

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नहीं मिलती थी। मैं नहीं बता सकता कि मैंने छुट्टियों के लिए कब-कब दरखास्त दी, छुट्टियों की दरखास्त कब-कब किस कारखाना से दी, मैं नहीं बता सकता। छुट्टियों की दरखास्त की कोई पावती मेरे पास नहीं है। छुट्टियों की दरखास्त की कोई प्रति भी मैंने प्रकरण परीक्षा में पेश नहीं की है।

साप्ताहिक छुट्टियों का पैसा नहीं मिलता, इस बाबत हमने शिक्षापत्र भी नहीं नहीं की। साप्ताहिक छुट्टियों का पैसा क्यों नहीं दिया जा रहा है, इसकी जानकारी भी हमने प्राप्त नहीं की। हमें वेतन प्रति माह मिलता था। वेतन में क्या-क्या सम्मिलित है, ऐसा मैंने अलग-अलग करके कितनी से नहीं पूछा। मुझे जानकारी नहीं कि हमें जो वेतन दिया जाता था, वह डेड्स इन्वीन्सिबल इंडस्ट्री वेज बोर्ड की अनुमति के अनुसार दिया जाता था। मुझे इस बात की जानकारी नहीं है कि हमारे संस्थान में श्रमिकों के वेतन के संबंध में कोई अवार्ड जीयोरिक न्यायालय से पारित हुआ। श्रमिकों को वेतन किस दर से व किस आधार पर दिया जा रहा है, इसकी मैंने कभी जानकारी प्राप्त नहीं की। शासन के अन्य विभागों में श्रमिकों को क्या वेतन प्राप्त होता है, की जानकारी मुझे नहीं है। सिविल विभाग, सड़क जोन निर्माण विभाग में कर्मचारियों को क्या वेतन मिलता है, इसकी मुझे जानकारी नहीं है। यह जानकारी प्राप्त करने की मैंने कोशिश नहीं की।

इन्वीन्सिबल व फाउण्ड्री <sup>के अन्य</sup> उपयोगों में वर्ष 1990 से पहले कर्मचारियों को क्या वेतन मिलता था तथा उन्हें क्या सुविधाएं मिलती थी, इसकी मुझे जानकारी नहीं है। यह तर्क है कि टेड्सरा व पूरे छत्तीसगढ़ में कई उद्योगों में द्वितीयपथ संस्थान में पैसा कार्य संपादित होता है, पैसा होता है। टेड्सरा के द्वितीयपथ संस्थान के अलावा अन्य संस्थानों में मिलने वाले वेतन व सुविधाओं की मुझे जानकारी नहीं है। ऐसी जानकारी प्राप्त करने की मैंने कोशिश नहीं की। इन उद्योगों में कितने प्रकार की व कितनी छुट्टियां मिलती है, इसकी भी मुझे जानकारी नहीं है। यह तर्क है कि मैंने मेटल स्पड इन्वीन्सिबल वर्कर्स युनियन {स्टक} का नाम सुना है। टेड्सरा में सिम्पलेक्स इन्वीन्सिबल स्पड फाउण्ड्री लिमिटेड के कर्मचारियों के वेतन एवं अन्य सुविधाओं के संबंध में स्टक के सम्बन्ध में है, ऐसी मुझे जानकारी नहीं है।

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वर्तमान में टेडेतारा में कार्यरत कर्मचारियों को कितना पैसा व क्या-क्या पार मिल रही है, इसकी मुझे जानकारी नहीं है। इस संबंध में मैंने यहाँ तक लोगो से नहीं पूछा।

मुझे नहीं मालूम कि टेडेतारा में द्वितीयपथ संस्थान ने फेब्रिकेशन, मशीनिंग, मेली, वेस्टिंग व पैकिंग इत्यादि के काम ठेके पर दिये हुए हैं। यह कहना है कि मुझे ठेकेदार ने अनुमोदित किया था। मेरा प्रोविडेन्ट फण्ड नहीं था। मैं कब भरती हुआ था, यह मुझे याद नहीं है। माहिना भी याद है। सन 1987 में भरती हुआ था। स्वतंत्र के कथन के साथ संलग्न अनेकवर वन 208 कर्मचारियों के नाम उल्लेखित हैं, उन सबके नाम व वे क्या-क्या करते थे, सबके नहीं बता सकता, कुछके के बता सकता हूँ। ये लोग कब-कब काम पर लगे, उनका नाम, क माहिना व तारीख नहीं बता सकता।

श्री हाकिम खान फेब्रिकेशन में डेप्युटी का काम करता था। जोहन पाल विभाग में ग्राइंडिंग मशीन चलाता था, जगन्नाथ शर्मा इसी विभाग में र का काम करते थे। कपिल देव भी इसी विभाग में डेप्युटी का काम करते इसी विभाग में लोचन साहू डेप्युटी का काम करता था। अमरनाथ शर्मा कटर का काम, सुरेन्द्र गिरी इसी विभाग में गैस कटिंग का काम, राजनाथ शर्मा इसी विभाग में फिटर, का काम करते थे। बाकी के नाम याद करने

।। अनेकवर में उल्लेखित 208 व्यक्तित किस्त-किस्त गाँव के रहने वाले हैं, मुझे जानकारी नहीं है। इन लोगो को कब से काम बंद किया, तारीख, इना नहीं बता सकता, स्वयं कहा कि काम से हटाया गया है। इन लोगो गाँव व घर में कमी नहीं गया। ये लोग पिछला कब क्या क्या काम कर रहे हैं, भी पिछला मुझे जानकारी नहीं है। कमी कमार लोग मिलते थे, तो बताते कि हम लोग बेरोजगार हैं। इनसे कब कब कहां से मुलाकात हुई, यह नहीं बता सकता। मेरे पास खेती बाड़ी है, और सन 90 के बाद से खेती बाड़ी कर रहा हूँ। अनेकवर में उल्लेखित लोगो के मैं से कितने के पास खेती बाड़ी है, इसकी जानकारी नहीं है। इसकी पारिवारिक जानकारी भी मुझे नहीं है।

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बाकी सभी लोगों के संबंध में वे गुजर बसर करते कर रहे हैं, मुझे जानकारी नहीं है, कुछ लोग जो कभी कभी मिलते थे, वे बताते थे, कि वेती बाड़ी करके गुजर दे। वेहने मुझे कित्त कित्त ख्यासत ने ऐसा कब कब बताया, यह बताना संभव नहीं है। यह कहना गलत है कि मेरी मुलाकात कभी कमरू किसी ने नहीं हुई, और यह भी गलत है कि मुझे किसी ने अपनी गुजर बसर पे बारे में नहीं बताया।

मैं अशोक चिरतकर, मदन राय एवं शिव शंकर विद्यकर्मा को जानता हूँ, देवराज साहू एवं कृष्ण प्रसाद मरहूम को मैं नहीं जानता हूँ। जिन्हें मैंने जानना बताया है, वे जब नौकरी में थे, मैं तो एक विभाग में काम करते थे, नहीं बता सकता। फिर बताया है कि शिवशंकर मार्केटिंग विभाग में काम करते थे। मुझे नहीं मालूम कि अशोक चिरतकर, मदन राय, शिवशंकर विद्यकर्मा, देवराज साहू एवं कृष्ण प्रसाद तंत्र जनरल मैनेजर से वेतन पुनरीक्षित एवं बोनस से संबंधित मांगों को लेकर दि० 19-11-90 को मिले थे। मुझे यह भी नहीं मालूम कि जनरल मैनेजर ने उनकी मांग स्वीकार नहीं कर सकते, ऐसा कहा था। यह मुझे जानकारी नहीं है कि इन पाँचों लोगों ने दि० 20-11-90 को ब्रामिको से कहा कि जनरल मैनेजर ने हमारी मांग मानने से मना कर दिया है, इसी लिए कोई जब तक मांगे नहीं मानी जाती, हम कोई ब्रामिक काम पर नहीं जायें। मुझे नहीं मालूम कि मैं दि० 20-11-90 को डिप्टी पर था कि नहीं। मुझे यह भी याद नहीं कि दि० 20-11-90 को मैं नौकरी में था कि नहीं। मुझे नहीं मालूम कि दि० 20-11-90 को प्रातः होने 9 बजे इन लोगों के भड़काने से ब्रामिको अपने काम बंद कर बाहर आ गये। मुझे यह भी नहीं मालूम कि दि० 20-11-90 को संस्थापक के बाहर हड़दौ होकर इन लोगों ने भाषणा दिये, कि व ब्रामिको से कहा कि जब तक मांगे सुंजूर नहीं हो जाती कोई भी ब्रामिक काम पर न जाये। इन लोगों ने मद्दे मद्दे शब्द निकालते हुए नारेबाजी की व काम पर जाने वाले लोगों को काम पर न जाने के लिए प्रभावित किया, इसकी भी मुझे जानकारी नहीं है। मुझे नहीं मालूम कि मैनेजमेन्ट ने ब्रामिको को काम पर वापस आने के लिए नोटिस बोर्ड पर कई गारंटेन्स नोटिस लगाये। हड़ताल को अंत्य घोषित

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11/6/11



करण के लिए मैनेजमेन्ट ने कम न्यायालय, राजनांदगाँव में प्रकरणा दाखल किया था, इसकी भी मुझे जानकारी नहीं है। मुझे इस बात की भी जानकारी नहीं है कि दि. 20-3-91 को कम न्यायालय राजनांदगाँव में आदेश पारित कर कर्मचारियों को काम पर आने के लिए आदेशित किया था तथा कामको को न भड़काने के लिए भी आदेशित किया था। कोई हड़ताल दि. 20-11-90 से द्वितीयपक्ष संस्थान में शुरू हुई थी, इसकी भी मुझे जानकारी नहीं है। शिवांगर व मदमराय अभी भी द्वितीयपक्ष संस्थान में छिपूटी कर रहे हैं। मुझे यह जानकारी नहीं है कि कृष्णा प्रसाद सिंह व देवनाल साहू अभी द्वितीयपक्ष संस्थान में काम कर रहे हैं अथवा नहीं।

मेरे काम से घंटों तक जाने के बाद ठेकेदार अथवा अम्प को ऐसा लिखकर नहीं दिया कि मैं काम पर आने के लिए तैयार नहीं हूँ। स्वयं कहा कि हमारे विभाग में कोई ठेकेदार नहीं था। मैं स्टेटमेन्ट आफ क्लेम बनाने के लिए व्यक्तिगत रूप से धकील साहब से नहीं मिला। स्टेटमेन्ट आफ क्लेम बनाने के पहले मैं किर्ती पुनिपन के नेता से भी नहीं मिला। मैं अंतर को जानता हूँ। मैं अंतर से स्टेटमेन्ट आफ क्लेम बनाने व इस केस के संबंध में व्यक्तिगत रूप से नहीं मिला। द्वितीयपक्ष संस्थान में जब हम काम करते थे, तब 3 पालियों में काम होता था। मैं जनरल सिफ्ट में प्रातः 8 बजे से सायं 5 बजे तक की पाली में था। अनेकवार मैं उल्लेखित 208 कर्मचारी कितनी पाली में काम करते थे, इसना मैं नहीं बता सकता। जनरल मैनेजर ने मुझे कोरे कागज पर हस्ताक्षर करने के लिए मध्यम 90 में कहा था, नहीं तारीख नहीं बता सकता। यह बात उसी समय की है, जब मैं सुबह 8 बजे अपनी छिपूटी पर पहुँचा। मैं पूरे आदमियों का नहीं बता पाऊँगा कि उस दिन मेरे साथ जनरल पाली के कौन कौन लोग थे, जिन्हें कोरे कागज पर दस्तखत करने के लिए जनरल मैनेजर ने कहा था। जिस समय मैं सुबह 8 बजे छिपूटी पर गया, और मुझे जनरल मैनेजर ने कोरे कागज पर दस्तखत करने के लिए कहा, मेरे साथ करीब 100 लोग थे, जिनके सबसे नाम मैं नहीं बता सकता। जिन लोगों के नाम मैंने पहले बताये हैं, उनके अलावा

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नोहर सिंह ठाकुर, गजाधर राठौर, गजाधर, भी ये और लोगों के नाम याद करने पड़ेगे। कोरे कागजों पर दस्तखत करवाने के संबंध में हमने गुलाम में जाकायत करवायी थी। कागज के पत्रों को भी यही नाम था कि कागजों को कोरे कागजों पर दस्तखत करने के लिए कहा था। जितना दिन यह बात हुई, उतना दिन जनरल सिफ्ट में कान कौन कर्मचारी हाजिर थे, और कौन कौन गैरहाजिर, इसकी मुझे जानकारी नहीं है। जनरल सिफ्ट के अलावा अन्य वाली जिसे फस्ट सिफ्ट कहते हैं, सुबह 6 बजे से दोपहर 2 बजे तक तथा मार्शेट सिफ्ट रात्रि 9 बजे से प्रातः 6 बजे तक होती थी। मैं डिप्टी खतम होने पर अपने घर चला जाता था। मैं डिप्टी पर 8 बजे आता था।

मुझे हाजिरी कार्ड नहीं मिला था, मैंने हाजिरी कार्ड की मांग लिखित में नहीं की, \* मोरिंक भी मांग नहीं की। यह कहना गलत है कि मैं हाजिरी कार्ड खतीलर पेश नहीं कर रहा हूँ कि मुझे ठेकेदार ने नियुक्त किया था। स्वयं कहा कि मुझे हाजिरी कार्ड मिला ही नहीं। अर्थात्

अरविंद शर्मा मेरे विभाग में गैस कटर का काम करता था। मैं रमेश विश्वकर्मा को भर्षे जानता हूँ या नहीं, याद नहीं आ रहा है। मैं रामनेत विश्वकर्मा को जानता हूँ, यह द्वितीयपथ संस्थान में मल्लिकार्जुन के फेड्रिकेशन डिपार्टमेंट में सुपरवाइजर था। रमेश चंद्र के बारे में मुझे याद नहीं आ रहा है। रमेश चंद्र गेन्डरे को जानता हूँ। यह टेक्नर में मेरे विभाग में काम करता था। प्रदर्शनी-4 उसका कार्ड है। मुझे नहीं मालूम कि रमेश गेन्डरे तिमिलेवत की तरफ से डिपार्टमेंट रीजनिंग मिल में काम करता था। मुझे विश्वास है कि मित्रा के बारे में ठीक से याद नहीं है।

बुध पुनः परीक्षा कुछ नहीं।

मेरे डिप्टी के नाम पर लिखा गया, साक्षी भी पढ़कर नहीं होना स्वीकार किया।

Application received on..... 7-3-96  
 Copy ready on..... 7-3-96  
 Copy delivered on..... 9-3-96  
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 Compaired by.....  
 Copying & Compairing Charges Rs. 11.00/-  
 Amount received on..... 7-3-96

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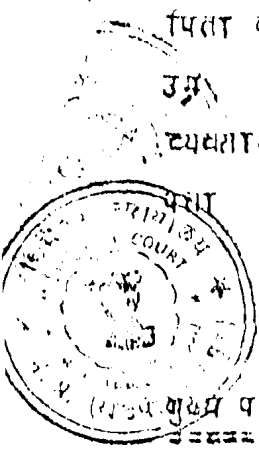
प्रमाणित प्रतिलिपि अद्यतन दिनांक 4-3-96 एवं 12-3-96 की तारीख

पुनरुत्थान संस्थान की ओर अर्पण हेतु संश्लेषण अथवा प्रमाणित प्रतिलिपि

न्यायालय, जज्जपोठ, रायपुर (म.प्र.)

रेफरेंस, क्र० 5/95 समझौताईकारोपवट

गवाह का नाम :- श्री छज्ज हलधर कुमार तल्ला  
 पिता का नाम :- श्री गुसाफिर सिंह  
 उम्र :- 34 वर्ष लगभग  
 व्यवसाय :- बेरोजगार  
 पता :- सरोरा, जिला :- रायपुर {म.प्र.}



शपथ की गई दिनांक 4-3-96  
 =====

संज्ञक मुद्दे परीक्षा द्वारा श्री एस० एन० गुप्ता याहसे प्रथमपक्ष की ओर से :-  
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मे वर्ष 1979 से सिम्पलेक्स इंड कार्स्टिंग भिलाई में काम करता था। मैं द्वितीयपक्ष संस्थान उरला में वर्ष 1987 में आया। मैं द्वितीयपक्ष संस्थान में मोल्डिंग का कार्य करता था। मेरी हाजिरी टार्डम आफिस में टार्डम कीपर लगाते थे। हाजिरी, रजिस्टर में लगाई जाती थी। मुझे वेतन का भुगतान प्रत्येक माह की पहली तारीख से 10 तारीख के बीच में टार्डम आफिस से प्राप्त होता था। मुझे टार्डम कीपर का नाम याद नहीं है। मेरे काम की देखभाल वहाँ कार्यरत श्री एस० एन० सिंग इंजीनियर जिन्हें सिंग साहब कहते थे, करते थे।

मुझे वर्ष 1990 से काम से छिठा दिया। मुझे नौकरी से हटाने से पहले न तो आरोप पत्र दिया गया, न छद्मकोई जांच की गई। न ही लिखित आदेश दिया गया। छटनी मुआवजा भी नहीं दिया गया। नौकरी से इन्कालने का कारण यह था कि उनके द्वारा गती रधी गई थी, कि जो प्यबित कोरे कागज पर दस्तखत करेगा, वह अंदर काम करने जायेगा। बाकी लोग काम नहीं करेंगे। स्वतंत्र के कथन के साथ संलग्न एपेक्चर में उल्लेखित आ. नौकरी की मैं जानता हूँ। ये लोग उस मेरे साथ अलग अलग सेवानिवृत्त हुए। हम लोग ठेकेदारी में कार्य नहीं करते थे, कम्पनियों के कर्मचारी थे। इन लोगों लोगो को 1990 के दिसम्बर माह से काम से छिठा दिया गया। इन सभी को काम से निकालने से पहले न तो आरोप पत्र दिया गया, न विभागीय जांच



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की गई, सेवा समाप्त आदेश भी लिखित में नहीं दिया गया, पं. उज्ज्वल  
 सुआड़ो का भुगतान भी नहीं किया गया। इन सबको भी काम से निकालने  
 का कारण कोरे भागजो पर हस्ताक्षर न करना था। इस प्रश्न को पूछे जाने  
 पर संबंध में अभिभाषक श्री के. एस. ओ. खनुजा अभिभाषक को अभिवचन न होने  
 संबंधी आपत्ति है, आपत्ति को सुरक्षित रखते हुए प्रश्न को पूछने की अनुमति  
 दी गई।

प्रदर्श पी-1 लगायत पी-26 द्वितीयपक्ष संस्थान के कर्मियों को दिये  
 जाने वाले वेज कार्ड हैं, इनकी छाया प्रतियां प्रदर्श पी-1-सी लगायत प्रदर्श  
 पी-26-सी हैं। इन हाजिरी कार्ड से संबंधित लोग कम्पनी में काम करते  
 थे। इनके उमर कॉम्प्यूटर के नाम मालूम नहीं क्यों लिखते थे, ये टाईम  
 आफिस का काम है। इन कार्डों पर ए से ए के मध्य कम्पनी का नाम  
 काटकर मिटाया गया।

में नोकरी के से निवृत्त होने के बाद से बेरोजगार हूँ और युनियन का सदस्य  
 हूँ, युनियन हमारी मदद करती है। धीने के लिए पॉवल, बच्चों के स्कूल  
 के लिए फीस और दवाई का खर्च वहन करती है, धाकी लोग भी बेरोजगार हैं,  
 कुछ लोगों की धेती है, कुछ लोगों के परिवार के लोग मदद करते हैं। युनियन  
 से इन सभी लोगों को मुझे मिलने वाली सहायता मिलती है।

में जब द्वितीयपक्ष संस्थान में कार्य करता था, तब वहाँ कार्यरत कर्मियों  
 को 500-600 रुपये के धीय में वेतन मिलता था। इसके अलावा कोई भत्ता  
 नहीं दिया जाता था। वहाँ हम लोगों को 15 अगस्त, 26 जनवरी,  
 2 अक्टूबर व विश्वकमा जयंती की छुट्टियां मिलती थी, अन्य कोई छुट्टियां  
 नहीं मिलती थी। अनेकवार में उल्लेखित 31 व्यक्तियों में कोई 2 साल से  
 काम कर रहे थे, कोई 3 साल से काम कर रहे थे।

कृपरीक्षणा द्वितीयपक्ष की ओर से अभिभाषक श्री के. एस. ओ. खनुजा, ३३५ :-

साप्ताहिक छुट्टी मुझे मिलती थी, स्वयं कृपा कि कुछ लोगों को  
 मिलती थी, सबको नहीं। अनेकवार में उल्लेखित व्यक्तियों में से मुश्किल से  
 15 लोगों को साप्ताहिक छुट्टी मिलती थी, शेष को नहीं। जिनको साप्ताहिक

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छुट्टियाँ मिलती थी, उनके नाम के लाल बरेट, जितेन्द्र सिंह ठाकुर, चंद्रदेव सिंह  
 इंद्रगण पटेल, सुरिन्दर सिंह, सुरेश भारिक, वसुधा नायक हैं। काऊन्सिल में जहाँ  
 मैं काम करता था, कुछ लोगों की छुट्टी बुधवार व कुछ की रविवार को रहती  
 थी। रविवार को फेब्रिकेशन के कुछ विभाग को छुट्टी रहती थी। फेब्रिकेशन  
 5-6 लोग काम करते थे। मोल्डिंग में 60-70 लोग काम करते थे। बाकी  
 विभागों की जानकारी मुझे नहीं है। वे विभागों में पूर्णरूप से कितने  
 कितने लोग काम करते थे, मैं नहीं बता सकता, कुछ का बता सकता हूँ फेब्रिकेशन  
 में 70 लोग काम करते थे। मोल्डिंग में लगभग 35 लोग काम करते थे। वाजिंग  
 में करीब 35 लोग काम करते थे। पिट साईड में करीब 50 लोग काम करते थे।  
 मेन्टेनेंस में करीब 60 लोग काम करते थे। ड्रेन अपरेटर 9-10 थे। किस  
 विभाग में किन किन दिन छुट्टी रहती थी, यह मैं पूर्णरूप से नहीं बता सकता।  
 हर विभाग में साप्ताहिक छुट्टी का दिन निश्चित नहीं था, जब मरजी होती  
 थी, तब छुट्टी दे देते थे। साप्ताहिक छुट्टियाँ नहीं मिलती थी, इसके बारे  
 में अधिकारियों को बताया था, श्रम विभाग को भी बताया था, श्रम विभाग को  
 व अधिकारियों को भी बताया था। मैं इस संबंध में बताने नहीं गया,  
 हमारे पुनियन के प्रातिनिधी गये थे, इस संबंध में शेष अंतर बताने गये थे। किस  
 महीने व साल में शेष अंतर गये, यह मैं नहीं बता सकता। शेष अंतर को हमने  
 काम से छिठाने के बाद छुट्टियों के संबंध में बताया था, कि साप्ताहिक छुट्टियाँ  
 नहीं मिलती हैं, इसके पहले बताने का प्रश्न नहीं उठता कि क्योंकि हम पुनियन  
 में सन 90 से जुड़े थे। यह बहुत गलत है कि द्वितीयक संस्थान में प्रत्येक कर्मचारी  
 को सप्ताह में एक दिन छुट्टी मिलती है।

द्वितीयक संस्थान में 4 पालियों में काम होता है, पहली पाली सुबह  
 6 बजे से दोपहर 2 बजे तक, दूसरी पाली दोपहर 2 बजे से रात 10 बजे तक,  
 और तीसरी पाली रात 10 बजे से सुबह 6 बजे तक चलती है। चौथी पाली  
 पाली सुबह 8 बजे से शाम 5 बजे तक चलती है। गैरी पाली हर हफ्ते चलती है।  
 सभी लोगों की पालियाँ बदलती थी। अनेकवार में उल्लेखित श्रमिकों में से  
 कुछ लोगों की पाली मैं बता सकता हूँ। पहली पाली में मेरे साथ सायबर  
 प्रसाद चंद्राकर, रघुनाथ साहू, राम खिलावन, सुरेश भारिक, सुखानल साहू,

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प्रेमलाल, कुष्ठा चौहान, पवन, भागवत साहू, राम खिलावन मानिकपुरी,  
 ये। बाकी लोगों की पाली कब बदलती थी, और वे किस पाली में थे, यह  
 मुझे नहीं मालूम। मेरी पाली में जिनके नाम मैंने उमर बताया है, वे सब  
 मेरे अलग अलग सेक्शन में काम करते थे, मेरे सेक्शन में कुछ लोग थे। इनमें से  
 3-4 लोग मेरे सेक्शन में थे। मुझे प्रतिमाह 1000/- वेतन प्राप्त होता था।  
 इस 1000/- रुपये में कुछ भी सम्मिलित नहीं था, इसीलिए क्या क्या सम्मिलित  
 होने का प्रश्न ही नहीं है। इस वेतन में मंडगाई भत्ता सम्मिलित था या  
 नहीं इसकी जानकारी नहीं है। मैंने किसी से जानकारी नहीं ली कि वेतन  
 में कितना मंडगाई भत्ता मिलता था और क्या क्या सम्मिलित था, स्वयं  
 कहा कि वेतन ही वेतन मिलता था। अक्टूबर में उल्लेखित 31। व्यक्तियों  
 को किस किस को कितना वेतन मिलता था, नहीं बता सकता, किसी को  
 18 रुपये मंडगाई रोज, 8 किसी को 21 रुपये रोज मिलता था, किन्तु  
 इस दर से किस किस को मिलता था, यह मैं नहीं बता सकता। कुछ लोगों  
 का वेतन भुगतान शीट पर हस्ताक्षर लेकर किया जाता था, तथा कुछ का  
 भुगतान राजस्टर से किया जाता था। मैंने भुगतान से संबंधित राजस्टर व  
 शीट मैंने देखे हैं। वेतन भुगतान अलग अलग समय में अलग अलग लोगों को होता  
 था, स्वयं कहा कि पेमेंट के समय शीट व राजस्टर देखता था। भुगतान  
 संबंधित पालियों में किया जाता था। मैंने भुगतान से संबंधित शीट देखी है  
 किन्तु किन लोगों का भुगतान शीट से होता है, और किन लोगों का राजस्टर  
 से होता है, यह मैं नहीं बता सकता। मैं भुगतान से संबंधित शीट व राजस्टर  
 तैयार नहीं करता था, स्वयं कहा कि टार्डम आफिस तैयार करता था। टार्डम  
 आफिस से मैं शीट और राजस्टर कॉपी तैयार करता था, यह मुझे नहीं मालूम।  
 शीट व राजस्टर बनाने वाली से डिप्टी पर मुलाकात होती थी। शीट व  
 राजस्टर जित दिनों भुगतान होता था, उसी दिनों देवता था। मैंने भुगतान  
 को कितना भुगतान किया था, यह मैंने नहीं बताया।

वेतन के संबंध में औद्योगिक न्यायालय द्वारा कोई अपाई पारित

किया गया था, क्या इसकी मुझे जानकारी नहीं है, हमें किस आधार पर वेतन  
 दिया जा रहा है, इसकी जानकारी मुझे नहीं है। मेटल <sup>स्ट्रुक्चर</sup> इंजीनियरिंग वर्कर युनियन  
 {स्टक} की मुझे जानकारी नहीं है, स्टक का नाम मैंने सुना है। 8 स्टक युनियन है या

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ज्ञात है, मुझे नहीं मालूम। स्टक के बारे में मुझे किसी ने नहीं बताया, स्वयं ही मालूम है। स्टक की जानकारी किसी सिलसिले में हुई, नहीं बता सकता। स्टक को एक शब्द के रूप में जानता हूँ। मुझे जानकारी नहीं है कि स्टक के साथ वेतन तथा अन्य सुविधाओं के संबंध में द्वितीयपक्ष संस्थान के साथ समझौते हुए हैं। यह कहना गलत है कि इन समझौतों के आधार पर ही मुझे स्टक पुनियत की जानकारी हुई। सम्बल चक्रवर्ती व काँति गुप्ता को मैं नहीं जानता। यह तर्क है कि उरला में द्वितीयपक्ष संस्थान के अलावा अन्य भी कार्टिंग वाले उद्योग हैं। गिलाई व राजनीयों में भी इस तरह के उद्योग हैं, इन उद्योगों में अधिकारी को किताबों में पया पया सुविधाएँ मिलती हैं, इसकी मुझे जानकारी नहीं है। मैंने इस संबंध में मैंने दूसरे उद्योगों से जानकारी प्राप्त नहीं की। द्वितीयपक्ष संस्थान में श्री एन० एन० सिंग मैनेजर थे। मैनेजर के अलावा वहाँ और कितने अधिकारी थे, इसकी मुझे जानकारी नहीं है। कोरे कागज पर दस्तखत लेने की बात मैंने कही है, यह कारिका कैबिनेटरी गेट पर तुम्हें 6 बजे का है। यह बात काम से छिठाने वाले दिन की है। मैं डेली काम पर जाता था, लेकिन वे धोते-धोते कि जो कोरे कागज पर दस्तखत करेगा, वहाँ अंदर जायेगा। इस प्रकार हम लगातार 1-2 महीने काम पर जाते रहे। कोरे कागज पर दस्तखत करने वाली बात मैंने स पुलिस को बताई थी, कितना दिन बताई थी, यह मुझे ध्यान नहीं है। डेढ़ महीने तक काम पर जाने वाली बात भी पुलिस को बताई थी, पुलिस वालों ने यह कहकर भगा दिया कि बहुत नेतागिरी कर रहे हो, भाग जाओ। काम से छंद करने के 2 दिन बाद ही पुलिस को बताया गया कि हम लगातार उन्हें बताते रहे। डेढ़ महीने के बीच बीच में पुलिस को बताया गया कि हमें यह पता चला है कि कोरे कागज पर दस्तखत करने वाले का नाम क्या है, यह मुझे पता नहीं है। पुलिस ने हमें उरला कागज पर दस्तखत करने के लिए कहा कि हमें पता नहीं है। मैंने उरला कागज पर दस्तखत करने के लिए कहा कि हमें पता नहीं है, सभी कारों पर मैंने उरला के समय के संबंध में उरला कागज पर दस्तखत का उल्लेख में दिखाया नहीं करे। मैंने उरला कागज पर दस्तखत करने वाली बात अपने वकील साहब को नहीं बताई। डेढ़ महीने तक हम काम पर जाते रहे, किन्तु काम पर नहीं लिया, यह बात वकील साहब को बताई व पुनियत को भी बताई थी।

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यह बात मेने सवील साहब को 8 महीने पहले य 10 महीने पहले बताया था,

यह मुझे मालूम नहीं । यह तारीखें मुनिपन को 1990 में ही बता दी थी ।

मुझे नहीं मालूम कि सिचार्ज विभाग व लोहा निर्माण विभाग में कर्मचारियों को कितना वेतन व दूसरी सुविधाएं प्राप्त होती है । नियोजता के जवाब के साथ संलग्न अनेक्चर के 16 नम्बर के व्यक्ति कुपराम को छोड़कर शेष लोगों के सभी के नाम में जानता हूँ । यह कहना गलत है कि इस अनेक्चर में उल्लेखित व्यक्तियों को छोड़कर स्टेटमेंट आफ पलेम के साथ संलग्न अनेक्चर के शेष कर्मचारी किसी न किसी ठेकेदार द्वारा नियोजित थे । मैं डी० ए० पवार को नहीं जानता । गुंस्वरणा सिंह, ए० वैकटेश, पी० के० शर्मा, सियाराम, आत्मा रामरुव, जगत नारायण को नहीं जानता । यह कहना गलत है कि मोल्डिंग डिपार्टमेंट में कार्यरत श्रमिक भी ठेकेदार के थे । यह कहना गलत है कि इस विभाग के कर्मचारियों को ठेकेदार वेतन भुगतान करता था । जवाबदावे के साथ संलग्न अनेक्चर के अलफा स्क्वैर के कथन के साथ संलग्न अनेक्चर के शेष लोगों को ठेकेदार भुगतान करता था, यह बात गलत है । मुझे हाजिरी कार्ड मिला था । हाजिरी कार्ड में जब जब हम काम पर जाते थे, उसकी हाजिरियां अंकित की जाती थी । कार्ड में साप्ताहिक छुट्टी का उल्लेख रहता है।

हमने हाजिरी कार्ड के संबंध में यह शिकायत नहीं की कि इस पर ठेकेदार का नाम लिखा है । मुझे जो कार्ड दिया गया था, वह इसी हालत में था, अन्य कार्डों के बारे में कोई जानकारी नहीं है । द्वितीयका संस्थान में फर्निचर ड्रॉइंग है, लेकिन फोन सी मद्धी है, गु-जे नहीं मालूम । यह तर्क है कि इस मद्धी में इन्गर्जस, मोल्ड, कार्टिस्टिंग इत्यादि के लिए लोहा पिघलाया जाता है । यह तर्क है कि जब लोहा पिघल जाता है, तो उसे लेडन में डालकर क्रैन से उठाकर ~~मोल्ड~~ मोल्ड इत्यादि बनाने के लिए ले जाते हैं ।

दि० 17-12-90 को मेरी डिप्यूटी किस पाली में थी, मुझे पता नहीं । मुझे नहीं मालूम कि दि० 17-12-90 को रामाधार ~~के~~ क्रैन ऑपरेटर की डिप्यूटी ~~किस~~ नाइट अपवा सी शिफ्ट में थी, स्वयं कहा कि रामाधार केन ऑपरेटर नहीं है । मेल्डिंग ~~अ~~ मेल्डिंग ऑपरेटर है । मेल्डिंग में सेलेन्ड टेन्ड

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आपरेटर था। सेल्फ हेन्ड आपरेटर क्या काम करता है, मुझे नहीं मालूम।  
 मालूम है कि मालूम है, सेल्फ हेन्ड, मालूम है, मालूम है, मालूम है, मालूम है,  
 मालूम का काम करते हैं। यह मुझे नहीं मालूम कि दि० 17-12-90 को  
 रामाधर बिना सुपना व बिना ड्यूटी के गैरहाजिर हो गया था। यह बात  
 नहीं है कि उन के बिना पिपला हुआ लोहा आगे उत्पादन प्रक्रिया के लिए  
 नहीं ले जाया जा सकता। यह मुझे नहीं मालूम कि दि० 17-12-90 को  
 सी शिफ्ट के कर्मचारियों को ले-आफ दिया गया था। यह भी मुझे जानकारी  
 नहीं है कि उक्त दिनांक को रात्रि 11 बजे कर्मचारियों को ले-आफ करने का  
 नोटिस लगा दिया गया था। यह कहना गलत है कि ~~ले-आफ~~ ~~के~~ ~~मालूम~~ ~~के~~  
~~मालूम~~ ~~के~~ ~~मालूम~~ ~~के~~ ~~मालूम~~ ~~के~~ ~~मालूम~~ ~~के~~ कर्मचारी फेक्टरी के अंदर बैठे रहे, फिर  
 कहा कि मुझे नहीं मालूम। यह कहना गलत है कि दि० 18-12-90 को  
~~मालूम~~ ~~के~~ ~~मालूम~~ ~~के~~ ~~मालूम~~ ~~के~~ ~~मालूम~~ ~~के~~ राम यादव व श्री० मोहन राव जो र शिफ्ट के थे, फेक्टरी परिसर  
 में गये, उन्हें सी शिफ्ट के सुरिन्दर कुमार सिंह व बंसल यादव व अन्य कर्मियों  
 ने यह बताया कि सी शिफ्ट वालों को दि० 17-12-90 को ले-आफ किया  
 गया है। इस पर इन चारों ने र शिफ्ट के कर्मचारियों को काम न करने के  
 लिए भ्रमसाया और कहा कि जब तक ऐसा नोटिस नहीं लगाया जाता कि  
 सी शिफ्ट के कर्मचारियों को पुरा घेतन ~~मालूम~~ ले-आफ के बदले दिया जायेगा,  
 तब तक कोई काम नहीं करेगा। यह कहना गलत है कि इस प्रकार र शिफ्ट  
 वाले एकमत होकर हड़ताल पर चले गये। यह कहना गलत है कि दिनांक  
 18-12-90 को र शिफ्ट के कर्मचारियों ने कोई काम नहीं किया। मुझे याद  
 नहीं है कि मैं दि० 18-12-90 को काम पर था अथवा नहीं। मुझे यह भी याद  
 नहीं कि दि० 18-12-90 को मेरी कौन सी ड्यूटी थी। दि० 18-12-90  
 को श्री पाली व श्री पाली और जनरल पाली के ~~मालूम~~ कर्मचारी अपने निर्धारित  
 समय पर फेक्टरी में आये थे। यह कहना गलत है कि दि० 18-12-90 को सभी  
 पालियों के कर्मचारी एकमत होकर हड़ताल पर चले गये। यह कहना भी गलत है  
 कि कर्मचारी चरण तेदती, गेदशम, तरजूराम, समारु राम, योगेश कुमार,  
 नेपाल सिंह, मोहन नईम, रमेश राम यादव, रविन्द्र यादव, एच.के. सिंह व  
 श्री गणेश राम ने कर्मचारियों को काम न करने तथा तब तक हड़ताल जारी

11/6/77

रखने के लिए भड़काया, जब तक कि ते आफ किये गये कर्मचारियों को पूरा वेतन न मिल जाता । यह कहना भी गलत है कि ए डिप्ट में मैनेजमेन्ट के विरुद्ध भड़के शब्दों के साथ नारेबाजी भी कही गई । यह कहना गलत है कि दि० 18-12-90 के बाद हमारी युनियन के लोग काम पर नहीं गये । स्वयं कहा कि वे लोग काम पर जाते थे, और आज भी जाने के लिए तैयार हैं ।

। न्यायालय का समय 4 घंटेकर 50 मिनट हुआ है । श्री खन्ना ने व्यक्त किया कि अभी कूट परीक्षा में कम से कम 45 मिनट लगेंगे, अतः कूटपरीक्षा अन्य तिथि तक के लिए स्थगित किया जाये । कूट-परीक्षा समय समाप्त होने के कारण स्थगित रखा जाता है । ।

गिरे व कट्टेबाजों को नुकसान होना चाहिए।  
 नाराजी के पक्ष में खड़ी होना चाहिए।

श्री /  
 (जी. ए. ए. लोकार्ज)  
 सहायक मंत्री

श्री /  
 (जी. ए. ए. लोकार्ज)  
 सहायक मंत्री

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दिनांक 12-3-96

शमथ दिलाई गई

दृष्टपरिध्या द्वितीयपक्ष की ओर से अभिमाध्यक श्री के० एम० अनुजा द्वारा :-

प्रश्न :- कम्पनी में जो नोटिस बोर्ड लगे हैं, उन्हें उनमें लगाये गये जानवर  
आप पढ़ते हैं ?

उत्तर :- इसके बारे में मुझे कोई जानकारी नहीं है ।

प्रश्न :- दि० 17-12-90 व 18-12-90 से धर्मियों द्वारा की गई दण्डनाम  
के संबंध में श्रम न्यायालय में रायपुर में द्वितीयपक्ष की ओर से दण्डनाम  
दस्तावेज को अवेज होलियस करने के लिए प्रकरण प्रस्तुत किया था क्या  
आप जानते हैं ?

उत्तर :- उत्तर नहीं है ।

मुझे इस घाल की जानकारी नहीं है कि क्या प्रकरण प्रस्तुत किया गया है ।

आवेदना जारी कर दण्डनामियों को दण्डनाम वापिस करने के लिए विनम्र विनम्र से ।  
में हस्ताक्षर अरुण राम आधार यादव, श्री० मोहनराव, चरण मोदवी, योगेश  
कुमार साहू, सोनू राम साहू, समारु राम, हनुमेश्वर, नेपाल सिंह, मोहन नरेश



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गणेश राम यादव, राजेन्द्र यादव, सुरिन्दर कुमार सिंह, एवं रामेश्वर यादव को जानता हूँ। ये सारे लोग कम्पनी के श्रमिक थे। मुझे इसकी जानकारी नहीं है कि द्वितीयपक्ष की ओर से श्रम न्यायालय, रायपुर में हड़ताल से संबंधित प्रकरण में उन्हें पथकार बनाया गया था। इन लोगों ने भी मुझे इस संबंध में नहीं बताया। मुझे इस बात की भी जानकारी नहीं है कि इन लोगों ने श्रम न्यायालय में अपना वकील नियुक्त किया और जवाब भी पेश किया। सुनियन में भी इस प्रकरण के संबंध में भी चर्चा नहीं हुई। मुझे इस बात की जानकारी नहीं है कि श्रम न्यायालय रायपुर में हड़ताल ~~मंथन~~ या अंतरिम आदेश दिनांक 21-12-90 को जारी किया गया। मुझे यह भी जानकारी नहीं है कि इसमें श्रमिकों को हड़ताल के लिए न भड़काने का आदेश था। मुझे जानकारी नहीं कि दि 0 21-12-90 का यह आदेश सूचना पत्र की प्रतिलिपि के साथ नोटिस बोर्ड के पर तारख चस्पा किया गया था। यह कहना गलत है कि नोटिस बोर्ड पर विभिन्न तिथियों में यह सूचना चस्पा की गई थी कि कर्मचारी हड़ताल समाप्त कर अपने काम पर वापस आ जायें, उन्हें हड़ताल की अवधि का पैसा नहीं दिया जावेगा। दि 0 21-12-90 का सूचना पत्र दैनिक समाचार पत्र नव भास्कर के 31-12-90 के संस्करण में प्रकाशित की गई थी, इस बात की जानकारी मुझे नहीं है। यह कहना गलत है कि द्वितीयपक्ष के जवाबदायों के साथ संगठन अनेकघर के सभी 57 लोगों को रजिस्टर हाक से उनके पते पर सूचना पत्र भेजे गये थे। मैंने इन लोगों से रजिस्टर सूचना पत्र मिलने के संबंध में ~~अथवा उन्हें भेजे जाने के~~ संबंध में नहीं पूछा। यह 57 लोग उसके बाद काम पर आये या नहीं, इसकी मुझे जानकारी नहीं है। मैं श्री 0 मोहनराव, चरण शेट्टी, रामेश्वर यादव, अजय कुमार, श्री 0 पी 0 श्रीवास्तव, बतई प्रसाद, मुझ हरीश कुमार, जीवन यादव, हेमलाल धर्मा, मोहम्मद अली, रामश्रीधर यादव, रामसहाय प्रसाद और सुमान अंतारी को जानता हूँ, इनको गेटी मुलाकात। व्यर्थ से नहीं हो रही है। ये कम्पनी की सेवा में हैं, अथवा नहीं, इसकी मुझे जानकारी नहीं है। मुझे पहले भी जब इसी मुलाकात हुई, तब भी मैंने इससे नहीं पूछा कि वे लोग कम्पनी की सेवा में हैं अथवा नहीं। मैंने इनसे नहीं पूछा कि ये क्या काम कर रहे हैं।

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स्वयं कहा मुझे जानकारी नहीं है, कि ये लोग क्या कर रहे हैं। मुझे इस बात की जानकारी नहीं है कि मैने, जवाबदावे के साथ रजिस्ट्रार अनेकवार के व्यक्तियों ने अथवा हमारी युनियन ने नियोजता को कभी यह लिखकर दिया कि हड़ताल वापिस हरे ~~अर्थ~~ ले ली गई है, श्रमिकों को काम पर लिया जाय। मैं योगेश दुबे से को जानता हूँ। यह 10-10-92 को कम्पनी से अपना चुकता हिसाब ले गये हैं, इसकी मुझे जानकारी नहीं है। साल भर पहले की मुलाकात में इस संबंध में इससे कोई बात नहीं हुई। मैंने योगेश दुबे से भी यह नहीं पूछा कि वे क्या काम करते हैं। रजिस्ट्रार के कथन के साथ रजिस्ट्रार अनेकवार में उल्लेखित 311 लोग, फिर किस गाँव के रहने वाले हैं, उनके पते नहीं मालूम। स्वयं कहा कि आसपास के गाँव के रहने वाले हैं। इनसे कब कब मेरी मुलाकात हुई, मैं नहीं बता सकता। इन सभी के पास खेती बाड़ी है अथवा नहीं, इसकी मुझे कोई जानकारी नहीं है। ये सभी लोग क्या क्या काम कर रहे हैं, इसकी मुझे जानकारी नहीं है। स्वयं कहा कि ये लोग बेरोजगार हैं। कर्मचारी इनसे मेरी मुलाकात होती रहती है, इसी लिए मैं बता रहा हूँ कि ये लोग बेरोजगार हैं। कब कब किस किससे मुलाकात हुई, दिनांक याद नहीं है। मुलाकात कितनी बार हुई, यह भी मुझे याद नहीं है। आज से कितने दिन, कितने महीने व कितने साल पहले मुलाकात हुई, यह भी नहीं बता सकता। इन लोगों के परिवार में कितने कितने सदस्य हैं, यह मैं नहीं बता सकता।

प्रश्न :- ये लोग कैसे गुजारा करते हैं ?

उत्तर :- ये लोग बेरोजगार हैं, इन लोगों को युनियन मदद करती है, और कुछ लोगों के पास खेती है, उनसे उन लोगों का गुजारा होता है।

मेरे परिवार में पत्नी और 2 बच्चे हैं। मेरी कोई खेती बाड़ी नहीं है। युनियन के संगठन का काम करता हूँ। इसके पहले युनियन की तरफ से सहयोग के रूप में घाँस, दवा, धरियाँ वी पहाई के लिए फ्रीस भिज जाती है। घाँस कभी 10 कि०, कभी 15, कभी 20 किलो भिज जाता है, इसका कोई निश्चित मापदण्ड नहीं है। मेरी तबियत कितने धार बराब हुई, मैं नहीं बता सकता। मुझे व मेरे परिवार को दवा की आवश्यकता कितने धार पड़ी, मैं

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नहीं बता सकता, जब भी आवश्यकता होती है, मदद मिल जाती है। जबसे मैं काम से बँठा हूँ, तब से आज तक मुझे व मेरे परिवार को 25-30 रुपये तक की दवा की मदद की जरूरत पड़ी है। मेरा स्कू धरिया पड़ता है, जो तीसरी कक्षा में है, उस स्कूल में फीस नहीं लगती, फिताबो भी फ्री रहती है, स्कूल से पूरी मदद नहीं मिलती, कुछ कापियाँ मिल जाती है, इस धरि रह बनानी पड़ती है। कितनी कापियाँ मिलती है, नहीं बता सकता। मैं भी बाजार से जरूरत पड़ने पर कापियाँ खरीदकर लाता हूँ।

प्रश्न :- कापी के लिए पैसे यूनियन देती है क्या ?

उत्तर :- यूनियन सहयोग करती है।

मेरे परिवार का लगभग 700/- रुपये खर्च हो जाता है। शुरू से मैं यूनियन के मकान में रह रहा हूँ, फिर कहा कि जबसे काम से बँठाया, तबसे रह रहा हूँ। उसके पहले किराया के मकान में रहता था। मेरे परिवार में ताल, चावल और तेल का खर्च प्रतिमाह 700-800/- रुपये हो जाता है। यूनियन मदद देते समय कोई दस्तखत नहीं लेती। बाकी लोगों को यूनियन फिताबा मदद करती है, इस संबंध में मैं नहीं बता सकता। मुझे इस संबंध में जानकारी नहीं है कि यूनियन अपने खर्च का हिसाब रखती है, अथवा नहीं। यूनियन को कम से कम खर्च के चंदे ले होती है। चंदे का कोई हिसाब रखा जाता है, इसकी मुझे जानकारी नहीं है। यूनियन में मुझे जो काम बताया जाता है, करता हूँ। जो व शुल्क निकालने के लिए कहा जाता है, वह करता हूँ।

मेरे रोजगार कार्यालय में अपना नाम नहीं लिखाया है, बाकी लोगों ने क्या क्या अथवा नहीं बताया मुझे जानकारी नहीं है। मैंने अपना धाकी लोगों की हस्तरी जगह नहीं लिखी है, फिर भी मैंने बताया है, मैंने नहीं लिखा है।

प्रश्न :- क्या आपकी अनेकवारों में अनेकवारों में लोगों ने उनका जोर देकर आप के लिए अधिक किया है ?

तब प्रश्न को पूछे जाने में प्रथमपक्ष अभिमाधक श्री स्त० रत्न० युप्ता को आपात्त है कि साधी बयान हुआ। लोगों की तरफ से नहीं, प्र बालिक प्रथमपक्ष की तरफ से था है। यह आपात्त को सुनिश्चित रखते हुए प्रश्न पूछने की अनुमति दी गई है।

11/3/11

उत्तर :- मुझे अधिकृत नहीं किया है ।

मेरे मुठबक... में सन् 79 से मिनाई में काम करना बताया है, व सन 87 से द्वितीयपक्ष संस्थान में नियोजित होना बताया है । मिनाई में नियोजन के संबंध में मेरे पास कोई प्रमाण नहीं है । कम्पनी की ओर से ऐसा कोई प्रमाण मेरे पास नहीं है, कि कम्पनी द्वारा मुझे नियोजित किया गया । स्वयं कहा कि पी० एफ० कटता था, काई प्रदर्श पी-2 को छोड़कर मेरे पास और कोई प्रमाण नहीं है । प्र-दर्शिता हाजिरी कार्डों में २० से २० भाग में अंग्रेजी का एस० सी० सरोरा दिख रहा है । यह सही है कि इनमें ए. से. भाग में डॉट- डॉट की दो लाईने बनी हुई है । यह कहना गलत है कि बाकी लोगों को क्या तनववाह मिलती थी, मे इसी लिए नहीं जानता हूँ कि मैं कम्पनी का कर्मचारी नहीं था ।

पुनः परीक्षा कुछ नहीं ।

मेरे इन्वोल्टेशन पर टंकित किया गया,

साक्षी को पक़र सुनाया, तहीं होना स्वीकार किया ।

उपस्थित 10/2/11  
(... ..)  
...

एजाज - खती  
॥ वे० एत० सेंगर ॥  
सदर अध्यक्ष  
राजस्थान न्यायालय, रायचूर  
रायचूर ( म. प्र. )

Application received on... 13.3.96...  
Copy ready on... 14.3.96...  
Copy delivered on... 16.3.96...  
Copied by...  
Compaired by...  
Copying & Compairing Charges Rs. 2000/-  
Account Received on... 13.3.96...

CERTIFIED TRUE-COPY.

*(Signature)*  
Joint Registrar, 16.3.96  
INDUSTRIAL COURT  
Bench-Raipur. (M.P.)



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उनको ले कोई मार्ग, अगुल एवं कोई जून में कार्यरत थे। उन्हें भी यही तरह  
 कोरे कागज पर दस्तखत करने के लिए कहा गया, दस्तखत न करने के कारण  
 उन्हें भी अगस्त, सितम्बर-91 से नौकरी से इनकाल दिया गया। हम सभी  
 लोग उस समय भी काम पर जाने के लिए तैयार थे, और जाने के लिए तैयार हैं।  
 अनेकवार में उल्लेखित व्यक्तियों को इनकालने से पहले भी कोई आरौप पत्र नहीं  
 दिया गया, न ही जाँच की गई। लिखित आवेदन भी जारी नहीं किया गया।  
 और छुट्टी मुआवजे का भुगतान भी नहीं किया गया। सभी लोगों को  
 24/- रुपये के आसपास प्रतिदिन वेतन भुगतान होता था। किसी प्रकार का  
 भत्ता नहीं मिलता था। हम लोगों को छुट्टियाँ भी नहीं दी जाती थी।  
 साप्ताहिक अवकाश मिलता था, लेकिन उसका पैसा नहीं मिलता था। उरला  
 रायपुर से 7 कि० मी० उत्तर में है।

नौकरी से निकलने के बाद मैं बेरोजगार हूँ। अनेकवार में उल्लेखित  
 सभी व्यक्तियों बेरोजगार हैं। प्रदर्शनी-1 लगायत पी-27 काँड है, यिनकी  
 छाया प्रतियाँ प्रदर्शनी-1-सी लगायत पी-27-सी हैं। कम्पनी के मालिक  
 का नाम श्री धीनु जैन है।

कुछ परीक्षा द्वारा श्री एच० एन० व्यास, अभिभाषक वास्तु द्वितीयपथ की ओर से:-

प्रश्न

प्रश्न :- आपके पास युनियन की सदस्यता संबंधी रसीद है क्या ?

§ यह प्रश्न पूछे जाने में अभिभाषक श्री एन० एन० गुप्ता को अभिवचन  
 न होने संबंधी आपत्ति है। आपत्ति को सुरक्षित रखते हुए प्रश्न पूछने की  
 अनुमति दी गई §

उत्तर :- मेरे पास रसीद है, किन्तु आज मैं अपने साथ नहीं लाया। मेरे  
 पास इन सभी अनेकवार में उल्लेखित 131 लोगों की युनियन की सदस्यता संबंधी  
 रसीदें की रसीदें भी हैं, जिन्हें मैं आज नहीं लाया। मैं प्रगतिशील इंजीनियरिंग  
 श्रमिक संघ का पदाधिकारी नहीं हूँ, स्वयं कहा कि सदस्य हूँ। एन० एन०  
 गुप्ता के कहने संघ का गठन नहीं पड़ा।

प्रश्न :- संघ के विधान में संघ का कार्यक्षेत्र केवल प्रमखर्दखर (पूर्व जिला) है

§ इस प्रश्न और इससे ऊपर पूछे गये प्रश्नों के संबंध में श्री गुप्ता को वत प्रकार के

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अभिव्यक्त न होने के संबंध में आपत्ति है। आपत्ति का निर्णय सुरक्षित  
रखते हुए प्रश्न पूछने की अनुमति दी गई।

उत्तर :- इसके संबंध में हमारी युनियन के पदाधिकारी बतायेंगे म में व  
मेरे संबंध साथी जिसका उल्लेख अनेकधर में है, वर्ष 1990 में युनियन के सदस्य  
बने। मेरे साथी 131 हैं। यह सभी लोग युनियन के सदस्य बन चुके, बताया  
याद नहीं है, संघ की सदस्यता का रजिस्टर युनियन में है, संघ की सदस्यता  
के लिए काम करने की जरूरत नहीं पड़ती। मुझे और मेरे साथियों से  
युनियन का चंदा, युनियन के पदाधिकारी श्री रोख अंतर ने लिया था।  
चंदा रोख अंतर ने ग्राम तरोरा व ग्राम भीरगाँव में युनियन कार्यालय में  
आकर लिया।

उक्त सभी प्रश्नों के संबंध में अभिभावक श्री एत० एल० गुप्ता को इस प्रकार  
के अभिव्यक्त न होने संबंधी आपत्ति है। आपत्ति पर निर्णय सुरक्षित  
रखी जाती है।

यह बात सही है कि मुझे और मेरे साथियों को जिनका उल्लेख  
अनेकधर में है, को बी० ई० सी० उरला द्वारा गलत ढंग से निकाल दिया  
गया है, इस संबंध में ही मैं अपने कथन देने आया हूँ।

यह मुझे नहीं मालूम कि वर्ष 89-90, 90-91 में शासन द्वारा  
रक्षोक्त न्यूनतम वेतनमान क्या था। मुझे यह भी नहीं मालूम कि कर्मचारियों  
को शासन द्वारा क्या सुविधाएं दत्त प्रदान की जाना चाहिए।  
यह सही है कि द्वितीय पक्ष संस्थान में फेल्ट्रेशन का काम होता है।  
यह भी सही है कि उरला में इस तरह के कार्य करने वाले और भी कई  
उद्योग हैं। मुझे यह जानकारी भी नहीं है कि वर्ष 89-90, 90-91 में  
इन उद्योगों के कर्मचारियों को क्या वेतन एवं क्या सुविधाएं मिलती थी।  
मैं ग्राम ताराजीम, तहसील बेरला, जिना- दुर्ग का निवासी हूँ। यह कहना  
गलत है कि मेरे 131 साथी भी उतनी राईव के रहने वाले हैं, स्वयं कहा कि  
ये आसपास के गाँवों के रहने वाले हैं। मैं हायर सेकेंडरी पास हूँ।  
नियोक्ता का मतलब सम्बन्ध सम्बन्ध पर होता है, मैं थोड़ी बहुत भुमिजी  
भी जानता हूँ। मुद्रक पी० -1 लगायत पी०-27 में नियोक्ता का नाम

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डी० ई० सी० लिखा हुआ है, स्वयं कहा कि मैंने नियोजता का अर्थ मालिक से लिखा है। यह सही है कि पी-1 लगायत पी-27 के हाजिरी कार्डों में नियोजता के नाम के आगे के० ई० डब्ल्यू० या कुछ और लिखा है तथा संस्था के नाम के आगे डी० ई० सी० लिखा है। स्वयं कहा कि इसमें कुछ×अन्य×अन्य गलत लिखा है।

यह सही है कि प्रदर्श पी-3-सी अक्टूबर 91 का ब्लॉक कार्ड है, जो मेरा है। स्वयं कहा कि यह सितम्बर में ही हस्त कर दिया गया है। यह सही है कि मैंने अथवा मेरी युनियन ने नियोजता का गलत नाम लिखने या वह लिखित शिकायत नहीं की,

स्वयं कहा बोले हैं। हमें वेज स्लीप नहीं मिलती थी, मुझे 24/- रुपये रोज वेतन कमना मिलने या वह कोई कागज प्राप्त नहीं हुआ। मुझे डी० ई० सी० से रक्षा कोई कागज नहीं मिला, जिससे मुझे पता लगे कि मैं डी० ई० सी० का कर्मचारी हूँ।

अनेकवार मैं उल्लेख कि किसी भी कर्मचारी को हाजिरी कार्ड छोड़कर कोई रक्षा दस्तावेज नहीं मिला, जिससे यह तात्पर्य हो, कि वे कर्मचारी डी० ई० सी० के हैं। मेरी 131 लोगों से रोज मुलाकात नहीं होती, किन्तु मुलाकात होती रहती है। मैंने जितने लोग मुझे मिले, उनको मैंने बताया कि मैं सचपी ओर से ममान देने जा रहा हूँ। मैंने

प्रश्न :- क्या जानेने लगे 131 कर्मचारियों को बताया था कि मैं आपकी सचपी तरफ से न्यायालयों ध्यान देने जा रहा हूँ। आपके पास डी० ई० सी० की ओर से कोई भी दस्तावेज हो, तो मुझे दे दे, जिससे मैं उन्हें युनियन के मार्फत न्यायालय में पेश कर सकूँ।

उत्तर :- मैं सभी से नहीं मिला, जिससे मिला उनका रिकार्ड न्यायालय में पेश कर दिया है।

यह कहना गलत है कि जो दस्तावेज न्यायालय में पेश किये गये हैं, वे ठेकेदार के कर्मचारी थे, जिसका नाम उन पर नियोजता के सामने लिखा गया। स्वयं कहा कि कम्पनी में कोई ठेकेदार नहीं थे। मैं केजटरी जब चालू हुई, तब मार्च 1990 से भरती हुआ था। यह कहना गलत है कि सितम्बर 91 में केजटरी बंद हो गई। सितम्बर 91 में मजदूरों को नौकरी से निकाल दिया गया, उसके बाद मालिक ने कम्पनी को बंद कर दिया। कम्पनी कब तक बंद रही, यह मुझे नहीं मालूम। कम्पनी कब फिर चालू हुई, नहीं बता सकता। स्वयं कहा कि



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अज्ञात पीकटरी चालू है। यह कहना गलत है कि मई 1991 से लेकर कई धार  
 कम्पनी में हड़तालें हुईं। यह कहना गलत है कि कम्पनी के अधिकारियों व  
 कर्मचारियों को कुछ लोगों ने मारा पीटा। यह कहना सही है कि कुछ लोगों  
 को पुलिस ने गिरफ्तार किया था, क्योंकि वे काम मांगने गये थे, फिर  
 मई 1991 से अक्टूबर 91 तक कर्मचारियों में को पुलिस ने गिरफ्तार किया,  
 इसकी जानकारी मुझे नहीं है। मुझे नहीं मालूम कि अप्रैल 92 में कम्पनी फिर  
 चालू हुई। मैं जलील खान को जानता हूँ, उसका नाम अनेकर में उल्लेखित  
 131 लोगों में है, यह आश्चर्य कहाँ है, इसकी जानकारी मुझे नहीं है, क्योंकि  
 बहुत दिनों से उससे मुलाकात नहीं हुई। मुझे यह जानकारी नहीं कि यह स्थिति  
 का क्या ही सी 0 सी 0 उरला में उत्पन्न पायरेत है। यह कहना गलत है कि  
 श्री महिलायल यचरीवाल बी 0 सी 0 उरला में कार्यरत है, स्वयं कहा कि यह  
 कुछ दिन पहले मिला था, यह मुझे के पास वहाँ कुछ व्यवसाय कर रहा है।  
 यह कहना गलत है कि कमलेश साहू, रामा साहू, कमलेश नेत राम साहू भी सी 0  
 सी 0 उरला में कार्यरत है। ये लोग गाँवों में हैं, तक्षेमके मधेश साहू व  
 रागा साहू तरौरा गाँव में, कमलेश साहू, धीरगाँव में है। भगवान सिंह कहाँ  
 निवास करता है, इसकी मुझे जानकारी नहीं है। कुछ दिन पहले यह मुझे  
 मिला था, यह क्या काम कर रहा है, मैं नहीं बता सकता। भगवान सिंह ने  
 मुझे नहीं बताया कि यह सी 0 सी 0 चालू होने के बाद अपना हिताय-पताध  
 लेकर चला गया। मैं अखबार पढ़ता हूँ। मैंने अखबार में ऐसा नहीं पढ़ा कि  
 मालिक ने कर्मचारियों को दुबारा काम पर जाने का समाचार प्रकाशित कराया  
 था। स्वयं कहा कि सी 0 सी 0 कोई ठेकेदार नहीं था, अतः ठेकेदार द्वारा  
 ऐसा समाचार प्रकाशित कराने का कोई प्रश्न ही नहीं है। नियोक्ता द्वारा  
 अखबार में प्रकाशित सूचना प्रदर्श डी-1 लगायत डी-क, जिनकी जांच प्रस  
 प्रदर्श डी-1-सी सभ्यत\*  
 नियोक्ता द्वारा समलवाही कई होंगी, जैसे प्रद्वे में नहीं आये। मुझे नहीं मालूम  
 कि मेरे साथी लोगों ने यह सूचनाएं पढ़ी या नहीं, युनियन के पदाधिकारियों ने  
 पढ़ी या नहीं, मुझे नहीं मालूम। इन लोगों ने नहीं बताया कि ऐसा सूचनाएं  
 प्रकाशित हुई है। यह सही है कि वर्ष 91, 92 व 93 में 80000 रायपुर के जिला

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प्रशासन के अम विभाग के अधिकारियों की बैठके आयोजित हुई, जिनमें मे  
 उपस्थित नहीं हुआ। मेरे साथी बैठकों में गये या नहीं मुझे नहीं मालूम।  
 यह कहना गलत है कि पुनियम के पदाधिकारी बैठकों में नहीं गये। मैं नहीं  
 जानता कि कौन सी तारीख की बैठकों में पुनियम का कौन सा पदाधिकारी  
 उपस्थित हुआ था। यह कहना गलत है कि कुछ कर्मचारियों को आरोप पत्र  
 देकर जॉब की गई थी। यह कहना गलत है कि 40 कर्मचारी कम्पनी से  
 अपना इस्तीफा फिताब लेकर जा चुके हैं।

यह सही है कि मेने बी० ई० सी० से रिक्रूटमेंट के बहद रोजगार  
 कार्यालय में जानना नाम दर्ज नहीं करवाया। मुझे जानकारी नहीं है कि  
 अकेलपर में उल्लेखित कर्मचारियों में भी अपना नाम रोजगार कार्यालय में  
 दर्ज नहीं कराया। मेरे पास किन किन कम्पनियों के पास रोजगार के लिए  
 दरखास्त दी, उसकी प्रति आज मेरे पास नहीं है। मेरे साथियों ने कि-  
 किन कम्पनियों में गौबरी के लिए दरखास्त दी, यह मुझे नहीं मालूम।

श्री जे० टी० पटेल, पी० टी० खानी, बी० ई० सी० में काम नहीं  
 करते थे। श्री श्रीमाध मलिक, रामचंद्र पिल्ले, अजय साहू, उत्तम पांडे,  
 पी० एम० डोता, अमृत्यु होता, जितेन्द्र प्रसाद बी० ई० सी० में काम करते  
 थे। यह कहना गलत है कि ये लोग स्तीफा देकर अपना बकाया लेकर जा  
 चुके हैं। जितेन्द्र प्रसाद गुढ़पारी में है, बाकी लोग कहां हैं, मुझे नहीं  
 मालूम। मुझे नहीं मालूम कि ये लोग कहां-कहां काम कर रहे हैं। यह  
 कहना गलत है कि यह लोग अपना पैसा लेकर जा चुके हैं।

मेरे व मेरे 131 साथियों की अक्षय दंग से सेवा से मुक्त करने के संबंध  
 में अम न्यायालय में प्रकरणा सेवा नहीं किये गये, तब इस संबंध में पुनियम के  
 पदाधिकारी बतायेंगे। मैं कभी अम न्यायालय रायपुर में हाजिर नहीं हुआ।  
 यह सही है कि 131 लोग भी अम न्यायालय में कभी हाजिर नहीं हुए।  
 हम लोगों ने सेवा से मुक्त करने के संबंध में संराधन कार्यवाही नहीं की,  
 यह सही है। स्वयं कहा कि यह कार्यवाही पुनियम के मार्फत से की है।  
 यह कहना गलत है कि हम लोग संराधन कार्यवाही में सहायक न्यायालय के  
 समक्ष कभी उपस्थित नहीं हुए। मैं कभी उपस्थित हुआ, यह नहीं खतरा

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मुझे पास नहीं है । मेरे साक्षियों में कौन कौन, कब-कब कार्यवाही में उपस्थित हुआ, यह मुझे पास नहीं है । हमारे साक्षियों में से जिन लोगों के पास होती बाड़ी है, श्री मधेश साहू के पिताजी के पास 2 एकड़, इसी प्रकार लक्ष्मी कान्त परधनिया के पिताजी के पास 3 एकड़, कमलेश साहू के पिताजी के पास 2 एकड़, रामा साहू के पिताजी के पास करीब 4 एकड़, इसी प्रकार बहुत लोगों के मां-बाप के पास होती है । यह कहना गलत है कि यह सभी लोग मां-बाप के साथ होती करके कमाते आते हैं । ये लोग मां-बाप से अलग रहते हैं, ये लोग को सुनियम मदद करती है । सुनियम हमें पैसा नहीं देती, धाने के लिए पॉवल, उपहार के खर्च व बच्चों को पढ़ाई के लिए जायी पुराना देती है । मेरे दो बच्चे हैं । सभी 131 लोगों को सुनियम इसी प्रकार मदद करती है । सुनियम का एकजुट आर्डर होता है, क्या । इस संबंध में सुनियम के पदाधिकारी बतावेंगे । मैं आज भी सुनियम का सदस्य हूँ । व प्रतिवर्ष सुनियम का वंदा अदा करता हूँ । के मेरे सभी साथी भी सुनियम का वंदा अदा करते हैं ।

पुनः परीक्षा कुछ नहीं ।

मेरे डिस्टेशन पर टंकित किया गया, साक्षी ने पढ़कर सबी दोना स्वीकार किया ।

500/21

॥ २० सत० सेंगर ॥

Application received on 7-3-26 (19)  
 Copy ready on 7-3-26  
 Copy delivered on 9-3-26  
 Copied by [Signature]  
 Compared by [Signature]  
 Copying & Comparing Charges Rs. 11.00  
 Amount Received on 7-3-26

CERTIFIED TRUE-COPY.

[Signature]  
 Joint Registrar,  
 INDUSTRIAL COURT  
 Bench-Raipur. (M.P.)

श्री. जे. एच. खेडर, समवेत जवा. अंतर्गत नि. प्रमाणपत्र, एल.पी. ०  
रायपुर (म.प्र.)

रेकॉर्ड क्र० 12/एम.पी.आर्.आर.ओ.ए/96

गवाह का नाम :- श्री लीलाप्रती  
पिता का नाम :- श्री एम० ए० स्वामी  
उम्र :- 35 वर्ष  
व्यवसाय :- बेरीजगार  
पता :- पुर्तियार, जोनपार, भिलाई,  
जिला :- दुर्ग [म.प्र.]

राय दी गई  
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दिनांक 9-3-96

मुख्य परीक्षण प्रथमपथ की ओर से अभिभाषक श्री एम० ए० गुप्ता :-  
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मैं वर्ष 1988 में एम.पी.आर्.आर.ओ.ए. में भर्ती हुआ था।  
मैं क्वालीफाइड वेल्डर था। मुझे 900/- रुपये प्रतिमाह वेतन प्राप्त होता  
था। मेरी उपस्थिति टाईम आफिस में लगती थी। डी० निर्मल, टाईम  
कीपर मेरी हाजिरी लगाता था। वेतन का भुगतान भी टाईम आफिस से  
किया जाता था। कम्पनी के आदमी वेमेन्ट रजिस्टर पर वेमेन्ट करते थे।  
मुझे कम्पनी के एक्जीक्यूटिव आफिसर काम एलाट करते थे। इन अधिकारियों  
के नाम श्री धिवात जी, तचदेवा जी व सिंग साहब हैं। यही लोग हमारे  
कार्य का सुपरवाइजन करते थे।

मुझे जुलाई 91 से काम से बिठा दिया गया है। हमें काम से बिठाने  
का कारण यह था कि हमने वेतन न बढ़ने व छुट्टियों का लाभ न दिये जाने  
के संबंध में श्री रायचौधरी साहब से बात की थी।

उक्त प्रश्न के पूछने में अभिभाषक श्री खजूबा को अभिवचन न होने की आर्षपित्त  
है, आर्षपित्त पर निर्णय तुरन्त रखा जाता है।

श्री रायचौधरी द्वितीयपथ तस्थान के प्रबंध निष्ठाक थे।

काम से निकालने से पूर्व कोई आर्षप पत्र नहीं दिया गया, जॉच भी  
नहीं की गई। नौकरी से निकालने से पूर्व कोई लिखित आर्षप नहीं दिया गया  
छटनी मुआवजे का भुगतान भी नहीं किया गया।

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स्वल्प के कथन के साथ अनेकधर में उल्लेखित 65 लोगों को मैं जानता हूँ ।

ये लोग मेरे साथ ही द्वितीयपथ संस्थान में काम करते थे । इन लोगों को भी इसी कारण नौकरी से निकाला गया कि इनको द्वारा भी वेतन न बढ़ने एवं कृदितियों का लाभ प्राप्त न होने के सम्बन्ध में रायचौधरी साहब से बात की गई थी । इन लोगों को भी नौकरी से निकालने से पहले लिखित में सेवा समाप्ति आदेश नहीं दिया गया । आरोप पत्र भी नहीं दिया गया, न ही जांच की गई । छटनी मुआवजे का भुगतान भी नहीं किया गया । इन लोगों की हाजिरी भी टाईम कीपर लगाते थे, वेतन का भुगतान भी टाईम आफिस से किया जाता था । प्रदर्श पी-1 लगायत पी-11, जिनकी कोटा प्रतिवर्ष प्रदर्श पी-1 लगायत पी-11-सी हैं, में हाजिरिया भी डी० निर्मल व २० के० घोष, टाईम कीपर के हाथ की भरी हुई है । प्रदर्श पी-3-सी मेरा हाजिरी कार्ड है, उसमें भी ए से ए भाग में टाईम कीपर श्री डी० निर्मल व श्री ए० के० घोष द्वारा हाजिरी गरी गई है । अनेकधर में उल्लेखित लोगों को भी कम्पनी के अधिकारी काम सलाह करते थे, और काम का उपरजीवन भी गली लोग करते थे । मैं कभी ठेकेदार का कर्मचारी नहीं था । कम्पनी में कोई ठेकेदार नहीं था ।

वेतन के अभाव काई भत्ता हमें नहीं मिलता था ।

हमें कृदितियां नहीं मिलती थी । हमें सार्हकिल सलाउंस, नाईट हाउस सलाउंस व हाउस रेंट सलाउंस नहीं मिलता था ।

काम से छिठाने के बाद से मैं बेरोजगार हूँ । मैं काम पर जाने के लिए तैयार था, और <sup>आज</sup> तैयार हूँ । अनेकधर में उल्लेखित 65 लोगों के बारे में कि वे लोग क्या कर रहे हैं, नहीं बता सकता । 2-4 लोग मेरी तरह बेरोजगार हैं।

प्रश्न :- आपके साथ के 65 लोग भी क्या काम पर जाने के लिए तैयार थे और क्या आज भी जाने के लिए तैयार हैं ?

॥ यह प्रश्न दूसरे लोगों से संबंधित होने के कारण साक्षी से पूछे जाने में अभिभावक श्री के० एल० खन्ना को आपरित है । आपरित पर निर्णय सुरक्षित रखते हुए प्रश्न पूछने की अनुमति दी जाती है ॥

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उत्तर :- ये लोग अक्रम-अक्रम काम पर जाने के लिए तैयार थे, और आज भी तैयार हैं ।

द्वितीयपक्ष की ओर से अभिभावक श्री वे० एम० कुन्जा द्वारा :-

यह सही है कि द्वितीयपक्ष संस्थान की तरह का काम करने वाले अन्य उद्योग भी रायपुर, दुर्ग व राजनांदगांव जिले में हैं । इस तरह के उद्योगों में कितना किस किस उद्योग में कितनी पूंजी लगी है, कितने कर्मचारी काम करते हैं, और किस प्रकार की मशीनरी लगी है, इसकी जानकारी मुझे नहीं है । इन उद्योगों में किस किस उद्योग में कितना मुनाफा होता है, इसकी जानकारी मुझे नहीं है। इस प्रकार के उद्योग जो द्वितीयपक्ष संस्थान के समतुल्य हैं, में कर्मचारियों को कितनी जनशक्ति का अन्य हितसाधक कितनी छुट्टियां मिलती है, इसकी मुझे जानकारी नहीं है । इस संबंध में मेरे अन्य उद्योगों में जानकारी प्राप्त करने की कोशिश नहीं की । मुझे जानकारी नहीं कि शासन के लोक निर्माण विभाग व शिवालय विभाग में कर्मचारियों को कितना वेतन व छुट्टियां व अन्य लाभ मिलते हैं, । वहां से भी मेने पता करने की कोशिश नहीं की । मुझे यह भी जानकारी नहीं है कि शासन ने इंजीनियरिंग उद्योगों में कार्यरत कर्मचारियों का न्यूनतम वेतन निर्धारित किया है और इस संबंध में नोटिफिकेशन निकाला है । मे एम० एम० तम सिंग, २० कोते, एम० एल० साहु, व एम० एम० मोहम्मद हमीद को नहीं जानता । यह कहना गलत है कि उक्त व्यक्ति द्वितीयपक्ष संस्थान में ठेकेदार थे और एमेखर में उल्लेखित 65 व्यक्ति इन ठेकेदार के यहां ही कोई किसी के यहां, कोई किसी के यहां कार्य करता था । यह सही है कि प्रदर्ष पी-1 लगायत पी-11 के हाजिरी कार्डों में किसी में ए० कोते, एम० एल० साहु, व एम० एम० सिंग के नाम अंकित है । स्वयं कहा कि मे इन्हें नहीं जानता । मेरे कार्ड प्रदर्ष पी-3 में भी श्री ए० कोते का नाम लिखा है, किन्तु मे इसे नहीं जानता ।

हमारे पास के व अमेखर में उल्लेखित कर्मचारियों के पास ऐसे कोई कार्ड अथवा आदेश नहीं है, जिनमें मेरे द्वारा बताये गये कम्पनी के अधिकारियों

11/4/77

श्री रायचौधरी, श्री विश्वनाथ जी, लचदेवा जी और तंतु जीके हस्ताक्षर हैं ।  
 मेरे पास ऐसा कोई प्रमाण पत्र नहीं है जिससे प्रमाणित होता हो कि मुझे  
 द्वितीयपक्ष संस्थान के मालिकों द्वारा नियोजित किया गया था । द्वितीयपक्ष  
 संस्थान में काम उ पातियों में होता था, पहली पाली प्रातः 6 बजे से दोपहर  
 2 बजे तक, दूसरी पाली दोपहर 2 बजे से लेकर रात 10 बजे तक, और  
 तीसरी पाली रात्रि 10 बजे से लेकर सुबह 6 बजे तक चलती थी । मैं तीनों  
 पालियों में जाता था । एक पाली में 15-20 आदमी रहते थे, यह संख्या  
 केवल वेल्डर्स की बताई है । मेरे साथ जिन वेल्डर्स की डिप्यूटी लगती थी,  
 उनके नाम मैं बता सकता हूँ, इनके नाम रघुनाथ, मुरली, तुषाकर हैं, रॉय  
 बाकी लोग किस किस पाली में जाते थे, मुझे याद नहीं है । यह सही है  
 कि जो कर्मचारी जित पाली चक्र में जाता था, उस पाली में उसकी हाजिरी  
 लगती थी । हम लोग हाजिरी कार्ड हाजिरी के लिए डिप्यूटी जाते समय  
 टाईम आफिस में छोड़ते थे । तथा डिप्यूटी छूटने पर हाजिरी कार्ड पर  
 हाजिरी लगी रहती थी । इन्हें हम लोग ले लेते थे । यह सही है कि हमारे  
 सामने हाजिरी कार्डों पर हाजिरी नहीं भरी जाती थी । मैं नहीं बता  
 सकता कि टाईम कीपर श्री ए० के० धोष व डी० निर्मल कब से कब तक डिप्यूटी  
 पर रहते थे । मेरे पास श्री डी० निर्मल व ए० के० धोष की लिखावट का  
 कोई पत्र नहीं है । मेरे सामने इनके द्वारा कोई लिखावट नहीं की गई ।  
 यह बात भी सही है कि जो श्रमिक जित पाली में काम करता था, उतनी  
 पाली में उसे वेतन का भुगतान किया जाता था । मैं श्रमिकों को वेतन का  
 भुगतान मेरे सामने किया जाता था, मैं अपना भुगतान लेकर चला जाता था ।  
 बाकी पाली के लोगों को कैसे पेमेंट किया गया व कब पेमेंट किया गया,  
 इसकी जानकारी मुझे नहीं है । स्वयं कहा कि सभी पालियों का पेमेंट  
 दिन में ही जाता था । यह सही है कि वेतन प्राप्त करने के लिए एक-एक  
 आदमी टाईम आफिस में अंदर जाता था और पेमेंट लेकर बाहर आ जाता था ।  
 अपना पेमेंट लेने के बाद वहीं आसपास हम लोग रहते हैं, साधी लोग पेमेंट  
 लेने के बाद बाहर आ जाते हैं । यह कहना गलत है कि हमें ठेकेदार वेतन का  
 भुगतान कायस्थान पर ही करते थे, यह कहना गलत है कि पेमेंट टाईम आफिस

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में नहीं होता था ।

हम लोगों को कहाँ कहाँ क्या काम करना है, ऐसा कोई लिखित आदेश सिंग साहब और विश्वास जी, सचदेवा जी या रायचौधरी से नहीं प्राप्त नहीं हुआ । विश्वास जी, सचदेवा जी एवं सिंग साहब का पदनाम क्या था, मैं नहीं बता सकता । रायचौधरी का पदनाम पदनाम क्या था, मुझे नहीं पता ।

हम लोगों ने भी समझा था, १० कोते, स्त० रस० सिंग, हसीद खान या कम्पनी के किसी अधिकारी से वेतन बढ़ाने या फुटिदियों का लागू देने के संबंध में लिखित में प्रांग नहीं की । स्वयं कहा कि मैंने इस संबंध में रायचौधरी से बात की थी, पायी लोगों से को मैं नहीं जानता । रायचौधरी से मिलने के तुरंत मेरे साथ जनाराम साहू, गुरली, परभु भी गये थे । यह बात किस माहने व दिन की है, मुझे पता नहीं । यह बात किस साल की है, यह भी नहीं बता सकता । उस दिन मेरी डिप्टी व जिनके नाम मैंने अभी बताये, उनकी डिप्टी अभी किस पाली में थी, नहीं बता सकता । हम लोगों ने काम से बिठाने के संबंध में पुलिस में शिकायत नहीं की । मुझे जानकारी नहीं कि मैंने अथवा मेरे साथियों ने काम से बिठाने का जो कारण आज बताया है, आज से पहले किसी और को बताया अथवा नहीं । मैं तपन सरकार को जानता हूँ । यह कहना गलत है कि केवल तपन सरकार के अनैवचर के सभी लोग ठेकेदार के आदमी थे । यह कहना गलत है कि द्वितीयक संस्थान में फोर्गेशन मीनिंग, एरेक्शन, कंस्ट्रक्शन, ब्लीनिंग, पेन्टिंग का काम होता है, स्वयं कहा कि यहाँ इन्वर्सीपमेंट फोर्गेशन व मशीनिंग का काम होता है । यह कहना गलत है कि ये सभी काम ठेकेदारों द्वारा किये जाते हैं । यह कहना गलत है कि मैं व मेरे अन्य साथियों के काम की देखरेख व वेतन का मुगताम ठेकेदारों द्वारा जिनके अधीन थे कार्यरत थे, किया जाता था । तपन कुमार सरकार कबते काम पर नहीं आ रहा है, इसकी मुझे जानकारी नहीं है । स्वयं कहा कि इसे इसके साथ ही इसे निकाला गया । अनैवचर में उल्लेखित 65 लोग कौन सी तारीख से काम पर नहीं आ रहे हैं, मैं नहीं बता सकता ।



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प्रश्न :- आप किस दिन से काम पर नहीं आ रहे हैं, नहीं बता सकते ?

उत्तर :- मुझे काम से बैठा दिया गया, किस दिन से काम से बैठा दिया गया, तारीख याद नहीं, माहना व साल याद है ।

प्रश्न :- आपको कितने काम से बैठाया ?

उत्तर :- मेरा अंदर जाने का कार्ड रोक दिया गया था । \*कसक\*

कार्ड कितने रोक, और कैसे रोक, इसकी मुझे जानकारी नहीं है। रायचौधरी से\* साहब से बात करने के कितने दिन बाद ऐसा हुआ, नहीं बता सकता । बाकी लोगों को भी कार्ड रोककर बैठाया गया । सभी को मेरे साथ एकसाथ नहीं बैठाया, एक महिने के अंदर जून और जुलाई में बैठाया गया । मेने किसी भी व्यक्ति को यह नहीं बताया कि किस तारीख से नौकरी से बैठा दिया गया । स्वयं कहा कि उनसे पुनियन का तहारा लिया । अन्य साधायो ने किसी को यह बताया क्या कि उन्हें किस तारीख से नौकरी से बैठाया गया, इसकी मुझे जानकारी नहीं है ।

मेने नौकरी से हटने के बाद किसी रोजगार कार्यालय में अपना नाम नहीं लिखाया, अन्य साधायो ने लिखाया था नहीं, इसको भी जानकारी नहीं है ।

मे धाल्डिंग जानता हूँ । मे अपना स्वयं का कार्य नहीं लिया । मेने अच्छा वेल्थर हूँ, इस नामे कहीं जाकर नौकरी तलाश नहीं की । मेरे परिवार में मां-बाप, बीबी-बच्चे मिलाकर 7 सदस्य हैं । दो बच्चे हैं, जो पढ़ रहे हैं । एक पौधा क्लास व दूसरा दूसरी क्लास में है । पिताजी भी बेरोजगार हैं । मेरी मां व पत्नी भी कहीं काम नहीं करती । हमारे परिवार का कम से कम खर्च एक माह में डेढ़ दो हजार हो जाता है । बाकी दो चार लोगों का जिम्मे मेने बेरोजगार होना बताया था, उनके परिवार में कितने सदस्य है, इसकी मुझे जानकारी नहीं है । मेरे परिवार का खर्च मेरे चाचा जो बी० एस्० पी० में काम करते हैं, तथा चचेरा भाई जो पी० डब्ल्यू० में कार्यरत हैं, के सहयोग से चलता है, फिर कुछ पुनियन का तहारा भी मिलता है । मेरे चाचा को बी० एस्० पी० में साढ़े 3 हजार मिल जाता है । उनके परिवार में दो बच्चे है व पत्नी है । इनका ही एक लड़का

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पी० डब्ल्यू डी० में काम करता है और दूसरा नेवी में काम करता है ।  
 पी० डब्ल्यू डी० में काम करने वाले लड़के को द्वाई हजार देतन मिलता है ।  
 उनके परिवार में उनकी परीवारणी है । मे, मेरा परिवार चाचा के साथ ही  
 भिलाई में निवास करता है । चाचा व मेरा चचेरा भाई हमारे परिवार  
 का खर्च चलाते है, व जेब खर्च के लिए 500 रुपये देते हैं । मेरे चाचा का  
 निवास स्ट्रीट नं० 53, ब्लाक नं० 17-ए, सुर्तीपार, जोनपार, भिलाई  
 सेक्टर-11 में है, चाचा का नाम श्री जी० धीरास्थामी है, ये बी० एन०  
 पी० के कित्त विभाग पर है, नहीं मालूम । ये टेक्नीकल फीटर के पद पर  
 कार्यरत हैं । जब मैं द्वितीयवर्ष संस्थान में काम करता था, तब भी चाचा  
 के साथ ही रहता था । काम से बिठाने के बाद से मेरे परिवार का सारा  
 खर्च यही उठाते है, और जेबखर्च भी यही देते हैं । युनियन से मुझे प्रतिमाह  
 30 तकली चांवल मिल जाता है । 2 कि० दाल मिलती है तथा बच्चों के  
 लिए कापा व कित्तारी मिल जाती है, नगद स्थया नहीं मिलता । 200-300  
 रुपये की कापी कित्तारी प्रतिवर्ष युनियन से मिल जाती है । मुझे युनियन से  
 जो चांवल दाल मिलता है, उसका इस्तेमाल चाचा के साथ ही करता हूं ।  
 मेने अपन 2-4 लोगो को बेरोजगार होना बताया है, ये भी मेरी तरह गुजारा  
 कर रहे होंगे । उन्होंने मुझे नहीं बताया, उसे गुजारा करते हैं, उन दो-चार  
 लोगो को भी युनियन से चांवल दाल की मदद मिलती है, स्वयं कहा कि  
 जितने लोगो का काम से बिठाया है, सभी लोगो को इस प्रकार की मदद  
 युनियन करती है । चांवल दाल देने के लिए युनियन ने कोई दिन निर्धारित  
 नहीं किया है । मे कब कब युनियन से दाल चांवल ले गया, इसकी तारीख  
 नहीं बता सकता । बाकी लोग भी कब कब ले जाते हैं, यह भी नहीं बता  
 सकता । युनियन से चांवल व दाल अलग अलग भी ले जाते हैं, ढ़ूढ़े भी ले  
 जाते हैं । ऐसा भी हुआ है कि सभी पेंसठ लोग एक साथ चांवल दाल लेने  
 आये, लेकिन ऐसा कब हुआ, यह नहीं बता सकता । ऐसा कितने बार  
 आज तक हुआ, यह भी नहीं बता सकता । समकचर में उल्लेखित लोग कहां  
 कहां कित्त गाँव के रहने वाले, है, नहीं बता सकता । भिलाई से कितनी दूर  
 के है, नहीं बता सकता । स्वयं कहा कि भिलाई के आसपास के ही हैं ।

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मनेस्वर में उम्मेदवार 65 लोगों में से 6-7 लोगों का घर देखा है, बाकी लोगों का नहीं देखा। जिन 6-7 लोगों का घर देखा है, वह केम्प -1 व कुर्सीवार में रहते हैं। इनके नाम हैं प्रकाशराव, पैतराम, मन्हरणा और पांडे हैं।

प्रश्न :- क्या आपने श्री एम० एम० ताडू, एच० एत० सिंग, मोह० हनीफ, श्री विवात जी, श्री सचदेवा जी, रायचौधरी, श्री कोते जी को कभी ऐसा लिखकर दिया कि हम काम पर आना चाहते हैं ?

उत्तर :- मैं श्री एम० एम० ताडू, श्री ए० कोते, मोह० हनीफ, एत० एत० सिंग को नहीं जानता। विवात जी, सिंग साहब, व सचदेवा जी एवं रायचौधरी जी को ऐसा लिखकर नहीं दिया कि हम काम पर आना चाहते हैं। बाकी साधियों ने काम पर जाना चाहते हैं, ऐसा लिखकर दिया या नहीं मुझे नहीं मालूम।

पुनः परीक्षा सुननेवालों के रूप में प्रथमपक्ष अभिमाषक श्री एत० एत० गुप्ता साधी से एक प्रश्न यह सुचना चाहते हैं, कि कम्पनी के मालिक का नाम क्या है।

प्रश्न पूछे जाने में अभिमाषक श्री उनुजा को आपत्ति है। आपत्ति को सुरक्षित रखते हुए प्रश्न पूछने की अनुमति दी जाती है।

पुनः परीक्षा द्वारा प्रथमपक्ष अभिमाषक श्री एत० एत० गुप्ता, द्वारा :-

कम्पनी के मालिकों में से एक का नाम मैं जानता हूँ, नाम है अरविंद धन।

द्वितीयपक्ष द्वारा :-

कंपनी द्वारा द्वितीयपक्ष की ओर से श्री उनुजा अभिमाषक द्वारा :-

मेरे पास ऐसा कोई दस्तावेज नहीं है, जिससे साधित हो कि जब मैं कम्पनी में काम करता था, तब अरविंद धन उसके मालिक था। मेने ऐसा सुना है कि वे मालिक हैं। मैं किसी शासकीय कार्यालय में यह पता लगाने नहीं गया कि द्वितीयपक्ष संस्थान का मालिक कौन है।

मेरे डिक्लेरेशन पर टीकत किया, (अरविंद धन) साधी को पढ़कर सुनाया, तहीं होना स्वीकार किया है

प्रस्तावित प्रतिनिधि आदेशिका दिनांक 12-3-96, समय  
श्री जे. एस. शेंगर, सदस्य जज, औद्योगिक न्यायालय, खंडपीठ, रायपुर  
मज प्र. 0

संकेत प्रमाणिका संख्या 10/एमसीसी/आर/96

उत्तीसगढ़ डिस्ट्रिक्टरी,  
प्रस्तावनाय जनरल सेक्रेटरी,  
उत्तीसगढ़ वेतनकमिशन  
मजदूर संघ, राजनांदगांव.

प्रथमपक्ष

विरुद्ध

निर्वाहक,  
उत्तीसगढ़ डिस्ट्रिक्टरी,  
कुम्हारी, जिला :- दुर्ग.

द्वितीयपक्ष

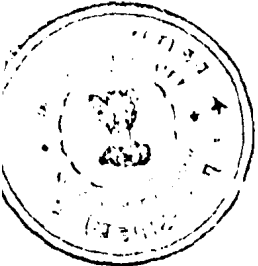
:- आदेशिका, दिनांक 12-3-96 :- समय 12-3-96  
=====

प्रथमपक्ष के लिये अभिभाषक श्री एस. एस. गुप्ता उपस्थित ।  
द्वितीयपक्ष के लिये अभिभाषक श्री एस. एस. व्यास उपस्थित ।  
श्री गुप्ता अभिभाषक प्रथमपक्ष साक्ष्य हेतु तैयार है । द्वितीयपक्ष,  
अभिभाषक 2 बजे प्रकरणा लेने का निवेदन करते हैं, क्योंकि इसमें द्वितीय-  
पक्ष की ओर से अभिभाषक श्री चोरे सुन्दार से जाने वाले हैं ।  
प्रकरणा साक्ष्य हेतु 2 बजे पेस हो ।

हस्ताक्षर: सही  
श्री जे. एस. शेंगर  
सदस्य जज,  
औद्योगिक न्यायालय, खंडपीठ, रायपुर  
मज प्र. 0

12-3-96  
2-00 पी.एस.ओ.

प्रकरणा पुनः लिखा । उभयपक्ष पूर्वानुसार उपस्थित । द्वितीयपक्ष  
की ओर से एक प्रार्थना पत्र बेंचर परटीकुलर दिये जाने वाकत प्रस्तुत  
किया गया, जिसके द्वारा द्वितीयपक्ष की ओर से स्टेटमेंट आफ क्लेम  
के साथ संलग्न एनेक्चर में उल्लेखित व्यक्तियों के पिता के नाम एवं उनके  
पते प्रथमपक्ष से दिलाये जाने का निवेदन किया गया है । साथ ही यह  
भी उल्लेख किया गया है कि उक्त पत्र का अभिलेख जायकर विभाग के  
अधिकारियों द्वारा अपने कब्जे में लेकर सोल कर दी गई है, अतः द्वितीय-



पक्ष को जवाब प्रस्तुत करने हेतु समय दिया जाये ।

प्रार्थना पत्र की प्रति प्रथमपक्ष अभिभाषक श्री एस० एल० गुप्ता को दी गई । श्री गुप्ता इसकी लिखित उत्तर नहीं देना चाहते हैं । वे इसका मौखिक विरोध करते हैं । श्री गुप्ता का कहना है कि प्रथमपक्ष से प्राप्त द्वितीयपक्ष की ओर से चाहे गये परटीकुलर उपलब्ध नहीं है । जो परटीकुलर उपलब्ध है, उनका उल्लेख स्पेक्चर में किया गया है । श्री गुप्ता का यह भी कहना है कि द्वितीय पक्ष की ओर से प्रस्तुत प्रार्थना पत्र में जायकर विभाग द्वारा कब्जे में लिये गये दस्तावेजों की सूची प्रस्तुत नहीं की गई है । प्रार्थना पत्र सद्भावनापूर्ण न होकर प्रकरणा में विलम्ब करने के लिए प्रस्तुत किया गया है, जो इसी धात से स्पष्ट है कि द्वितीयपक्ष की ओर से आज भी ही यह प्रकरणा दो बजे लिये जाने का निवेदन किया गया और यह कहकर किया गया कि श्री चौरे अभिभाषक इन्दौर से आने वाले हैं । इसमें 2-00 बजे से यह प्रार्थना पत्र द्वितीयपक्ष द्वारा प्रस्तुत किया । इस प्रकरणा में तिराथ बढ़ाये जाने में श्री गुप्ता को गंभीर अपारिती है, क्योंकि उनके साक्षी जो संख्या में लगभग 250 है, व प्रकरणा भी काफी पुराना है ।

इसी प्रकार के प्रकरणा रकॉर्ड नं० 7/96 एस० पी० जा० 20 आर० 3/96 में विलम्ब इसी प्रकार का प्रार्थना पत्र नियोजता की ओर से आज ही प्रस्तुत किया गया, जिसमें प्रथमपक्ष अभिभाषक श्री एस० एल० गुप्ता ने प्रकरणा को बढ़ाये जाने में सशर्त सहमति व्यक्त की है, जिसके प्रकाश में यह प्रकरणा उन्हीं शर्तों के आधार पर न्यायालय में प्रत्ये 50/- प्रति व्यपित के हिसाब से 1500/- रुपये हर्ज पर प्रकरणा प्रथमपक्ष साक्ष्य हेतु दिनांक 25-4-96 को पेश हो । साक्षियों के हस्ताक्षर प्रकरणा परिश्रम में कराये जाये एवं हर्ज आगामी दिनांक को द्वितीयपक्ष जदा करें ।

Application received on 16.3.96  
Copy ready on 16.3.96  
Copy delivered on 16.3.96  
Copied by [Signature]  
Checked by [Signature]  
Copying & Comparing Charges Rs. 500/-  
Amount Received on 16.3.96

हस्ताक्षर:- श्री  
श्री एस० एल० गुप्ता  
अधीनस्थ  
रायपुर (मध्य प्रदेश)

CERTIFIED TRUE-COPY.

श्री [Signature]  
Joint Registrar, 16-3-96



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इन लोगों को भी बिना आरोप पत्र दिये व बिना जांच किये काम से बैठा दिया गया, उन्हें भी न तो सेवा से पृथक् करने का लिखित आदेश मिला और न ही छटनी सुआवसा दिया गया। इस सभी की जाचिरी टार्डम आफिस से टार्डम कीपर लगाते थे और वहीं से उन्हें वेतन का भुगतान किया जाता था। हम लोग सम्मलार्डज इंज्युरेन्स स्टेट के सदस्य थे और हमें ई० एस० आर्ड० का लाभ प्राप्त होता था। ई० एस० आर्ड० के कार्ड कम्पनी में हम लोगों को बमबा कर दिये थे। हमारा भाष्य निधि भी कटता था। भाष्य निधि के संबंध में स्टेटमेन्ट स्वीप भी हमें मिलती थी। प्रदर्ष पी-1 लगायत पी-18 हम लोगों के ई० एस० आर्ड० कार्ड हैं, इनकी छाया प्रतिमां प्रदर्ष पी-1-सी लगायत पी-18 सी हैं। प्रदर्ष पी-19 से लगायत पी-137 हमारी भाष्य निधि से संबंधित स्टेटमेन्ट की परियां हैं।

कृपरीधन की दितीपपस की ओर से अभिभाषक श्री एच० एम० व्यास द्वारा :-

यह सही है कि मुझे यह जानकारी अनेकपर में उल्लेखित लोग ठेकेदार के नहीं, बल्कि कम्पनी के कर्मचारी है और उनका ई० एस० आर्ड० और भाष्य निधि का पंदा काटा जाता है, इन लोगों से मिलने के बाद हुई। स्वयं कहा कि बुद यह जानकारी है।

प्रश्न :- इस संबंध में सन 1992 से लेकर आज तक जिन-जिन लोगों से आपकी मुलाकात हुई है, उनके धताये ?

उत्तर :- श्री मंद कुमार यादव, अशोक यादव, फेरहा राम, अशोक मनीराम, दयालु, कमलेश चंद्राकर और नाम मुझे याद नहीं है।

प्रश्न :- आपने ई० एस० आर्ड० के कार्ड किन किन लोगों के पेश किये है, नाम बताये ?

उत्तर :- तपन दास और अन्य साधियों के नाम मुझे याद नहीं है।

यह सही है कि ई० एस० आर्ड० का मेरा स्वयं का कार्ड पेश नहीं है।

प्रोवीडेंस फंड की स्लिप जिन जिन की पेश की गई है, उनके नाम है श्री सुखराम ताडु, मंद कुमार, बुधारु, बुधराम, बाल्मीकि, मनीराम, दयालु, सुरामन ताडु,

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धम्मुराम, माधव पांडे और अन्य लोगों के नाम मुझे याद नहीं है। जिन लोगों के नाम मैंने बताये हैं, उनसे मिलकर मैंने नहीं बताया कि मैं उनकी तरफ से बयान देने जा रहा हूँ। यह तर्क है कि मैं जो नाम अभी बताये हैं, और जो नाम अनेकवार में उल्लेखित हैं, उन सबसे बिना मिले बयान दे रहा हूँ। स्वयं कहा कि इनमें से कुछ लोगों से मिला हूँ। यह कहना गलत है कि मैं बयान आज अनेकवार में उल्लेखित सभी लोगों की तरफ से दे रहा हूँ। स्वयं कहा कि बयान प्रथमपक्ष की ओर से दे रहा हूँ। मैं यह तर्क है कि मैं प्रथमपक्ष का पदाधिकारी नहीं हूँ। मुझे प्रथमपक्ष में नहीं बताया कि कितने लोगों की तरफ से मैं मुझे बयान देना है। मैं द्वितीयपक्ष संस्थान में मजदूरी करता था। मैं मसिनरी में हेल्पर करता था और मान हथर उधर से जाने का काम करता था मैं आठवी कक्षा तक पढ़ा हूँ। मैं टार्डम आफिस का काम कोई रिकार्ड नहीं देखा। मिनाई वायर्स का पी० स्फ० कोड नं० 2371 कुछ है, पूरा बयान नहीं है। मुझे मेरा मविष्य निधि का खाता क्रमांक याद नहीं है। यह तर्क है कि मुझे अनेकवार में उल्लेखित 169 के मविष्य निधि का खाता नम्बर भी नहीं मालूम।

प्रश्न :- जिन लड़कों के नाम 118 लोगों के मविष्य निधि के स्टेटमेंट की परिषदा प्रकरण में पेश की है, उन लोगों का मविष्य निधि कब से कब तक काटा गया और कितना काटा गया, इसकी जानकारी आपको है क्या ?

उत्तर :- इसमें से 50-60 लोगों का तब 89-90 से मविष्य निधि काटा, बाकी लोगों का पहले से काटा, उनका मुझे पता नहीं कब से काटा।

जिन 50-80 लोगों का मविष्य निधि 89-90 से काटा, उनके नाम हैं श्री मंस कुमार यादव, पंडवली, दयालु, ममीराम, कमला चंद्राकर, धम्मुराम, केरहा राम, माधव पांडे, अशोक वर्मा, सुब्रह्मण्य साहू, पाहरित राम, बाबुलाल अन्ध साधियों के नाम मुझे याद नहीं है।

मुझे नहीं मालूम कि मिनाई वायर्स में कोई राजस्वम तिंह तख्तु यादव कोई ठेकेदार था या नहीं। यह कहना गलत है कि मविष्य निधि का पूरा पैसा, मविष्य निधि आयुक्त से ले चुका हूँ। मैंने यह पैसा निकालने के



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लिए प्रार्थना पत्र नहीं दिया। बाकी तापियों ने पैसा निकालने के लिए प्रार्थना पत्र दिया है या नहीं, मुझे इसकी जानकारी नहीं है।

मुझे नहीं मालूम कि मिनाई वापस में इंजीनियरिंग वेज बोर्ड के अनुसार वेतन दिया जाता है। यह कहना गलत है कि सम्बल चक्रवर्ती, क्रांति गुप्ता व रायू ब्रेष्ठ ने हमारे पक्ष पुनियन मतार्क है। मेटल स्पण्ड इंजीनियरिंग वर्कर्स पुनियन नाम का कोई पुनियन नहीं है। मुझे नहीं मालूम कि मिनाई के कई इंजीनियरिंग उद्योगों में मेटल स्पण्ड इंजीनियरिंग वर्कर्स पुनियन ने संबंध स्थापित किये। मुझे यह भी नहीं मालूम कि इसी पुनियन ने वेतन के लिए उच्च म्याथालय में वायिकारें वापर की, जिनमें जीत हुई। मुझे यह भी नहीं मालूम कि उन्होंने वायिकारों में निर्णय के आधार पर मिनाई वापस में वेतन का भुगतान किया जाता है। मिनाई वापस में दिया गया वेतन के संबंध में कोई पचास भेरा प्राप्त नहीं है। मेरा प्रोविडेन्ड फंड कितने परसेन्ट कटता था, यह मैं जानता था। पहले ७.३३% कटता था, बाद में १०% कटा। मेरा हर माहने भविष्य निधि में जितना पैसा कटता था, यह मालूम है कुछ। कभी २९/- रुपये, कभी ३२/- रुपये भविष्य निधि कटता था, कभी ३५-४०/- रुपये भी कटता था। यह गली है कि जितने दिन मैंने हाजिरी की, उसके वेतन पर भविष्य निधि कटता था। हमारा वेतन पर्सनल आफिस में टाईम कीपर, भविष्य निधि काटते थे, और भविष्य निधि देते थे।

मुझे शासन द्वारा किन-किन छुट्टियों की सुविधा दी गई, नहीं मालूम। मुझे साप्ताहिक अपकाश नहीं मिलता था। १५ अगस्त, २ अक्टूबर, और २६ जनवरी की छुट्टियाँ मिलती थी, बाकी और स्थायी छुट्टियाँ नहीं मिलती थी। मैंने नौकरी में रहते समय और नौकरी से निकलने के बाद मामिलों की ऐसी दरखास्त नहीं दी कि हमें छुट्टियाँ नहीं मिलती, उनका पैसा दिया जाय। मुझे नहीं मालूम कि मेरे अन्य तापियों ने ऐसी कोई दरखास्त दी।

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मुझे और मेरे कई साथियों को नवम्बर 90 में निकाल दिया गया । हमने व हमारे साथियों ने नौकरी से निकाले जाने के संबंध में भ्रम न्यायालय में मामला दायर नहीं किया, \* अपनी पुनियन में जाकर बताया । मैं मकर बहादुर, लालमनी मिश्रा व हरीशचन्द्र, आर्द्ध 0 एन 0 सिंग को जानता हूँ । ये लोग क्या रहे हैं, यह नहीं मालूम, क्योंकि उनसे मुलाकात नहीं हुई । मुझे नहीं मालूम कि इनका कोई मामला भ्रम न्यायालय में चल रहा है ।

प्रश्न :- क्या आपको मालूम है कि कम्पनी ने बार बार ऐसे नोटिस आप लोगों को दिये, कि आप लोग नौकरी पर आ जाये, नहीं तो यह माना जायेगा कि आपकी नौकरी छोड़ दी है ?

उत्तर :- हमें ऐसा कोई नोटिस नहीं दिया गया ।

श्री पुनदिव मण्डल और राम क्लिप मण्डल ये धायर ड्राईंग विभाग में काम करते थे, और पी 0 के 0 न नदी डार्क विभाग में काम करते थे, ये तीनों क्या काम करते हैं, मुझे नहीं मालूम । मुझे यह भी नहीं मालूम कि ये लोग भिलाई धायरी से अपना चुकता हिसाब ले गये हैं । मैं जवाब-दाये के पृष्ठ क्रमांक-15 में सरल क्रमांक-93, 95 व 97 को छोड़कर पृष्ठ क्रमांक-16, 17, 18, 19, 20, 21, 22, 23, 24, 25, एवं 26 में उल्लेखित लोगों को जानता हूँ । इन लोगों से मेरी पिछली मुलाकात कब हुई, यह मैं नहीं बता सकता । ये लोग क्या कर रहे हैं, मुझे यह भी पता नहीं है । मुझे मालूम है कि इन लोगों को कैसे निकाला, स्वयं कहा कि हम लोग वेमेन्ट के संबंध में बात करते गये थे, तब निकाला । हम तब जिनके नाम उमर बताये हैं, वे तब एक साथ वेमेन्ट के संबंध में बात करने नहीं गये थे, 2-4 लोग हम गये थे, उनके नाम उमर नहीं आ रहे हैं । मैं जवाबदाये के पृष्ठ-14 के पद-5-हंडी में से पी 0 टही 0 कायल, योगेश्वर यादव और राधेराज साहू को छोड़कर शेष लोगों को जानता हूँ । ये लोग कहाँ काम कर रहे हैं, मुझे नहीं मालूम । मुझे नहीं मालूम कि आज भी ये लोग भिलाई धायरी में काम कर रहे हैं । अमेचर में उल्लेखित 169

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के तम लोग बेरोजगार है, क्या, नहीं बता सकता, अपना बता सकता हूँ । यह नहीं है कि नौकरी से निकलने के बाद आज तक मेरे अपना नाम रोजगार कार्यालय में दर्ज नहीं कराया । मेरे पास 2-दाईं एक्ड़ बेती है, इतमें एक फसल ज्ञान लेते है, कुछ में लाखड़ी डाल देते हैं । मुझे नहीं मालूम कितना धान होता, है, क्योंकि पिताजी करते हैं । मे पुनियन से 40 किलो चावल, 25 कि० गेहूँ व 5 कि० दाल कुछ नहीं लेता । मेरे परिवार में माँ-बाप, एक भाई, बीबी और छोट छोटे 2 बच्चे हैं । एक बच्चा साढ़े 4 साल का है और एक एक-साल का है । भाई मुझसे छोड़ा है । मे लखनौ गाँव में रहता हूँ, जो दुर्ग जिले में है । मे नौकरी के लिए कहीं दरखास्त नहीं दिया । मुझे नहीं मालूम कि मेरे 169 साथियों ने म तो रोजगार कार्यालय में नाम लिखाया और म ही नौकरी के लिए कहीं दरखास्त दी । मेरे नौकरी से निकलने के संबंध में कहीं दरखास्त नहीं दी ।

मे पुनियनल अफिस तंथ का सदस्य हूँ । मे ग्यारह महीने 90 में इतना सदस्य नौकरी से निकलने के बाद बना था । मेरे 169 साथी भी नौकरी से निकलने के बाद पुनियन के सदस्य बने, क्या सबके बारे में पता नहीं, कुछ के बारे में पता है । कुछ लोग नौकरी से निकलने के बाद सदस्य बने, उनके बारे में मुझे कुछ पता नहीं है । मे पुनियन का पंदा पहले दिया था, आजकल नहीं दे रहा हूँ । आज न्यायालय में बयान देने आने के लिए कोर्ट से कोई सम्मत नहीं मिला, पुनियन ने कहा था । मे कुछ पुनियन के आफिस में दूँदते गया था, तब बताया गया था, क्या बयान देना है, यह नहीं बताया गया । किस किस के बारे में कहना है, यह भी नहीं बताया था । यह नहीं है कि मे अपनी मरजी से तय के बारे में बयान देने आया हूँ, जो मे जानता हूँ, वह बयान देने आया हूँ ।

मुझे नहीं मालूम कि मिलाई वापस में कुछ ठेकेदार काम करते थे । मुझे यह भी नहीं मालूम कि पुनियन में ठेकेदार के दर्जधारियों को नियमित करने की माँग उठाई थी ।

